

ORDINANCE NO. 114-92

AN ORDINANCE ADOPTING STANDARDS FOR
THE SUBDIVISION OF LAND INTO SHORT PLATS

WHEREAS, Protection of the public health, safety and general welfare requires that the division of land into four or fewer lots proceed in accordance with standards to prevent the overcrowding of land; to lessen the congestion of streets and highways and to provide proper ingress and egress to provide adequate space, light and air; to facilitate adequate provisions of water, sewerage, parks and recreation, fire protection, schools, ways and other public uses, and to insure uniform monumenting of land, subdivisions and conveyancing by accurate description; to insure proper land use and implementation of the County Comprehensive Plan; and

WHEREAS, Chapter 58.17 RCW as amended by the Legislature has prescribed a method of accomplishing the aforesaid purposes and has vested counties with the responsibility for controlling the division of land in unincorporated areas; and

WHEREAS, This board deems the controls, standards and procedures set forth in this ordinance to be essential to the protection of the public health, safety and general welfare of the citizens of Wahkiakum County and the adoption thereof to be in the public interest;

NOW, THEREFORE,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WAHAKIACUM COUNTY, WASHINGTON, as follows:

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SECTION 1: APPLICABILITY. Every division of land into four or fewer lots, tracts, parcels, sites or subdivisions for the purpose of sale or lease shall proceed in compliance with this Ordinance. These regulations shall also apply to any division into four or fewer plats regardless of lot size, where there is a new public or private way for vehicular traffic, easements or land for public use involved; provided, that any land contained within a short subdivision shall not be further divided for a period of five years from the date of filing of a short plat without the filing of a final plat as described in Wahkiakum County code, Chapter 58.17, except when the short plat contains fewer than four parcels, the owner who filed the short plat may file an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries.

SECTION 2: EXCEPTIONS.

- 2.1 Provisions of this Ordinance shall not apply to:
- (1) Cemeteries and other burial plots while used for that purpose;
 - (2) Divisions made by testamentary provisions or the laws of (the) descent;
 - (3) Any division of land pursuant to Chapter 58.17 RCW, governing divisions containing dedications and divisions of land into five or more lots, parcels or tracts as applicable under the Wahkiakum County Subdivision Ordinance, Chapter 58.17, Revised Code of Wahkiakum County;

(4) Boundary line adjustments of parcels or when access is not affected and where no new lot is created thereby or wherein no lot is reduced in size below the minimum square footage required by the applicable control;

(5) Divisions of land due to the condemnation or sale under threat thereof, by an agency or division of government vested with the power of condemnation;

(6) Any division where no permanent streets can be constructed and where restricted covenants or lease provisions prohibit construction of buildings of the type that permit human occupancy, overnight camping or other human habitation;

(7) Any property divided into two or more parts by any public roadway, rock bluffs, dikes and/or any stream where mean annual flow is 20 c.f.s. or greater;

(8) Any division of land into lots, tracts or parcels where the smallest lot is five acres or larger. For purposes of computing the size of any lots under this exemption which borders on a street, the lot size shall be expanded to include that area which would be bounded by the center line and the said lot lines running perpendicular to such center line; provided, however, this exception shall not apply to divisions of land where there is a new public or private way for vehicular traffic, easements or land for public use involved;

(9) A division for purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land and Wahkiakum County has approved a binding site plan for the use of the land in accordance with local regulations. The term "site plan" means a drawing to a scale specified by local ordinance and which: (a) identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces and any other matters specified by local regulations; and (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land;

(10) Land divisions and transfers intended to be used for agricultural uses or timber production for which no development permits are necessary;

(11) All divisions of land into four or fewer lots made prior to April 1, 1992, as evidenced by public record, either through the payment of excise tax or recording of the deed or contract of sale in the Auditor's Office.

(12) A judicial sale or partition of land commenced under Chapter 7.52.

SECTION 3: DEFINITIONS.

3.1 Rules of Construction. When not inconsistent with the context, words used in the present tense include the future; singular includes the plural and the plural, singular; the word "shall" is always mandatory and the word "may" indicates a use of discretion in making a decision.

3.2 Unless specifically defined in this subsection, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they

have in common usage and to give this Ordinance its most reasonable application. The following definitions apply to this Ordinance.

