

**Chapter 17.26
Subdivisions**

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17.26.010 Purpose. No division of land shall be made within the City, except in full compliance with the provisions of this Title.

17.26.020 Applicability. The provisions of this Chapter shall apply to all subdivisions of land unless specifically noted.

A. Pursuant to RCW 58.17.040 or as it may be amended; the provisions of this Title shall not apply to:

1. Cemeteries and other burial plots, while used for that purpose;
2. Any division made by testamentary provisions or the laws of descent;
3. A division for the purpose of lease when no residential structure other than manufactured homes are permitted to be placed upon the land when a binding site plan for the use of the land has been approved;
4. A division made solely for the purpose of adjusting boundary lines.
5. Divisions created by action of public bodies not for the purpose of future sale or lease, including:
 - a. Acquisitions through negotiation or condemnation of fractional parts of land by public bodies for the purpose of future public use as public highways or public or private utility facilities; and
 - b. Annexations and land vacations accomplished pursuant to and in accordance with all pertinent state and local laws governing same.

B. The Planning Official may exempt the following actions from the requirements of this Title as not constituting a division of land into lots, tracts, parcels, sites or divisions

for the purpose of sale or lease. This exemption is available only for those actions which do not contravene the spirit of this Title or of state law. In determining whether specific actions may be exempt, the Planning Official may require pertinent instruments, court orders, affidavits and the like to be maintained in a permanent file of all qualified exemption applications. Exemption applications shall be notarized and accompanied by an application fee as specified in the adopted fee schedule ordinance.

1. A division of land by simultaneous merger of a fractional part of land into land contiguous on more than a single point so long as no lot, tract, parcel, site or division is rendered nonconforming with minimum size requirements or with applicable zoning and land use restrictions.
 - a. "By simultaneous merger" for purposes of this section, means a specific declaration of merger with the new description of said lands contained within the correction deed or instrument of sale or transfer. The deed or instrument shall be filed for record by the Applicant in the County Auditor's office. No such merged fractional part may thereafter be sold, leased, transferred or developed through building permit or other development permit as a division separate or distinct from the land into which it is merged without prior short plat approval.
 - b. The creation of a lot for such public and private property, such as water towers, utilities stations, cell tower sites, etc.
 - c. Said exemption shall become null and void if the filing of the deed or instrument is not accomplished within one hundred eighty days from the grant of the exemption.
2. A division provided for by law not for the purpose of sale or lease including, in the absence of the Planning Official finding circumstances to the contrary, the following:
 - a. Financial segregation which does not involve a division of land through transfer of fee simple title. This exemption is limited to mortgages or deeds of trust executed solely for the purpose of securing financial obligations that are conducted in all respects in compliance with the laws governing same;
 - b. A division by court order limited to the following and not including voluntary transfers of land in lieu of compliance with the applicable judicial procedures governing them; mortgage or deed of trust foreclosures, and property distributions between spouses pursuant to separation or dissolution proceedings; and
 - c. A division by transfer made under threat of imminent foreclosure proceedings provided that: The deed of trust or mortgage was a bona fide financial arrangement which was not executed for the purpose of sale or lease and which was granted a financial segregation exemption; and foreclosure

proceedings would result in the transfer of property by court order in any event.

- d. Prior division of land provided the lots meet minimum size requirements of the zone in which it is located.

17.26.030 Short Subdivision Preliminary Plats. The division of a parcel into five to nine lots shall be processed as a Class 2 Review, and shall comply with the following provisions:

A. The applicant shall submit a short plat which shall be prepared by or under the supervision of a registered land surveyor of the state of Washington as a result of a land survey, including:

- (1) Compliance with the requirements of the Survey Recording Act RCW 58.09 as it now exists or is hereafter amended, including the establishment of monuments such that short plats must show all existing or established section corners and quarter section corners pertaining to the establishment of all lot corners of the short plat;
- (2) All other review requirements of this title pertaining to short subdivisions of land:

