Title 23

LAND DIVISION

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APPROVED BY ORDINANCE NO. ______________
EFFECTIVE DATE: ______________
CHAPTER 23.04

GENERAL PROVISIONS

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23.04.010 Title

The ordinance codified in this title shall be known as "The Land Division Ordinance" of the city of Bellingham.

23.04.020 Purpose

The purpose of this title is to regulate the division of land and to protect the public health, safety, and general welfare, further the goals and policies of the Bellingham comprehensive plan, ensure consistency with other local and state land use regulations, provide for the orderly extension of public infrastructure, and be mindful of natural features in accordance with the standards established in this title and set forth in Chapter 36.70A RCW and Chapter 58.17 RCW.

It is the specific intent of these regulations to place the obligation of complying with its requirements upon the property owner and/or the applicant.

23.04.030 Authority-Relationship to state law

These regulations are authorized by Chapter 58.17 RCW and other state laws and city ordinances. The regulations prescribed by this title shall be considered as supplementary to Chapter 58.17 RCW, as amended. No map, plat, replat or plan of a proposed land use action governed by this title shall be recorded or obtain land use entitlement unless it conforms to the requirements of Chapter 58.17 RCW and this title.
23.04.040  Applicability

These regulations shall apply to all lot line adjustments, short plats, preliminary plats, final plats, binding site plans, alterations, and plat vacations within the corporate city limits of the City of Bellingham.

23.04.050  Compliance

A. All lot line adjustments, short plats, preliminary plats, final plats, binding site plans, plat alterations, and plat vacations shall comply with all adopted and applicable city ordinances, plans and policies, state law and this title.

B. No lot line adjustment, short plat, preliminary plat, final plat, binding site plan, plat alteration, or plat vacation authorized by this title shall be approved that results in or causes an existing use and/or structure to be less compliant with any city ordinance, city approved land use decision, comprehensive plan, state law and this title.

C. These provisions shall implement the current, and any subsequent amendments, City of Bellingham Comprehensive Plan and Title 20 BMC and determine the character of land division, which includes but is not limited to lot size and arrangement, type and extent of streets and roads, dedications, improvements, open space, recreation, services, utilities, and public facilities.

D. All records of survey in connection with any lot line adjustment, short plat, final plat, binding site plan, plat alteration or plat vacation shall be prepared in conformance with Chapters 58.09 and 58.17 RCW and this title.

23.04.060  Completion of public infrastructure

All public and private infrastructure required as a condition of approval pursuant to this title shall be provided by the applicant and accepted by the city; the city engineer may accept a financial surety for 150 percent of the total cost to complete the unfinished infrastructure if it is determined there will not be a threat to public health or safety and that the work cannot be completed due to seasonal constraints or other circumstance associated with the proposal.

23.04.070  Administrative Officer

The Director of Planning and Community Development (Director) or designee is designated and assigned the administrative officer and coordinating responsibility for approval or disapproval of all Type I and II permit decisions subject to this title. The Director is also assigned the administrative and coordinating responsibility for providing recommendations to the legislative bodies responsible for approval and denial of all Type III permit decisions subject to this title.

23.04.080  Exemptions
The provisions of this title shall not apply to:

A. All exemptions in RCW 58.17.040, as amended, with the exception of lot line adjustments pursuant to RCW 58.17.040 (6).

B. Legal Lots. Lots determined to be legal lots by Title 20 BMC.

C. Public Land Acquisition. Any division(s) of land for the sole purpose of enabling a municipal corporation to acquire land, either by outright purchase or exchange, for right-of-way purposes, 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 land use regulations.

D. Condemnation. Division of land due to condemnation or sale under threat thereof by an agency or division of government vested with the power of condemnation; if sale is made under threat of condemnation, such threat must be evidenced by the government agency filing an affidavit so stating with the Whatcom County Auditor.

E. Manufactured Home Park. A division for the purpose of sale or lease when no residential structures other than mobile homes or travel trailers are permitted to be placed upon the land when the city approves a planned development permit in accordance with Chapter 20.38 BMC for a mobile home park or recreational vehicle park.

F. Divisions made by court order. This exemption applies to land divided pursuant to dissolution or partition proceedings of a corporation, partnership, limited partnership, joint venture, or trust.

23.04.090 Resubdivision restriction.

Pursuant to RCW 58.17.060, nothing in this chapter shall prevent the resubdivision of short platted lands into four (4) or fewer lots through the short subdivision process, provided that the sum total of the lots proposed within the boundaries of the original short subdivision do not exceed four (4) lots within five (5) years after the filing of the original short plat.

Resubdivision of any short platted land that proposes to create 5 or more lots within five years from the date of filing an original short subdivision including the subject site shall, regardless of ownership, obtain preliminary plat approval in accordance with Chapters 23.08 and 23.16 BMC and final plat approval in accordance with Chapter 23.20 BMC. A preliminary plat decision under this provision shall be conditioned appropriately to require the installation of public infrastructure improvements across the full frontage of the original and proposed short plat boundaries pursuant to Chapter 23.08 BMC.

23.04.100 Consent to access.
An applicant for any division, redivision, alteration, vacation, or adjustment of any lot, tract, parcel, or site shall allow access to the land being divided to all agencies considering the land use application for purposes of reviewing the proposal for compliance with the Bellingham municipal code for the period of time extending from the time of application to the time of final action. The city shall provide adequate notice to the applicant when access to the premise is sought. The applicant's failure to grant permission for the city to enter the property shall be grounds for the city to issue a request for information. If the applicant fails to grant access within 120 days from the date of the request for information, the application shall become null and void. The director may extend the response period beyond 120 days if within that time-period the applicant provides and subsequently adheres to an approved schedule with specific target dates for granting the city access.

23.04.110 Model homes/units in preliminary plats.
The Director may authorize the issuance of building and related permits required for residential construction under this provision for up to six model homes/units on a single tract of land prior to obtaining final plat approval provided the following criteria are met:

1. The model homes/units will be constructed in compliance with the preliminary plat and Title 20 BMC on a tract of land that has valid preliminary plat and associated land use approvals; and

2. A public facilities construction agreement for all required public infrastructure necessary to serve the model homes/units, including a stormwater permit, has been issued; and

3. A covenant, signed by all parties having an ownership interest in the property, is filed prior to building permit issuance that restricts the transfer of ownership and occupancy of those model homes/units and land until a final plat has been filed for record at the Whatcom County auditor's office; and

4. The model homes/units are not occupied for habitable purposes until a final plat has been filed at the Whatcom County auditor's office and each home has been issued a final building inspection. Building and related permits shall be issued only to the property owner or a licensed contractor acting on the owner's behalf; and

5. A financial surety, acknowledged by all parties having an ownership interest in the property including beneficiaries of a deed of trust, is established to ensure the demolition of the model homes/units in the event the preliminary plat expires prior to filing a final plat.

23.04.120 Application and fees.
An application for an approval under this title shall be submitted to the city for review on forms provided by the city that include all submittal requirements specified on the application form and payment of the application fee as established by city council resolution.

All application and filing fees shall be nonrefundable, unless such obligation is specifically waived by the city council.

Any application for the division or redivision of land under this title shall include all contiguous parcels to the parcel being subdivided that are under common ownership and these commonly owned parcels shall be accurately indicated on the drawing. Common ownership means an ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stockholder, partner, or associate, or a member of the family owns an interest in each corporation, firm, entity, or unincorporated association.
Chapter 23.06

DEFINITIONS

Sections:
23.06.010 Generally.
23.06.020 Specific definitions

23.06.010 Generally.
A. For the purpose of this title, unless it is clearly evident from the context that a
different meaning is intended, certain words and terms are as defined in this chapter.
B. Words not defined in this chapter shall be as defined in other city and state codes,
the Bellingham Municipal Code, Washington Administrative Code, or the Revised
Code of Washington. Words not found in any of the previously listed sources shall
be as defined in the Webster's Third New International Dictionary, latest edition.
C. The present tense includes the future and the future includes the present. The
singular number includes the plural and the plural includes the singular.
D. Variances from these definitions shall not be granted.
E. "May" is permissive and "shall" is mandatory.
F. "Lot" includes "plot," "parcel," "tract" or "site."
23.06.020 Specific definitions.

"Abutting" means touching along a common border or point.

"Access Easement" see Easement, Access.

"Adjacent" means lots located across a street or right-of-way.

"Administrative officer" is the director of the planning and community development department charged with administering this chapter.

"Affordable Housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for Bellingham, as reported by the United State department of housing and urban development. This definition is intended to be the same as the ‘low-income housing’ references pursuant to Chapters 15 and 19 BMC.

"Alteration" means the modification of a previously recorded plat, short plat, final plat, binding site plan, or any portion thereof.

"Applicant" means any person, firm or corporation, other entity or authorized representative undertaking an application for a development proposal, permit or
approval. Any responsibility to fulfill a provision of this title given to the applicant shall also be construed as a requirement imposed on the property owner.

"Area" means the total horizontal area within the boundary of the lot lines of a lot, less submerged lands, and expressed in terms of square feet or acres.

"Bellingham Municipal Code" means a codification of city regulations on file with the city clerk referred to herein as the "BMC" and/or municipal code.

"Binding site plan" means a drawing to scale of a division or land into lots or tracts classified for residential, industrial or commercial use for the purpose of sale, transfer or lease pursuant to RCW 58.17.035 and containing all the elements set forth in Chapter 23.24 BMC.

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

"Buildable area" means the portion of a lot or site, exclusive of required yards, rights-of-way, dedications, critical areas and their buffers, and any other restrictions on lot development from development regulations, which can be constructed with a permitted primary use that would otherwise not require a variance from zoning and environmental regulations.

"Building envelope" means the dimensional area within a lot, as determined by this title that is determined to be free of any encumbrances that would prevent development to occur with the dimensional area. Such encumbrances include, but are not limited to, rights-of-way, dedications, and critical areas and their buffers.