(1) Access Panhandle. "Access panhandle" is a strip of land having a width narrower than that of the lot, tract or parcel to be served thereby and designed for the purpose of providing access to a lot, tract or parcel being less in width than the minimum lot width allowed under the applicable zoning, if any.

(2) Block. "Block" means a contiguous group of lots, tracts or parcels within well-defined and fixed boundaries.

(3) Boundary Line Adjustment. "Boundary line adjustment" means a change in the location of lot lines which does not change the number of lots or lot ownership.

(4) Building Site. "Building site" means a parcel of land occupied or intended to be occupied by one main building and its accessory buildings; together with all of the required yards and open space and setbacks.

(5) Comprehensive Plan. "Comprehensive plan" means the current comprehensive plan of Wahkiakum County as amended by the Board pursuant to state law.

(6) Contiguous Property. "Contiguous property" means land adjoining and touching other property, not previously platted, and having the same owner.

(7) County Commissioners or Board. The Wahkiakum "County Commissioners" or "Board" means the legislative authority of Wahkiakum County as defined in RCW Chapter 36.32, as it now exists or is hereafter amended.

(8) Dedication. "Dedication" means the deliberate appropriation of land by an owner for any general or public uses reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The owner's intention to dedicate shall be evidenced by presentation for filing of a short plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such short plat for filing by the Wahkiakum County Auditor.

(9) Division of Land. "Division of land," for the purposes of this Ordinance, is any conveyance, not otherwise exempt or provided for in this Ordinance, which alters or affects the shape, size or legal description of any part of an owner's original tract.

(10) Easement. Easement is a written grant by a property owner to specific individuals or to the public use land for specific purposes.

(11) Final Short Plat. Final short plat is the final drawing of the short subdivision including dedication prepared for filing for record with the Wahkiakum County Auditor and containing all the elements and requirements that are set forth in this Ordinance.

(12) Improvement. "Improvement" means any structure or works constructed, including, but not necessarily limited to, roads, storm drainage systems, ditches and dikes, sanitary sewerage facilities or mainline storm drainage containment facilities.

(13) Land Surveyor. A "land surveyor" is defined by the professional engineers and land surveyors registration act as it now exists or is hereafter amended as defined in Chapter 18.43 RCW.

(14) Lot. "Lot" means a fractional part of subdivided lands, created from an original tract or contiguous property, having fixed boundaries being of sufficient area and dimension to meet current minimum zoning requirements for width and area. The term shall include tracts, parcels, or building sites.

(15) Original Tract. "Original tract" means a unit of land which the applicant holds under single or unified ownership, or in which the applicant holds controlling ownership on April 1, 1992.

(16) Owner. "Owner" means the person or group of persons having legal title to the land sought to be subdivided or the contract purchaser, mortgagee or person or group of persons who controls a deed of trust as beneficiary or grantor if such interest controls disposition of the property to be subdivided.

(17) Person. "Person" means an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture affiliated ownership. The word "person" also means a municipality, county or state agency.

(18) Planning Commission. "Planning Commission" means the Wahkiakum County Planning Commission.

(19) Public Works Director. The Wahkiakum County "Public Works Director" means the Short Plat Administrator.

(20) Plat, Regular Plat. "Plat" or "regular plat" means a map or representation of the subdivision showing thereon the division of a tract or parcel of land into more than four lots if any one of the divisions is less than five acres in size with blocks, streets, alleys and other divisions and dedications.

(21) Private Road. A "private road" means a particular access provided for by an access tract, dedicated right-of-way or easement which serves one or more lots but no more than four lots.

(22) Right-of-way. "Right-of-way" means a general term denoting land, property or interest therein, usually in a strip acquired to or devoted for transportation purposes.

(23) Road. "Road" means the improved and maintained portion of a right-of-way which provides vehicular circulation or principal means of access to abutting properties.

(24) Short Plat. "Short Plat" means the map of the short subdivision.

(25) Short Plat Administrator. The "Short Plat Administrator" means the Wahkiakum County Public Works Director.

(26) Short Subdivision. A "short subdivision" means a division or redivision of land into four or fewer lots, parcels, tracts, sites or divisions for the purpose of sale, lease or transfer of ownership.

(27) The State Environmental Policy Act (SEPA). The “State Environmental Policy Act” is as defined by Chapter 43.21C RCW as it now exists or is hereafter amended.

