

Ordinance No. 00591

[CITY COUNCIL MEETING MINUTES FEBRUARY 2, 2015](#)

Amended 2/2/2015

SUBSTITUTE ORDINANCE NO. 591

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Chapters 17.02, 17.06, 17.10, 17.14, 17.18, 17.22, 17.30, 17.34, 17.38, 17.42, 12A.10, 12A.15 and 18A.50 and creating Chapters 17.04 and 17.16 of the Lakewood Municipal Code relative to the Subdivision of Land.

WHEREAS, the City of Lakewood initially promulgated its subdivision code within Title 17 LMC in 1996; and

WHEREAS the provisions of Title 17 LMC are designed to implement and effectuate many of the provisions within the corresponding state subdivision code found within chapter 58.17 RCW; and

WHEREAS, since 1996 multiple amendments have been enacted into law affecting chapter 58.17 RCW, but the Lakewood Municipal Code has not been significantly updated to correspond to those changes; and

WHEREAS, the City of Lakewood Planning Advisory Board reviewed the City's subdivision code, holding public hearings on May 7 and May 21, 2014 and unanimously recommended to the City Council that Title 17 Lakewood Municipal Code be updated and revised,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1: Section 17.2.010 LMC entitled "City of Lakewood Interim Subdivision Regulations," is amended to read as follows:

This title shall be known as the City of Lakewood ~~Interim~~ Subdivision Regulations, hereafter referred to as "this Title."

Section 2: Section 17.2.015 LMC entitled "Authority," is amended to read as follows:

This Title is adopted by the City of Lakewood Ordinance No. 60, pursuant to Chapter 58.17 of the Revised Code of Washington (RCW).

Section 3: Section 17.2.020 LMC entitled "Purpose," is amended to read as follows:

The intent of this section is to provide criteria, regulations and standards to govern the subdividing of land within the City and to:

- A. Promote the public health, safety and general welfare in accordance with standards established by the State and the City;
- B. To implement the Comprehensive Plan;
- C. Promote effective use of land by preventing the overcrowding or scattered development which would injure health, safety or the general welfare due to the lack of water supplies, sanitary sewer, drainage, transportation, parks and recreation areas, or other public services, or excessive expenditure of public funds for such services;
- D. Avoid congestion and promote safe and convenient travel by the public on streets and highways through the coordination of streets within a subdivision with existing and planned streets;
- E. Provide for adequate light and air;
- F. Provide for proper ingress and egress;
- G. Provide for the housing and commercial needs of the community;
- H. Provide uniform monumenting of land divisions and conveyance of accurate legal descriptions; and
- I. Protect environmentally sensitive areas;
- J. Encourage the conservation of non-renewable energy resources.

K. Provide for adequate roadway and utility infrastructure with provisions for on-going maintenance and operations costs.

Section 4: Section 17.2.025 LMC entitled "Applicability," is amended to read as follows:

Every subdivision shall comply with the provisions of Chapter 58.17 Revised Code of Washington, this Title and all future amendments or applicable Federal, State or local laws. After final plat, ~~or short plat, or binding site plan~~ approval, any subsequent division of platted or short platted lots, parcels, tracts, sites or divisions shall be allowed only if the procedures of this Title ~~or the short plat ordinance~~ are first followed, and these requirements shall be applicable to all plats approved prior to the effective date of this Title. ~~Except for the large lot division procedure specified herein, t~~he provisions of this Title shall not apply to the following:

A. Cemeteries and other burial plots while used for that purpose;

B. Divisions of land into lots or tracts each of which is one thirty-second (1/32) of a

Section of land, or larger, or twenty (20) acres or larger if the land is not capable of description as a fraction of a Section of land; PROVIDED, the division meets the minimum lot size zoning requirements for the area involved and provided further, that for the purpose of computing the size of any lot under this item which borders on a street or public way, the lot size shall be expanded to include that area which would be bounded by the center line of the street or public way and the side lot lines of the lot running perpendicular to such center line;

C. Divisions made by testamentary provisions or the laws of descent, provided that each lot shall meet all applicable minimum lot size requirements.

~~D. Divisions of land into lots or tracts classified for industrial or commercial use when the City has approved a binding site plan which authorizes specific uses of said land in accord with the Chapter 17.30 of this Code; PROVIDED, that when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan shall be filed for record in the County Auditor's office on each lot, parcel, or tract created pursuant to the binding site plan; PROVIDED FURTHER, that the binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of lot, parcel, or tract; AND PROVIDED FURTHER, that sale or transfer of such a lot, parcel, or tract in violation of the binding site plan, or without obtaining binding site plan approval, shall be considered a violation of Chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in Chapter 58.17 RCW;~~

~~E. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the City has approved a binding site plan in accordance with City Codes:~~

DF. The transfer of contiguous unplatted lots if:

1. The lots were created in compliance with all applicable State and City subdivision regulations in effect at the time of the creation of said lots; or

2. The lots transferred and remaining lots are improved with dwellings. Provided

that transfers pursuant to item 1. or 2. shall not be effective until the proponent is issued a certificate of compliance from the Community Development Department. A certificate shall be issued when the owner or applicant shows that the lot conforms to the criteria above.

EG. A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW, the Horizontal Property Regimes Act (Condominiums), or 64.34 RCW (the Condominium Act) if the City has approved a binding site plan for all of such land.

EH. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally

licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables,

equipment shelters, and support structures.

Section 5: Section 17.2.030 LMC entitled "Division of Land by Streets or Rights of Way," is amended to read as follows:

The City declares that ~~the following shall not, of themselves, result in the division of a parcel: a parcel has NOT been divided into separate, legal lots by any one of the following:~~

A. ~~A~~ State or Federal road or highway; or

B. ~~A~~ City street that has been adopted as part of the City street system; or

C. ~~A~~ City street right-of-way that has been acquired or accepted by the City but is an unopened City street as defined in Section 2.00 of the City Site Development Regulations, or as amended.

Section 6: Section 17.2.035 LMC entitled "Definitions," is amended to read as follows:

As used in this Title, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

A. "Binding Site Plan." ~~A Binding Site Plan is an alternative method for subdividing land where the property interests created continue to collectively function as one site with regard to elements such as access, circulation, open space, landscaping, drainage, maintenance, or parking. A binding site plan is used primarily in conjunction with commercial and industrial developments and the establishment of residential condominium projects. A binding site plan includes means~~ a drawing to a scale as specified by the Community Development Department. The site plan shall:

1. Identify and show the area and location of all streets, improvements,

utilities, open space;

2. Contain inscriptions or attachments setting forth such appropriate

limitations and conditions for the use of the land as are established by the City Hearing Examiner or other appropriate City Department or government body having authority to approve the site plan;

3. Contain provisions requiring that all development occurring within the

proposal's boundaries be in conformity with the site plan.

4. ~~Delineate proposed lots or units intended to be created as discrete ownership interests subject to sale or transfer. If appropriate, such delineation shall be subject to the provisions of RCW 64.34 (the Condominium Act).~~

B. "Block" is a group of lots, tracts or parcels within well defined and fixed boundaries, ~~often surrounded by roadways.~~

C. "Council" means the City Council.

D. "County Assessor-Treasurer" shall be as defined in the Pierce County Charter.

E. "County Auditor" shall be as defined in the Pierce County Charter.

F. "City Engineer" shall be the person appointed by the City Manager as the City Engineering Manager.

G. "Dedication" is the deliberate appropriation of land by an owner for any general ~~and or~~ public uses, reserving ~~to himself~~ no other rights than ~~those such as are~~ compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. ~~Dedications may be accomplished by showing the dedication on a final plat, short plat or binding site plan presented to the City for final approval and recordation. Dedications may also be accomplished via transfer by separate deed. Unless otherwise specifically indicated, title to the dedicated land shall vest in the appropriate governmental unit. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat, short plat or large lot subdivision showing the dedication thereon; and, the acceptance by the public shall be evidenced by the owner by the presentment for filing of a final plat, short plat or large lot subdivision showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat for filing by the appropriate governmental unit.~~

H. "Developer" shall mean the person, party, firm or corporation who applies for approval of a subdivision, short plat ~~or large lot~~

subdivision binding site plan.

I. "Examiner" means the land use hearing examiner who is herein authorized to approve subdivisions, and hear appeals on short subdivisions and ~~large lot divisions~~ binding site plans.

J. "Final Plat" is the final drawing of the subdivision and dedication drawn to a scale not smaller than one inch equals one hundred feet (1" = 100') unless approval of another scale is given by the Community Development Director, on standard 18" x 24" sheet size, prepared for filing for record with the County Auditor and containing all elements and requirements set forth in State law and in this Title.

K. "Geological Hazard" means any hazard caused by natural or artificial causes which may damage persons or property and which would include but not be limited to slides, slippage or instability of earth, rock and soil. Geological hazards are generally addressed in the City's Critical Areas and Resource Lands regulations (LMC Title 14A).

L. "Improvement" shall mean any thing or structure constructed for the benefit of all or some residents of the subdivision or the general public such as but not limited to streets, alleys, storm drainage systems and ditches, sanitary sewer pipes or main lines, water lines, services, and mains, and storm drainage containment facilities.

M. ~~"Large Lot Divisions" means any number of divisions of land into lots, tracts or parcels for any purpose, the smallest lot size of which is five (5) acres or larger or one one hundred twenty-eighth (1/128) of a Section or larger, except those divisions exempted by Section 17.02.010 of this Code.~~ "Legal Lot of Record" means a legally created lot. A person may establish that a lot has been legally created, by providing one (1) of the following:

1. A copy of a recorded formal plat, short plat, binding site plan, or subdivision approved by Pierce County or the City of Lakewood pursuant to RCW 58.17 or RCW 58.16 separately describing the lot.

2. A copy of the recorded boundary line adjustment or lot combination approved by Pierce County or the City of Lakewood separately describing the lot.

3. Documentation that the creation of the lot was exempt from the provisions of the Pierce County or City of Lakewood Subdivision Regulations.

4. A recorded deed, contract of sale, mortgage, survey, or tax segregation executed prior to August 13, 1974 that separately describes the lot.

The most recent recorded action or instrument establishing the boundary of a lot shall control. Any point within the interior of a lot shall be considered to be within one, and only one, legal lot of record.

N. ~~"Lot" is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels:~~ recognized unit of property with a written or platted legal description that addresses permissions or constraints upon its development. A "legal lot of record" is a lot that has been legally created as demonstrated by compliance with LMC 18A.50.115.A. Alternatively, a legal lot of record may be established through the Certificate of Land Division Compliance provisions of this title. A "parcel" is an identification of land for taxation purposes. A parcel may or may not be a legal lot of record.

O. "Model Home." A model home for the purpose of this Code shall be defined as a dwelling in accordance with the City Zoning Code.

P. "Original Tract" means a unit of land which the applicant holds under single or unified ownership, or in which the applicant holds controlling ownership and the

configuration of which may be determined by the fact that all land abutting said tract is separately owned by others, not including the applicant or applicants; PROVIDED, that where a husband and wife own contiguous lots in separate or community ownership, said contiguous lots shall constitute the original tract.

Q. "Planning Agency" means the City Community Development Department together with the Planning Commission.

R. "Planning Commission" means that body as defined in Chapter 35A.63 RCW as designated by the Council in Chapter 2.90 of the Lakewood Municipal Code to perform a planning function, ~~or if the Council does not appoint a Planning Commission, the Council shall act as the Planning Commission.~~

S. "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.

T. "Preliminary Plat" is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and restrictive covenants to be applicable to the subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.

U. "Reserved Street Area" means a defined area of land within the short plat or subdivision which is required by the City Engineering Manager to be reserved for a future street, and said area shall be dedicated to the City at the time of approval, but the street need not be constructed by the applicant or developer until such time as stated in the ordinance. Setbacks shall be established as if the reserved street area were dedicated.

V. "Short Plat" is the map or representation of a short subdivision.

W. "Short Subdivision" is any ~~voluntary or involuntary~~ division or redivision of land into nine (9) or fewer lots, tracts, parcels, sites or subdivisions for the purpose of sale, lease or transfer of ownership.

X. "Subdivision" is any ~~voluntary or involuntary~~ division or redivision of land into ten (10) or more lots, tracts, parcels, sites or division for the purpose of sale, lease, or transfer of ownership except as provided in Subsection M. of this Section.

Section 7: A new Section 17.2.040 LMC entitled "Subdivisions in Flood Areas," is created to read as follows:

The city shall consider the physical characteristics of any proposed subdivision site and may disapprove a proposed plat or short plat because of flood, inundation, or wetland conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat. No plat shall be approved for the subdivision of any land situated in a flood control zone as provided in chapter 86.16 RCW without the prior written approval of the Department of Ecology of the state of Washington.

Section 8: A new Section 17.2.045 LMC entitled "Subdivisions Adjacent to State Highways," is created to read as follows:

Pursuant to RCW 58.17.155, whenever the city receives an application for the approval of a plat or short plat that is located adjacent to the right-of-way of a state highway, the Community Development Department shall give written notice of the application, including a legal description of the subdivision or short subdivision and a location map, to the Washington State Department of Transportation. The Department of Transportation shall, within fourteen days after receiving the notice, submit to the responsible administrator who furnished the notice a statement with any information that the Department of Transportation deems to be relevant about the effect of the proposed short subdivision upon the legal access to the state highway, the traffic carrying capacity of the state highway and the safety of the users of the state highway.

Section 9: A new Chapter 17.04 LMC entitled "Legal Lots," is created as follows

Chapter 17.04

Legal Lots

Sections:

17.04.10 Purpose and Intent

17.04.20 Definition

17.04.30 Certificate of Land Division Compliance

17.04.40 Application

17.04.50 Review and Processing Procedures

17.04.60 Certificate of Noncompliance

17.04.70 Non-buildable Lots

Section 10: A new Section 17.04.010 LMC entitled "Purpose and Intent," is created to read as follows:

The purpose of this chapter is to advance the purposes and intent of RCW 58.17; namely, to "regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and schoolgrounds and other public requirements;

to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of the citizens of the state; and to require uniform monumenting of land subdivisions and conveyancing by accurate legal description.

This chapter seeks to ensure that the subdivision and development of land is accomplished in a thoughtful and orderly manner. This section seeks to balance the ability to develop private property with the public interest in ensuring that any such development does not adversely affect the community, the environment, or surrounding land uses.

Section 11: A new Section 17.04.020 LMC entitled "Definition," is created to read as follows:

A legal lot is a lot with specific fixed boundaries which was created consistent with applicable state law and which remains consistent with applicable state law. LMC 18A.50.115.A sets forth requirements to establish a legal lot of record. To establish that a lot has been legally created, an applicant shall provide one (1) of the following:

A. A copy of a recorded formal plat, short plat, binding site plan, or subdivision approved by Pierce County or the City of Lakewood pursuant to RCW 58.17 or RCW 58.16 separately describing the lot.

B. A copy of the recorded boundary line adjustment or lot combination approved by Pierce County or the City of Lakewood separately describing the lot. This does not include actions taken by the County Assessor's Office for tax purposes only.

C. Documentation that the creation of the lot was exempt from the provisions of the Pierce County or City of Lakewood Subdivision Regulations.

D. A deed, contract of sale, mortgage, recorded survey, or tax segregation executed prior to August 13, 1974 that separately describes the lot.