B. Content: Application for final approval of a short subdivision shall be by submission to the county planning department of a short plat, one paper copy thereof and a copy of a current title certificate showing all parties having any interest in the land subdivided. The short plat shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or equivalent. It shall be of a size eighteen inches by twenty-four inches. It shall show:

1. The entire lot, tract, parcel, site or division constituting the applicant's land as defined by Section 17.04.020 (B) 49;
2. The parcel number or numbers as assigned to applicant's land by the county assessor and the names or recording numbers of any contiguous subdivisions or short subdivisions;
3. Lines marking the division of the property into nine or less lots, tracts, parcels, sites or divisions;
4. Location of existing roads or streets, or existing deeds or easements therefore such as county, city or state. Satisfactory documentation for roads and ways within or contiguous to the applicant's land shall be provided;
5. Location of any roads, rights-of-way or easements proposed to serve the short plat with clear designation of their purpose and nature, including whether they will be private or dedicated public roads, rights-of-way or easements.
 - (a) Right-of-way for public roads of a width to be determined by the planning official, but not to exceed that required for regular plats, shall be dedicated if the short subdivision contains two or more lots which are contiguous to:

- (i) An existing subdivision where partial street right-of-way has been dedicated;
 - (ii) An existing partial right-of-way deeded for public road purposes;
 - (iii) A location where an ordinance, or long-range road program, or comprehensive plan indicates the need for a future road or street.
- (b) Right-of-way for all private roads, whether existing or proposed, shall be of a width to be determined by the planning official of not less than twenty-five feet nor more than that required for regular plats;
- (c) In the event private roads are used to serve the proposed short plat, whether exterior or interior, the following statement shall appear on the face of the short plat:

City of Zillah has no responsibility to build, improve, maintain, or otherwise service any private road for this short plat.

- (d) Utility easements having a minimum width of ten feet shall serve each interior lot. Utility easements may be included within the access easement and may serve as a joint use easement with the access easement;
6. The acknowledged signatures of all parties having ownership interest in the lands being subdivided as enumerated in subdivisions (a) (ii) and (b) (ii) of this subsection (6), as well as the acknowledged signatures of all owners of property over which access or utility easements pass unless such easements are previously or simultaneously recorded by separate instrument in the county auditor's office, certifying the following:
- (a) In the case of a short subdivision not containing a dedication:
 - (i) A full and correct legal description of the land to be divided as it appears on the short plat,
 - (ii) A statement of free consent in substantially the following form¹³, the reference to easements to be omitted where not applicable
 - (b) In the case of short subdivision containing a dedication:
 - (i) A full and correct legal description of the land to be divided as it appears on the short plat,
 - (ii) A statement of free consent and waiver of claims for damages

C. Review requirements.

- 1. Copies of the preliminary plat, supplementary material, environmental documents and notice of public hearing shall be forwarded by the Planning Official to the following agencies for their respective recommendations, if any:
 - a. Yakima Health district (if applicable)
 - i. The City and/or the Yakima Health District may require the Applicant to provide information necessary to determine the feasibility of the

¹³ ZMC 17.26.060 (J)

contemplated sewage disposal and water supply for the proposed subdivision;