(28) Subdivision. A “subdivision” means a division of land into five or more lots, tracts, parcels, sites or divisions is less than five acres in size, for the purpose of sale or lease and shall include all resubdivision of land. Subdivisions are regulated by the subdivision Control Ordinance, Chapter 58.17 of the revised Code of Wahkiakum County.

SECTION 4: ADMINISTRATION.

4.1 Responsibility for Administration. The Wahkiakum County Public Works Director shall serve as the Short Plat Administrator with the responsibility and duty of administering the provisions of this Ordinance and with authority to summarily approve or disapprove a proposed short plat under the guidelines set forth in this Ordinance; to approve or disapprove certificates of exemptions; and to approve or disapprove final applications for short subdivisions. It shall be the duty of the Short Plat Administrator pursuant to RCW 43.21C (SEPA) to act as the responsible official to fulfill the requirements of the Environmental Policy Act. The Administrator may prepare and require the use of such forms as needed essential to the implementation of this Ordinance.

4.2 Procedure—Application.

1. Any person desiring to divide land not exempt under this Ordinance and situated in an unincorporated area of Wahkiakum County into four or fewer lots for the purpose of sale or lease shall submit an application for short subdivision approval to the Short Plat Administrator, together with an application fee of one hundred dollars plus twenty-five dollars per lot, together with advertising costs.

2. Applications for approval of short plat subdivision shall be submitted on forms prescribed by the Short Plat Administrator. All applications submitted to the Short Plat Administrator shall be complete with all information as required by Section 12 of this Ordinance. An application lacking sufficient information for review shall be rejected by the Short Plat Administrator prior to the acceptance of application fees and such rejection shall be accompanied by a written statement citing the reason for rejection.

4.3. Procedure of a Short Plat Application.

1. When the Short Plat Administrator determines that the proposed short plat application contains the required information and data as a basis for its approval or disapproval, a file number and a date of receipt shall be affixed and copies of the short plat application shall be distributed to the following:

- A. County health district (option);
- B. County engineer;
- C. Federal, state or local agency which may have an interest in the short plat;
- D. Fire district, and
- E. State of Washington Department of Transportation when proposal abuts State Highway.

2. The Short Plat Administrator shall set a date for return of filings and recommendations from each agency, the date to be ten working days from the date of application. If the findings and recommendations are not so returned, then the Administrator shall make written findings of this Ordinance.

SECTION 5: REVIEW OF AGENCIES WITHIN FIFTEEN DAYS FROM THE DATE OF APPLICATION.

5.1 The Health Officer shall notify the Short Plat Administrator that:

A. Water and sanitary sewerage disposal methods contemplated for use in the proposed short plats do or do not conform with current standards; and

B. Where sanitary services are not available, that each lot contains adequate area and proper soil, topographic and drainage conditions to be served by an onsite sewerage disposal system.

5.2 The Public Works Director and the County Engineer shall verify that:

A. The proposed road, utilities and other improvements do or do not conform to current standards;

B. All lots have access to an approved public road containing adequate right-of-way and safety; and

C. The survey does or does not conform to the standard practice and principles of land surveying.

5.3 Other agencies shall notify the short Plat Administrator of their concerns and shall so list their concerns for consideration by the Short Plat Administrator in his findings for approval or denial of the short plat.

SECTION 6: APPROVAL—SHORT PLAT ADMINISTRATOR.

6.1 The Short Plat Administrator shall review the reports and findings of the health department, public works department, other affected agencies and the fire district, pursuant to Section 5, and within thirty days after date of application shall make written findings of act with regard to the short subdivision as to:

A. Its conformance to the general purposes, standards and requirements of the Wahkiakum County Comprehensive Plan, Shoreline Master Program and to any other applicable laws and policies;

B. Whether appropriate provisions are made for the public health, safety and general welfare;

C. Whether appropriate provisions are made for open spaces, drainage ways, utilities, access, streets, alleys and other public ways, transit stops, water supplies and sanitary waste disposals, parks and recreation, playgrounds, school grounds, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;

D. The physical characteristics of the short subdivision site. Disapproval may be made because of flood inundation or swamp conditions. Construction of protective improvements may be required as a condition of approval; and

E. All other relevant facts to determine whether the public use or interest will be served by the short subdivision.

6.2 After written findings and conclusions, the Short Plat Administrator shall:

- A. Approve the short subdivision, with or without conditions; or
- B. Return the short plat to the applicant for corrections or for the applicant's construction of improvements in a manner consistent with official findings; or
- C. Disapprove a subdivision and the short plat thereof; or
- D. Submit the short plat to the Board of County Commissioners for its consideration together with the Short Plat Administrator's recommendation.