Section 12: A new Section 17.04.030 LMC entitled "Certificate of Land Division Compliance," is created to read as follows:

In the event that an asserted lot was not created pursuant to a formal plat action, or where there is a question of a lot's legality, a property owner may apply for a Certificate of Land Division Compliance.

Although a certificate of compliance certifies the legality of the parcel, it neither ensures that it is a buildable parcel, nor entitles the parcel owner to a construction permit or other development permits or approvals. To obtain a construction permit or other land use approval for the parcel, the owner must complete the appropriate application process and meet all existing regulations.

If the City determines that the parcel was created in compliance with the provisions of RCW 58.17 and local ordinances at the time of its creation, a certificate of compliance may be issued. If the parcel was not created in compliance with those provisions, a conditional certificate of compliance or a notice of violation may be issued. A Notice of Violation is a recorded document notifying the owner and subsequent owners that the parcel was created in violation of RCW 58.17 and local ordinances. A landowner, upon receipt of the city's intent to file a notice of violation may apply for a conditional certificate of compliance. The conditions which must be satisfied before a property is declared to be a legal lot, or before issuance of any permit or other approval, will typically be the same as those that would have been applied if the parcel had been legally created using the land division process. The city will not record the notice of violation if a conditional certificate is issued.

Section 13: A new Section 17.04.040 LMC entitled "Application," is created to read as follows:

Application for a certificate of compliance shall be made to the community development department on forms provided by the department, accompanied by the required filing fee. An application for a certificate of compliance shall be accompanied by the following:

A. One copy of grant deeds or other conveyance documents establishing the ownership of the property on the date of its creation;

B. One copy of the grant deed (s) or other conveyance documents showing the current owner of the parcel;

C. The assessor's parcel number for the property;

D. Legal description of the parcels;

E. Current preliminary title report(s) for the subject property, not more than six months old, issued by a title company;

F. One copy of any plat map(s) which depict the property involved in the request.

Section 14: A new Section 17.04.050 LMC entitled "Review and Processing Procedures," is created to read as follows:

The community development director shall review the application and shall issue a certificate of compliance, conditional certificate of compliance, or notice of violation. The determination shall be based on the following criteria:

A. A certificate of compliance shall be issued for a parcel created prior to August 13, 1974, which resulted from a division of land in which fewer than five parcels were created; or.

B. A certificate of compliance shall be issued for any lot created as part of a recorded formal plat, short plat, binding site plan, or subdivision approved by Pierce County or the City of Lakewood pursuant to RCW 58.17 or RCW 58.16; or,

C. A certificate of compliance shall be issued for any lot created as the result of a recorded boundary line adjustment or lot combination approved by Pierce County or the City of Lakewood; or

D. A certificate of compliance may be issued where documentation is provided showing that the creation of the lot was exempt from the provisions of the Pierce County or City of Lakewood Subdivision Regulations.

E. A conditional certificate of compliance shall be issued for any parcel which does not, or at the time of creation did not, comply with the provisions of state law and local ordinances regulating the division of land. A conditional certificate of compliance may include conditions as follows:

1. If the current owner was not the owner at the time of the initial land division, the conditional certificate of compliance shall impose conditions which would have been applicable to a division of land on the date the current owner acquired the property; or

2. If the current owner was the owner at the time of the initial land division, the conditional certificate of compliance shall impose conditions which would be applicable to a current division of land.

Section 15: A new Section 17.04.060 LMC entitled "Notice of Violation," is created to read as follows:

A. If the community development director has knowledge that real property has been divided in violation of the provisions of this title or RCW 58.17, a notice of intention to record a notice of violation shall be mailed by certified mail with return receipt to the current owner of record of the property. The notice shall describe the property in detail, name the owner(s), describe the violation with an explanation as to why the property is not lawful, and state that the owner will be given an opportunity to present evidence to the contrary. The notice shall specify the date, time, and place for a meeting at which the owner may present evidence to the community development director why a notice of violation should not be recorded. The meeting shall take place no sooner than 30 days and no later than sixty days from the date of mailing. The owner shall have fifteen days to indicate whether or not he or she has any objections to the notice and would like to avail him or herself of the opportunity to meet with the community development director.

B. An owner may apply for a conditional certificate of compliance per Section 17.04.030 of this title. If, however, after the owner has presented evidence, the community development director determines that the property has in fact been illegally divided, the city clerk shall record the notice of violation with the county recorder. If, within fifteen days of receipt of the notice, the owner of the real property fails to inform the city of his or her objection to the notice of violation, the city clerk shall record the notice of violation with the county auditor. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in the subject property. Pursuant to LMC 18A.50.115 and RCW 58.17.210, development shall be permitted only on a legally created lot.

C. If, after the owner has presented evidence, it is determined that there has been no violation, the City shall issue a certificate of compliance or a conditional certificate of compliance, and shall mail a clearance letter by certified mail with return receipt to the then current owner and shall record the clearance statement or certificate of compliance with the County Auditor.

D. A determination that a violation has been sustained is appealable to the City's Hearing Examiner in accordance with the provisions of chapter 1.36 LMC.

E. In the event that a Notice of Violation is sustained, the following courses of action are possible:

1. A preliminary plat or short plat application may be filed. If approved, legal lots would be created upon recordation of the final plat or final short plat.

2. A conditional certificate of compliance could be issued noting appropriate requirements to be fulfilled pursuant to LMC 17.04.050.E. Upon fulfillment of the conditions, a clearance statement and/or certificate of compliance shall be issued by the City and recorded with the County Assessor. The property shall thereafter be considered a legal lot of record. If a conditional

certificate of compliance is issued, the Community Development Director shall, at a minimum, provide a scaled graphic depiction and accurate legal description to utility companies, service providers, and other agencies with jurisdiction over, or interest in, the subject property.

3. If the property does not conform to City zoning requirements or is otherwise found to be a public nuisance or code violation which cannot be appropriately mitigated, the Notice of Violation shall be sustained and the City shall pursue appropriate legal action to remedy the violation and eliminate the separate lot.

Section 16: A new Section 17.04.070 LMC entitled “Non-buildable Lots,” is created to read as follows:

There may be situations where a legal lot of record may be deemed unbuildable because of size, dimension, topography, lack of access, environmental constraint or other factors. When anticipated, information regarding limitations and constraints may be required to be noted on the certificate of compliance, or the city may issue some other appropriate form of notice.

Section 17: Chapter 17.06 LMC entitled “Preliminary Plat Procedure – General/Prefiling Procedure – SEPA,” is retitled to read, “Preliminary Plat Procedure – General,” as follows:

17.6.000 - Preliminary Plat Procedure – General Prefiling Procedure - SEPA

Chapter 17.06
Preliminary Plat Procedure - ~~General Prefiling Procedure~~ - SEPA

Sections:

17.06.010 Explanation of ~~Prefiling~~ Preliminary Plat and Final Plat Approval.

17.06.020 Plans Required.

17.06.030 Recommendations on Street, Drainage, ~~Sewer, Water Utility~~ and Fire Systems.

Cross-reference: Chapter 86. RCW

Section 18: A Section 17.06.010 LMC entitled “Explanation of Prefiling Plat and Final Plat Approval,” is retitled, “Explanation of Preliminary Plat and Final Plat Approval,” and amended to read as follows:

The City of Lakewood utilizes a two part review procedure for subdivision projects. The first part- the preliminary plat- is used to communicate the scope and specific details of the proposed subdivision. Environmental review under SEPA is performed at this stage. Specific requirements for the implementation of the subdivision are crafted in response review comments by responsible agencies and the environmental review.

A preliminary plat application is acted upon by the City’s hearing examiner. The hearing examiner’s decision is the primary discretionary action by the City on the subdivision proposal. After final conclusion with regard to the preliminary plat, the developer is required to install subdivision improvements and utilities, and take other actions as required by the conditions of approval of the preliminary plat in order to implement the subdivision.

Upon completion of required infrastructure improvements and satisfaction of the requirements of the preliminary plat approval, the applicant shall file a final map following the procedures in Chapter 17.16 of this title. The proposed final plat map is reviewed by the Community Development Director and City Engineer for conformance with the terms of the preliminary plat approval. The City Council shall thereafter review the final plat as indicated in LMC 17.16.040.

Upon review and approval by the City Council, the final map shall be signed by all responsible agencies and shall be duly recorded with Pierce County. Legal lots are created upon recordation of the final plat map.

Certain steps are required of the developer and of the City prior to the actual filing date of the preliminary plat. These steps include the developer’s completion of the Environmental Checklist and submitting nine (9) copies of the proposed preliminary plat to the Community Development Department and eight (8) copies of the Environmental Checklist.

Section 19: Section 17.06.020 LMC entitled “Plan Required,” is retitled “Plans Required,” and amended to read as follows:

Whenever it is essential for purposes of evaluating environmental or other concern, the City ~~Community Development Director or City Engineer~~ Engineering Manager may require the developer to submit certain specific concept drawings or studies (e.g. traffic impact analysis) prior to preliminary plat approval.

Section 20: Section 17.06.030 LMC entitled “Recommendations on Street, Drainage, Sewer, Water and Fire Systems,” is retitled “Recommendations on Street, Drainage, Utility and Fire Systems,” and amended to read as follows:

The ~~City Engineer~~ City Engineering Manager, the County Health Officer, utility providers, and the Fire Chief shall review and ~~certify~~ communicate to the Hearing Examiner; their respective recommendations as to the adequacy of the proposed street system, ~~and storm drainage system, the proposed sewage disposal, and water supply and other utility systems~~, and fire protection services for the subdivision. The recommendations of the ~~City Engineer~~ City Engineering Manager, the County Health Officer and the Fire Chief shall become part of the record and shall be included with the Hearing Examiner's decision, ~~if said matter is appealed to the Council.~~

Section 21: Section 17.10.020 LMC entitled "Filing," is amended to read as follows:

A preliminary plat of a proposed subdivision and/or dedication of land located in the City shall be submitted to for approval by the Examiner by filing with the City Community Development Department, and shall include a completed application, paying the application fee, filing sixteen (16) seven (7) paper copies, one 11" X 17" paper copy, and one (1) reproducible electronic copy of the proposed preliminary plat, submitting a list of adjacent landowners as specified herein, submitting and an approved completed Environmental Checklist, and when appropriate, an application for a Comprehensive Plan or zone amendment. ~~Said application for Comprehensive Plan or zone amendment may be considered with the application for preliminary plat approval.~~ For purposes of RCW 58.17.033, a complete application for preliminary plat approval must contain the information and documents required by the following section.

Section 22: Section 17.10.025 LMC entitled "Preliminary Plat," is amended to read as follows:

A. Application Submittal: ~~Whenever it is possible~~ Any property owner wishing to subdivide land into ~~five (5) ten (10)~~ or more lots, tracts, sites or divisions, the applicant shall file with the City Community Development Department one 8-1/2" x 11" clear plastic reduction, one 11" X 17" reduced paper copy, and seven (7) 7 legible paper copies of the preliminary plat map on sheets 18" x 24" in size. Preliminary plat maps shall include, or be accompanied by the following:

1. A completed general application form and environmental checklist. Said form and checklist to be obtained from the Community Development Department.
2. The filing fee required pursuant to the City ordinance adopting building and development related permit fees schedule, and in accordance with the fee schedule available from the Community Development Department.
3. Names and addresses of all property owners within 300 feet of the subject property, available from the County Assessor's Office. This requirement may be waived if the City provides the list of adjacent landowners.
4. A vicinity map extending at least 800 feet in each direction from the proposed subdivision, or further if necessary to assist in locating the subdivision. The vicinity map shall be drawn to a scale of one inch equals 800 feet (1":800'). The vicinity map shall show the following:
 - a. Street layout in the subdivision;
 - b. Existing and tentatively approved street layout within 800 feet of the subdivision;
 - c. Zoning designations within, and adjacent to, the subdivision;
 - d. All property lines within 800 feet of the subdivision;
 - e. Streams or watercourses, and public facilities such as schools and parks;
 - f. All 100-year floodplain and designated shoreline boundaries in, and within 800 feet of, the proposed subdivision;
 - g. Any other pertinent information that will assist in locating the proposed subdivision.
5. A title block in the lower right corner of the preliminary plat map, showing:
 - a. The proposed name of the subdivision;
 - b. The scale of the drawing;
 - c. The date of the drawing;
 - d. The name and address of the engineer, surveyor or other individual responsible for laying-out the subdivision.
6. A detailed plan of the proposed subdivision drawn to the scale of one inch equals ~~50 +00~~ 50 (1":10050') or larger, ~~with the provision that for subdivisions of 50 acres or more the Community Development Director may authorize a smaller scale, when an entire subdivision cannot be shown on a single sheet.~~ The detailed plan shall clearly show the following information:
 - a. North arrow;
 - b. The location, names and right-of-way widths of all existing and proposed streets and driveways within 250 feet of the boundaries of the proposed subdivision;
 - c. The location, names and right-of-way widths of all proposed streets and their proposed paved width;
 - d. Lot layout with lot line dimensions, the area in the square feet contained in each lot;

- e. The location and use of all existing buildings within the proposed subdivision, indicating which buildings are to remain and which are to be removed;
- f. The use and approximate location of all buildings within 150 feet of the boundaries of the proposed subdivision;
- g. The location, size and use of all contemplated and existing public areas within the proposed subdivision, and a description of the adaptability of the area for uses contemplated;
- h. The location, size and kind of public utilities in and adjacent to the proposed subdivision, indicating those utilities which will provide service to the proposed development and their planned location within the subdivision to include any existing easements;
- i. Location and disposition of any wells, creeks, drainage courses, drainageways, septic tanks, drainfields, 100-year floodplain boundaries and easements in or within 200 feet of the proposed subdivision;
- j. Topography and five-foot contours certified by the engineer or surveyor within the proposed subdivision; or, as an alternative in the case of a partition of one (one) acre or less, elevations at each existing and proposed property corner. One foot or two foot contours may be required, at the Community Development Director's discretion;
- k. Topography and at least ten foot contours outside, but within 200 feet of, the proposed subdivision. The base for such information shall be the National Geodetic Survey (U.S.G.S.), or other survey approved by the Community Development Director;
- l. The location of all significant trees (as defined in the Lakewood Zoning Code) within the proposed subdivision, and for 150 feet beyond the terminus of all dead-end streets (Individual trees in a stand of five trees or more need not be shown, but the area covered by the stand dripline shall be shown. For trees outside the subdivision boundaries, the location of said trees may be based on aerial photographs or other methods acceptable to the Community Development Director, and which do not require the applicant to trespass on adjacent property;
- m. For all 100-year floodplain boundaries shown on the vicinity map, the elevation of the 100-year flood at the point immediately upstream from the subdivision, and the direction and distance to said point;
- n. The location of identified hazards or development limitation areas identified by the City of Lakewood Critical Areas Map;
- o. The location of any state shorelines and associated wetlands within the subdivision, as defined by State law and the City of Lakewood Shoreline Master Program.

7. Profiles of all proposed streets within the proposed subdivision, showing grades to which the streets will be built, and the existing groundline of the proposed streets including the probable future extensions of any stub (dead-end) streets for a maximum distance of 150 feet beyond the proposed subdivision boundaries. As an alternative, the preliminary plat map may show topography in two foot (2') contours within 50 feet of each side of the centerline of all probable future extensions of any stub (dead-end) streets for a distance of 150 feet beyond the boundaries of the proposed subdivision. The contour information shall be certified by a registered engineer or surveyor.