- b. City Public Works Director;
 - c. Any school district or fire district encompassing any of the area included in the preliminary plat;
 - d. Any other governmental agencies concerned.
2. The recommendations of the aforesaid public agencies, if any, shall be submitted to the Hearing Examiner prior to the scheduled public hearing as provided for in Section 17.26.030.D.
- D. The Hearing Examiner shall consider agency reports, public testimony and all other relevant facts and consider whether the proposed short plat/subdivision makes appropriate provisions for public health, safety and general welfare and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and whether the public use and interest will be served by the platting of such short plat/subdivision.
 - E. Recommended conditions to be fulfilled, if any, after approval of the preliminary plat shall be written on the face of the plat.
 - F. Dedication of land to any public body, or fees paid in lieu thereof, may be required as a condition of subdivision approval and shall be clearly shown on the final plat. A record of the public meeting/public hearing shall be kept by the City Clerk/Treasurer and shall be open to public inspection.
 - G. Domestic water, sewer service, and irrigation lines to property lot line shall be part of the primary developer's obligation and conform to the standards in ZMC Chapter 15.10. All main lines and auxiliary lines shall be shown on the final plat before final approval.
 - H. Irrigation water provided by the appropriate irrigation district must be provided to each residential/commercial site and to open space/recreational areas. Plans must be approved by the City.
 - I. Approval of a preliminary plat shall not constitute approval of the final plat for record. Rather, it shall be a guide to the preparation of the final plat which shall be submitted for approval of the required officials within two years of the date of preliminary plat approval unless extended in accordance with the provisions of Section 17.26.060 (A).
 - J. **Identification marker posting.** The applicant shall, for identification purposes only, cause markers of a type approved by the city engineer to be placed upon each of the approximate road frontage corners of the subject property, and maintain them thereon during the period extending from the time of application to the time of final action, for purpose of permitting field checks by the applicable agencies.

K. **Consent of access.** The applicant shall permit free access to the land being divided to all agencies considering the short /subdivision for the period of time extending from the time of application to the time of final action.

L. **Access standards.**

All lots shall be provided with access via an improved public street meeting the specifications contained in ZMC Title 15 and as designated in the City of Zillah Comprehensive Plan. Streets shall be improved to the standards as outlined in this code and as a condition of final plat approval. All streets shall be dedicated to the city except as otherwise provided for, and the following:

1. No residential lots shall have street frontages along two opposite boundaries unless topographical features or existing parcel or lot shape or the need to provide access to lots via a residential street versus an arterial street is needed.

2. Private driveway easements or vehicular access over flag lots shall serve no more than a total of two lots in addition to the lot the easement originates from, and are intended to be allowed only to provide access to existing developed areas for infill development purposes, provided the following standards are complied with:

a. Lots accessed via a private driveway shall be created from legal lots of record existing prior to October, 2010.

b. Private driveway accesses shall be developed to the standards contained in ZMC Title 15 and shall be considered appropriate access by city public works director and/ or the city engineer and city fire chief.

c. For all lots with access via a private driveway easement, a road maintenance and upgrading agreement will be required and shall be noted on the face of the final plat mylar.

d. Private driveway easements or flag lots cannot be used for access where access to more remote properties would be inhibited or where the development standards for streets outlined in ZMC Title 15 could be accommodated, or for properties that can be further subdivided, unless topography, wetlands, or other natural features necessitate this type of access. The public works director in consultation with the planning official is vested with the authority to make this determination.

e. Access via a private driveway easement shall be limited to one such access on the parent parcel existing at the time of adoption of this code on December, 2011.

f. Multiple private driveway easements shall not be allowed in place of a city street adequate to serve the area or development built to the standards outlined in ZMC Title 15.

3. Street rights-of-way along the boundary of a subdivision shall conform to the provisions set forth in ZMC Title 15, and as identified in the Zillah Comprehensive Plan.

17.26.040 Subdivisions (10 or more lots) and Long Plats. The division of a parcel into 10 or more lots shall be processed as a Class 3 Review, and shall comply with the provisions set forth in 17.26.030, recommendation from Hearing Examiner and approval from City Council.