"Checkprint" means a draft version of the final subdivision map that is submitted with a request for final subdivision approval to the city for review prior to preparing a mylar.

"City" means the incorporated city of Bellingham, county of Whatcom, state of Washington, and its appointed or elected officials.

"City engineer" means the duly appointed city engineer or designee for the city of Bellingham.

"City hearing examiner" means the duly appointed Hearing Examiner for the city of Bellingham.

"City finance director" means the duly appointed finance director or designee for the city of Bellingham.

"Cluster short subdivision" means a subdivision of four or fewer lots in which standard requirements, such as lot size, dimensions, parking or setbacks, may be modified to provide desirable open space, recreational opportunity or other significant public benefits without increasing the overall density of dwelling units per acre except as provided in this title and the applicable neighborhood plan.
"Cluster subdivision" means a subdivision into five or more lots in which standard requirements, such as lot size, dimensions, parking or setbacks, may be modified in order to provide desirable open space, recreational opportunity or other significant public benefits without increasing the overall density of dwelling units per acre except as provided in this title and the applicable neighborhood plan.

"Common ownership" means an ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stockbroker, partner, associate, or family member owns an interest in each corporation, firm, entity, partnership, or unincorporated association. For purposes of this chapter underlying ownership by a common party, parties or related individuals may be construed by the city as a common ownership. Proof of separate and unrelated property ownership is the duty of the owner or applicant.

"Comprehensive plan" means the most current published edition of the Bellingham comprehensive plan, which includes the city’s individual neighborhood plans.

"Controlling corner" means all angle points of the perimeter of a subdivision or separate divisions of a subdivision.

"Corner Lot" see Lot Types; Lot, Corner.

"Council" means the city council of the city of Bellingham.

"County" means Whatcom County of the state of Washington.

"County auditor" means the duly elected auditor for the Whatcom County.

"County treasurer" means the duly elected treasurer for Whatcom County.

"Covenant" means a binding and solemn agreement made by two or more individuals, parties, etc., to do or keep from doing a specified thing or things.

"Cul-de-sac" means a street right-of-way intersecting another street right-of-way at one end and which terminates with a permanent vehicular turn around at the other end. Dead-end streets or rights-of-way planned for future extension shall not be considered a cul-de-sac.

"Dedication" means the deliberate appropriation of land by an owner for any general and public uses, reserving to the owner no other rights such as are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted. The intention to dedicate is evidenced by the owner by the presentment for filing of a final plat or a short plat showing the dedication thereon; and the acceptance by the public is evidenced by the approval of such plat for filing by the appropriate governmental unit.

"Deed" means a written instrument, which has been signed and delivered, by which one individual, the grantor, conveys title to real property to another individual, the grantee. This includes, but is not limited to Warranty, Statutory and Quit Claim deeds.
"Density" means a ratio of dwelling units and/or lots to lot area, usually expressed in terms of dwellings per acre, square feet of land area per dwelling unit or minimum lot size.

"Density bonus" means an allowance to increase the total number of dwelling units and/or lots in excess of the underlying zoned density in exchange for creating developments that provide significant public benefit(s), such as additional open space, recreational facilities, affordable housing, infill housing types or other features deemed desirable by the council.

"Departure" means the allowance to modify or depart from certain prescriptive standards to achieve outcomes that would better serve the public interest than what would occur with strict application of the prescriptive standards.

"Design standard" means qualitative or quantitative standards that are intended to establish new development that is consistent with, or improves, the existing neighborhood character, or where new neighborhoods are formed, create neighborhoods that maximize the use of a site without posing unnecessary hardship on the natural features of the land proposed to be subdivided.

"Development regulation" means zoning, SEPA, subdivision, clearing, grading, critical area, stormwater or other governmental regulation of the use and development of land.

"Director" means the director of the planning and community development department or his/her designee.

"Easement" means a grant by a property owner to a specific person or entity, including the city, to use land for a specific purpose or purposes. These purposes include, but are not limited to, vehicular access, pedestrian ways, bicycle paths, utilities, drainage facilities and open space.

"Easement, Access" means an easement created for the purpose of providing vehicular or pedestrian access to a property.

"Final approval" means the final official action taken by the city on a proposed adjustment or division of land where all the conditions of preliminary approval have been met.

"Final plat" means the final drawing of a subdivision and dedication prepared for filing for record with the county auditor and meeting all requirements in Chapter 58.17 RCW and this title.

"Final plat approval" means all or a portion of a subdivision presented for final approval after all requirements of this title and those conditions placed on the preliminary plat have been completed and all improvements installed and accepted or guarantees properly posted for their completion.

"Financial surety" means a financial security that is acceptable to the city in lieu of a requirement that certain improvements be made before final subdivision approval,
including performance bonds, assignment of funds, escrow agreements, and other
similar collateral or surety agreements.

"Hearing examiner" means the land use hearing examiner for the city of Bellingham.

"Homeowner's association" means an incorporated nonprofit organization formed or
qualified under the laws of the State of Washington, operating under recorded land
agreements through which: (a) each land owner is automatically a member, (b) each
land owner is automatically subject to a proportionate share of the expenses for the
organization's activities, such as maintaining common property and facilities, and (c)
such charge, if unpaid, becomes a lien against the property of the land owner.
Homeowner's association does not mean an association created under Chapter 64.32
or 64.34 RCW.

"Lake Whatcom watershed" means all lands that drain into Basin One of Lake Whatcom
as defined by BMC 16.80.040.

"Land division" is a general term used to describe all adjustment, division and redivision
actions including, but not limited to lot line adjustments, short subdivisions, preliminary
plats, final plats, binding site plans, plat alterations, and plat vacations.

"Lot" means the consolidation of all adjacent and contiguous lot(s) of record held under
common ownership as of April 27, 1982 of at least sufficient size to meet minimum
requirements for development of an allowed use pursuant to the regulations of the
applicable zoning. Lot includes plot, parcel, tract or site.

"Lot area" means the total horizontal area within the boundary of the lot lines of a parcel
and expressed in terms of square feet or acres. Lot area does not include the area of
any abutting or adjacent rights-of-way.

"Lot line adjustment" refers to a change(s) of property lines associated between two or
more lots with each lot containing a buildable area that does not increase the number of
lots.

"Lot of record" means a parcel of land officially approved by the City of Bellingham
through the subdivision process or a parcel of land established by a recorded deed with
the County Auditor prior to September 10, 1964.

"Lot types" include the following:

1. "Corner lot" means a lot located at the intersection of two or more streets.
2. "Interior lot" means a lot other than a corner lot with frontage only on one
   street other than an alley.
3. "Through lot" means a lot other than a corner lot which abuts upon two
   streets, other than alleys."
4. "Pipe stem lot" means a lot with a parallel extension (pipe stem), straight or compound, created for the sole purpose of providing such lot with frontage on a public street and/or utility abutment.

"Metes and bounds" means a description of real property that starts at a known point and describes the bearings and distances of the line forming the boundaries of the property and is completed when the description returns to the point of beginning.

"Model homes" means single family residences that are allowed to be constructed consistent with an approved preliminary plat prior to recording of a final plat.

"Modification" means an authorized administrative relaxation of a development regulation associated with a preliminary approval that is determined to meet the decision criteria defined by this title.

"Monument" means an object used to permanently mark a surveyed location. The size, shape and design of the monument shall meet the standards specified by the Washington State Department of Natural Resources as authorized by Chapter 58.17 RCW.

"Mylar" means the vellum material that all final subdivision maps are produced on for recording purposes.

"Natural features" means significant natural features including, but not limited to, the existing buffer between adjacent properties, trees, topography, streams, wetlands, habitat, and geologically hazardous areas.

"Neighborhood" means a specific section of the city whose boundaries are delineated within the Comprehensive Plan's neighborhood plans.

"Nonconforming lot" means an otherwise legal lot that does not conform to the current minimum lot area, depth, width, or other lot standards of the zone in which it is located.

"Nonconforming" means a lawfully established use of land and/or building that does not comply with the current use regulations (primary, secondary, conditional, etc.) for its zone, but which complied with applicable regulations at the time the use was established.

"Open space" means any undeveloped parcel or tract of land designated, dedicated or otherwise reserved for public and/or private use and benefit as a natural area, greenway corridor, or recreational area as may be specified upon creation of said tract.
"Pedestrian features" mean a network of connections for pedestrian (and bicycle) use to connect sub-areas of the city or regional trail systems, and to provide access to public and/or private facilities.

"Phasing plan" means a subdivision which is developed in increments over a period of time. Preliminary plat approval must be granted for the entire subdivision and must delineate the separate phases/divisions that are to be developed in increments. The preliminary plat approval shall be conditioned upon completion of the proposed phases in a particular sequence and may specify a completion date for each phase. Final plat approval shall be required for each separate phase of the preliminary plat. For the purposes of this title, a phase and division are to be construed as the same meaning when referring to a phased preliminary plat.

"Planned development" refers to developments as regulated by Chapter 20.38 BMC.

"Planning and community development department (PCDD)" means the city of Bellingham department of planning and community development.

"Plat" means a map or representation of a subdivision, showing the division of a tract or parcel of land into lots, blocks, streets, and alleys or other division and dedications.

"Plat certificate" means a title report by a title insurance company certifying the ownership, deed restrictions, covenants, etc., of the entire parcel, tract, or lot being subdivided.

"Plat vacation" means any eradication of lot lines or elimination of any area designated or dedicated for public use within a recorded subdivision or short subdivision or portion thereof.

"Preliminary approval" means an official favorable action on a proposed lot line adjustment or land division by the Director or hearing examiner, as appropriate, and following a duly advertised public hearing, if required. The preliminary approval may impose specific conditions that must be complied with before final subdivision approval may be granted.