8. Slope analysis indicating areas where existing grades within the subdivision exceed 15%, 25% and 40%. The percentage and area in square feet of the subdivision with slopes of 0 - 15%, 15 - 25%, 25 - 40% and 40% and above categories.

9. Such additional information as the Community Development Director deems necessary.

Section 23: Section 17.10.030 LMC entitled "Staff Procedure," is amended to read as follows:

If the preliminary plat, as filed, is consistent with the City's comprehensive plan, and is in conformance with all of the City's land use codes and is otherwise acceptable in form and substance, the Community Development Department shall receive the application and shall promptly forward copies of the preliminary plan to appropriate governmental agencies for their review.

If the application is not consistent with the comprehensive plan land use designation, the application shall be returned to the applicant, and shall not be accepted unless the comprehensive plan land use designation is amended to be consistent with the proposed subdivision.

Section 24: Section 17.10.040 LMC entitled "Notice," is retitled, "Notice to Agencies," and amended to read as follows:

A. Notice of Filing. Notice of the filing of a preliminary plat shall be given to the State, municipalities, public utilities and school districts in the following cases and manner:

1. When a proposed subdivision which contemplates the use of any public utilities, notice shall be given to the public utilities governing body.
2. When a proposed subdivision which is to be located adjacent to the right-of-way of a State highway, notice shall be given to the State Department of Highways or its successor.
3. Notice shall be given to the school district within which the subdivision is proposed.

4. When the proposed subdivision lies within a designated flood control zone pursuant to ~~Chapter Title 86-~~ RCW, notification shall be given to the Department of Ecology of the State of Washington, or its successor.

5. When a subdivision is located within the jurisdiction of the Shoreline Management Act, notification shall be given to the Department of Ecology of the State of Washington, or its successor.

Notice of filing as above required, shall be accomplished by the Community Development Director or his authorized designees assistant's notifying the proper agencies by letter of the proposed subdivision filing, which letter shall include its legal description, a small map showing location, subdivision acreage, number of home or building lots, and the hour and location of the first hearing on the preliminary plat. The City may require that any review fees payable to outside agencies be made directly with that agency prior to submittal of the preliminary plat application. The initial review by the departments/agencies of the proposed plat shall be completed within fifteen (15) calendar days, unless, upon the request of the Community Development Department, the applicant consents to an extension of such time period. Each department or official shall either recommend approval, disapproval, or revision of the preliminary plat within the fifteen day initial review period.

The reviewing departments shall have a fourteen (14) day review period to consider any revised plans. At the conclusion of the review period, the reviewing department directors or authorized representatives shall recommend approval, approval with conditions, or denial of the preliminary plat.

B. The City shall provide a Notice of Public Hearing to all agencies commenting on a project and to the Washington State Departments of Transportation and Ecology when notice is required to be given to such agencies because of a project's location near flood hazard areas or state highways. Said letter notice shall be mailed or delivered at least fourteen (14) days before the date for the initial hearing.

B. List of Adjacent Landowners. The developer shall obtain and submit to the Community Development Department Director, the names and addresses of all persons of record, who own or who are contract purchasers of the real property to within 300 feet of the exterior boundary of the proposed subdivision site and outside of the developer's ownership or partial ownership. The names and addresses herein required shall be obtained from the Assessor-Treasurer's records.

Section 25: Section 17.10.050 LMC entitled "Determination of Completeness," is amended to read as follows:

Within 28 days of receiving an application for preliminary plat approval containing all information required by Section 17.10.020 of this Code, the Community Development Department shall issue a determination of completeness or incompleteness as required by RCW-36.70.A.440 36.70B.070. The Community Development Department is responsible for complying with all other requirements of RCW-36.70.A.440 36.70B.070, provided that any applicable time limitations for processing an application, including time limits set forth in RCW 36.70B, RCW 58.17, LMC Title 18A, or this title, shall be tolled while the applicant responds to requests for revision or additional information within the timeframes set forth in this section.

Section 26: A new Section 17.10.060 LMC entitled "Public Notice," is created to read as follows:

Upon receipt of a complete application, a Notice of Application shall be given as required by RCW 36.70B and LMC 18A.02.670. Public notice is also required as part of the environmental review process under SEPA. SEPA notices shall be issued as required by WAC 197-11-340, and may be combined with the Notice of Application as provided for in WAC 197-11-355.

A Notice of Public Hearing shall be issued prior to the public hearing as required by RCW 58.17.090 and LMC 18A.02.700. Notice shall be mailed, posted and first published not less than fifteen (15) nor more than thirty (30) days prior to the public hearing requiring the notice.

Section 27: Section 17.14.010 LMC entitled "Notice of Hearing," is retitled, "Review Process," and amended to read as follows:

Preliminary Plat applications shall be reviewed as a Process III Hearing Action as outlined in LMC 18A.02.502 and 18A.02.550. Preliminary plat applications are subject to a hearing before the City's Hearing Examiner. The Hearing Examiner's decision on a preliminary plat application is considered final and conclusive.

If a Comprehensive Plan or zoning ordinance amendment is required for a subdivision project, the amendment shall be processed and approved prior to processing of the subdivision application. Site specific comprehensive plan and zoning ordinance amendments shall be reviewed as a Process IV Hearing Action as outlined in LMC 18A.02.502 and 18A.02.560. Amendment applications are subject to a hearing before the Planning Advisory Board and final approval by the City Council.

A. General. All hearing notices shall include a description of the location of the proposed subdivision. The description may be

in the form of a vicinity location sketch or a location description in non-legal language.

B. Newspaper Notice. Upon receipt of an application for preliminary plat and after completion of a Final Environmental Impact Statement, if necessary, or Negative Declaration, the Community Development Department staff shall set a date for a public hearing before the Examiner and shall give notice by arranging publication of at least one (1) notice not less than ten (10) days prior to the hearing in the newspaper of general circulation in the City.

C. Notice to Adjacent Ownership. The Community Development Department shall notify by letter, the persons who own or are contract purchasers of the real property, as shown by the records of the County Assessor-Treasurer, located within three hundred (300) feet, but not less than two (2) parcels deep, around the perimeter of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice under this subsection shall be given to owners of real property located within three hundred (300) feet, but not less than two (2) parcels deep, around the perimeter of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided. Said notice shall specify the particulars of the initial hearing on the proposed subdivision and shall include a description of the location of the proposed subdivision in non-legal language or a vicinity location sketch and shall be mailed not less than twenty-one (21) days before said hearing.

D. Posting Requirements. After acceptance of a preliminary plat application, notice of application shall be posted by the applicant on the property at its principal entry point to the nearest right-of-way, as determined by the Community Development Department. Notice shall be posted on a 3 foot by 4 foot waterproof sign. The sign shall be made of corrugated plastic to specifications provided by the City (see drawing No. 1, appendix A) If desired, a sign may be purchased from the City at a cost to be determined by the manufacturing cost at the time of purchase. The sign(s) shall be located so as to be easily visible from the abutting street. When more than one street abuts the property, the sign(s) shall be easily visible from each street. When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major street entrance to the development as determined by the Community Development Department. When the sign(s) is posted, the applicant shall complete and return a notarized affidavit of posting to the Community Development Department. The sign(s) shall be erected and maintained by the applicant for a minimum of thirty (30) days prior to the public hearing and until a decision is rendered on the application or appeal. The sign(s) shall be removed by the applicant within one (1) week following the decision by the Hearing Examiner or City Council.

Section 28: Section 17.10.020 LMC entitled "Review of Preliminary Plat," is amended to read as follows:

A. Upon receipt of a complete preliminary plat application, the Community Development Department shall begin its review of the application consistent with RCW 36.70B, and relevant provisions of the Lakewood Municipal Code. The Department shall transmit a copy of the plat map, easements, and application materials to relevant city departments, utilities providing services to the subdivision, and any other government agencies with jurisdiction as required by LMC 17.10.040. At a minimum, the Department shall transmit the application to the City Engineer, the Building Official, Lakewood Water District, Pierce County Sewer Utility, West Pierce Fire and Rescue, the appropriate electric utility provider, the Pierce County Assessor's Office, and the Tacoma-Pierce County Health Department. The Community Development Director shall also transmit a copy of the application to other agencies with an interest in the project including, but not limited to, Washington State Department of Transportation, Washington Department of Fish and Wildlife, Washington State Department of Ecology, Joint Base Lewis McChord, and Camp Murray. The Community Development Department shall also issue a Notice of Application pursuant to LMC 18A.02.600 *et seq.* and shall commence environmental review under SEPA. Responsible agencies shall provide comments as provided in LMC 17.10.040.

B. The Hearing Examiner shall review all proposed preliminary plats and shall take such action thereon as to assure conformance of the proposed subdivision to the general purposes of the comprehensive plan and to planning standards and specifications as adopted by the City. The approval of any preliminary plat may be conditioned upon the developer's obtaining proper Comprehensive Plan or zoning designation for the subdivision.

BC. The decision by the Examiner is a final and conclusive decision but said decision may be appealed to the Council as specified herein. The Examiner's written decision on the preliminary plat shall include findings and conclusions, based on the record, to support the decision. Each final decision of the Examiner, unless a longer period is mutually agreed to by the applicant and the Examiner, shall be rendered within ten (10) working days following the conclusion of all testimony and hearings unless a longer period is mutually agreed to by the applicant and the Examiner.

Section 29: Section 17.14.030 LMC entitled "Required Written Findings and Determinations," is amended to read as follows:

~~A-~~The Examiner shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. ~~The Examiner shall determine:~~

~~1. If appropriate provisions are made for, but not limited to the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and~~

~~2. whether the public interest will be served by the subdivision and dedication.~~

~~B-~~A proposed subdivision and dedication shall not be approved unless the Examiner makes written findings that:

~~A.1-~~ Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and

~~B.2-~~ The public use and interest will be served by the platting of such subdivision and dedication. If the Examiner finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the Examiner shall approve the proposed subdivision and dedication.

Section 30: Section 17.14.040 LMC entitled "Time Limitations," is amended to read as follows:

A. In General. A final plat meeting all of the requirements of law shall be submitted to the City within ~~five (5) years of the date upon which the approval of the preliminary plat is final. ten years of the date of preliminary plat approval if the project is not subject to requirements adopted under chapter 90.58 RCW (Shoreline Management Act) and the date of preliminary plat approval is on or before December 31, 2007, within seven years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015.~~ The approval of a preliminary plat shall be automatically null and void if final plat approval is not obtained within the time limitations specified herein.

In addition, pursuant to RCW 58.17.170 (3)(b), a subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of ten years after final plat approval if the project is not subject to requirements adopted under chapter 90.58 RCW (Shoreline Management Act) and the date of final plat approval is on or before December 31, 2007, unless the City Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision. Otherwise, any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing if the date of filing is on or before December 31, 2014, and for a period of five years from the date of filing if the date of filing is on or after January 1, 2015. (RCW 58.17.170).

B. Extension Procedure.

1. Time for Filing. A written application for any extension of time under the provisions of this Section shall be filed with the Community Development Department at least thirty (30) days prior to the expiration of the existing period of approval currently applicable. The applicable time period shall be tolled from the date of filing the application for extension until the date of the final decision by the City. Each application shall be accompanied by payment of a filing fee in an amount established by separate Resolution.

2. Additional Extensions-Changed Conditions. Upon filing of an application for extension, a copy shall be sent to each party of record together with governmental departments or agencies as were involved in the process of preliminary plat approval. By letter, the Examiner shall request that written comments, if any, be delivered to the Examiner's office within ten (10) working days of the date of the Examiner's letter. If any comment requests the alteration or expansion of conditions of approval, the applicant shall be provided with a copy of such proposal and a period of ten (10) working days in which to file objections, if any, and/or a request for formal hearing. In the absence of such objection, the Examiner may conclude that the proposed change in conditions is acceptable to the applicant and proceed to a decision in accordance with procedures set forth in this Section.

3. Hearing Examiner-Hearing. If, in the opinion of the Examiner, substantial issues have been raised concerning the application for extension, the Examiner may schedule a public hearing. In the case of a request for extensions of time beyond the initial one (1) year period, if a proposal is made to alter or expand the conditions of approval, a public hearing shall be held upon written request by the applicant or any party of record upon a determination by the Hearing Examiner that there are substantial issues which necessitate a public hearing.

4. Hearing Examiner Decision.

a. With hearing. If a public hearing is held under the provisions of Section

~~BD.3~~ above, the Examiner shall issue a decision together with findings and conclusions in support thereof within ten (10) working days of the date of the hearing.

b. Without hearing. If no public hearing is held, the Examiner shall issue .

his decision with ten (10) working days of the date upon which written comments were to be filed with the Examiner.

~~Hearing Examiner Decision-Appeal.~~ The decision of the Examiner to grant or deny extensions of time shall be final, unless appealed under the provisions of Sections 17.14.050, 17.14.060, and 17.14.070.

C. Stages. If the developer desires to develop said subdivision in stages, each stage or division must be approved within the time limits specified herein.

Section 31: Section 17.14.060 LMC entitled "Appeal of Examiner's Decision," is amended to read as follows:

The decision of the Hearing Examiner is final and conclusive, subject only to judicial appeal.

The final decision by the Examiner on a preliminary plat may be appealed to the Council, by any aggrieved person directly affected by the Examiner's decision. Said appeal procedure is as follows:

A. ~~The appellant must file written notice of appeal with the Community Development Department and the appeal fee within ten (10) working days of the date of mailing of the Examiner's final decision; provided, that if the Examiner was requested to reconsider the decision, then the appeal must be filed within ten (10) working days of the mailing of the Examiner's final order or decision on the reconsideration request.~~

B. ~~The notice of appeal shall concisely specify such error and/or issue which the Council is asked to consider on appeal.~~

C. ~~Upon the filing of an appeal, the Community Development Department shall forward to the Council the original tape containing a verbatim record of the proceedings before the Examiner. An appeal shall stay the effective date of the Examiner's decision until final resolution has been made by the Council.~~

D. ~~The approval of a final plat is strictly limited to the questions of whether the final plat is consistent with the findings, conclusions and conditions specified for the preliminary plat. Environmental considerations and satisfaction of review criteria specified by Section 17.14.030 and RCW 58.17.110 which are not relevant to the findings, conclusions or decision for the preliminary plat cannot be raised during the review of a final plat but must be raised at the time for reviewing the preliminary plat or they are waived. (Ord. 60 ? 1 (part), 1996.)~~

Section 32: The following section is repealed: LMC 17.14.070

17.14.070 - Council Action on Appeals

A. General. For Examiner decisions which an appeal is properly filed, the Community Development Department shall forthwith forward nine (9) copies of the Examiner's decision plus nine (9) copies of the official file and the recorded record to the Clerk of the Council. The Clerk of the Council shall schedule a public meeting date for the Council on the appealed matter.

B. Public Notice on Appeals. The Clerk of the Council shall cause written notice to be mailed to all "parties of record" and the Examiner to apprise them of the meeting date before the Council. Parties of record are those persons who have:

1. Testified before the Examiner, or
2. Listed their names on a sign up sheet which is available during the Examiner's hearings, or
3. Advised the Community Development Department in writing of their desire to be a party of record.