SECTION 7: APPEAL TO THE BOARD OF COUNTY COMMISSIONERS.

7.1. Any person aggrieved by the decision of the Short Plat Administrator may request a review of that decision by the Board of County Commissioners.

7.2 Such a request must be made in writing within ten working days from the date of mailing of the Short Plat Administrator's decision. Such appeal shall be heard under procedures established for hearings by the board.

SECTION 8: COUNTY COMMISSIONER CHANGES. If the decision of the Short Plat Administrator is appealed to the Board of County Commissioners, it shall conduct a review and a public meeting under the procedure established for hearings by Wahkiakum County and thereupon adopt its own recommendations for approval, disapproval or return the short plat to the applicant for modification, correction, construction of improvements or meeting conditions of approval.

SECTION 9: CONDITIONAL APPROVALS. If the adopted recommendations require the meeting of conditions, construction of improvements or corrections, or time as necessary for improvements or corrections, or time as necessary for the obtaining of required certifications, then the approval shall be granted, at the option of the approving body, subject to the fulfillment of the conditions prior to the final approval of the building permit or upon fulfillment of such conditions within six months. Upon application within the time period, for good cause shown, the approving body may grant an additional six-month time extension to the applicant for meeting conditions and/or construction of improvements.

SECTION 10: FINAL APPROVAL AND RECORDING. When the short subdivision and the short plat hereof meet all the requirements thereof and will serve the public use and interest, and the subdivider has provided all the required documentation/certification, then the written approval shall be inscribed upon the face of the short plat. The action approving a short plat shall become effective if, within five working days, the applicant has filed for record with the auditor of Wahkiakum County, a declaration of short subdivision.

SECTION 11: APPLICATION.

11.1 Form. The application shall be on a form provided by the Short Plat Administrator and shall contain the following information:

- (1) The name, address and telephone number of the subdivider;
- (2) A certification by the subdivider showing the entire contiguous ownership of land in which there is an interest by reason of ownership, contract for purchase, earnest money agreement or option by any person, firm or corporation in any manner connected with the development, and names and addresses and telephone numbers of all such persons, firms or corporations;
- (3) The existing shoreline classifications (if applicable);
- (4) The square footage computation of each lot or parcel sufficiently accurate to show that each such lot or parcel contains at least sufficient footage to meet minimum health requirements. The square footage of land contained in access panhandles shall not be included in the lot size computation. Land within an abutting street right-of-way to the centerline of said right-of-way may be included in the lot size computations.
- (5) The source of water supply, if any, and, if a public system is used, the name of the supplier;
- (6) The method of sewage disposal and, if sanitary sewer is used, the name of the district having management over the system;
- (7) A survey of the property shall be required to be prepared by a registered surveyor or engineer, unless the Short Plat Administrator determines that the property has previously been adequately surveyed and the designated property corners tied to lines and corners established by such survey.

11.2 Map. A map shall be prepared on a sheet of reproducible material having dimensions of eighteen inches by twenty-four inches, and containing the following information:

- (1) A legal description of the short subdivision and the lots, tracts or parcels therein, together with the legal description of private streets and easements therein, all prepared or approved and sealed by a registered land surveyor company. In addition, where it differs from the description of the short subdivision, a legal description of the contiguous land owned by the subdivider;
- (2) The date, scale and north arrow; the scale to be one (1) inch equals one hundred (100) feet, one (1) inch equals four hundred (400) feet, or other scale as approved.
- (3) The boundary lines, to scale, of the tract to be subdivided and of each lot contained therein;
- (4) The number assigned to each lot;
- (5) The location, names and widths of any easements, existing and proposed roads and streets, and rights-of-way for public services or utilities within the area contained within the short subdivision, and within one hundred (100) feet thereof, and location of the nearest county road if there is no county road within one hundred (100) feet.
- (6) The boundaries of all lands reserved in the deeds for the common use of the property owners of the short subdivision;

(7) The location, outside lands to be subdivided, of permanent features which will have an impact upon the short subdivision, such as all existing or platted streets adjacent to the short subdivision, watercourses, railroad rights-of-way, all utility rights-of-way, township lines and section lines.