"Preliminary plat" means a scaled drawing of a proposed subdivision of land into ten or more individual lots or cluster subdivision of land into five or more individual lots showing the general layout of streets and alleys, rights-of-way, lots, blocks, tracts of land, public and private easements and restrictive covenants applicable to the subdivision, and other elements of a plat or subdivision consistent with the requirements of the city land division regulations and Chapter 58.17 RCW.

"Preliminary cluster plat" is a preliminary plat utilizing the cluster provisions of this title.

"Preliminary short plat" means a scaled drawing of a proposed subdivision or cluster subdivision of land into nine (9) or fewer individual lots showing the general layout of streets and alleys, rights-of-way, lots, blocks, tracts of land, public and private easements and restrictive covenants applicable to the subdivision, and other elements of a plat or subdivision consistent with the requirements of the city land division.
regulations and Chapter 58.17 RCW which furnishes a basis for the approval or
disapproval of the general layout of a subdivision.

"Prescriptive standard" means a regulation or provision of Chapters 20 and 23 BMC in
which their implementation is a measured calculation that is described numerically.

"Public infrastructure" means structures and facilities owned or operated by a public or
publicly licensed or franchised agency that provide essential public services such as
telephone exchanges, electric substations, radio and television stations and cell towers,
microwave and line-of-site transmission stations, gas and water regulation stations, park
and recreation facilities, streets, and water, sewer and stormwater facilities.

"Public works director" means the duly appointed director of the city of Bellingham
public works department.

"Record of survey" means a recorded map prepared by a licensed land surveyor that
represents a survey made on the ground and delineates the deed described property
lines.

"Redivision" means the division of land in an approved subdivision, short subdivision, or
binding site plan.

"Restrictive covenant" means a restriction on the use of land set forth in a formal binding
agreement running with the land and binding upon subsequent owners of the property.

"Right-of-way" means a strip or parcel of land dedicated to the city for public uses
including, but not limited to, street, mass transit, bicycle, and pedestrian uses as well as
emergency access, utility, drainage, vegetation management, view corridor or other
necessary public uses on a portion of which a street is built.

"SEPA" means Washington State Environmental Policy Act of 1971, Chapter 43.21C
RCW, as amended.

"Short plat" or "Short subdivision" means the map or representation of a short
subdivision, both in preliminary and final short subdivision plat form, containing all of the
pertinent information as required by this title.

"Short cluster plat" or "Short cluster subdivision" is a short plat consisting of four (4) or
fewer lots utilizing the cluster provisions of this title.

"Short subdivision" means the division of land into nine (9) or fewer lots, tract or parcels.
For the purposes of this title, short subdivision may also include preliminary cluster
subdivisions.

"Site area" means the total horizontal area within the boundary of a proposed
adjustment, redivision or division of land and expressed in terms of square feet or acres.

"Street" means a right-of-way having a width of 30 feet or more which may provide the
principal means of access to abutting property.
“Subdivision” means the division of land into ten (10) or more lots, tract or parcels. For the purposes of this title, subdivision may also include preliminary cluster subdivisions.

“Subdivision guarantee” means a type of title report and/or plat certificate prepared by a title insurance company certifying the ownership, deed restrictions, covenants, etc., of the land being subdivided.

“Submerged lands” means those areas below the ordinary high-water mark of marine and fresh waters.

“Survey” means a survey of the proposed division of land or boundary line adjustment along with the preparation of the required maps done by or under the supervision of a registered land surveyor in the state of Washington. The division of land or boundary line adjustment map that is prepared shall be a true and correct representation of lands actually surveyed in accordance with RCW 58.17.250 and this title.

“Tract” means an area of land that meets one of the following conditions (wherever in this Title a tract is required to be created, if an applicant is not pursuing a subdivision then an easement shall suffice for a tract):

1. A physically separate and distinct property created pursuant to the provisions of this title, or pursuant to any previous laws governing the subdivision, short subdivision, or segregation of land created expressly to provide a common benefit or public purpose including, but not limited to, land provided for storm water management, critical areas protection, utilities, recreation, or open space. Such tracts shall be unbuildable, except for the structures and infrastructure necessary to fulfill the common benefit or public purpose for which the tract was created; or

2. A physically separate and distinct property established on a final plat to identify an area intended for future development consistent with a phased preliminary plat.

“Variance” means a modification of the regulations of this title granted pursuant to procedures and standards contained herein.
Chapter 23.08

PLAT DESIGN, LOT STANDARDS AND IMPROVEMENT STANDARDS

Sections:

23.08.010 General provisions.
23.08.020 Purpose.
23.08.030 Performance Standards.
23.08.040 Maximum number of lots.
23.08.050 Minimum lot size.
23.08.060 Lot design standards.
23.08.070 Public infrastructure, dedications and improvement requirements.
23.08.080 Landscaping and design of infrastructure.

23.08.010 General provisions.

All lots established through the lot line adjustment process or created by a short plat, preliminary plat, final plat, binding site plan, plat alteration, or plat vacation shall demonstrate compliance with the provisions of this chapter. All provisions determined necessary to comply with this chapter shall be deemed conditions of preliminary approval.

23.08.020 Purpose.

A. The purpose of this chapter is to:

1. Enhance the character and livability of Bellingham’s neighborhoods;

2. Encourage compact and walkable neighborhoods that create accessible and attractive connections between destinations through a well-connected system of streets and pathways that encourage the use all modes of transportation;

3. Promote “eyes on the street” for safety consistent with Crime Prevention Through Environmental Design (CPTED) principles and techniques;

4. Promote subdivision design that efficiently utilizes the land while maximizing the overall unit yield;

5. Integrate open spaces, natural elements, and recreational features into the design of developments; and

6. Preserve environmentally sensitive features such as critical areas and shorelines.
23.08.030 Performance standards.

A. Purpose. This section implements the goals and policies of the Bellingham comprehensive plan by establishing the minimum performance standards to guide the layout and design of all actions required to comply with this title while attempting to maximize unit yield. While alternative solutions can be proposed to meet these performance standards, none of the standards may be disregarded unless the Director determines that a particular standard is not applicable to a specific proposal.

B. Community design. The City of Bellingham has adopted neighborhood plans for each of its 25 unique neighborhoods. Each applicant for a subdivision must make reference to the applicable policies for the neighborhood as outlined in the appropriate neighborhood plan and describe how the proposed adjustment or land division addresses the policies within the neighborhood plan.

C. Natural features, that may or may not be regulated by other code provisions, including, but not limited to trees, topography, shorelines, streams, wetlands, habitat, geologically hazardous areas, and associated critical area/shoreline buffers, should be incorporated into the overall land division design through preservation to the extent feasible.

D. Clearing and grading.

1. In addition to demonstrating compliance with the land clearing (Chapter 16.60 BMC), grading (Chapter 16.70 BMC) and Lake Whatcom Reservoir Regulatory Provisions (Chapter 16.80 BMC), as applicable, the proposed layout of a land division should include the following standards:

   a. Clearing and grading limits are established to avoid impacting critical areas and/or their associated buffers, natural features as identified in subsection (A) above and adjacent properties;

   b. Good engineering practices have been implemented to ensure the proposed grading:
      i. Is the least necessary to protect slope stability and prevent erosion;
      ii. Will not result in the excessive use of retaining walls and/or rockeries along lot lines, project's exterior boundaries, street and the exterior boundaries of the plat;
      iii. Establishes suitable building sites, driveways, public streets, pedestrian corridors, and utilities that are not located on fill. The city may impose a condition of preliminary approval requiring the submittal of a geotechnical report prepared by a Washington State licensed geologist or geotechnical engineer for city review and approval; and
      iv. Will not distribute site material resulting from grading to areas within the land division that would cause additional clearing or grading that would otherwise be unnecessary.
E. Dedication. Land dedicated for public infrastructure, including but not limited to right-of-way, utility, and parks and recreation purposes is incorporated in the land division as necessary to:

1. Rights-of-way and utilities. Serve all lots proposed within the subdivision and to provide for orderly extension of public infrastructure for anticipated development in accordance with Title 13 BMC and the comprehensive plan; except this requirement may be waived if the city engineer determines that additional right-of-way will not be necessary for the future traffic circulation of the city, or for future road widening to accommodate anticipated development in the vicinity.

2. Parks and recreation. Provide open space, trail, and recreation facilities pursuant to the adopted Parks, Recreation, and Open Space Plan of the comprehensive plan and construct the facilities according to the City's Design Standards for Park and Trail Development, as amended.

F. Pedestrian features. Incorporate pedestrian features into the overall plat design that provide for networks of walking and bicycle facilities that create accesses to community services and amenities such as schools, parks, shopping centers, public transportation stops, bicycle and pedestrian corridors identified in the City's Bicycle and Pedestrian Master Plans within the proposed land division and to adjoining property that is not subdivided. Pedestrian features should be spaced at 500 foot intervals unless such an interval is not feasible due to a physical hardship that is not a result of the overall plat design.

G. Streets. In addition to demonstrating compliance with Title 13 BMC Streets and Sidewalks and the City's Development Guidelines and Public Works Standards, the overall street layout for a division of land should incorporate the following:

1. Compliance with Comprehensive Plan and Neighborhood Plan. The alignment of arterial streets should be included in a location as nearly as possible with that shown in the most recently adopted City of Bellingham comprehensive plan, the appropriate neighborhood plan and zoning table (Chapter 20.00 BMC).

2. Vehicular and pedestrian circulation. Streets and trails proposed within a land division should:
   a. Extend to and connect with existing streets abutting its perimeter to provide for the logical extension of streets and utilities for coordinated development of contiguous tracts or parcels of undeveloped land.
   b. Include a street network that provides multiple routes within and in/out of a proposed division of land with a grid pattern or a network modified grid of curvilinear streets and/or alleys unless there are physical limitations including critical areas, significant natural features, conflicts with the existing built environment, or adverse topography that prevents such a street pattern.
c. Avoid single points of access, cul-de-sacs, and dead-end streets, unless the city determines such extension is not necessary due to physical conditions that exist on or adjacent to the site.

d. Public and private trails should also be considered in the design of a street network.