C. Council Action on Appeals. Whenever a decision by the Examiner is reviewed by the Council pursuant to this Section, the appellant or other parties of record may submit written memoranda in support of their positions. The Council may impose a time limit on oral presentations. No new evidence or testimony shall be presented to the Council during the oral presentation. The Council may view the site either individually or together, provided that unless all parties of record are given reasonable notice of the time of the view, no one other than City staff can accompany the Council members during the view.

D. Council Decision on Appeal:

1. The Council's decision on any appeal from the Examiner shall be based on the record of the hearing held by the Examiner. The Council may not accept or consider any additional

2. The Council shall consider whether each of the findings of fact entered by the Examiner are supported by substantial evidence in the record. The Council may reverse any finding which is not so supported. Beyond this, the Council may not enter its own findings of fact;

3. The Council shall consider issues of law *de nova* in making its decision;

4. The Council may affirm or reverse the decision of the Examiner or remand the matter to the Examiner for further consideration. Any decision by the Council shall be supported by adequate findings of fact based on the record and by conclusions of law.

E. Council Action is Final. The action of the Council, approving or rejecting a decision of the Examiner, is final and conclusive unless within thirty (30) days from the date of the action an aggrieved party or person files an appropriate action in Superior Court for the purpose of reviewing the action taken, and serves all necessary parties.

F. Reconsideration by the Council. Any aggrieved party or person affected by the action may, within seven (7) working days of the Council's oral decision, file with the Clerk of Council a written request for reconsideration based on any one of the following grounds materially affecting the substantial rights of said party or person:

1. Errors of procedure or misinterpretation of fact, material to the party seeking the request for reconsideration.

2. Irregularity in the proceedings before the Council by which such party was prevented from having a fair hearing.

3. Clerical mistakes in the official file or record transmitted to the Council, including errors arising from inadvertence, oversight, or omission, which may have materially affected the Council's decision on the matter.

Upon receipt of a request for reconsideration, the Council shall review said request and take such further action as the Council deems proper, including, but not limited to, the right to deny said request for reconsideration without a hearing, or the right to rehear and render a revised decision on the matter if deemed appropriate by the Council. Only one request for reconsideration may be filed by any one person or party, even if the Council reverses or modifies its original decision or changes the language in the decision originally rendered.

In the event that a request for reconsideration is filed with the Council, the thirty (30) day appeal period to Superior Court as set forth in this Title shall be deemed to commence on the date of the Council's final action relative to the request for reconsideration.

(Ord. 60 ? 1 (part), 1996.)

Section 33: The following sections is repealed: LMC 17.14.080

~~17.14.080-Requirement for Each Plat Filed for Record~~

~~Each and every plat of any property filed for record shall:~~

- ~~A. Contain a legal description of the plat which shall match the description on the title insurance report.~~
- ~~B. Contain a dedication for all streets, easements, open space, tracts, or other parcels to be dedicated to the public or other specifically noted entities or organizations.~~
- ~~C. Be acknowledged by the person filing the plat before the County Auditor or any other officer who is authorized by law to take acknowledgment of deeds, and certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith.~~
- ~~D. Contain certification from the Assessor-Treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.~~
- ~~E. Contain a statement of approval from the City Engineering Manager as to the construction of all streets and associated storm drainage systems for public streets. Streets not dedicated to the public shall be clearly denoted on the face of the plat and the plat shall contain a provision for maintenance of the private streets by the individual lot owners.~~
- ~~F. Contain a certification from the sewerage provider as to the means of sewage disposal for the lots if required.~~
- ~~G. Contain a certification from the County Health Department as to the means of sewage disposal and water availability if required.~~
- ~~H. Contain a certification from the Community Development Department approving the plat and stating that the platting fee has been paid.~~
- ~~I. Be accompanied by a complete survey of the section or sections in which the plat or re-plat is located with all survey work being done in compliance with RCW 58.24.040. The final plat shall follow the format as shown on the City Formal Plat Standards as now enacted or hereafter amended.~~

~~J. Be submitted to the City Community Development Department along with the following:~~

- ~~1. Twelve (12) paper prints.~~
- ~~2. Two (2) copies of a title report, prepared not more than thirty (30) days prior to the date of written approval by the Director of the Community Development Department, from a title insurance company containing the complete and correct legal description of the plat, listing all easements of record which affect the property and confirming that the title of the lands as described and shown on said plat is in the name of the owners signing the dedication.~~
- ~~3. Final Plat Land Use Breakdown sheet.~~
- ~~4. One (1) copy of the plat boundary, individual lots and street centerline computer closures for the plat.~~

~~(Ord. 60 § 1 (part), 1996.)~~

Section 34: The following sections is repealed: LMC 17.14.090

~~17.14.090-Certificate Giving Description, Statement of Owners, and Dedication Requirements~~

~~Every formal subdivision, short subdivision or large lot subdivision filed for record must contain a certificate giving a full and correct description of the lands divided as they appear on the plat drawing, including a statement that the subdivision of property has been made with the free consent and in accordance with the desires of the owner(s) or contractor purchasers. If the subdivision of property includes a dedication, the certification shall also contain the dedication of all streets and other areas to the public, and individual or individuals, religious society or societies or to any corporation, public or private, as shown on the plat document and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said street. Said certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.~~

~~Any dedication, donation or grant as shown on the face of the plat shall be considered to all intents and purposes, as a quit-claim deed to the said donee or donees and/or grantees for his, her or their use for the purpose intended by the donors or~~

grantors as aforesaid. (Ord. 60 § 1 (part), 1996.)

Section 35: The following sections is repealed: LMC 17.14.100

~~17.14.100- Review of Final Plats~~

~~The City Community Development Director or authorized assistant shall review applications for the proposed final plat and be satisfied that the following conditions exist:~~

- ~~A. The final plat meets all standards established by State law and this Title relating to final plats;~~
- ~~B. The proposed final plat bears the certificates and statements of approval required by this Title and State law;~~
- ~~C. A title insurance report furnished by the subdivider confirms the title of the land in the proposed subdivision is vested in the name of the owners whose signatures appear on the plat's certificate;~~
- ~~D. The facilities and improvements required to be provided by the developer have been completed or, alternatively, that the developer has provided a performance bond, or cash deposit in lieu thereof, or other security commonly used by banking and lending institutions; provided further that the bond, cash deposit, or other security, as hereinabove required, shall be filed with the Engineering Manager and shall be in a form acceptable to the City Attorney and in an amount and with sureties commensurate with improvements remaining to be completed and securing to the City the construction and installation of the improvements within a fixed time.~~

~~(Ord. 60 § 1 (part), 1996.)~~

Section 36: The following sections is repealed: LMC 17.14.110

~~17.14.110- Council Review of Final Plats~~

~~The City Council shall review final plats in accordance with Chapter 58.17 RCW. When the Engineering Manager finds that the subdivision meets the following criteria, he or she shall recommend approval the proposed final plat if:~~

- ~~A. The plat conforms to all terms of preliminary plat approval;~~
- ~~B. The bond, if there is one, by its essential terms assures completion of improvements;~~
- ~~C. The plat meets the requirements of State law and this Title in effect at the time of preliminary plat approval.~~

~~After the City Council approves the plat, the Community Development Department shall forward the original to the County Auditor for filing, who shall, after recording, forward two reproducible copies thereof to the Engineering Manager and one paper copy to the County Assessor-Treasurer.~~

~~(Ord. 60 § 1 (part), 1996.)~~

Section 37: A new Chapter 17.16 LMC entitled, Final Plats – Review Procedure,” is created,

Chapter 17.16

Final Plats- Review procedure

17.16.010 Requirement for Each Plat Filed for Record

17.16.020 Certificate Giving Description, Statement of Owners, and Dedication Requirements

17.16.030 Review of Final Plats

17.16.040 Council Review of Final Plats

Section 38: A new Section 17.16.010 LMC entitled “Requirement for Each Plat Filed for Record,” is created to read as follows:

Each and every plat of any property filed for record pursuant to RCW 58.17.160 shall:

- A. Contain a legal description of the plat which shall match the description on the title insurance report.

B. Contain a dedication statement for all streets, easements, open space, tracts, or other parcels to be dedicated to the public or other specifically noted entities or organizations.

C. Be acknowledged by the person filing the plat before the County Auditor or any other officer who is authorized by law to take acknowledgment of deeds, and certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith.

D. Contain certification from the Assessor-Treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

E. Contain a statement of approval from the City Engineering Manager as to the construction of all streets and associated storm drainage systems for public streets. Streets not dedicated to the public shall be clearly denoted on the face of the plat and the plat shall contain a provision for maintenance of the private streets by the individual lot owners.

F. Contain a certification from the sewerage provider as to the means of sewage disposal for the lots if required.

G. Contain a certification from the County Health Department as to the means of sewage disposal and water availability if required.

~~H. Contain a certification from the Community Development Department approving the plat and stating that the platting fee has been paid.~~

~~HI. Be accompanied by a complete survey of the section or sections in which the plat or re-plat is located with all survey work being done in compliance with RCW 58.24.040. The final plat shall follow the format as shown on the City Formal Plat Standards as now enacted or hereafter amended. All survey work shall be performed in compliance with RCW 58.24.040.~~

~~I.~~ Be submitted to the City Community Development Department along with the following:

1. Twelve (12) paper prints.

2. Two (2) copies of a title report, prepared not more than thirty (30) days prior to the date of written approval by the Director of the Community Development Department, from a title insurance company containing the complete and correct legal description of the plat, listing all easements of record which affect the property and confirming that the title of the lands as described and shown on said plat is in the name of the owners signing the dedication.

3. Final Plat Land Use Breakdown sheet.

4. One (1) copy of the plat boundary, individual lots and street centerline computer closures for the plat.

Section 39: A new Section 17.16.020 LMC entitled "Certificate Giving Description, Statement of Owners, and Dedication Requirements," is created to read as follows:

Every formal subdivision, short subdivision or ~~large lot subdivision~~ binding site plan filed for record must contain a certificate giving a full and correct description of the lands divided as they appear on the plat drawing, including a statement that the subdivision of property has been made with the free consent and in accordance with the desires of the owner(s) or contractor purchasers. If the subdivision of property includes a dedication, the certification shall also contain the dedication of all streets and other areas to the public, and individual or individuals, religious society or societies or to any corporation, public or private, as shown on the plat document and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said street. Said certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

Any dedication, donation or grant as shown on the face of the plat shall be considered ~~to~~ for all intents and purposes, as a quit-claim deed to the said donee or donees and/or grantees for his, her or their use for the purpose intended by the donors or grantors as aforesaid.

Section 40: A new Section 17.16.030 LMC entitled "Review of Final Plats," is created to read as follows:

The City Community Development Director or authorized designee shall review applications for the proposed final plat and be satisfied that the following conditions exist:

A. The final plat meets all standards established by State law and this Title relating to final plats;

B. The proposed final plat bears the certificates and statements of approval required by this Title and State law;

C. A title insurance report furnished by the subdivider confirms the title of the land in the proposed subdivision is vested in the name of the owners whose signatures appear on the plat's certificate;

D. The facilities and improvements required to be provided by the developer have been completed or, alternatively, that the developer has provided a performance bond, or cash deposit in lieu thereof, or other security commonly used by banking and lending institutions; provided further that the bond, cash deposit, or other security, as hereinabove required, shall be filed with the City Engineer and shall be in a form acceptable to the City Attorney and in an amount and with sureties commensurate with improvements remaining to be completed and securing to the City the construction and installation of the improvements within a fixed time.

E. That all conditions of the preliminary plat approval have been satisfied and that all platting fees have been paid.

Section 41: A new Section 17.16.040 LMC entitled "Council Review of Final Plats," is created to read as follows:

The City Council shall review final plats in accordance with Chapter 58.17 RCW. Council review of a final plat is strictly limited to the questions of whether the final plat is consistent with the findings, conclusions and conditions specified for the preliminary plat. Environmental considerations and satisfaction of review criteria specified by Section 17.14.030 and RCW 58.17.110 which are not relevant to the findings, conclusions or decision for the preliminary plat cannot be raised during the review of a final plat but must be raised at the time for reviewing the preliminary plat or they are waived. When the Engineering Manager Community Development Director finds that the subdivision meets the following criteria, he or she shall recommend approval of the proposed final plat if:

A. The plat conforms to all terms of preliminary plat approval;

B. The bond, if there is one, by its essential terms assures completion of improvements;

C. The plat meets the requirements of State law and this Title in effect at the time of preliminary plat approval.

After the City Council approves the plat, the Community Development Department shall forward the original to the County Auditor for filing, who shall, after recording, forward two reproducible copies thereof to the City Engineer and one paper copy to the County Assessor-Treasurer.

Section 42: A new Section 17.18.005 LMC entitled "Conditions of Approval and Construction of Subdivision Infrastructure," is created to read as follows:

The creation of new lots and building sites requires that certain infrastructure be provided to serve the planned development. In addition, provisions must be made for maintenance of common infrastructure and implementation of development controls. It is the responsibility of the subdivision developer to install the infrastructure to serve the subdivided land. Infrastructure will normally include roadways to serve the lots of the subdivision, utilities (including electricity, gas, water and sanitary sewage disposal), stormwater management, and fire protection. Additional improvements may be required to mitigate environmental or other impacts of a subdivision. Prior to the approval and recordation of the Final Map, the City will require that all of the conditions of approval for the preliminary plat be satisfied.

Section 43: Section 17.18.010 LMC entitled "Dedications," is amended to read as follows:

A. General. Dedication of land for road right-of-way and other purposes may be required. All dedications shall be clearly and precisely indicated on the face of the plat as approved by the City. Improvements and easements to maintain such improvements may be required to be dedicated.

B. Access to Public Waters. Plats of subdivisions containing land ~~adjacent to publicly owned or controlled bodies of water~~ subject to the provisions of the Shoreline Management Act shall contain dedications of public access to, around or beside the regulated waterbody such bodies of water consistent with the City's Shoreline Master Program, unless the Examiner determines the public use and interest will not be served thereby. Such dedications shall be of a size and nature as determined by the Examiner and shall be established when the preliminary plat is approved. Such dedications may be required only when in compliance with all standards governing regulatory takings.

C. Constructed to City Standards. All streets, bridges, drains, culverts and related structures and facilities which are dedicated, shall be designed and constructed in accordance with current standards promulgated by the Engineering Manager and in effect at the time of construction.

Section 44: Section 17.18.020 LMC entitled "Improvements Required," is amended to read as follows:

A. ~~Plan and profiles required. Permits required.~~ All subdivision improvements shall be constructed in accordance with an approved site development permit.

Prior to the construction of an improvement, the developer shall submit to the City Engineer, ~~two (2) an application for a site development permit including~~ copies of the plan, profiles and specifications for said streets, drainage, utilities and other proposed improvements to be constructed in the proposed subdivision. Plans and profiles shall be drawn upon standard 22" x 36" ~~Federal Aid Plan~~ profile sheets or such other sheets as may be acceptable to the City Engineer. Prior to construction, the construction plans for any dedicated improvement must be approved by the City Engineer and construction plans for other improvements may be required to be approved. A site development permit or other appropriate permission shall be secured prior to commencement of construction.