(8) Statement: The following shall appear on the face of all plat maps: "Land within this short subdivision shall not be further subdivided for a period of five (5) years unless a final plat is filed pursuant to Wahkiakum County Subdivision Ordinance. Chapter 58.17 of the Revised Code of Wahkiakum County.

SECTION 12: SUPPORTING DOCUMENTS

12.1 The following documentation shall accompany each application for approval of a short plat:

(1) A vicinity sketch clearly identifying the location of the property being short subdivided, the sketch having a scale of not less than one (1) inch to 1,320 feet;

(2) Copies of restrictions, if any, presently encumbering the land;

(3) Copies of restrictions, if any, proposed to be imposed upon the use of the land. Such restrictions, if required by the county, must be recorded either prior to or simultaneously with the moment the short plat becomes effective;

(4) In any short subdivision where lots are served or to be served by a private street, the subdivider shall furnish copies of such further covenants or documents that will result in:

A. Each lot owner having access thereto having responsibility for maintenance of any private street contained within the short subdivision; and

B. Such covenants or documents shall obligate any seller to give actual notice to any prospective purchaser of the method of maintenance of the private street, which notice shall be caused to be included in any deeds or contracts relating to such sale, and such covenants or documents shall be recorded either prior to or simultaneously with the moment the short subdivision becomes effective;

(5) A certificate showing interest of the persons signing the declaration of short subdivision and showing restrictions encumbering the land.

SECTION 13: GENERAL STANDARDS.

13.1 Design.

(1) The design of short plats shall conform with the requirements of any official control relating to land use which may be adopted to implement the Wahkiakum County Comprehensive Plan or any element thereof, or any other official plan; PROVIDED, that in the event of a discrepancy among standards and requirements, the Short Plat Administrator may exercise professional judgment to determine which standard or requirement shall control.

(2) The design, shape, size and orientation of the short subdivision shall be appropriate to the use for which the divisions of land are intended and the character of the area in which they are located. Tracts may be

required to be segregated for sanitation, utilities, steep slopes, access, slide hazards, water supply, poor drainage, or flood hazard reasons or for other unique conditions or features which may warrant protection of the public interest.

13.2 Easements. Easements shall be provided where necessary for road utility installation and maintenance, public access, drainage, and buffer strip or protective easements.

13.3 Overall Plan.

(1) When only a portion of land having the same ownership interest is permitted to be short subdivided, a generalized plan for the entire ownership shall be required to indicate that the road pattern and general arrangement for the short subdivision can be coordinated with the entire tract when fully developed. Available topographic information may be required.

(2) Where property is short subdivided into divisions, lots or tracts of one or more, the Short Plat Administrator may require an arrangement of divisions, lots or tracts and roads such as to permit later re-subdivision in conformity with access, division, lot or tract standards, in accord with Sub-section 1.1 of this Ordinance.

13.4 Survey Standards. A survey conducted by or under the supervision of a registered land surveyor shall be made of every short subdivision filed for approval in Wahkiakum County. The surveyor shall certify on the short plat that it is a true and correct representation of the lands actually surveyed. All surveys shall conform to standards, practices and principles for land surveying and the requirements of the Survey Recording Act, Chapter 58.09 RCW.

13.5 Sewage Disposal: Provisions for adequate sewage disposal shall be in compliance with current Cowlitz-Wahkiakum Regional Health District regulations and shall be guaranteed by the applicant by meeting at least one of the following requirements:

(1) Evidence that the short subdivision is located on soils designated by the United States Soil Conservation Service as showing septic tank development suitability; or

(2) Certification by the Cowlitz-Wahkiakum Regional Health District that an adequate septic tank drain field site is located on each lot; or

(3) An engineering feasibility report written by a registered engineer and prepared under the direction of the Cowlitz-Wahkiakum Health District which proposes a feasible sewage disposal alternative and generally lays out its design and meets all local and state regulations.

13.6 Water. Provisions for an adequate domestic water supply shall be in compliance with current Cowlitz-Wahkiakum Regional Health District regulations and shall be guaranteed by the applicant by meeting one of the following requirements:

(1) A letter from an existing public water supplier accepting responsibility to furnish water and certifying that the short subdivision lies within its service area; or

(2) Written release from the Cowlitz-Wahkiakum Regional Health District that the short subdivision can be developed on individual wells; or

(3) An engineering feasibility report written by a registered engineer which proposes a feasibility water supply alternative which complies with all local and state regulations.