3. Access to local and arterial streets. The land division should show all access locations for all lots and proposed streets to maximize safety consistent with Title 13 BMC.

4. Safety. Street layouts shall be designed to maximize safety for all modes of transportation. The applicant shall provide, to the extent feasible, a street layout that promotes visibility and reduces user conflicts through the placement of parking areas and the use of curb bulb outs, landscaping strips, meandering sidewalks and other means of ensuring pedestrian safety and reducing vehicular speed through residential areas.

5. Street trees. The overall street network is designed to accommodate street trees that can be evenly spaced through all existing and proposed street frontages. To ensure the location of these trees will not conflict with proposed utilities, the required street tree permit and landscape plan shall be reviewed concurrently with the public facility contract application for the required infrastructure. If a location conflict arises, the priority is to redesign the utility location first to ensure a consistent planting schedule for the required street trees. An alternative planting plan should only be allowed if the city determines that there are no other alternative utility designs that would avoid a conflict between the utilities and trees.

23.08.040 Maximum number of lots.

A. Lot number calculation for short and preliminary subdivisions. To calculate the maximum number of lots permissible on the subdivided parcel, divide the total property size, less any submerged lands, by the minimum detached lot size requirement specified in the applicable neighborhood subarea pursuant to Zoning Tables in Chapter 20.00 BMC. Where there exists no specified minimum lot size in the land use classification within the applicable neighborhood zoning table, the maximum number of lots shall be determined by the lowest listed density. The maximum number of lots are calculated in whole numbers and any fraction shall be rounded down to the lowest whole number, except as provided in subsections (D) of this section.

B. Lot number calculation for cluster subdivision. For division of land utilizing the cluster subdivision provision, the maximum number of lots shall be determined by dividing the total property size, less any submerged lands, by the specified cluster density found in the land use classification within the applicable neighborhood zoning table. If no cluster density is specified in the land use classification within the applicable
neighborhood zoning table, the maximum number of lots shall be determined by the lowest listed density. The maximum number of lots are calculated in whole numbers and any fraction shall be rounded down to the lowest whole number, except as provided in subsection (D) of this section.

C. Cluster subdivision lot bonus. A maximum bonus of an additional 50 percent more lots, except where the applicable zoning allows a greater bonus, may be allowed for short or preliminary cluster plats in addition to the underlying number of lots allowed in the applicable zoning if one or any combination of the following options are met:

1. Up to a 50 percent bonus when at least one-half of the total units/lots proposed in the subdivision are developed with infill toolkit housing types pursuant to this title and Chapter 20.28 BMC.

2. Up to a 50 percent bonus for the purchase and transfer of all or part of the development rights of a parcel identified as meeting any of the following criteria:
   a. A parcel, tract or land area declared as a suitable density donor by city council resolution.
   b. A parcel with a valid planned development contract which provides for a development right transfer.
   c. A parcel previously zoned for residential uses that, due to the adoption of subsequent governmental regulations and as determined by city council, is unlikely to achieve even 50 percent of the original allowable density, resulting in the loss of the city's potential infill capacity.

3. Up to a 50 percent bonus when a project is able to provide at least one-half of the total unit count of the project as affordable housing, as defined by the city council resolution, inclusive of a provision to maintain said housing as such for a reasonable duration determined by city council.

4. Up to a 50 percent bonus for the redevelopment of an area considered in need of revitalization as declared by city council resolution.

5. Up to a 25 percent bonus for the development of a private playground or other active park feature, such as a dog park, loop trail, playground, picnic shelter that serve the anticipated level of development as determined by the parks and recreation department except when approval of the city council is required.

6. Up to a 15 percent bonus for providing at least 15 percent additional open space that is not otherwise restricted from development by environmental regulations.

7. Up to a 15 percent bonus for restoring a degraded natural area which would provide significant public enjoyment or ecological benefit if enhanced.
8. Up to a 10 percent bonus for providing enhanced perimeter buffering of adjacent, less compatible uses that the hearing examiner determines would make a cluster subdivision a more compatible neighbor.

D. Rounding provisions. When a proposal consisting of 1) more than one existing lot of record and 2) a parcel of land legally established and described by meets and bounds that has not been previously subdivided, the maximum number of possible lots determined in BMC 23.08.040(A) may be increased by rounding up to the next higher whole number under the following scenarios:

1. One and three-quarter rule. When calculating the maximum number of potential lots, the applicant may round up to the next nearest whole number if the lot density calculation results in a whole number plus a fraction of three-fourths (3/4) or greater.

2. One and one-half rule. Proposals with a fraction equal to at least one-half (1/2) and less than three-fourths (3/4) may be rounded to the next higher whole number upon site plan approval by the hearing examiner, provided the proposal meets all of the following criteria:

a. It is consistent with the general policies and specific objectives of the comprehensive plan;

b. It enables the continued orderly and reasonable use of adjacent properties by providing a means for expansion of public roads, utilities, and services;

c. It is designed to be compatible with the essential character of the neighborhood;

d. It is adequately served by public facilities and utilities including stormwater provisions; and

e. It will not result in the destruction, loss, or damage to any natural, scenic, or historic feature of major consequence.

3. Proposal with a fraction of less than one-half shall be rounded down to the next lower whole number.

4. These provisions shall not be used for properties that drain into Basin 1 of the Lake Whatcom watershed as shown in BMC 16.80.040.

23.08.050 Minimum lot size.

A. Minimum lot size. All new or reconfigured lots must meet the minimum size requirement specified in the applicable neighborhood subarea pursuant to the
Zoning Tables in Chapter 20.00 BMC under the heading Density except in the following instances:

1. Lot Size Not Designated. When no minimum lot size in the subject area land use designation is specified, the lot size shall be determined by the applicant subject to any other applicable codes or requirements and this title including bulk and dimensional standards.

2. Lot line adjustments. No lot within a lot line adjustment application may be reduced to a size that is smaller than the smallest existing lot within the application. Existing lots included in lot line adjustment that are nonconforming to the minimum site area as specified in the applicable neighborhood subarea pursuant to the Zoning Tables in Chapter 20.00 BMC may be further reduced through the lot line adjustment process provided no new lot is less than the area of the smallest existing lot.

3. Cluster subdivisions. Lots created in compliance with Chapter 23.16 BMC shall have a minimum lot size of 4,000 square feet for detached residential units and 2,000 square feet for attached residential units, unless specified otherwise in the applicable subarea of the zoning table or created under Chapter 20.28 BMC.

4. Infill Toolkit. Lots created in compliance with Chapter 20.28 BMC.

5. One and one-half rule and One and three-quarter rule provisions. The total area of the subdivision shall be evenly distributed between all lots. In cases where an existing structure or other physical feature (environmentally sensitive area, easement, etc.) makes even distribution of the lot area difficult, an exception to the even distribution may be made as determined by the Director.

6. Lot averaging. A lot that has sufficient land area to subdivide and meet density requirements as specified in the applicable subarea of the zoning table pursuant to Chapter 20.00 BMC may be subdivided to allow lots with less than the minimum lot size, provided that no lot with a minimum lot size requirement greater than or equal to 10,000 sf is created with less than 80 percent of the minimum lot size and all others are no less than 90 percent of the minimum lot size.

When the lot averaging provision is used, the final mylar document shall be inscribed with the following note:

NOTE: This short plat includes lots created utilizing the lot averaging provision (BMC 23.08.050 A (6)). The site area of any lot in excess of the required minimum lot size shall not be used to increase the overall density of further divisions of land, unless consistent with existing zoning or as may be amended.
7. Nonconforming. A division of land that contains a nonconforming residential use may be allowed and shall not be considered an expansion, enlargement, or increase in intensity of the nonconformity and therefore, not subject to Chapters 20.14 and 20.16 BMC, if all the following criteria applicable to each scenario below are met:

a. Sites nonconforming to density:

i. The site has been issued a nonconforming use certificate pursuant to Chapter 20.14 BMC;

ii. The division of land does not violate any terms or conditions of any land use decision issued for the nonconforming use;

iii. The division of land does not make any structure or use more nonconforming or less compliant with the BMC with the exception of site area;

iv. The area of the created lots are as equal in size as possible;

v. Easements, as may be determined necessary for items including, but not limited to, parking, landscaping, and open space shall be established concurrently with the recording of final mylars; and

vi. The proposal may not increase the underlying residential density permitted in the zone for the entire original parcel and the final mylar shall contain a statement stating the density of the proposal was based on the entire site and additional development on any lot requires further city review for compliance with zoning regulations.

b. Sites conforming to density:

i. The site has been issued a nonconforming use certificate pursuant to Chapter 20.14 BMC;

ii. The division of land does not violate any terms or conditions of any land use decision issued for the nonconforming use;

iii. The division of land does not make any structure or use more nonconforming or less compliant with the BMC;

iv. The area of each created lot contains sufficient site area to support the specified density in the application zoning subarea for the proposed number of units on an individual lot; and
v. Easements, as may be determined necessary for items such as, but not limited to, parking, landscaping, and open space shall be established concurrently with the recording of final mylars.

c. The division of land containing a nonconforming use other than residential is subject to the provisions of this title and Chapters 20.14 and 20.16 BMC.

23.08.060 Lot design standards.

A. Logical boundaries. Lots are generally designed to be at right angles to the abutting street and avoid awkward configurations, jogs around existing structures, or awkward appendages, except in lot line adjustments where the express purpose of the adjustment is to correct a legitimate property line encroachment.

B. Reasonable use. All lots must be buildable at the time of vesting with respect to all bulk and dimensional standards, pre-existing conditions of approval, pre-existing resolutions, easements, deed restrictions and Chapter 16.55 BMC.