B. Flood or Geological Hazard. If any portion of the land within the boundaries ~~shown on any map or plat of a division of land whether formal plat or short plat or large lot division plat,~~ is subject to flood hazard, inundation, geological hazard, mud slides or avalanches, as such conditions may be, but need not be, indicated in the most recent national flood insurance program, flood hazard boundary map (FHBM) for Pierce County, Washington or other authoritative data, and the probable use of the property will require structures thereon or nearby, the Hearing Examiner or departmental reviewer may disapprove the subdivision, ~~short subdivision or large lot division or that portion of the subdivision, short subdivision or large lot division so affected, and/or~~ require protective improvements to be constructed as approved by the City, as a condition precedent to final approval and recordation of the subdivision, ~~short subdivision or large lot division~~ binding site plan map. If any portion of a lot or parcel of a subdivision is subject to flood hazard, inundation, geological hazard, mud slides or avalanches, such fact and portion shall be clearly shown on the final map or parcel map by a prominent note on each sheet of such map whereon any portion is shown. No subdivision, ~~short subdivision or large lot division~~ binding site plan shall be approved by the Examiner or departmental reviewer which is situated wholly or partially within a flood control zone as provided in Chapter 86.16 RCW without the prior written approval of the Department of Ecology.

C. Storm Drainage Containment. The City shall, as a condition of approval of any division of land, whether formal subdivision or short subdivision or ~~large lot division~~ binding site plan, require the developer to construct storm drainage facilities in conformance with the City's surface water design standards.

D. Fire Protection. The developer shall, at the developer's expense, provide water sources and/or facilities as required by law. Subdivisions shall provide fire hydrants (or other adequate means) with adequate capacity and spacing to provide for fire protection.

E. Sanitary Sewer Pipe Installations. The City may condition the approval of any plat upon the developer's installation of sanitary sewer connections and pipes properly constructed according to City standards.

Section 45: Section 17.18.030 LMC entitled "Names and Numbers of Subdivisions, Streets, Blocks and Lots," is amended to read as follows:

A. General. In order to promote an orderly and coherent street and property location system, street names and numbers in subdivisions, short subdivisions and ~~large lot divisions~~ binding site plans shall be assigned in accordance with the procedures and guidelines established herein.

B. Subdivision Names and Numbers. Subdivision names shall be chosen by the applicant subject to approval by the Community Development Department. The Community Development Department shall approve the proposed name if it is reasonably distinguishable from previously established subdivision names. The legal identification of short plats and binding site plans ~~large lots~~, if any, shall be designated by number and assigned by the County Auditor at the time of recording.

C. Street Names and Numbers. All public and private streets established by subdivision, short subdivision or binding site plan ~~large lot division~~ shall have street names or numbers assigned and clearly shown on the plats prior to approval and recording.

Street names and numbers shall be assigned by the Community Development Director. Private streets shall be clearly labeled on the face of the plat.

D. Blocks and Lots. Blocks and lots established for purposes of legal description of subdivided property shall be named and numbered in accordance with procedures and guidelines established by the City Engineer.

E. Addresses in new subdivisions shall be assigned by the Building Official pursuant to Section 501 of the International Building Code.

Section 46: Section 17.18.050 LMC entitled “Bonds – Construction and Guarantee,” is amended to read as follows:

The City, in lieu of actual construction of any improvement by the developer of any formal subdivision, short subdivision or ~~large lot division binding site plan, shall require~~ may accept a bond in an amount and with surety and conditions satisfactory to it or other secure methods providing for and securing to the City, the actual construction and installation of such improvements within a two year period. The City Engineer may refuse to accept a security in lieu of actual construction where redemption of the security is seen to be problematic, or where the improvements are required immediately to ensure public safety and proper functioning of the development. All improvements such as structures, streets, sewers, drainage facilities and water systems shall be designed and the construction certified by, or under the supervision of, a registered civil engineer prior to the acceptance of such improvements. Improvements must be completed prior to final building inspection approval and occupancy of any new structures within the subdivision.

The developer shall be responsible for correcting any defect in an improvement for a period of eighteen months after acceptance by the City Engineer.

The City shall require a bond to guarantee that the developer will correct any defect in a dedicated improvement caused by faulty design, construction or other reason as determined by the City Engineer. Said bond shall be in an amount equal to 125% of the estimated cost of the City completing the improvements, as determined by the City Engineer, and shall extend for a period of eighteen months after City acceptance of said improvement.

Section 47: Chapter 17.22 LMC entitled “Short Subdivisions – Large Lot Divisions,” is retitled, “Short Subdivisions,” as follows:

17.22.000 - Short Subdivisions - Large Lot Divisions

Chapter 17.22
Short Subdivisions ~~Large Lot Divisions~~

Sections:

- 17.22.010 Applicability.
- 17.22.020 Filing Procedure and Fee.
- 17.22.025 ~~Short Plat Approval~~ Determination of Complete Application.
- 17.22.030 Owner's Free Consent.
- 17.22.035 Posting Requirements.
- 17.22.040 Survey.
- 17.22.050 Departmental Review.
- 17.22.060 Review Criteria.
- 17.22.070 ~~Summary Preliminary Approval.~~
- 17.22.080 Notice.
- 17.22.090 Appeal Procedure.
- 17.22.095 Final Short Plat Approval

17.22.100 Amendments.

~~17.22.110 Large Lot Division:~~

Cross-references: Chapter 58.09 RCW, Chapter 332-130 WAC

Section 48: Section 17.22.010 LMC entitled “Applicability,” is amended to read as follows:

Every short plat and short subdivision shall comply with the provisions of this Chapter.

A. Exemptions. The provisions of this Chapter are not applicable to the following:

1. All exemptions listed in Section 17.02.010.

2. Deed releases, for the purpose of obtaining building financing, provided that a short plat is required if said parcel is separately sold or if all land specified by the contract is not acquired.

3. Divisions which were surveyed in accordance with the Survey Recording Act and are recorded with the Auditor prior to August 13, 1974.

4. Up to four Model Homes may be ~~established~~ constructed on a single tract of land without short platting provided the City has approved a preliminary subdivision which includes the specific lots upon which the Model Homes are to be located. The subdivision shall be completed and the final map recorded prior to the sale of any of the model home units.

5. Divisions made by court order; provided, that this exemption shall not apply to land divided pursuant to dissolution or any partition proceedings.

6. Any division of land for use solely for the installation of electric power, telephone, water supply, sewer service or other utility facilities of a similar or related nature; provided, however, that any remaining lot or lots are consistent with applicable zoning and land use plans.

7. Any division or divisions of land for the sole purpose of enabling the City or other public agency to acquire land, either by outright purchase or exchange, for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational or other public purposes; provided, however, that any remaining lot or lots are consistent with applicable zoning and land use plans.

B. The entire original tract (except adjacent platted or short platted land) shall be included within one short plat application.

C. Further divisions. Land within a short subdivision shall not be further divided in any manner for a period of five (5) years from the date said approved short plat is recorded with the Auditor without the filing of a final plat on the land which is proposed to be further divided, except that when the short plat contains fewer than nine parcels, the owner who filed the short plat may file an alteration with the five (5) year period to create a total of up to nine (9) lots within the original short plat boundary. This requirement shall be stated on the face of the short plat.

Section 49: Section 17.22.020 LMC entitled "Filing Procedure and Fee," is amended to read as follows:

An application for a short subdivision shall include a completed application form, ~~Eleven~~ six (6) full size paper prints and six (6) 11"x 17" reduced copies of the proposed short plat showing all required information shall be filed with the Community Development Department along with a non-refundable application fee as set forth in separate Resolution.

For purposes of RCW 58.17.033, a complete application for short plat approval must contain the information and documents required by this section.

A short plat shall meet the following standards:

A. Drawn in ink to a scale not smaller than one inch equals one hundred feet (1" = ~~100~~ 50') or other approved scale on ~~r-my~~lar, a sheet size of 18" x 24".

B. The Plat shall show the boundary and dimensions of the "original tract" including its Assessor's parcel number, section, township and range, and all adjoining public or private streets and identifying names as such.

C. A vicinity map drawn to a scale of four inches equals one mile (4"= 1 mile) or other approved scale of sufficient detail to orient the location of the original tract.

D. Name and address of the owner of record of the "original tract," scale of the drawing, and north directional arrow.

E. All lots shall be identified by numerical designation. The dimensions of each lot shall be shown.

F. Width and location of access to all short platted lots.

G. The location and use of all existing buildings on the original tract.

H. Space or a second 18" x 24" ~~mylar~~plat map sheet shall be reserved for comments and appropriate City signatures.

I. Where a survey is required, the form of the plat shall be as required by the Survey Recording Act. (Chapter 50 Washington Laws of 1973, or as amended.)

Section 50: Section 17.22.025 LMC entitled "Short Plat Approval," is retitled, "Determination of Complete Application," and amended to read as follows:

Within 28 days of receiving an application for preliminary plat approval containing all information required by Section 17.22.020 of this Code, the Community Development Department shall issue a determination of completeness or incompleteness as required by ~~RCW 36.70.A.440~~ 36.70B.070. The Community Development Department is responsible for complying with all other requirements of ~~RCW 36.70.A.440~~ 36.70B.070.

Section 51: Section 17.22.035 LMC entitled "Posting Requirements," is amended to read as follows:

After acceptance of a short plat application, notice of application shall be posted ~~by the applicant on the property at its principal entry point to the nearest right-of-way, as determined by the Community Development Department in accordance with the provisions of LMC 18A.02.670.~~

Notice will be posted on a 1-1/2' x 2' waterproof sign (see drawing #16 in Appendix A). The sign shall be made of corrugated plastic to specifications provided by the City. If desired, a sign may be purchased from the City at a cost to be determined by the manufacturing cost at the time of purchase. The sign(s) shall be located so as to be easily visible from the abutting street. When more than one street abuts the property, the sign(s) shall be easily visible from each street. When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major street entrance to the development as determined by the Community Development Department. When the sign(s) is posted, the applicant shall complete and return a notarized affidavit of posting to the Community Development Department. The sign(s) shall be erected and maintained by the applicant for a minimum of thirty (30) days prior to the public hearing and until a decision is rendered on the application or appeal. The sign(s) shall be removed by the applicant within one (1) week following the decision by the Hearing Examiner or City Council. (~~Ord. 60 ? 1 (part), 1996.~~)

Section 52: Section 17.22.040 LMC entitled "Survey," is amended to read as follows:

Recordable surveys shall be required for all short plats and short subdivisions. All surveys shall be accomplished as required by WAC 332-130 and the "Survey Recording Act," (RCW 58.09), except an additional recording will not be required for the "Survey Recording Act."

All lot staking shall be completed by the certifying professional land surveyor prior to the recording of the short plat.

All short plat corners, including interior lot corners, shall be staked with steel rebar or metal pipe with a cap which permanently bears the land surveyor's registration number. When the plat corner(s) or lot corner(s) falls in a body of water, over the edge of a steep slope or other inaccessible area, an offset corner will be permitted. When the boundary line of a short plat follows a meandering line, corners shall be set as directed by the City. A pre-submittal meeting with City staff to discuss corner locations is recommended.

When the legal description of the short plat utilizes a partial or complete section subdivisional breakdown to establish the short plat boundaries, section subdivision survey information in accordance with the requirements of WAC 332-130-030 shall be shown on the short plat mylar map.

All reference monuments used in the establishment of the short plat corners shall be identified, described, and noted as set or found on the short plat ~~mylar map~~. When appropriate, the short plat survey shall reference the recorded or previous survey that was the basis for the short plat survey.

When the short plat is adjacent to a constructed City street and the short plat corner(s) or its offset represents a 1/16th corner, quarter corner, section corner, or donation land claim corner that is not of record or is lost or obliterated, a City standard monument(s) shall be placed in the City street. In cases where a monument of record is found, the existing corner does not have to be replaced.

Whenever a short plat is adjacent to an existing City street ~~and/or~~ right-of-way, the centerline of that street shall be located on the short plat drawing. If the existing constructed City street or maintained street section falls outside of the documented right-of-way, the surveyor shall identify the existing edge of pavement and limits of the maintained street section on the short plat drawing and show its relationship to said centerline.

Section 53: Section 17.22.050 LMC entitled "Departmental Review," is amended to read as follows:

- A. The Engineering Manager's Office shall review a short plat for adequacy of access, storm water drainage facilities, public sewer system, survey accuracy, and feasibility for building sites.
- B. The Community Development Department shall review the proposed short plat for conformance with the Land Use and Development Code (LMC Title 18A), other applicable land use zoning laws, the comprehensive plan and the subdivision code.
- C. The Tacoma-Pierce County Health Department shall review the proposed short plat for adequacy of potable water supply, and septic tank conditions provisions for sanitary sewage disposal. The Lakewood Water District, or other water provider, shall provide information regarding the public water system. This will typically be in the form of a Letter of Water Availability from the District.
- D. The Fire Chief shall review the proposed short plat for adequacy of the fire protection water system and access for fire fighting equipment.
- E. The Pierce County Assessor's Office shall review the proposed short plat with regard to map and document format, tax status, and legal description.
- F. The Pierce County Sewer Utility shall review the project with regard to sanitary sewer availability, appropriate easements, and details of any sanitary sewer infrastructure and connections.

The City may require that any review fees payable to outside agencies be made directly with that agency prior to submittal of the short plat application.

Section 54: Section 17.22.060 LMC entitled "Review Criteria," is amended to read as follows:

A. Access.

1. General. The proposed short plat shall be reviewed for adequate ingress and egress to all proposed lots. Extension of streets or access rights from property line to property line of the short subdivision land may be required so that the street may be extended in the future. If there is other reasonable access available, the Engineering Manager may limit the location of direct access to City arterials or other City streets. When an adjoining landowner will be obligated to construct or maintain a future street, a note to this effect shall be stated on the face of the short plat.

2. Street Reserved Areas. Where a City arterial may, or is being planned for a short subdivision land area, the Engineering Manager may require that a sixty foot (60') wide right-of-way area be reserved as a street reserved area for a future street, if all legal requirements for such a dedication are met.

3. Private Streets. Private streets are not normally permitted, but may be allowed when the Community Development Director and City Engineer determine that the most logical development of the land requires that the lots be served by private streets or easements. Private street plats shall be reviewed per Chapter 17.26 of this title.

Unless the City has existing plans, maps, sketches or studies for a City arterial on the properties in issue, the Engineering Manager shall approve private streets if all persons and their successors, who own the land adjoining the street within the short plat, have equal legal rights to use said private street area. Said developer and/or adjoining landowners and their successors shall bear the expense of constructing and maintain said street and a note to this effect shall be made on the face of the short plat. Where the short plat or land beyond the short plat have the potential of being divided into twenty (20) or more lots, then said private street shall be required to have a right-of-way width equivalent to city standards:

B. Drainage. The proposed short plat shall be reviewed for adequate drainage facilities. Requirements for any necessary facilities may be required to be written on the face of the short plat ~~mylar map~~.

C. Sewers or Septic Tanks. The proposed short plat shall be reviewed for potential sewer or septic tank adequacy. If known local conditions exist which may affect future building sites, these conditions may be required to be stated on the face of the short plat.

D. Feasibility for Building Sites. Areas which are known or suspected to be poor building sites because of geological hazard, flooding, poor drainage or swamp conditions, mud slides or avalanche, may be noted on the face of the short plat.

E. Water Supply and Fire Protection. The proposed plat shall be reviewed for potential adequacy of water supply and fire protection. Items A through E above may be considered as criteria for which a short plat may be denied. Existing City standards shall be used during the review process.