SECTION 14: PRIVATE ROADS.

14.1 Any right-of-way or less than county standards for public roads shall be retained permanently as privately owned and maintained except when the street is developed to adopted county standards and specifications. The county shall not maintain roads or signs within such rights-of-way.

14.2 The face of any short plat containing a private road shall bear the following language: "WARNING:" Wahkiakum County has no responsibility to build, improve, maintain, or otherwise service the private roads contained within or providing service to the property described in this short plat."

14.3 Privately owned roads shall be open for necessary public use.

14.4 When three or more lots are served, the cul-de-sac turnaround dimension shall have a turning radius of twenty-five feet. Rights-of-way may be required to be expanded to accommodate turnaround requirements.

14.5 Private road rights-of-way may be required to be located within "future public right-of-way tracts".

14.6 Private roads shall serve no more than four lots; provided, however, that private roads may serve any number of lots when both of the following circumstances apply:

(1) The private road is gravel surfaced, consistent with Wahkiakum County standards and specifications, and serves no lot smaller than five acres; and

(2). The private road is located within a "future public right-of-way tract" as provided in Section 15 of this Ordinance and is improved to the standards set forth in this Ordinance.

14.7 A private maintenance agreement shall be required for any short plat private road serving two or more lots.

SECTION 15 PUBLIC STREET RIGHTS-OF-WAY.

15.1 When required: Dedication or deeding to Wahkiakum County of such rights-of-way as may be consistent with adopted county standards for public streets, or a portion thereof, shall be required within or along the boundaries of the short plat or of any lot(s) within, under the following circumstances:

(1) Where the six-year capital improvement plan indicates the necessity of a new right-of-way or portion thereof for street purpose; or

(2) Where thirty feet or less from the center line is required for a public street; or

(3) Where necessary to extend or to complete the existing neighborhood street; or

(4) Where necessary to provide further access to more than four lots.

(5) Where necessary to provide sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

15.2 Improvement Standards. Public street improvements shall be consistent with adopted county design standards, and specifications for public streets may be required under the following circumstances:

(1) When new public right-of-way is deeded or dedicated.

(2) When necessary to develop an existing undeveloped or unmaintained Wahkiakum County right-of-way to county standards for public streets, when such right-of-way abuts the land for which short plat approval is sought.

15.3 Additional building setbacks to accommodate future public right-of-way, when required: Where the Comprehensive Plan or the major streets and highway plan indicate the necessity of a portion of right-of-way for a street which is not included in the six-year capital improvement plan, the Short Plat Administrator may require a plat restriction which imposes a sufficient building setback to guarantee that future right-of-way expansion could be accomplished without infringing on the yard requirement of the zone. Such required setback shall be based on a County Engineer's estimate, consistent with adopted county standards and plans for public streets and roads.

15.4 Future public right-of-way tract, when permitted: When the County Engineer determines that it is necessary to provide for future public street right-of-way to assure orderly development of a neighborhood street pattern, the Short Plat Administrator may require the setting aside of sufficient future right-of-way. The dimensions of such tract, when required, shall be based on County Engineer estimates, consistent with adopted county standards for public streets and roads. Such tract may contain a private road, consistent with the standards set forth in Section 14 of this Ordinance.

15.5 Lots adjacent to primary and secondary arterials: Lots within a short subdivision shall be designed so that lots adjacent to primary and secondary arterials do not require direct access; except that if the subdivider presents proof that direct access to such lots is necessary to the development of his property and the Short Plat Administrator so finds, the Short Plat Administrator may permit direct access.

15.6 Access to short subdivision boundary by public street: Access to the boundary of all short subdivisions shall be provided by an opened, constructed and maintained town or county street.

15.7 Private street, responsibility for maintenance. If the subdivider uses a private street, each lot owner having access thereto shall have a responsibility for maintenance of such private street. Any private street shall also contain a drainage and utilities easement.

SECTION 16: PERFORMANCE BONDING OR OTHER COUNTY APPROVED SECURITY FOR ROAD AND STREET IMPROVEMENTS.