C. Alley access.

1. Any division of land that abuts a platted alley shall maintain vehicular alley access to required parking and maintain or provide a pedestrian pathway from existing development to the fronting street.

2. Development of newly created lots abutting an alley shall also provide required parking from the alley and a pedestrian pathway to the fronting street. Vehicular access from the street shall be restricted.

3. If the division of land displaces parking for existing development that is accessed from the fronting street, the parking shall be relocated off the alley unless the Director determines:

   a. The configuration of an existing residence is not conducive to alley-loaded parking;
   b. The site is constrained due to unusual shape, topography, environmentally sensitive areas; or
   c. There are other extraordinary situations inherent with the site or its improvements.

D. Building envelope.

1. Each newly created lot shall provide a building envelope with the dimensions specified in Table 23.08.060.

Table 23.08.060

25
<table>
<thead>
<tr>
<th>Zoning</th>
<th>Building Envelope (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Single, Detached and Residential Multi, Duplex</td>
<td>60 X 60 (1)</td>
</tr>
<tr>
<td></td>
<td>50 X 50 (2)</td>
</tr>
<tr>
<td></td>
<td>40 X 40 (3)</td>
</tr>
<tr>
<td>Residential Multi, Duplex/Attached Single Family Duplex (BMC 20.32.045)</td>
<td>25 X 50</td>
</tr>
<tr>
<td>Residential Single Cluster, Detached</td>
<td>40 X 40 (4)</td>
</tr>
<tr>
<td>Residential Single Cluster, Attached</td>
<td>20 X 40</td>
</tr>
<tr>
<td>Residential-Multi, Multiple and Planned, Urban Village, Commercial, Industrial, Institutional, and Public</td>
<td>Exempt (5)(6)</td>
</tr>
<tr>
<td>Infill Toolkit housing forms in preliminary plats, cluster short plats, and cluster preliminary plats.</td>
<td>Exempt</td>
</tr>
</tbody>
</table>

Notes:

(1) Single-family and duplex lots with a 10,000 sf or greater density requirement.

(2) Single-family and duplex lots with a minimum density requirement less than 10,000 sf and greater than or equal to 5,000 sf. Building envelop may be reduced to 40 feet by 50 feet when vehicular access is provided from an alley.

(3) Single-family and duplex lots with a minimum density requirement less than 5,000 sf and with a minimum density requirement equal to 5,000 sf where existing blocks are platted with lots 40 feet by 125 feet. Building envelop may be reduced to 35 feet by 40 feet when vehicular access is provided from an alley.
(4) Building envelope may be reduced to 35 feet by 40 feet when vehicular access is restricted to an alley.

(5) The area of the newly created lots are as equal in size as possible and easements, as may be determined necessary for items including, but not limited to, parking, landscaping, and open space, shall be established concurrently with the recording of final mylars. The proposal may not increase the underlying residential density permitted in the zone for the entire original parcel and the final mylars shall contain a statement stating the density of the proposal was based on the entire site and additional development on any lot requires further city review for compliance with zoning regulations.

(6) Single-family lots within a short subdivision or subdivision having a planned, mixed, or multi use qualifier or in an urban village shall utilize the standards provided for the residential single zoning designations as stated above in (1), (2), (3) and (4).

E. Abutment - Public infrastructure. All lots created under this title shall have access to public infrastructure by abutment on a public street, such as a pipestem, or by some other legally sufficient right-of-access, such as an easement, which is permanent and inseparable from the lot served. Pipestem and easement widths shall meet the provisions of this chapter.

1. Abutment by pipestem. Pipestem lots may only be permitted in a land division if all of the following provisions are met:

   a. A maximum of 3 pipestems, located side-by-side, are permitted;
   b. The pipestem portion of a lot shall be 20 feet wide for a single pipestem and 10 feet wide for multiple, side-by-side pipestems;
   c. The pipestem portion of the lot(s) shall be consolidated into a single access easement area in accordance with this title; and
   d. All units that abut or are adjacent to the access easement area are required to take access from a single driveway within this easement area, unless it is determined by the city engineer that:
      i. An existing dwelling and its garage are in a location where access from the easement is impractical or impossible due to the topography or environmental constraints of the site; or
      ii. A potential safety issue exists related to access from the easement as determined by the city engineer.
2. Abutment by private access easement. A land division that proposes to create one or more lots that do not have physical abutment on a public street shall meet the following provisions:

a. A maximum of 4 lots may be served by a private access easement;
b. An access easement shall be established for all benefiting lots and have a width consistent with this chapter and in a form pursuant to this title;
c. Improvements within this easement area shall be limited to a single driveway and landscaping pursuant to this title; and
d. All units that abut or are adjacent to the access easement are required to take access from a single driveway constructed within this easement area, unless it is determined by the city engineer that:
   i. An existing dwelling and its garage are in a location where access from the easement is impractical or impossible due to the topography or environmental constraints of the site; or
   ii. A potential safety issue exists related to access from the easement as determined by the city engineer.

3. Private driveway standards and construction. A private driveway required by the chapter that is determined necessary to provide emergency access to newly created lots shall be constructed in accordance with Chapter 17.20 BMC prior to final subdivision approval. A driveway not required for emergency access and serving 3 or more lots shall be constructed to the following standards prior to final subdivision approval:

a. Driving surface material. Private driveways must be surfaced with a hard material such as concrete or asphalt. The use of permeable pavement shall be used for hard surface ground cover areas unless determined infeasible per the criteria listed within BMP T5.15 of the Ecology Manual, as amended. Projects that include less than 2,000 square feet of new or replaced impervious surface are exempt from this requirement. Gravel or loose material is prohibited.

b. Driveway width. The driveway shall be surfaced with a minimum of 15 feet, which includes an 11-foot wide vehicle travel lane and a 4-foot wide pedestrian path on one side. The pedestrian path shall be constructed of a different hard surfaced material and located abutting the vehicle travel lane.

Figure 23.08.060 (A) Private Driveway Plan and Section
c. Landscaping and fencing. A 5-foot landscaped planting area or a 6-foot tall solid fence shall be provided between the private driveway and all existing residential structures for the entire length of a structure of the easement boundary or shared property line. Landscaping shall consist of a mixture of trees, shrubs, and ground cover pursuant to BMC 20.12.030.

The landscaped planting area may contain stormwater facilities provided the facilities are landscaped pursuant to BMC 20.12.030.

4. Access and/or utility easement. A common driveway shall be placed within a private access easement. All required access and utility easements shall be noted on the face of the mylars and shall be recorded with the Whatcom County Auditor's office prior to or concurrently with the mylars.

The easement shall:

a. Be a sufficient width to include the vehicle travel lane, pedestrian path, required landscaping/fencing, stormwater facilities, utilities, and any additional width determined necessary for maintenance and/or repair activities of those facilities;

b. Provide a direct connection from a publicly dedicated improved street to each lot being served by the easement;

c. Be prepared in accordance with this title; and

d. Include provision requiring common maintenance and cost sharing of the driveway and all associated landscaping and stormwater facilities and authority to conduct repairs of individual private utilities within the easement.

F. Cluster short and cluster preliminary plats. All cluster subdivisions shall demonstrate compliance, as applicable, with the following:

1. Lot size transition. When a cluster short or cluster preliminary subdivision abuts or is located across the street from a developed single-family zoned
neighborhood, the lots in the proposed subdivision immediately adjacent to the existing single-family zoned neighborhood shall be developed with a similar housing form on a lot no less than the existing neighborhood lot size, or the underlying zoning minimum lot size for the existing neighborhood minus 10 percent, whichever is smaller.

2. Open space. A minimum of 15 percent of the site shall be reserved for open space that 1) preserves significant natural features including, but not limited to, critical areas and associated buffers or mature stands of trees, and/or 2) creates recreational open space with amenities. The reserved open space shall meet the following requirements:

   a. Protected from further subdivision or development by filing covenants for the open space area concurrently with the final plat of the subdivision; and

   b. Privately owned unless the city determines a dedication of the open space will benefit the city’s overall open space plan for recreational and/or ecological purposes.

   c. In addition to a. and b. above, reserved open space for recreational purposes under private ownership should be allowed only if designed as an amenity of the project, the areas contain grades that allow the intended use of the area to be used for active recreational purposes and incorporate as many of the following features feasible:

      i. Provide improved pathways to the open space area from as many access points within the subdivision as determined feasible and reasonable given the overall plat design;

      ii. Contain amenities including, but not limited to, playground equipment, trails, and picnic benches that are provided at a rate sufficient to serve the anticipated number of residences in the subdivision as determined by the performance standards of BMC 23.08.070 (G);

      iii. Define the open space boundary through the installation of landscaping, fencing or a combination thereof. Landscaping shall consist of a mix of trees, shrubs and ground cover consistent with BMC 20.12.030. The design and height of required landscaping and fencing shall not create a solid visual buffer except to mitigate a legitimate safety issue as determined by a CPTED review; and

      iv. Record legal documents concurrently with the filing of the mylar documents to establish the ownership of the open space and a financial mechanism ensuring maintenance of the facilities in perpetuity.

3. Infill toolkit. Infill toolkit uses that are incorporated into a cluster subdivision shall comply with Chapter 20.28 BMC. All cluster subdivisions that include infill toolkit
housing types shall comply with the lot size transition provision pursuant to this chapter.

23.08.070  Public infrastructure, dedications and improvement requirements.
The adjustment and division of any parcel of land shall provide for the construction and dedication of public infrastructure determined necessary to comply with this section.

A. Dedication. Land shall be dedicated for right-of-way and utility purposes as necessary to serve all lots proposed within the land division and to provide for orderly extension of public infrastructure for anticipated development in accordance with Title 13 BMC and the comprehensive plan; except if the city engineer determines that the additional right-of-way will not be necessary for the future traffic circulation of the city or to accommodate future road widening to accommodate anticipated development in the vicinity, this requirement may be waived.

B. Street standards. All rights-of-way within and abutting a land division shall be improved in accordance with Title 13 BMC.