Section 55: Section 17.22.070 LMC entitled "Summary Approval," is retitled, "Preliminary Approval," and amended to read as follows:

A. Procedure.

An application for a short plat shall be reviewed as a Process II permit type, which does not require a public hearing but does provide for public notice and comment. (See LMC 18A.02.545). The initial decision on a short plat application is made by the Community Development Director. The Director's decision may be appealed to the City's hearing examiner.

1. Upon receipt of a complete application for a short plat, the Community Development Department shall forward two paper prints copies of the application and short plat map to the Engineering Manager and/or Public Works Department Director, the Fire Marshal, the Pierce County Assessor's Office, the Pierce County Public Works Sewer Utility, the Lakewood Water District, any affected public utility agencies, the Fire Chief, and the Tacoma-County Health Department. The initial review by the departments/agencies of the proposed short plat shall be completed within fifteen (15) thirty days after the short plat is filed, unless, upon the request of the Community Development Department, the applicant consents to an extension of such time period. The proposed preliminary short plat shall be considered under the subdivision regulations and zoning or other land use control ordinances in effect at the time a fully completed application for preliminary short plat approval has been submitted to the city.

2. Each department or official shall either recommend approval, disapproval, or revision ~~turn~~ of the short plat ~~for change~~ within the fifteen ~~thirty~~ day initial review period. The Community Development Director shall have the final authority to approve, approve with conditions or deny a short plat application.

3. If returned for revision ~~change~~, the applicant or representative shall submit six prints ~~and the mylar~~ to the Community Development Department reflecting the required revisions ~~changes~~ within one hundred eighty-sixty ~~days~~; after any said notice of correction is given ~~review comments are provided~~ by the reviewing agencies ~~City departments~~. Should the applicant require an extension of time to satisfy the requirements that were requested during the initial fifteen ~~thirty~~-day review, an additional one hundred eighty days shall time may ~~be granted~~ upon written request.

4. Due to the complexity of the proposal, the applicant may desire to request the following to extend the life of the application.

a. Request in writing from the applicant that the application for the proposed short plat be placed on hold for due cause. "Due cause" would constitute a situation that was beyond the applicant's controls; i.e., required environmental checklist, Health Department requirement for viewing high water table on the site prior to review for waste disposal, ~~and/or~~ water availability

report required by the State.

The request shall be accompanied by an estimated time line for completion of the required additional material, studies, or review. The hold will be placed upon the application for a specified period of time.

b. Request in writing by the applicant that a time extension would be necessary to provide the reviewing departments the necessary material, documents, and studies, as requested in the initial ~~thirty-day~~ City review. The Community Development Department may provide a second additional extension, not to exceed one hundred eighty days extension. A fee ~~would~~ may be charged for the extended time, per the fee schedule.

c. Any applicable time limitations for processing an application, including time limits set forth in RCW 36.70B, RCW 58.17, LMC Title 18A, or this Title, shall be tolled while the applicant responds to requests for revision or additional information within the timeframes set forth in this section.

5. The applicant is required to submit the revisions as requested, at the expiration of the allowable time line, along with six prints ~~and the mylar~~ to the Community Development Department. ~~The submittal shall be considered the "FINAL REVIEW" and all previous extensions that were granted to the applicant shall be considered void.~~ The reviewing departments shall have a ~~thirty-day~~ fourteen (14) day review period to consider the revised plans. At the conclusion of the review period, the reviewing department directors or authorized representatives shall notify the applicant whether the application is complete or what additional information is necessary (RCW 36.70B.070 (4)(b)). ~~approve or deny the short plat.~~

6. If the project applicant does not respond to requests for project amendments or additional information within the timeframes specified herein, the Community Development Department may deny the application without prejudice.

B. Required Written Findings for Short Subdivisions. The Community Development Director or designee shall inquire into the public use and interest proposed to be served by the establishment of the short subdivision and dedication. ~~The Director or designee shall determine:~~

~~1. If appropriate provisions are made for, but not limited to the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, play-grounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and~~

~~2. Whether the public interest will be served by the short subdivision and dedication.~~

~~C. A proposed short subdivision and dedication shall not be approved unless the Director or designee makes written findings that:~~

~~1. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies time limits, sanitary wastes, parks and recreation, play-grounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and~~

~~2. The public use and interest will be served by the platting of such subdivision and dedication. If the Director or designee finds that the proposed short subdivision make such appropriate provisions and that the public use and interest will be served, then the Director or designee shall approve the proposed short subdivision and dedication.~~

~~C.D. Notice of Return to Applicant for Cause. If a short plat is not in proper order or cannot be approved in its present form, a letter ~~accompanied by said print~~, postmarked prior to the expiration of said thirty-day period, shall be sent to the applicant (by the disapproving department) to notify him of why approval cannot be given in its present form.~~

D.E. Effect of Approval. The Community Development Director's initial approval shall set forth the findings required by Section B above, and may include specific conditions of approval. All required improvements must be installed and a copy of the final short plat map that responds to any conditions of approval must be submitted within three (3) years of the date of the initial approval for final review and recording. An additional one year extension of time may be granted by the Community Development Director upon a showing of good cause beyond the control of the applicant that has delayed the ability of the

applicant to complete the subdivision. The approval of a short plat shall not be a guarantee that future permits will be granted for any structures or development within said area and a notation to this effect shall be stated on the face of the short plat. Provided further that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a preliminary and final plat, except that when the short plat contains fewer than nine parcels, the owner may file a short plat alteration or new short plat application within the five-year period to create up to a total of nine lots within the original short plat boundaries. Any such alteration application shall be reviewed *de novo* on its own merits.

Section 56: A new Section 17.22.095 LMC entitled "Final Short Plat Approval," is created to read as follows:

Upon completion of any and all conditions of the preliminary short plat approval, or alternatively, the posting of an appropriate performance bond or cash deposit in lieu thereof to the satisfaction of the City Engineer, the developer shall present to the Community Development Department one copy of the approved short plat map for final approval and recordation. The final short plat map shall contain a certificate giving a full and correct description of the lands divided as they appear on the plat drawing, including a statement that the subdivision of property has been made with the free consent and in accordance with the desires of the owner(s) or contractor purchasers. If the subdivision of property includes a dedication, the certification shall also contain the dedication of all streets and other areas to the public, and any other required dedications as required by LMC 17.16.020. Said certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

The Community Development Department shall arrange for all responsible agencies to sign the plat map, provided that the applicant may secure required approval signatures on the final plat map prior to submittal to the Community Development Department.

Pursuant to RCW 58.17.140(2), a final short plat map 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.

Development of lots created in a final short plat shall be regulated by the land use controls in effect at the time that the complete preliminary short plat application was filed, for a period of two (2) years from the date of the final short plat recordation. After two years, the lots created by the short plat shall be regulated by the land use controls then in effect.

Section 57: Section 17.22.110 LMC entitled "Large Lot Division," is repealed

17.22.110 - Large Lot Division

A. Departmental Review. Large lot divisions shall be reviewed by all departments and agencies herein specified for short plats and in accordance with procedures herein specified for short plats, provided that approval shall not be automatic.

B. Approval Standards. Large lot divisions shall be subject to the same review criteria as herein specified for short plats. Approvals shall comply with 58.17.060 and 58.17.110 RCW.

C. Posting Requirements. After acceptance of a large lot application, notice of application shall be posted by the applicant on the property at its principal entry point to the nearest right-of-way, as determined by the Department of Community Development. Notice will be posted on a 1-1/2' x 2' waterproof sign. The sign shall be made of corrugated plastic to specifications provided by the City (see drawing No 1, Appendix A). If desired, a sign may be purchased from The City at cost to be determined by the manufacturing cost at the time of purchase. The sign(s) shall be located so as to be easily visible from the abutting street. When more than one street abuts the property, the sign(s) shall be easily visible from each street. When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major street entrance to the development as determined by the Department of Community Development. When the sign(s) is posted, the applicant shall complete and return a notarized affidavit of posting to the Department of Community Development. The sign(s) shall be erected and maintained by the applicant within seven (7) days of the date of application and continue through the appeal period or until a decision is rendered on the appeal. The sign(s) shall be removed by the applicant within one (1) week following the decision on the application or appeal.

D. Preparation. Large Lot divisions shall be drawn and shall meet the drafting standards as herein specified for short plats.

E. Recording of Surveyed Divisions. After obtaining the reviewing authorities' approval, the County Assessor-Treasurer's Office approval must be obtained to verify that the real estate taxes are current. After obtaining said approvals all large lot divisions shall be recorded with the County Auditor and the Auditor shall collect the applicable recording fee. Each lot within

the large lot division shall be numbered. Thus, future legal descriptions of a certain recorded large lot division may be referred to as "Lot of Large Lot Division No. ." The latter blank space will be the description assigned to the large lot division by the Auditor.

F. Fees, Appeals and Amendments. A non-refundable filing fee, as set forth by separate Resolution, shall accompany a large lot division when it is filed for approval with the Community Development Department. Appeals of any reviewing decision on a large lot division may be made by the Examiner. The appeal procedure and fee is the same as that herein set forth for short plats. Amendments to a large lot division shall be processed in the same manner as that herein set forth for short plats.

G. Five-Year Short Plat Restriction. Large lot divisions, or any portion thereof, shall not be further divided by short subdivision within five (5) years of the date of large lot division approval.
(Ord. 60 ? 1 (part), 1996.)

Section 58: Section 17.30.010 LMC entitled "Purpose," is amended to read as follows:

The purpose of this chapter is to create ~~a permit~~ an alternative method for dividing commercially and industrially zoned property, as authorized by RCW 58.17.035. On sites which are fully developed, the binding site plan merely creates or alters interior lot lines. In all cases the binding site plan ensures, through written agreements among all lot owners, that the collective lots continue to function as one site concerning but not limited to: lot access; interior circulation; open space; landscaping and drainage; facility maintenance; and coordinated parking.

Section 59: Section 17.30.020 LMC entitled "Applicability," is amended to read as follows:

A. Any person seeking the use of a binding site plan to divide the person's property for the purpose of sale, lease or transfer of ownership of commercially or industrially zoned property is required to apply for, complete and have approved a binding site plan prior to any property division, as provided in RCW 58.17 and as required by this chapter.

B. The site which is subject to the binding site plan shall consist of one (1) or more contiguous lots legally created.

C. The site which is subject to the binding site plan may be reviewed independently for fully developed sites; or, concurrently with a commercial site development permit application for undeveloped land; or in conjunction with a valid commercial site development permit.

D. The binding site plan process merely creates or alters lot lines and does not authorize substantial improvements or changes to the property or the uses thereon. Improvements shall be authorized through separate zoning and building permit processes. New improvements shall be incorporated into the binding site plan as appropriate.

Section 59: Section 17.30.030 LMC entitled "Complete Application," is amended to read as follows:

A proposed binding site plan shall be considered under the zoning and other land use control ordinances in effect on the land at the time a fully completed application is filed with the department. A complete application for binding site plan ~~application~~ approval shall consist of:

A. A completed application form provided by the department, signed by all property owners or their authorized agents, with supporting documents as required below and which contains sufficient information to determine compliance with adopted rules and regulations including, but not limited to RCW 43.21C, SEPA as implemented by WAC 197-11; Surface Water Management; Roads Standards; Fire Code; City Environmental Procedures; Zoning; Shoreline Management; and administrative rules adopted to implement any such code or ordinance provision; Tacoma-Pierce County Health Department Board of health rules and regulations; and City approved utility comprehensive plans;

B. Six (6) full size and six (6) 11"x 17" reductions of an ~~An~~ approved commercial site development permit; or, a proposed site plan prepared by a professional land surveyor, licensed in the State of Washington, in a form prescribed by the Director. At a minimum, the proposed site plan shall include:

1. The location and size of all proposed units or lots;

2. Proposed and existing structures including elevations and floor plans as known, (plans which show building envelopes rather than footprints must address include post-construction treatment of unoccupied areas of the building envelopes);
 3. All proposed or existing uses;
 4. The location of proposed or existing open space including any required landscaped areas.
 5. The location and identification of critical areas;
 6. The layout of an internal vehicular and pedestrian circulation system, including proposed ingress and egress for vehicles;
 7. The number and location of proposed or existing parking spaces on and off the site;
 8. A drainage plan which will accommodate the maximum proposed square footage of impervious surface and the maximum proposed square footage of impervious surface exposed to vehicular use, subject to the requirements of City's Surface Water Design Manual or other city surface water design standards.
 9. The location and size of utility trunk lines and service laterals serving the site;
 10. The location and size of water bodies and drainage features, both natural and manmade;
 11. A grading plan showing proposed clearing and tree retention and the existing and proposed topography, detailed to five-foot contours, unless smaller contour intervals are otherwise required by the City Code or rules and regulations promulgated thereunder;
 12. A layout of sewers and the proposed water distribution system;
 13. Proposed easements and access; and
- C. A completed environmental checklist, if required by the State Environmental Policy Act and implementing ordinances;
- D. A downstream drainage analysis or any other requirement specified in the City's Surface Water Design Manual, Site Development Regulations or Surface Water Policy Ordinance;
- E. All covenants, easements, maintenance agreements or other documents regarding mutual use of parking and access;
- F. Copies of all easements, deed restrictions or other encumbrances restricting the use of the site;
- G. A phasing plan and time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years;
- H. Documentation of the date and method of segregation for the subject property (original tract) verifying that the lot or lots were not created in violation of the short subdivision or subdivision laws in effect at the time of creation;
- I. A list of any other development permits or permit applications having been filed for the same site; and

J. The payment of fees;

K. The Community Development Director may waive specific submittal requirements determined to be unnecessary for review of the application.

Section 60: Section 17.30.040 LMC entitled "Determination of Completeness," is retitled, "Determination of Complete Application," and amended to read as follows:

Within 28 days of receiving an application for binding site plan approval containing all information required by Section 17.0630.030 of this Code, the Community Development Department shall issue a determination of completeness or incompleteness as required by RCW 36.70.A.440 36.70B.070. The Community Development Department is responsible for complying with all other requirements of RCW 36.70.A.440 36.70B.070.

Section 61: Section 17.30.045 LMC entitled "Approval," is retitled, "Review and Approval," and amended to read as follows:

A. Procedure.

An application for a binding site plan shall be reviewed as a Process II permit type, which does not require a public hearing but does provide for public notice and comment. (See LMC 18A.02.545). The initial decision on a binding site plan application is made by the Community Development Director. The Director's decision may be appealed to the City's hearing examiner.

1. Upon receipt of a complete application for a binding site plan, the Community Development Department shall forward copies of the application and binding site plan map to the Public Works Department, the Fire Marshal, the Pierce County Assessor's Office, the Pierce County Public Works Sewer Utility, the Lakewood Water District, any affected public utility agencies, and the Tacoma-County Health Department. The initial review by the departments/agencies of the proposed binding site plan shall be completed within fifteen (15) days, unless, upon the request of the Community Development Department, the applicant consents to an extension of such time period.

2. Each department or official shall either recommend approval, disapproval, or revision of the binding site plan application within the fifteen day initial review period.

3. If returned for revision, the applicant or representative shall submit six prints to the Community Development Department reflecting the required revisions within sixty days after any review comments are provided by the reviewing agencies. Should the applicant require an extension of time to satisfy the requirements that were requested during the initial thirty-day review, additional time may be granted upon written request.