17.26.050 Preliminary Plats Amendments

- A. Once a short plat/ subdivision has been recorded with the County Auditor, it can be altered or vacated in whole or part in a manner not involving a re-subdivision into more than nine lots from the original short plat. When a proposed alteration or vacation involves a public dedication, the alteration or vacation shall be processed in accordance with RCW 58.17 or as it may be amended. If the proposed alteration or vacation does not involve a public dedication, the amended short plat shall be processed in accordance with the following provisions:
1. The amended short plat must comply with the procedures and requirements of this chapter for original short plat approval. A survey shall be required.
 2. The amended short plat shall show all of the land shown on the original short plat and shall bear the acknowledged signatures of all parties having ownership interest in the affected lots, tracts, parcels, sites or divisions within the original short plat as shown by a current title certificate.
 3. The amended short plat shall not increase the number of lots, tracts, parcels, sites or divisions into more than the original short plat or subdivision for a period of five years from the date of recording of the original short plat or subdivision, unless a final plat has been approved and filed for record pursuant to the regular plat provisions of this Title.
 4. Minor errors not involving a change in lines may be corrected by the surveyor by recording an affidavit with the County Auditor specifically referencing the short plat by number and the correction.
- B Once property is subdivided in accordance with the short plat/subdivision regulations of this Title, no further division creating more lots, tracts, parcels, sites or divisions from the original short plat or subdivision shall be made for a period of five years from the date of recording of the short plat, unless a final plat has been approved and filed for record pursuant to the regular plat provisions of this Title. In the case of a proposed re-division of land within a short plat or a regular plat, either the short subdivision or regular subdivision provisions or this chapter and RCW 58.17 or as it may be amended, shall be complied with dependent upon the number of divisions proposed within the land as defined by this chapter and/or the period of time that has elapsed since the recording of a prior short plat.

- C. Approval of a preliminary short plat shall not constitute approval of the final plat for record. Rather, it shall be a guide to the preparation of the final plat which shall be submitted for approval of the required officials within one year of the date of preliminary short plat.

17.26.060 Final Short/ Subdivision/ Long Plats The final plat shall conform substantially to the preliminary plat, and shall incorporate any conditions or recommendations imposed by the City and shall include the following information: either of the face of the plat, if practicable, or, if not, on a separate attached statement. Any required signatures shall be in permanent black ink on the original document(s) to be filed.

- A. A complete survey of the section or sections necessary to establish the corners of the quarter section or the corners of the quarter sections in which the plat is located or as much thereof as may be necessary to properly orient the plat within such section of sections. The survey shall be submitted with complete field notes and computations showing original or reestablished corners, with descriptions of and reference ties to all corners and actual field notes of traverse showing error of closure and method of balancing, with sketch showing all distance, bearings and calculations required to determine corners and traverse distance of the plat. The allowable error of closure shall not exceed one foot in five thousand feet;
- B. Tract boundary lines, property lines of residential lots and other sites, with accurate dimensions, bearing or deflection angles, and radii, arcs and central angles of all curves;
- C. Name and right-of-way lines of streets, easements and other rights-of-way;
- D. Location, dimensions and purpose of any easements;
- E. Number to identify each lot or site and block;
- F. Purpose for which sites, other than residential lots, are dedicated or reserved;
- G. Location and description of monuments existing or set;
- H. Reference to recorded subdivision plats of adjoining platted land by record name, date and number;
- I. Certificate by surveyor certifying to accuracy of survey and plat, in substantially the following form:

Surveyor's Signature and Seal

- J. Acknowledged certificate of free consent executed by all parties having interest in the land subdivided as shown by a current title report; and also, in the case of plats containing a dedication of roads, streets or other areas, the dedication, waiver of

claims for damage and, if required, waiver of direct access, all pursuant to RCW 58.17.165 or as it may be amended and in substantially the following form:

DEDICATION AND WAIVER OF CLAIMS

Know all persons by these presents that _____ are all parties having ownership interest in the land hereon described; have with their free consent and in accordance with their desires caused the same to be surveyed and platted as shown hereon; do hereby dedicate those roads and/or rights-of-way shown as public dedications hereon to the use of the public; do hereby waive, on behalf of themselves and their successors in interest, all claims for damages against the city of Zillah and any other governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said dedicated roads and/or right-of-way; and do hereby grant and reserve the easements as shown hereon for the uses indicated.