C. Access. Access locations serving a land division and access to individual lots within a land division shall be in accordance with Title 13 BMC.

D. Water, sewer, and stormwater management. Public water and sewer mains and stormwater management shall be provided within and abutting a land division in accordance with Title 15 BMC. All stormwater facilities dedicated to the city shall be located in a separate tract(s), unless otherwise approved by the city engineer.

E. Street naming and addressing. The naming of all streets within a land division and the addressing of individual lots shall be in accordance with Chapter 17.30 BMC.

F. Electric and communication facilities. The applicant shall reserve a strip of land ten feet in width lying adjacent to each exterior side of all dedicated public rights-of-way included in any land division or as may be required by private electric and communication providers. Said lands shall be recorded as nonexclusive public easements and used primarily for the installation of required service utilities. Any and all franchised utilities, including city utilities, shall rightfully have access to and may use these easements. Exclusive use rights cannot be granted to any single or combination of utilities. BMC 13.15.090 shall apply to the location of facilities located within these public easements.

G. Parks and recreation.
Parks and recreation facilities shall be provided pursuant to the adopted PRO Plan, and constructed according to the City’s Design Standards for Park and Trail Development, as amended.

23.08.080  Landscaping and design of infrastructure.
A. Purpose. This section ensures visual impacts from the construction of public and private infrastructure is mitigated through landscaping and design standards.

B. Financial surety. A financial surety in the amount of 150 percent of the cost of plant material, mulch, labor for installation and maintenance shall be required for a period of two growing seasons after installation of any landscaping required by this title.

C. Street trees. All subdivisions, binding site plans, and plat alterations shall provide street trees in accordance with Title 13 BMC and BMC 20.12.030 (D) (1) at a rate of 1 tree for every 50 feet of the existing and proposed street frontages of the land division.

D. Open stormwater facilities. The perimeter of any open stormwater facility, which includes the maintenance road, located adjacent to a residential lot or visible from a public street or public trail shall be landscaped with a mix of trees, shrubs and ground cover as defined by BMC 20.08.020. If the design of the stormwater facility does not allow landscaping around the perimeter or within the facility, a minimum setback of 10 feet shall be provided around the perimeter of the facility for landscaping purposes.

E. Detention vaults. Detention vaults constructed as a result of a land division shall not be exposed more than 2 feet above finished grade on any side unless the exposed walls of the vaults are finished with a material or design that will blend in with the existing landscape to avoid the creation of blank walls. Landscaping may also be required to mitigate the exposed portion of the walls and associated maintenance roads consistent with the perimeter landscaping provisions above for open stormwater facilities.

F. Retaining walls. Any retaining wall supporting required public or private infrastructure exposed greater than two feet above grade shall be designed to blend visually with the site. Concrete walls shall be finished with a material that will hide the form panel seams and tie holes. Block walls shall be textured.

G. A site plan demonstrating how the landscaping and design standards required by this section will be met shall be submitted to the city for review and approval concurrently with an application for a public facilities construction agreement and/or land use applications if the subdivision does not require a public facilities construction agreement.
Chapter 23.10

LOT LINE ADJUSTMENTS

Sections:

23.10.010 Approval required.
23.10.020 Application procedure for preliminary approval.
23.10.030 Decision criteria.
23.10.040 Review and preliminary approval process.
23.10.050 Final approval.
23.10.060 Filing with county auditor.
23.10.070 Effect of an approved lot line adjustment.
23.10.080 Copy furnished by applicant.

23.10.010 Approval required.

Any action which will result in a lot line adjustment of any lot, tract, parcel, or plot of land shall be subject to the procedures and criteria set forth in this chapter.

23.10.020 Application procedure for preliminary approval.

Review process. Lot line adjustment applications shall follow the Type I procedures in BMC 21.10.100.

23.10.030 Decision criteria.

A. Lot line adjustments shall be given preliminary approval, including preliminary approval subject to conditions, upon finding by the Director that all of the following have been satisfied:

1. The lot line adjustment will not result in the creation of any additional lot, tract or parcel; and

2. All resulting lots meet minimum zoning requirements in Title 20 BMC and the minimum lot design standards as specified in Chapter 23.08 BMC or if already nonconforming to either of these provisions, the adjustment may not increase the level of nonconformity unless the Director approves a departure pursuant to BMC 23.48.030; and

3. The lot line adjustment improves or maintains the overall function and utility of the existing lots.

4. The lot line adjustment would not change the requirement to install public improvements that would otherwise be associated with the development of any of the existing lots resulting from the issuance of a building permit.
B. A lot line adjustment application that is determined to contain one or more of the existing lots that do not contain a buildable area shall be given preliminary approval, including preliminary approval subject to conditions, upon finding by the Director that the application complies with the short subdivision provisions pursuant to Chapter 23.12 BMC through a Type II land use decision.

23.10.040 Review and preliminary approval process.

A. The Director shall review an application for lot line adjustments and determine whether the application satisfies the decision criteria as specified by BMC 23.10.030 and to determine what, if any, conditions should be imposed on the decision to satisfy the decision criteria. An application for preliminary approval that does not comply with these criteria and cannot be appropriately conditioned shall be denied by the city.

B. An applicant for a lot line adjustment may request that certain requirements established or referenced by this chapter be modified pursuant to Chapter 23.48 BMC. Such requests shall be processed according to the procedures and criteria for administrative modification or variance in Chapter 23.48 BMC.

C. The city's decision shall be in writing and either approve, with or without conditions, or deny the application, and be issued within the time limitations pursuant to Title 21. All conditions of approval shall be met prior to final approval of the lot line adjustment.

23.10.050 Final approval.

A. To finalize a lot line adjustment that has received preliminary approval, the applicant must submit to the City within one year of preliminary approval the final review documents meeting the following requirements:

1. A plat certificate updated not more than 30 days prior to filing the final recording documents for the lot line adjustment, which includes all parcels within the adjustment; and

2. Final recording document prepared by the city and signed by all persons having an ownership interest within the lot line adjustment boundaries containing the following exhibits:

   a. A final lot line adjustment map based upon a survey of record, prepared and signed by a licensed surveyor prepared in accordance with Chapter 23.36 BMC, that shows 'old' and 'new' property lines, lot areas, structures, and distances of structures measured from the property line; and
b. Legal descriptions, prepared and signed by a licensed land surveyor, of all of the lots as they appear before the lot line adjustment; and

c. Legal descriptions, prepared and signed by a licensed land surveyor, of all of the lots as they appear after the lot line adjustment; and

3. Conveyance document(s)/deed(s), prepared by a title company, registered surveyor and/or licensed attorney that include language clearly binding the conveyance area to the remainder portion of the property.

B. After the above information is reviewed for compliance with the preliminary approval and this title, the Director shall sign the final recording document and order the lot line adjustment to be filed concurrently with the conveyance documents and deeds.

23.10.060 Filing with county auditor.

Upon Director's signature of the recording document, the lot line adjustment final recording and conveyance documents shall be filed for record concurrently with the Whatcom County auditor in compliance with state and county laws and regulations within 30 days of city approval. Failure to record the final recording and conveyance documents within 30 days will cause the lot line adjustment approval to be null and void, unless an extension is granted by the Director.

23.10.070 Effect of an approved lot line adjustment

A lot line adjustment is not considered approved until the final recording and conveyance documents have been filed at the Whatcom County Auditor's office.

23.10.080 Copy furnished by applicant.

In accordance with the regulations of this title, the property owners/applicant shall, without cost to the city, furnish the city with one electronic .pdf copy, or other electronic format approved by the city, of the final recording document as filed prior to the city issuing any further land use or building permits for any lot within the lot line adjustment boundaries.
Chapter 23.12

SHORT AND CLUSTER SHORT SUBDIVISIONS

Sections:
23.12.010 Approval required.
23.12.030 Decision criteria.
23.12.040 Review and approval process.
23.12.050 Effect of decision.
23.12.060 Expiration.
23.12.080 Modifications to an approved preliminary short subdivision.
23.12.090 Application procedure for final short plat approval.
23.12.100 Filing with county auditor.
23.21.110 Copy furnished by surveyor.
23.12.120 Effect of an approved final short plat – Valid land use.

23.12.010 Approval required.

Any action which will result in a short or cluster short subdivision of any lot, tract, parcel, or plot of land shall be subject to approval by the Director. Approval shall be based on procedures and criteria set forth in this chapter.


A. Preliminary short and cluster short subdivision review process. Applications for preliminary approval of a short and cluster short subdivisions shall follow the procedures in Chapter 21.10 BMC except as follows:

1. A Type III-A review process shall be used for short cluster subdivisions when the Director determines there are significant planning issues or significant community interest in the proposal. The Director has the discretion to require a Type III-A process at any time prior to making a decision on the application.

B. Terminology. This chapter’s reference to ‘short subdivision’ and ‘short plat’ shall be inclusive of the terms ‘preliminary short subdivision and preliminary cluster short subdivision’ and ‘short plat and cluster short plat’ unless specifically referenced in this chapter.

C. Notification. In addition to the notification requirements of BMC 21.10.200, notice shall also be provided for the following:
1. For short or cluster short subdivisions adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport, written notice including a legal description of the short subdivision and a location map shall be sent to the Secretary of Transportation. The Secretary shall have 15 days from the date of said notice to comment on the effect that the proposed subdivision will have on the state highway or the state or municipal airport. Notice of intent to short subdivide shall also be sent to the local airport authority.

2. For short or cluster subdivisions with environmentally sensitive areas as regulated by Chapter 16.55 BMC and/or are located in whole or in part in a designated floodplain as provided in Chapter 86.16 RCW, the Director shall give written notice of the application, including a legal description of the short subdivision and a location map, to the State Department of Ecology.