4. Due to the complexity of the proposal, the applicant may desire to request the following to extend the life of the application.

a. Request in writing from the applicant that the application for the proposed binding site plan be placed on hold for due cause. "Due cause" would constitute a situation that was beyond the applicant's controls; i.e., required environmental checklist, Health Department requirement for viewing high water table on the site prior to review for waste disposal, or water availability report required by the State.

The request shall be accompanied by an estimated time line for completion of the required additional material, studies, or review. The hold will be placed upon the application for a specified period of time.

b. Request in writing by the applicant that a time extension would be necessary to provide the reviewing departments the necessary material, documents, and studies, as requested in the initial City review. The Community Development Department may provide a second additional extension, not to exceed one hundred eighty days. A fee may be charged for the extended time, per the fee schedule.

c. Any applicable time limitations for processing an application, including time limits set forth in RCW 36.70B, RCW 58.17, LMC Title 18A, or this Title, shall be tolled while the applicant responds to requests for revision or additional information within the timeframes set forth in this section.

5. The applicant is required to submit the revisions as requested, at the expiration of the allowable time line, along with six

prints to the Community Development Department. The reviewing departments shall have a fourteen (14) day review period to consider the revised plans. At the conclusion of the review period, the reviewing department directors or authorized representatives shall recommend approval, approval with conditions, or denial of the binding site plan.

B. Review Criteria~~A-~~

The Community Development Director shall consider and base a decision to approve with or without conditions, deny, or return the application for modifications, based on:

1. ~~A~~ finding that the newly created lots or units will continue to function and operate as one site, for fully developed sites; or
2. Conformity of the proposed site plan with the adopted rules and regulations listed in Section 17.30.030~~A~~ as represented in the approved site development plan, if the binding site plan is being considered with a site development plan.
- 3.~~B~~. The binding site plan shall contain applicable inscriptions or attachments setting forth limitations and conditions to which the plan is subject, including any applicable irrevocable dedications of property and containing a provision requiring that any development of the site shall be in conformity with the approved site plan.
- 4.~~C~~. The Director may modify lot-based or lot line requirements contained with the building, fire and other similar uniform codes adopted by the City.
- 5.~~D~~. The Director may authorize sharing of open space, parking, access and other improvements among contiguous properties subject to the binding site plan. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking, access and other improvements shall be identified on the binding site plan and enforced by covenants, easements or other similar mechanisms.
- 6.~~E~~. The decision of the Director ~~shall be final~~ may be appealed to the City's hearing examiner per LMC 18A.02.740.

Section 62: Section 17.30.050 LMC entitled "Recording and Binding Effect" is amended to read as follows:

A. Prior to recording, the approved binding site plan shall be surveyed and the final recording forms shall be prepared by a professional land surveyor, licensed in the state of Washington. Surveys shall include those items prescribed by RCW 58.09.060, records of survey, contents - record of corner, information;

B. The approved binding site plan recording forms shall include the following, in the format prescribed by the Director:

1. Lots designated by number on the binding site plan within the area of the lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose;
2. Signature and stamp of the land surveyor who prepared the binding site plan;
3. Reference to the recording number of the completed survey as required by this section if the boundaries have been previously surveyed;
4. Reference to all agreements or covenants required as a condition of approval;
5. Notarized signatures of all persons having an ownership or security interest in the land being divided;
6. Approval of the City Engineer ~~Engineering Manager~~;

7. Approval of the Director.

C. The Director shall examine and sign the approved binding site plan if it conforms with the commercial site development permit or the approved site plan and all conditions of approval. Binding site plans shall be recorded with the Pierce County ~~Records and Elections Division~~ Auditor's Office with a record of survey.

D. Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

E. Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, that does not conform to the requirements of the binding site plan or without binding site plan approval, shall be considered a violation of chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in chapter 58.17 RCW.

F. Property subject to a binding site plan shall be governed by the terms of approval of the binding site plan, and the statutes and ordinances, and regulations in effect at the time of preliminary approval for a period of one (1) year. Any building permits issued pursuant to a binding site plan shall vest the specific improvement during the period that the building permit is active and valid. After one year, any new improvements shall be subject to the land use regulations and building codes then in effect, unless otherwise specified in the terms of the binding site plan approval.

Section 63: Section 17.30.070 LMC entitled "Administrative Rules," is amended to read as follows:

As part of the binding site plan approval, the Director may promulgate administrative rules and regulations to implement the provision and the requirements of this chapter the terms of the binding site plan approval with regard to future land uses and development on the subject property.

Section 64: Section 17.34.010 LMC entitled "Applicability," is amended to read as follows:

17.34.010 – Applicability

Binding site plans are required for residential condominium projects which propose to subdivide (overtly or in effect) land into separate lots. Binding site plans are not required for condominiums which hold the underlying land as a single undivided parcel.

A. This process may be used to divide land by the owner of any legal lot which is to be developed for residential condominiums pursuant to RCW 64.32. A binding site plan for a residential condominium project shall be based on either a recorded final planned unit development, a building permit issued for the entire project, or a conceptual site plan as set forth in Section 17.34.040 of this chapter.

B. This process is separate from other site plan review processes including the mobile home park plan, the planned unit development, and the manufacturing park site plan provisions of the Zoning Code, and shall not be construed to substitute for the requirements of such processes.

Section 65: Section 17.34.020 LMC entitled "Planned Unit Developments," is repealed as follows:

Whenever a binding site plan for a residential condominium development is proposed on a parcel for which a final planned unit development has been recorded, a copy of the planned unit development site plan shall be recorded as the binding site plan upon verification by the Director that the binding site plan is the same as or contains the relevant details of the planned unit development site plan.

Section 66: Section 17.34.030 LMC entitled "Building Permits," is retitled, "Binding Site Plan for Approved Residential Project," and amended to read as follows:

Whenever a binding site plan for a residential condominium development is proposed on a parcel of land for which a building permit has been issued for the entire project, the following must be satisfied prior to recording:

A. A plan shall be prepared in a form prescribed by the Director which is adequate for permanent retention by the Pierce County Auditor's Office ~~records and elections division~~.

B. The plan must be prepared by a registered land surveyor or civil engineer.

C. The plan must substantially reflect the site plan approved for the building permit. Specific details not relevant to the division of land may be omitted.

D. The plan must be verified by the Director for compliance with the approved building permit. The Director may require dedication of additional right-of-way for public streets.

E. The legal description and map must be verified by the City Engineer ~~Engineering Manager~~.

Section 6Z: Section 17.34.040 LMC entitled "Conceptual Plans," is amended to read as follows:

Whenever a binding site plan for a residential condominium project is proposed on a parcel of land for which ~~neither a planned unit development nor a building permit a development plan~~ has not yet been approved for the entire parcel, the following ~~must be satisfied prior to recording~~ plans must be submitted with the application:

A. A conceptual site plan shall be prepared in a form prescribed by the Director which includes the following information:

1. Maximum number of dwelling units permitted.
2. Approximate size and location of all proposed buildings.
3. Approximate layout of an internal vehicular circulation system, including proposed ingress and egress.
4. Approximate location of proposed open space, including required landscaped areas, if any.
5. Approximate location of proposed parking areas.
6. Location and size of utility trunk lines serving the site.
7. Topography detailed to five-foot contours.

B. Upon application the Director shall distribute copies to public agencies having pertinent expertise or jurisdiction for review and comment.

C. The Director shall consider, and base his decision to approve with or without conditions, deny or return the binding site plan application on the following:

1. Conformance of the proposed site plan with ~~any approved building permit or planned unit development and any conditions on a portion of the site, and with~~ any applicable codes and ordinances ~~of the State of Washington and the City~~. The Director shall identify, to the extent feasible, conditions likely to be imposed on building permits related to dedication of right-of-way or open space, and tracts, easements or limitations which may be proposed or required for utilities, access, drainage controls, sanitation, water supply, protection of sensitive areas or other unique conditions or features which may warrant protection of the public health, safety, and welfare. Such preliminary conditions ~~shall may~~ not be binding at the time of building permit approval, unless they would be required for the same project being developed without a binding site plan.

2. The recommendations and comments of agencies having pertinent expertise or jurisdiction.

3. The Director may require dedication of additional road right-of-way pursuant to city ordinance.

D. Additional documents shall be submitted as necessary for review and approval which may include a plat certificate, boundary survey, agreements, easements and covenants.

E. The development plan must be approved and signed by the City Engineer ~~Engineering Manager~~.

F. Prior to recording, the Director shall verify the final plan and any attachments to determine whether the binding site plan is accurate and complete and complies with any conditions ~~or of approval~~. Approval of a conceptual plan ~~does not give will~~ provide the applicant a vested right to build the approved project without regard to subsequent changes in zoning or building codes or other applicable land use regulations for a period of one (1) year from the date of the preliminary approval ~~prior to application for a building permit on the subject property~~. Any building permits issued pursuant to the approved binding site plan shall vest the specific improvement during the period that the building permit is active and valid. After one year, any new improvements shall be subject to the land use regulations and building codes then in effect unless otherwise specified in the terms of the binding site plan approval. A statement shall be placed on the binding site plan map that notes the vesting status.

Section 68: Section 17.34.060 LMC entitled "Recording," is amended to read as follows:

The proposed binding site plan approved by the Director shall be recorded with the Pierce County Auditor's Office Records and Elections Division ~~within thirty days of approval~~. Upon recording, the site plan shall be binding on the owner, his heirs and assigns, and shall permit the division of land within the site. Divisions shall only be permitted upon the filing of a declaration under the Horizontal Regimes Act, Chapter 64.32 or 64.34 RCW, provided the structure or structures, road and parking systems, and related facilities substantially conform to the recorded binding site plan.

Section 69: Section 17.34.070 LMC entitled "Amendments and Rescindment," is amended to read as follows:

A. Amendment of a recorded residential condominium binding site plan shall be accomplished by following the same process as required for a new application as set forth in this chapter.

B. Upon the request of the owner or owners of a legal lot or lots subject to a recorded binding site plan, the Director shall rescind all or a portion of a binding site plan, provided that any portion of a binding site plan which is rescinded shall be considered to be one lot unless divided by an approved subdivision or short subdivision.

C. Signatures of owners of portions of a binding site plan which are not altered by an ~~amendments~~ or rescission are not required on the amended binding site plan or application for rescission.

Section 70: Section 17.38.010 LMC entitled "Purpose," is amended to read as follows:

The purpose of this Chapter is to clearly delineate the criteria used by City departments to review boundary line adjustments. Boundary line adjustments provide a procedure for ~~minor or insignificant changes in property lines where no new lots, units, or parcels are created~~. A boundary line adjustment is generally exempt from the provisions of RCW 58.17. intended to apply to minor boundary changes, to correct a controversy regarding the location of a boundary line, or to remedy adverse topographical features. A boundary line adjustment does not apply to boundary changes that would result in increased development or density otherwise regulated by applicable City land use codes and regulations, or to actions requiring replat, amendment, alteration, or vacation of a plat or short subdivision. This Chapter is also intended to insure compliance with the Survey Recording Act.

Section 71: Section 17.38.020 LMC entitled "Scope," is amended to read as follows:

The boundary lines separating two lots of record may only be adjusted under the provisions of this Chapter. Extinguishing such lot lines or the merger of lots is ~~not also considered~~ a boundary line adjustment subject to the requirements of this Chapter. Actions which change or impair conditions or requirements imposed by previous platting decisions must be accomplished pursuant to the Subdivision Regulations. Boundary line adjustments shall not:

A. Create any additional lot, tract, parcel, site, or division;

B. Result in a lot, tract, parcel, site, or division which contains increased density or insufficient area or dimension to meet the minimum requirements for area and dimension as set forth in the land use and health codes and regulations. This provision shall not be construed to require correction or remedy of pre-existing non-conformities or substandard conditions;

C. Diminish or impair drainage, water supply, existing sanitary sewage disposal, and access or easement for vehicles, utilities, and fire protection for any lot, tract, parcel, site, or division;

D. Create or diminish any easement or deprive any parcel of access or utilities;

E. Increase the nonconforming aspects of an existing nonconforming lot;

F. Replat, alter, or vacate a plat or short subdivision; or

G. Amend the conditions of approval for previously-platted property;:-

H. Reduce the overall area in a plat or short plat devoted to open space;

I. Involve lots which do not have a common boundary;

J. Circumvent the subdivision or short subdivision procedures set forth in this title. Factors which indicate that the boundary line adjustment process is being used in a manner inconsistent with statutory intent include: numerous and frequent adjustments to the existing lot boundary, a proposal to move a lot or building site to a different location, and a large number of lots being proposed for a boundary line adjustment; or

K. Be inconsistent with applicable city code.

Section 72: Section 17.38.030 LMC entitled "Application," is amended to read as follows:

A. Applications for boundary line adjustments shall be made on forms provided by the City Community Development Department and shall be submitted to the Community Development Department with one original Mylar (may be deferred) and five paper copies of a plan signed and stamped by a professional land surveyor, drawn to scale with accurate dimensions, clearly showing the following information:

1. The proposed lines for all affected lots, indicated by heavy solid lines;
2. The existing lot lines proposed to be changed, indicated by heavy broken lines;
3. The location ~~and dimensions~~ of all structures/improvements existing upon the affected lots and the distance between structure/improvements and the proposed lot/boundary lines;
4. The original legal description of the entire property together with new separate legal descriptions for each parcel, labeling them specifically as Parcel A, Parcel B, etc.;
5. The position of Rebar and caps set at each new property corner;
6. All parcel numbers of affected lots;
7. The location of the property to Quarter/Quarter Section;
8. The location and dimensions of any drain field, easement, or right-of-way existing within or adjacent to any affected lots;
9. The area and dimensions of each lot following the proposed adjustment;
10. The existing, and if applicable, proposed future method of sewage disposal for each affected lot.

B. Zoning Designations shall follow boundary lines of separate lots and parcels. Where a zoning map or comprehensive plan map appears to reflect a division of a ~~separate single~~ lot or parcel into two zoning districts, ~~the zoning district covering the majority of the lot or parcel shall control and shall be the zoning district for the entire parcel.~~ each portion of that lot shall be subject to all the regulations applicable to the district in which it is located; except, lands which fall partially into and partially out of the McChord Air Corridors, as designated in the comprehensive plan, shall be exempt from this interpretation.

C. Where a boundary line adjustment is sought to facilitate development of the affected property, the City shall be entitled to require compliance with the subdivision, zoning, and site development standards of the City as a condition of approval of the boundary line adjustment.

D. The total change(s) in lot size resulting from one or more boundary line adjustments shall not produce a lot smaller than the minimum developable lot size for the zoning district in which the lot is located as of the time of the completion of the boundary line adjustment(s).

E. Record of Survey for Boundary Line Adjustments:

1. The Mylar shall be titled on the top of the page, in large capital letters, as follows:

RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT

2. A note shall be placed on the Mylar that reads as follows:

THIS BOUNDARY LINE ADJUSTMENT IS NOT A PLAT, REPLAT, OR SUBDIVISION:

APPROVAL OF A BOUNDARY LINE ADJUSTMENT IS NOT A GUARANTEE THAT FUTURE PERMITS WILL BE GRANTED FOR ANY STRUCTURE OR DEVELOPMENT WITHIN A LOT AFFECTED BY A BOUNDARY LINE ADJUSTMENT:

3. All requirements of Chapter 58.09 RCW and 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed on the Mylar that reads as follows:

THIS SURVEY COMPLIES WITH ALL STANDARDS AND GUIDELINES OF THE "SURVEY RECORDING ACT" CHAPTER 58.09 RCW AND 332-130 WAC:

F. Boundary line adjustment applications shall be submitted to the Community Development Department with a preliminary title report on forms approved by that Department with liability for errors not to exceed the value of the affected lots, as determined by the assessed value on the date of approval. The preliminary title report shall set forth all persons having an interest in the lots affected by the boundary line adjustment. The preliminary title report must be dated no more than 30 days prior to application and must be updated to the date of boundary line adjustment approval, without cost to the City.