Property Owner's Name

Property Owner's Name

K. If the plat lies wholly or in part in an irrigation district, a statement evidencing irrigation water right-of-way pursuant to RCW 58.17.310 or as it may be amended in substantially the form below:

"The property described hereon is wholly or in part within the boundaries of the _____ Irrigation District(s) and all lots within the plat are subject to the terms, conditions, reservations and obligations in the present and future concerning irrigation water, drainage facilities rights-of-way, and easements as may be imposed by said district in accordance with the law."

L. If a plat lies wholly or in part in an irrigation district serving as its own treasurer, a certificate of the authorized officer of the irrigation district evidencing that all special property assessments of such district on the property being divided are paid through a specific date. Such date shall cover the entire current year at the time the applicant's submission of the plat for recording occurs. If the recording does not occur before the end of the year, all special property assessments for the following year shall be paid prior to recording. Such certificate shall be in substantially the following form:

"I hereby certify that all chargeable regular and special assessments collectible by this office or an agent owing on the property described hereon are paid through _____, 20____."

Secretary
Irrigation District

M. Plats located wholly or in part within an irrigation district shall contain irrigation easements as set forth in Paragraph No. 1 and 2 below;

1. Irrigation easements, no less than ten feet in width nor more than thirty feet in width which indicate that: (a) adequate provision has been made to serve with irrigation water all lots which are entitled to irrigation water under operating rules and regulation of the district; and (b) adequate provision has been made to transmit irrigation water through the plat to serve adjacent land which is entitled to irrigation water from the official forty acre delivery point serving said land;

2. Plats located wholly or in part within the boundaries of the Sunnyside Valley Irrigation District, shall in lieu of Section 17.26.060 (K) contain the following certification:

Sunnyside Valley Irrigation District Approval:

The property described hereon is located wholly or in part within the boundaries of the Sunnyside Valley Irrigation District.

I certify that:

- ___ 1. This short plat/ subdivision provides easements for existing Sunnyside Valley Irrigation District irrigation and drainage facilities.
- ___ 2. An easement agreement has been filed with this short plat/ subdivision.
- ___ 3. There are no existing Sunnyside Valley Irrigation District irrigation and drainage facilities within this short plat/ subdivision.
- ___ 4. Lots _____ are, in whole or in part, not entitled to irrigation water under the operating rules and regulations of the district.

Dated this _____ day of _____, 20__.

Sunnyside Valley Irrigation District

N. Plats located wholly or in part within an identified flood hazard area or within the jurisdictional boundary of the Yakima County Regional Shorelines Management Program, or both, shall include the following statement(s) on the face of the plat:

1. The lots, or portions thereof, within this plat lie within the one-hundred-year floodplain of (appropriate watercourse name, if known) as defined by the Federal Emergency Management Agency (FEMA) as part of the National Flood Insurance Program. As such, special flood hazard development standards will apply to that area of the lot lying within the one-hundred-year floodplain. The first floor elevation of most structures must be three feet above the one-hundred-year flood elevation. Specific floodplain information may be obtained from the planning official;

2. The lots, or portions thereof, within this plat are subject to the Yakima County Regional Shorelines Management Master Program Chapter 17.22.110. Special development standards may apply and permits may be required for certain types of

development. Shorelines management information may be obtained from the planning official;

O. Dedication by owner of streets, rights-of-way, easements and any sites for private, semi-private or public use;

P. Acknowledgment by the person filing the plat before the Auditor of Yakima County. A certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith. Certificate from the County Treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification by the treasurer have been fully paid, satisfied or discharged. *Signature blocks of approval by city public works director as to the survey data, layout of streets, alleys and other rights-of-way, location of proposed bridges, and sewage and water systems. Signature block of approval by the Fire Chief of the city as to the fire protection and egress and ingress for the development, Signature block of approval by the mayor of the city;*

Q. Acknowledgment from the public works director furnishing sewage disposal and/or supplying water as to the adequacy of the proposed means of sewage disposal and water supply;

R. Title, scale, north arrow and date;

S. A certificate by the city public works director certifying that the sub-divider has either:

1. Completed improvements in accordance with these regulations and with the action of the city council giving approval of the preliminary plat, or
2. Submitted a bond or certified check in sufficient amount to assure completion of all required improvements at a future date.