23.12.030 Decision criteria.

A. A short subdivision application shall be given preliminary approval, including preliminary approval subject to conditions, upon finding by the Director that all of the following have been satisfied:

1. It is consistent with the applicable provisions of this title, the Bellingham Comprehensive Plan and the Bellingham municipal code;

2. It is consistent with the applicable provisions of Chapter 23.08 BMC;

3. The division of land provides for coordinated development with adjoining properties or future development of adjoining properties through, where appropriate, the extension of public infrastructure, shared vehicular and pedestrian access, and abutment of utilities;

4. Each lot in the proposal can reasonably be developed in conformance with applicable provisions of the BMC, including but not limited to critical areas, setbacks, and parking, without requiring a variance that is not processed concurrently with the subdivision application pursuant to Chapter 23.48 BMC;

5. There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools;

6. It will serve the public use and interest and is consistent with the public health, safety, and welfare. The Director shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as amended.
B. Notwithstanding approval criteria set forth in subsection A of this section, in accordance with RCW 58.17.120, as amended, a proposed subdivision may be denied because of flood, inundation or presence of environmentally sensitive areas as regulated by Chapter 16.55 BMC. Where any portion of the proposed subdivision lies within both a flood control zone, as established pursuant to Chapter 86.15 RCW, and the area of special flood hazard, as defined in Chapter 17.76 BMC, the city shall not approve the preliminary plat unless it imposes a condition requiring the applicant to comply with the applicable regulations in Chapters 16.55 and 17.76 BMC and any written recommendations from the Washington Department of Ecology. In such cases, no development permit associated with the proposed subdivision shall be issued by the city until flood control problems have been resolved.

23.12.040 Review and approval process

A. For Type I and II decisions, the Director shall review an application determine what conditions, if any, are necessary to make sure the application complies with the decision criteria in BMC 23.12.030.

For Type III-A and III-B decisions, the hearing examiner shall hold a hearing and determine what conditions, if any, are necessary to ensure the application satisfies the decision criteria as specified in BMC 23.12.030. An application for preliminary approval that does not comply with the applicable decision criteria or cannot be conditioned to comply with these criteria shall be denied by the city.

B. An applicant for a short subdivision may request that certain requirements established or referenced by this chapter be modified pursuant to Chapter 23.48 BMC. Such requests shall be processed according to the procedures and criteria for administrative departure or variance in Chapter 23.48 BMC.

C. The city's decision shall be in writing and either approve, with or without conditions, or deny the application, and be issued within the time limitations pursuant to Title 21 BMC.

23.12.050 Effect of decision.

A. The preliminary approval of a short subdivision is for the general acceptability of the subdivision layout and its relation to adjoining properties. Engineering detail and additional permits, approved by the city, may be necessary to fulfill the preliminary short subdivision plat conditions.

B. Any changes proposed by an applicant to the development proposal after preliminary approval may be eligible to qualify as a minor modification under BMC 23.12.080.

C. After final approval of the public facility construction agreement and the approval and issuance of any other required permits identified within the preliminary
approval, work on the subdivision improvements may be commenced. All such agreements and permits shall be contingent upon compliance with the conditions specified in the preliminary approval of the short subdivision, conformance with all applicable development standards, the payment of all fees, and the submittal of financial assurances, as may be required.

23.12.060  Expiration.

A preliminary short subdivision approval shall be determined null and void if final subdivision approval is not fully executed by filing the final plat mylars at the Whatcom County Auditor's office within 3 years of the date of preliminary approval, unless an extension of time for the preliminary approval is approved in accordance with BMC 23.12.070.

23.12.070  Time limitations – Extension of a preliminary short or cluster subdivision.

A. A one-time, one-year extension of the preliminary short plat or cluster subdivision time limitation may be requested by the applicant and approved by the Director through the Type I permit process in BMC 21.10.100 if the following criteria are met.

1. A request for preliminary short or cluster subdivision extension is submitted to the Director at least 90 days prior to the established expiration date of the preliminary plat; and

2. The applicant demonstrates the following:
   a. A good faith attempt to file the final short plat mylars prior to the established expiration date of the preliminary short subdivision; and
   b. All applications and/or permits that are necessary to satisfy all preliminary plat conditions necessary to file a final plat have either been submitted or approved by the city.

23.12.080  Modifications to an approved preliminary short subdivision.

A. Minor modifications that are not subject to the administrative departure provisions of BMC 23.48.030 or the variance provisions of BMC 23.48.040 and are to a previously approved preliminary short subdivision that is still valid may be requested by the applicant and approved by the Director through the Type I permit process in BMC 21.10.100 if the following criteria are met:

1. The modification complies with all of the requirements of this chapter, including the decision criteria;
2. The modification does involve the alteration or vacation of public easements, road, or city-owned lands;
3. The modification is consistent with the findings, conclusions, and decision of the preliminary approval; and

4. The modification will not increase the number of lots that would otherwise require a different process type pursuant to Title 21 BMC;

B. Requests for modifications that are not consistent with the criteria above shall be processed as a new short subdivision application.

C. Approval of a minor modification does not extend the time limitations of a preliminary short subdivision approval.

23.12.090 Application procedure for final short plat approval.

A. Application. An applicant may apply for final short plat approval only after the city has approved all permits deemed necessary to satisfy the preliminary short plat conditions of approval, such as but not limited to building, critical areas, public facilities, and stormwater. If the preliminary approval did not require additional permits, final short plat approval may be applied for after preliminary approval.

B. Review Criteria. A final short plat application shall be approved upon finding by the Planning and Community Development Department and Public Works directors that all of the following have been satisfied:

1. The checkprints conform to Chapter 23.36 BMC;

2. All conditions of the preliminary short subdivision approval have been completed and accepted by the city or all financial sureties guaranteeing completion of any uncompleted work required by the preliminary short plat approval have been submitted and accepted by the city;

3. If applicable, the record drawings associated with the construction of any infrastructure have been submitted to and accepted by the city; and

4. Required easements, deeds, covenants, and any other formal document required by the preliminary short subdivision approval have been prepared in accordance with this title and submitted and accepted by the city.
C. Notification of Approval. The Director will notify the applicant when the final short plat application is approved and the city is ready to accept mylars for city approval.

D. Final Action. Upon receipt of the mylars, the city will sign the mylar document as an acknowledgement that the above criteria for final short plat approval have been met. Short plats are not considered final until they are recorded.

23.12.100 Filing with county auditor.

The final short plat and all required easements, deeds, covenants, and other document required by the preliminary approval shall be recorded concurrently with the county auditor in compliance with state and county laws and regulations within 30 days of the Director’s approval. Failure to record the mylars within 30 days will cause the final plat approval to be null and void. Shot plats are not considered final until they are recorded.

23.12.110 Copy furnished by surveyor.

In accordance with state law and this title, the applicant shall furnish the city with an electronic.pdf copy, or other electronic format approved by the city, of the recorded short plat prior to the city issuing any further land use or building permits for any lot within the short plat boundaries.

23.12.120 Effect of an approved final short plat – Valid land use.

A. Any lot in a final short plat filed for record shall be a valid land use notwithstanding any change in zoning laws and shall be governed by the terms of approval of the final short plat, and the statutes, ordinances and regulations in effect on the date of the complete application of the short subdivision for 5 years unless the Director finds that a change in conditions creates a serious threat to the public health or safety of residents within or outside the subdivision.

B. Development of any lot included in a short subdivision that was approved prior to the effective date of this title shall vest to the anticipated uses disclosed in the original short plat application in accordance with the land use and zoning laws and the statutes, ordinances and regulations in effect on the date the original short subdivision application was deemed complete for a period of 5 years from the effective date of this title.
Chapter 23.16

PRELIMINARY PLATS AND CLUSTER PRELIMINARY PLATS

Sections:

23.16.010 Approval Required.
23.16.020 Procedures.
23.16.030 Decision criteria.
23.16.040 Staff review and recommendation to the hearing examiner.
23.16.050 Hearing examiner review and action.
23.16.060 Effect of decision.
23.16.070 Expiration.
23.16.080 Time limitation - Extension of preliminary plat.
23.16.090 Modifications to an approved preliminary plat

23.16.010 Approval required.

A. Any action which will result in the division of any lot, tract, parcel, or plot of land under the following scenarios shall require preliminary plat approval based on the criteria and procedures of this chapter and be subject to approval by the city hearing examiner:

1. Creation of 10 or more lots;

2. Utilize the cluster subdivision provisions for five or more lots;

3. Utilize the cluster subdivision provisions for four lots or fewer utilizing the cluster bonus provisions pursuant to this chapter;

4. Resubdivision of a lot(s) contained within an approved short subdivision pursuant to BMC 23.04.090; or

5. Land being replatted due to plat alterations and/or plat or street vacations, unless exempted by Chapter 23.30 BMC of this title.

B. Terminology. This chapter’s reference to ‘preliminary subdivision and plat’ shall be inclusive of the terms preliminary plat and preliminary cluster plat unless specifically referenced in this chapter.

C. Cluster preliminary subdivisions and plats. The cluster provisions in this title may only be utilized in residential single zoned areas which have a “cluster,” “cluster detached,” “cluster attached,” “mixed” or “planned” use qualifier and in any
residential area with a Residential-multi general use type listed in the applicable zoning table pursuant to Chapter 20.00 BMC.

D. Infill toolkit. In accordance BMC 20.30.030 and Chapter 20.28 BMC, the infill toolkit housing forms, pursuant to the provisions of Chapter 20.28 BMC, are also permitted uses in cluster preliminary plats in those single family zoning subareas with a "cluster", "cluster detached", "cluster attached", "mixed" or "planned" use qualifier.

E. Phasing. A preliminary plat may be developed and recorded in phases provided a phasing plan is reviewed and approved by the city concurrently with the public facilities construction agreement for the first phase. Each phase shall consist of a contiguous group of lots that meets all pertinent development standards on its own and shall not rely on future phases for meeting any city codes. Specific improvements or dedications necessary to demonstrate compliance for the entire development may be required to be completed with the first phase, regardless of phase design or completion schedule of future phases, including but not limited to stormwater, open spaces, landscaping, and dedications.