G. The Mylar for recording in the Auditor's Office shall contain all survey information required for a Record of Survey under the "Survey Recording Act", Chapter 58.09 RCW and 332-130 WAC, together with the following additional signature blocks, which shall be fully executed before approval:

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of Survey Recording Act at the request of on

, 19.

Certificate Number

Surveyor

COMMUNITY DEVELOPMENT DEPARTMENT

Community Development Director Date

CITY ASSESSOR-TREASURER

I hereby certify that all state and city taxes heretofore levied against the property described hereon, according to the books and records of my offices, have been fully paid.

Deputy Assessor/Treasurer Date

Reviewed for Segregation

Deputy Assessor/Treasurer Date

H. A Free Consent Statement, as shown below, shall be inked on the Mylar. This shall be signed and notarized, prior to submittal, in permanent black ink, by all parties having interest in the property. Owners' names shall also be lettered below the signatures:

The undersigned agree that the boundary line adjustment set forth herein is made with the free consent and in accordance with the desires of the owners:

(Black Ink Seal. Paper Press Seals Will Not Be Accepted)

Notary Seal

I hereby certify that the above individual(s) signed as a free and voluntary act and deed for the uses and purposes herein mentioned:

Given under my hand and seal this ____ day of ____, 20__.

_____, NOTARY PUBLIC, in and for the State of Washington, residing at _____.

I. An application for a boundary line adjustment shall be accompanied by a non-refundable Planning review fee as set forth in separate Resolution:

Section 73: A new Section 17.38.035 LMC entitled "Record of Survey," is created to read as follows:

A. The Plat map shall be titled on the top of the page, in large capital letters, as follows:

RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT

B. A note shall be placed on the plat map that reads as follows:

THIS BOUNDARY LINE ADJUSTMENT IS NOT A PLAT, REPLAT, OR SUBDIVISION.

APPROVAL OF A BOUNDARY LINE ADJUSTMENT IS NOT A GUARANTEE THAT FUTURE PERMITS WILL BE GRANTED FOR ANY STRUCTURE OR DEVELOPMENT WITHIN A LOT AFFECTED BY A BOUNDARY LINE ADJUSTMENT.

C. All requirements of Chapter 58.09 RCW and 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed on the plat map that reads as follows:

THIS SURVEY COMPLIES WITH ALL STANDARDS AND GUIDELINES OF THE "SURVEY RECORDING ACT" CHAPTER 58.09 RCW AND 332-130 WAC.

D. Boundary line adjustment applications shall be submitted to the Community Development Department with a preliminary title report on forms approved by that Department with liability for errors not to exceed the value of the affected lots, as determined by the assessed value on the date of approval. The preliminary title report shall set forth all persons having an interest in the lots affected by the boundary line adjustment. The preliminary title report must be dated no more than 30 days prior to application and must be updated to the date of boundary line adjustment approval, without cost to the City.

E. The plat map submitted for recording in the Auditor's Office shall contain all survey information required for a Record of Survey under the "Survey Recording Act", Chapter 58.09 RCW and 332-130 WAC, together with the following additional signature blocks, which shall be fully executed before approval:

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of Survey Recording Act at the request of on

. 20__.

Certificate Number

Surveyor

COMMUNITY DEVELOPMENT DEPARTMENT

Community Development Director Date

CITY ASSESSOR-TREASURER

I hereby certify that all state and city taxes heretofore levied against the property described hereon, according to the books and records of my offices, have been fully paid.

Deputy Assessor/Treasurer Date

Reviewed for Segregation

Deputy Assessor/Treasurer Date

F. A Free Consent Statement, as shown below, shall be inked on the Plat map. This shall be signed and notarized, prior to submittal, in permanent black ink, by all parties having interest in the property. Owners' names shall also be lettered below the signatures.

The undersigned agree that the boundary line adjustment set forth herein is made with the free consent and in accordance with the desires of the owners.

(Black Ink Seal. Paper Press Seals Will Not Be Accepted)

Notary Seal

I hereby certify that the above individual(s) signed as a free and voluntary act and deed for the uses and purposes herein mentioned.

Given under my hand and seal this _____ day of _____, 20____.

_____, NOTARY PUBLIC, in and for the State of Washington, residing at _____.

G. An application for a boundary line adjustment shall be accompanied by a non-refundable Planning review fee as set forth in separate Resolution.

Section 74: Section 17.38.040 LMC entitled "Administrative Review," is amended to read as follows:

An ~~completed~~ application for a boundary line adjustment shall be ~~processed as a Process I permit action, approved, returned to the applicant for modifications, or denied within 30 days of its receipt by the Community Development Department.~~ The Department shall not be considered to be in receipt of a complete application unless and until such time as the applicant meets the requirements of Section 17.38.030, as determined by the Community Development Director or his/her designee.

A. The Community Development Department may forward a copy of the proposed boundary line adjustment to the ~~Engineering/Public Works Department City Engineer, to the Fire Chief Marshal, and to the Tacoma-Pierce Health Department, and~~ or to any other County Department or Division which may be affected.

B. A copy of the proposed boundary line adjustment shall be forwarded to the Assessor-Treasurer's Office. The Assessor-Treasurer's Office shall review the boundary line adjustment for accuracy of legal description, ownership, lot dimensions, and improvements on the lots.

C. The Departments shall review the proposed boundary line adjustment against the purpose and scope described in 17.38.010 and 17.38.020 respectively and submit any comments to the Community Development Department no later than 30 days of date of application from the date of the agency transmittal.

D. If the Department of Community Development determines that an application for boundary line adjustment may impair drainage, water supply, existing sanitary sewage disposal, access or easement for vehicles, utilities, or fire protection for any lot, tract parcel, site, or decision, it shall refer the application to the appropriate department for review.

E. Following receipt of the comments of consulted departments under Subsection A. above, but in no case later than ~~30~~ 60 days from receipt of completed application, the Director or his/her designee shall approve or deny the requested adjustments.

F. After approval, the applicant's surveyor must record the survey of boundary line adjustment, together with deeds of conveyance signed by parties disclosed in the title report when the adjusted boundary separates different ownerships. If the record of survey and required deeds of conveyance have not been recorded within 30 days of boundary line approval, the boundary line adjustment shall be null and void.

G. The approval of a boundary line adjustment shall not be a guarantee that future permits will be granted for any structure or development within a lot affected by the boundary line adjustment.

H. An aggrieved person may appeal the Director's decision on a boundary line adjustments to the Hearing Examiner, in accordance with procedures described in LMC 18A.02.740 City Codes. The Hearing Examiner's decision shall be final, ~~unless appealed to the City Council.~~

Section 75: Section 17.42.010 LMC entitled "Record of Proceeding," is amended to read as follows:

17.42.010 - Record of Proceedings

A summary of all hearings and public meetings before the Hearing Examiner ~~and the Council~~ shall be preserved in a reasonable manner as required by law, which may include a tape recorded record.

The appellant shall be responsible for paying all reasonable costs for transcribing the record of relevant hearings or meetings.

Section 77: A new Section 17.42.045 LMC entitled "Affidavit of Correction," is created to read as follows:

A. Any map page or document on file with the Pierce County Auditor/Recorder's Office under the provisions of this title that contains an error in fact or omission may be amended by an affidavit of correction. The following types of errors may be corrected by affidavit:

1. Any bearing, distance or elevation omitted from the recorded document;

2. An error in any bearing, distance or elevation shown on the recorded document;

3. An error in the description of the real property shown on the recorded document;

4. An error in the field location of any shown easement; or

5. Any other error or omission where the error or omission is ascertainable from the data shown on the recorded document.

B. Nothing in this section shall be construed to permit changes in courses, distances or elevations for the purpose of redesigning lot or tract configurations.

C. The affidavit of correction shall contain the seal and signature of the land surveyor making the correction.

D. The affidavit of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property materially affected by the correction. The notarized signatures of the owners shall be required, if deemed necessary by the department.

E. The affidavit of correction form, as provided by the community development department, shall be submitted to the department for review and approval and shall include signatures of the development engineer, the director of the department, and the Pierce County Assessor. After department approval, the affidavit shall be recorded with the Pierce County Auditor's Office Submittals shall include payment of applicable fees.

F. Should a nonsurvey-related error occur on the recorded document as a result of information required to be placed on the document by the department, the department's responsible land surveyor may prepare the affidavit providing the original land surveyor has no objections. The seal and signature of the department's responsible land surveyor making the correction shall be affixed to the affidavit. A copy of the affidavit shall be mailed by the department to the original land surveyor following recording.

Section 76: Section 12A.10.020 LMC entitled "Wastewater Disposal," is amended to read as follows:

All development proposals shall be served by a wastewater disposal system, including both collection and treatment facilities as follows.

A. For the issuance of a building permit, preliminary plat approval, or other land use approval for an existing lot of record, documentation shall be provided indicating that the disposal system for the project site is consistent with adopted rules and regulations of Pierce County Sewer Utility and/or the Tacoma Pierce County Health Department;

B. Prior to the issuance of a certificate of occupancy for a building or change of use permit, the applicant shall provide documentation to the City that an approved wastewater disposal system has been properly installed to serve each building, unit, tenant space, or lot; and

C. All new subdivisions, including short plats, preliminary and final plats, binding site plans and condominium conversions shall require connection to the public sewer system prior to recordation of the subdivision instrument. An appropriate financial guarantee may be posted with the sewer utility, health department, or the City of Lakewood prior to physical connection at the discretion of the City Engineer and Community Development Director.

G. Prior to recording a final plat, final short plat, or binding site plan the approved wastewater disposal system shall be installed to serve each lot respectively, or an appropriate financial guarantee shall be posted with the sewer utility or Health Department.

Section 77: Section 12A.15.060 LMC entitled "Mandatory Connection," is amended to read as follows:

A. After service and recording of a Notice of Availability, as described in section 12.15.030, an interim on-site septic system may be allowed to remain in use for five years from the date of recording. An interim on-site septic system will be allowed to remain in use after the passage of that five year period only if the property owner applies for and receives a deferral of the requirement to connect as outlined in LMC 12A.15.090 and 12A.15.100. No deferral of connection shall extend use of an interim on-site septic system longer than eight years after the recording of a Notice of Availability.

B. Use of interim on-site septic systems on property within the City of Lakewood shall be discontinued, and connection to the public sewer system mandated, upon the occurrence of any the following events:

1. When a septic tank, drain field or other private sewerage disposal system becomes inoperable in accordance with the provisions determination of the authorized public health official or authority;

2. Should the City receive a permit or application proposing a change that intensifies in the use of a structure or residence served by an interim on-site septic system, connection to the public sewer system will be mandated prior to issuance of a certificate of occupancy or prior to issuance of any applicable permit, license or approval;

3. Prior to issuance of a certificate of occupancy for a newly constructed structure upon a property;

4. Upon the sale of a property within the City, the purchaser shall be required to connect to the public sewer system prior to occupancy or use of a structure;

5. As necessary to meet planning and development regulations, including issuance of discretionary permits, land use variances, subdivisions, condominium formation, lot combinations and binding site plans, and site development permits where the public health, safety and welfare would be served by mandating connection to the public sewer system;

6. Should lands, buildings or structures be found to exist in a state of public nuisance or in a condition that violates any applicable public health or building code, law or regulation, through issuance of an order to repair or remove such condition, in the discretion of the City Manager, or designee thereof, the owner may be ordered to connect to an available public sewer in order to cure such condition or violation.

7. At the time that any property is proposed to be subdivided, subjected to a binding site plan, or subject to the formation of a condominium.

Section 78: Section 12A.15.100 LMC entitled "Criteria for Granting Deferrals," is amended to read as follows:

A. Upon receipt of a written request for a deferral, the City Manager, or designee, shall evaluate such a request under the following criteria or any combination of the following criteria:

1. Whether mandatory connection would be a hardship to an elderly or disabled person, which hardship would be lessened by allowance of a deferral.
2. Whether the requestor, by virtue of age or disability, has qualified for government subsidies, or reduced tax or utility payments.
3. Whether the application evidences that the useful life of the structure or structures upon the property is shorter than the period of deferral requested.
4. Whether the property owner has provided sufficient evidence that structures upon the property will be improved, demolished or rehabilitated, and that deferral is appropriate to facilitate future work contemplated upon the structures or property within the term of the deferral.
5. Whether the cost of connection to an available sewer system, when compared to the combined assessed value of the property and improvements upon the property, exceeds more than 10% of the value of the property.
6. Whether a public entity or agency plans to sell, decommission or close facilities or structures.

B. Upon receipt of a request for a deferral under this section, the City Manager, or designee, shall act within a reasonable period of time in responding to said request. For the purposes of this section, City action upon a deferral request includes requesting additional information from the requester or scheduling an interview with the requestor.

C. A determination of a deferral request shall be made in writing and mailed to the requestor at the mailing address provided in the request.

D. A determination on a request for deferral may impose conditions upon the requestor. Within the discretion of the City Manager, or designee, the requestor may be required to file a voluntary compliance agreement in the public records, acknowledging that the requestor will connect to the public sanitary sewer system upon occurrence of a specific event or upon expiration of the deferral period. Further, approval of a deferral requires the requestor to pay the Availability Charge. Additional conditions may, within the discretion of the City Manager, or designee, be added that are lawful and relevant to the nature of any deferral.

E. A determination of a deferral request shall be considered an administrative order of the City.

F. No deferral may be granted for a period of time that extends beyond eight years from the City's recording of a Notice of Availability, absent an application to and approval by the City Manager, or the designee thereof.

G. No deferrals shall be granted where connection to the public sewer system is required pursuant to LMC 12A.15.060.B.

Section 79: Section 18A.50.195 LMC entitled "Concurrency," is amended to read as follows:

A. All new development and improvements, expansion, or intensification of an existing use shall be connected, at applicant expense, to a public primary infrastructure system to support the use.

B. If primary infrastructure is not available to the site or the existing infrastructure does not contain sufficient capacity to support the proposed development, the City may not:

1. Issue development permits which would allow for an increase in the amount of infrastructure demand generated from the site.

2. Permit the division of the property that provides for increased potential for development or demand for infrastructure. All new subdivisions, including short plats, preliminary/final plats, binding site plans and condominium conversions shall require connection to the public sewer system prior to recordation of the subdivision instrument.

C. Primary infrastructure includes, but is not limited to:

1. Sanitary sewer.
2. Water.
3. Transportation and transit facilities.
4. Stormwater.
5. Electrical.
6. Police, fire, and emergency medical.

D. The use of septic systems shall be limited to system replacement or as otherwise permitted by the Pierce County Health Department and approved by the City Engineer.

Section 80: Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

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Section 81: Effective Date. This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.

ADOPTED by the City Council this 2nd day of February, 2015.

CITY OF LAKEWOOD

Don Anderson, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to Form:

Heidi A. Wachter City Attorney