16.1 Performance Bond. When public street or private road improvement is required pursuant to Sections 15 or 16 of this Ordinance, the subdivider may

deposit, in lieu of construction a performance bond or other satisfactory security with the County Engineer in an amount equal to the estimated cost of said improvements and inspection, as furnished by the County Engineer, as a guarantee that said applicant will, within six (6) months from date of recording of said final plat, fully comply with all required private road or public street improvements, consistent with applicable adopted county grading, surfacing, drainage, and access standards and specifications.

16.2 Letter of Credit. In lieu of a performance bond, the county may consider requiring the developer to either provide a letter of credit from a bank or an assignment of savings to insure that the improvements are constructed or the County can use the letter of credit or assignment of savings to construct the improvements.

SECTION 17: MONUMENTS AND MARKERS. Permanent control monuments shall be established at each and every controlling corner on the boundaries of the parcel of land being subdivided. All permanent monuments within the subdivision shall be located and described, and all controlling corners on the boundaries of the short subdivision shall be marked by an approved method of monumentation. (By a ¾" galvanized iron pipe or approved equivalent driven into the ground). All monuments and markers shall be shown on the face of the plat.

SECTION 18: VARIANCES.

18.1 Where difficulties exist, rendering compliance with the Short Plat Ordinance impractical and such compliance would create unnecessary hardship for the owner, the administrator may consider variances from the requirement of this Ordinance, subject to the approval of the Board at a public meeting.

18.2 In passing upon any application for variance, the Administrator shall consider all maps and surveys, all agency reports, all relevant factors, standards specified in other sections of this Ordinance, and:

(1) The asserted hardship is due to unique circumstances such as lot size or shape, topography, and location or surroundings as it relates to the property;

(2) The hardship would apply to the particular lot, tract or parcel regardless of the owner;

(3) The request for variance is not the result of an illegal act on the part of the applicant;

(4) The hardship or difficulty asserted as a ground for a variance must relate to the premises for the benefit of which the variance is sought and not to other premises or personal conditions of the applicant; and

(5) The variance will not have the effect of nullifying the intent and purpose of the County Comprehensive Plan, the standards of this Ordinance, or the County Shoreline Management Master Program.

SECTION 19: ENFORCEMENT. Whenever any parcel of land is divided into two or more but less than five lots, tracts, parcels, sites, subdivisions or

divisions of land and any person, firm or corporation or any agent of any of them sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, parcel, site, subdivision or division without either having secured the Administrator's approval or having a final plat of such short subdivision filed for record, the Prosecuting Attorney shall commence an action to restrain and enjoin further subdivision or sales, or transfers, or offers of sale or transfer and compel compliance with all provisions of this Ordinance. The costs of such action shall be taxed against the person, firm, corporation or agent selling or transferring or offering or advertising the property for sale or transfer. PROVIDED, HOWEVER, this sub-section shall not apply if performance of an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land is expressly conditioned on the recording of the final plat.

SECTION 20: DEVELOPMENT OF ILLEGALLY DIVIDED LAND—INNOCENT PURCHASER FOR VALUE.

20.1 An application for a building permit, septic tank or other development permit for any lot, tract or parcel of land divided in violation of State Law or this ordinance shall not be granted without prior approval of the Board, which approval shall only be given following a public meeting at which the applicant shall demonstrate to the satisfaction of the Board that:

- (1) The applicant purchased the lot, tract or parcel for value;
- (2) The applicant did not know, and could not have known by the exercise of care which a reasonable purchaser would have used in purchasing the land, that the lot, tract or parcel had been part of a large lot, tract or parcel divided in violation of State Law or this ordinance; and
- (3) The public interest will not be adversely affected by the issuance of such permit.

SECTION 21: RELIEF FOR AN INNOCENT PURCHASER FOR VALUE. Except as provided in Section 19, all purchasers or transferees of illegally divided property shall comply with the provisions of this ordinance and each purchaser or transferee may recover his damages from any person, firm, corporation or agent selling or transferring land in violation of this ordinance, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this ordinance as well as the cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may as an alternative to conforming to these requirements, rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned thereby.