T. Such other certificates, affidavits or endorsements as may be required by the city in the enforcement of these regulations.

U. The final plat shall be submitted within five years of the date of preliminary plat approval. An Applicant who files a written request with the City at least thirty days before the expiration of this five year period may be granted a one-year extension provided a showing that the Applicant has attempted in good faith to complete the final plat within the five year period.

V. Upon approval of a final plat, the Mayor may execute written approval on the face of the plat, and the original of the final plat will be sent to Yakima County Auditor for compliance with recording requirements.

1. The final plat shall be recorded within thirty days following the date of approval of the final plat. If the applicant fails to provide the final plat prior to the expiration of the above time period, the plat shall resubmit in accordance with the provisions of this Title.

W. No building permit shall be issued or approved until such time as the City approves and accepts the final plat for the short plat/subdivision/long plat and the final plat is recorded with the Yakima County Auditor.

X. Inspection of required improvements shall be made during and after completion of construction. Scheduling of inspections shall be the sole responsibility of the Applicant and shall be coordinated with the appropriate City Staff.

Y. No permit for the construction of improvements within an approved subdivision shall be issued by the city until all construction drawings, proposed performance guarantees, and other submittals in conformance with engineering design standards have been received and approved by the public works director. All construction of improvements shall be inspected and approved in conformance with the most recently adopted engineering design standards (ZMC 15.10).

17.26.070 Preliminary plat approval – Phased development.

Where subdivision development is proposed in distinct phases, preliminary plat approval must be granted for the entire subdivision. The plat map must delineate the separate divisions or phases that are to be developed. The preliminary plat approval is conditional upon the completion of the proposed phases in the stated sequence. Final plat approval is required for each separate phase or combined phases of the preliminary plat. All phases of said preliminary plat shall be completed and filed for record within the five-year period as outlined in ZMC 17.26.060(A).

17.26.080 Improvements. The City may require the formation of a maintenance corporation, home owners association, etc. charged with the responsibility of construction and maintenance of the private streets and other common facilities in the proposed subdivision.

17.26.090 Surety – Bonding/Escrow. In lieu of the completion of the actual construction of any required improvements prior to the approval of a final plat, the City may accept a bond or escrow in an amount and with surety and conditions satisfactory to the City Council, or other secure method expectable to the city, providing for and securing to the City the actual construction and installation of all improvements within a time period specified by the City expressed in said surety. In addition, the bonds/escrow or other security may be required by the City securing to the City the successful operation of the improvements for up to two years after final plat approval.

17.26.100 Enforcement. See Section 17.92 The following actions are violations of this Title and shall be subject to enforcement actions which may include civil and criminal penalties.

A. No building permit, septic tank permit, access/approach permit, or other development permit shall be issued for, or physical development or change be undertaken or permitted on divisions subject to this ordinance and/or RCW 58.17 or as it may be amended, without compliance with the respective provision thereof.

B. No person, firm, corporation, association or agent thereof shall transfer, sell or lease, either by deed or contract, any land subject to the requirements of short plat/subdivision/ or long plat final approval until the short plat/subdivision/ or long

plat has been approved by the City and recorded with the Yakima County Auditor. Any person who violates any of the short plat/subdivision/long plat provisions of this Title shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred fifty dollars for each violation. Each day such violation continues shall be considered a separate offense.

17.26.110 Misrepresentation of Construction, Supervision, or Inspection

It is unlawful for any person, firm, or corporation owning a plat or subdivision of land within the city to represent that any improvement upon any of the streets or alleys of said plat or subdivision or any sewer in said plat or subdivision has been constructed according to the plans and specifications approved by the city superintendent or has been supervised or inspected by him when such improvement is not so constructed, supervised, or inspected.