SECTION 22: VIOLATION—INJUNCTIVE RELIEF. Whenever any parcel of land is divided into four or fewer lots, tracts, or parcels of land and any person, firm or corporation or any agent of any of them sells or transfers or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a short plat of such subdivision approved pursuant to this ordinance, then such action is hereby declared to be unlawful and a public nuisance, and the Prosecuting Attorney shall

commence an action to restrain and enjoin further subdivisions or sales, or transfers, or offers of sale or transfer and compel compliance with all provisions of this ordinance. The costs of such action shall be taxed against the person, firm, corporation or agent selling or transferring the property. PROVIDED, HOWEVER, this sub-section shall not apply if performance of an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land is expressly conditioned on the recording of the final plat.

SECTION 23: UNAPPROVED SHORT PLAT—NOT TO BE FILED. The Auditor shall refuse to accept for filing any short plat which does not bear the Administrator's certificate, and the Prosecuting Attorney shall apply for a Writ of Mandate on behalf of the Administrator, directing the Auditor to remove the unapproved plat from the Auditor's files.

SECTION 24: VIOLATIONS—PENALTY. Unless otherwise specifically provided herein, any violation of any provision of this ordinance is a civil infraction that will be heard and determined by Wahkiakum County District Court in accord with the provisions of Chapter 7.80 of the Revised Code of Washington as now or hereafter amended. Further, any sale, offer for sale, lease or transfer of any lot, tract or parcel of land in violation of any provisions of this ordinance, shall be deemed a separate and distinct offence.

SECTION 25: ENFORCEMENT OFFICER DESIGNATED. For purposes of issuing a notice of corrective action or notice of civil infraction pursuant to Chapter 7.80 RCW for violations of this ordinance, the following person is designated "enforcement officer" and is hereby authorized to enforce the civil provisions of this ordinance: The Director of the Public Works Department or his/her designee.

SECTION 26: VOLUNTARY CORRECTION. When the Public Works Director has determined that a violation of this Ordinance has occurred or is occurring, a Notice of Correct shall be sent within thirty (30) days specifying the nature of the violation, the required corrective action, the correction date, and the schedule of penalties for failure to comply.

SECTION 27: NOTICE OF INFRACTION. If the violation continues, after the correction date specified on the Notice of Correct, the Public Works Director shall issue a Notice of Infraction.

SECTION 28: MONETARY PENALTIES.

28.1 A person found to have committed a civil infraction shall be assessed a monetary penalty not to exceed the following amounts:

- (1) First infraction; one hundred fifty (\$150) dollars;
- (2) Second infraction; three hundred (\$300) dollars;
- (3) Third infraction; five hundred (\$500) dollars;

28.2 There shall be an additional penalty of twenty-five (\$25) dollars assessed for failure to respond to a notice of civil infraction. This civil penalty

shall be in addition to the criminal penalties prescribed in RCW 7.80.160 for violating a written and signed promise to respond to a notice of civil infraction.

SECTION 29: FAILURE TO PAY MONETARY PENALTIES PUNISHMENT. Whenever a monetary penalty is imposed by the court pursuant to this ordinance and Chapter 7.80 RCW, it is immediately payable. Willful failure to pay the penalty constitutes a misdemeanor.

SECTION 30: PERSONS LIABLE. Any person who violates this Ordinance, whether directly committing the act or omitting to do the thing constituting the offense, or who aids and abets the same, whether present or absent; and any person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such offense, is and shall be, a principal under the terms of this Ordinance and shall be proceeded against and prosecuted as such.

SECTION 31: SEVERABILITY. If any provision of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this Ordinance would have been enacted without the provision so held unconstitutional or invalid and the remainder of this Ordinance shall not be affected as a result of said part being held unconstitutional or invalid.

SECTION 32: REPEALER. All previous County Ordinances relating to short subdivisions are repealed effective as of the effective date of this Ordinance.

SECTION 33: EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after the 1st day of April, 1992.

SECTION 34: CODIFICATION. This Ordinance shall be codified in the Revised Code of Wahkiakum County as Chapter 58.18.

DULY PASSED AND ADOPTED FOLLOWING A PUBLIC HEARING THEREON this 10th day of March, 1992.

BOARD OF COUNTY COMMISSIONERS
OF WAHAKIYAKUM COUNTY, WASHINGTON

/s/ Mark L. Doumit
Chairman

/s/ Ronald D. Ozement
Commissioner

/s/ Leon J. Almer
Commissioner

ATTEST:

/s/ Rhonda Heiner
Clerk of the Board of Health

APPROVED AS TO FORM, this
10th day of March, 1992.

/s/ Barbara Vining
Deputy Prosecuting Attorney