23.16.020 Procedures.

A. Review process. Preliminary plats are Type III decisions pursuant to BMC 21.10.040. Applications for preliminary plat approval shall follow the procedures in BMC 21.10.120.

B. Notification. Notice of the preliminary plat application, in the same format as required by BMC 21.10.200, shall also be sent to the following:

1. Whatcom County engineering and development services (if plat abuts city limits).

2. Secretary of transportation for preliminary plats located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport. In accordance with RCW 58.17.080, the secretary shall have 15 days from the date of said notice to comment on the effect that the proposed subdivision will have on the state highway or the state or municipal airport.

3. For preliminary plats with environmentally sensitive areas as regulated by Chapter 16.55 BMC and/or are located in whole or in part in a designated floodplain as provided in Chapter 86.16 RCW, the Director shall give written notice of the application, including a legal description and a location map of the preliminary plat, to the Washington State Department of Ecology.

23.16.030 Decision criteria.
A. Preliminary plats shall be given approval, including preliminary plat approval subject to conditions, upon finding by the hearing examiner that all of the following have been satisfied:

1. It is consistent with the applicable provisions of this title, the Bellingham Comprehensive Plan and the Bellingham municipal code;

2. It is consistent with the applicable provisions of Chapter 23.08 BMC;

3. The division of land provides for coordinated development with adjoining properties or future development of adjoining properties through, where appropriate, the extension of public infrastructure, shared vehicular and pedestrian access, and abutment of utilities;

4. Each lot in the proposal can reasonably be developed in conformance with applicable provisions of the BMC, including but not limited to critical areas, setbacks, and parking, without requiring a variance that is not processed concurrently with the subdivision application pursuant to Chapter 23.48 BMC;

5. There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and

6. It will serve the public use and interest and is consistent with the public health, safety, and welfare. The Director shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as amended.

B. Notwithstanding approval criteria set forth in subsection A of this section, in accordance with RCW 58.17.120, as amended, a proposed subdivision may be denied because of flood, inundation or presence of environmentally sensitive areas as regulated by Chapter 16.55 BMC. Where any portion of the proposed subdivision lies within both a flood control zone, as established pursuant to Chapter 86.15 RCW, and the area of special flood hazard as defined in Chapter 17.76 BMC, the city shall not approve the preliminary plat unless it imposes a condition requiring the applicant to comply with the applicable regulations in Chapters 16.55 and 17.76 BMC and any written recommendations from the Washington Department of Ecology. In such cases, no development permit associated with the proposed subdivision shall be issued by the city until flood control problems have been resolved.

C. An applicant for a preliminary plat may request that certain requirements established or referenced by this title be modified. Such requests shall be processed according to the procedures and criteria for administrative modification or variances in Chapter 23.48 BMC.
23.16.040 Staff review and recommendation to the hearing examiner.

A. Staff report. City staff shall prepare a written recommendation to the hearing examiner as to whether the application satisfies the decision criteria as specified in BMC 23.16.030 and what conditions, if any, are necessary to bring the application into compliance with this title. Staff's recommendation shall be to either approve, approve with conditions, or deny the application.

23.16.050 Hearing examiner review and action.

A. The hearing examiner shall hold a public hearing and issue a decision in writing pursuant to Chapter 2.56 BMC and BMC 21.10.120 (I).

B. The hearing examiner may approve or approve with modifications and/or conditions an application for preliminary plat after determining that all of the decision criteria pursuant to BMC 23.16.030 above are met. If the proposal does not meet the decision criteria, and/or it cannot be reasonable conditioned to meet the decision criteria, the application for preliminary plat shall be denied.

23.16.060 Effect of decision.

A. The approval of a preliminary plat by the hearing examiner is approval of the general acceptability of the plat layout and its relation to adjoining properties. Engineering detail and fulfillment of conditions of preliminary plat approval remains subject to the approval of the city.

B. Any changes proposed by an applicant to the development proposal after preliminary approval may be eligible to qualify as a minor modification under BMC 23.16.090.

C. After final approval of the public facility construction agreement and the approval and issuance of any other required permits identified within the preliminary approval, work on the subdivision improvements may be commenced. All such agreements and permits shall be contingent upon compliance with the conditions specified in the preliminary plat approval, conformance with all applicable development standards, the payment of all fees, and the submittal of financial sureties, as may be required.

23.16.070 Expiration.

Preliminary plat approval of a subdivision, with or without an approved phasing plan, shall expire and be determined null and void pursuant to the time limitations provided in RCW 58.17.140, unless an extension of time for the preliminary approval is approved in accordance with BMC 23.16.080. Upon expiration of preliminary plat approval, or the expiration of any extension of the preliminary plat approval, the applicant shall be
required to resubmit for preliminary plat approval notwithstanding any improvements completed under the prior approval.

23.16.080 Time limitations - Extension of a preliminary plat.

A. An initial request for a one-year extension, which has been filed at least ninety days prior to the expiration of the period of approval, may be granted administratively through the Type I permit process in Title 21 BMC upon a finding that the applicant has attempted in good faith to submit the final plat prior to expiration of the preliminary plat. Good faith includes, but not limited to, submittal of complete engineering plans for the plat or the substantial completion of conditions of land use permits associated to the preliminary plat.

B. Two additional requests for one-year extensions, which have been filed at least ninety days prior to the expiration of the period of approval, may be granted administratively through the Type I permit process in Title 21 BMC if the following criteria are met:

1. The applicant has pursued submitting the final plat in good faith. Submittal of complete engineering plans for the plat prior to the expiration of the approval period time limit shall constitute a good faith effort on the part of the applicant;

2. There have been no changes to the comprehensive plan, zoning ordinance, development standards, environmental regulations or other applicable codes which are inconsistent with the approved preliminary plat, unless such changes can be incorporated into the existing plat without significantly altering the plat as originally approved by the hearing examiner; and

23.16.090 Modifications to an approved preliminary plat.

A. Purpose. The purpose of this section is allow the administrative approval of modifications that are found to achieve better outcomes, address unforeseen technical issues and provide additional environmental benefits.

B. Minor modifications to an approved and still valid preliminary subdivision that are not subject to the administrative departure provisions of BMC 23.48.030 or the variance provisions of BMC 23.48.040 may be requested by the applicant and approved by the Director through the Type I permit process in BMC 21.10.100 if the following criteria are met:

1. The modification complies with all of the requirements of this chapter, including the decision criteria; and

2. The modification is consistent with the intent of its original conditions.
C. Modifications to an approved preliminary plat that proposes inconsistencies with the preliminary plat conditions may be requested by the applicant and approved by the Director through the Type II permit process in BMC 21.10.110 if the following criteria are met:

1. The modification complies with all of the requirements of this chapter, including the decision criteria;

2. The modification is consistent with the intent of its original conditions; and

3. The modification is more substantially compliant with the development regulations, including but not limited to, Title 22 BMC and Chapters 16.55 and 15.42 BMC, which are in effect at the time the modification is requested.

D. Requests for modifications that are determined by the Director to not be consistent with the criteria above shall be denied and any subsequent request for the same modification shall be processed as a new preliminary plat application.

E. Approval of a modification pursuant to this chapter does not extend the time limitations of a preliminary plat approval.
Chapter 23.20

FINAL PLATS

Sections:

23.20.010 Approval required.
23.20.020 Procedures.
23.20.030 Approval criteria.
23.20.040 Filing with county auditor.
23.20.050 Copy furnished by surveyor.
23.20.060 Effect of an approved final plat.

23.20.010 Approval required.

A. The Director shall grant final plat approval for all preliminary plats, plat alterations, and plat vacations only after determining all requirements of this title have been met.

B. The final plat prepared on a mylar document shall be filed for record at the Whatcom County auditor's office prior to expiration of the preliminary plat in accordance with RCW 58.17.140 and this title.

23.20.020 Procedures.

A. Applications requesting final plat approval of a preliminary plat, plat alteration, or plat vacation shall follow the procedures in Chapter 21.10.110 BMC.

B. The Director will provide notice to the applicant when the city determines the checkprints conform to this title and the preliminary plat and notify the applicant that the city will accept the final plat map prepared on a mylar document in accordance with those standards detailed in Chapter 23.36 BMC.

C. Upon receipt of the mylars, the Director shall obtain the signatures of all applicable city departments as a recommendation of final plat approval after determining that all applicable requirements of this title and the preliminary plat have been completed and accepted. Upon receipt of these signatures and determination that the decision criteria in this chapter have been met, the Director shall approve the final plat by inscribing his/her signature on the final plat.

23.20.030 Approval Criteria.

A. After determining the final subdivision application complete, the Director shall determine whether the final subdivision application meets the following:
1. The checkprints conform to Chapter 23.36 BMC;

2. All conditions of the preliminary plat, plat alteration, or plat vacation have been completed and accepted by the city;

3. All procedural steps associated with the public facilities construction agreement have been submitted to and accepted by the city, including but not limited to:
   a. Record drawings of the public infrastructure;
   b. Cost statement;
   c. Maintenance bond for dedicated public infrastructure;
   d. Deed of conveyance; and
   e. Water form from the Whatcom County Health Department.

4. All financial sureties for uncompleted work associated with the preliminary plat have been fully executed and accepted by the city; and

5. Required easements, deeds, covenants, and any other formal document required by the preliminary plat have been accepted by the city and are prepared for concurrent recording with the final plat mylars; and

6. The final plat conforms to state law, Chapter 58.17 RCW.

23.20.040 Filing with county auditor.

The final plat and all required easements, deeds, covenants, and other documents required by the preliminary plat shall be recorded concurrently with the county auditor in compliance with state and county laws and regulations within 30 days of the Director’s approval. Failure to record the mylars within 30 days will cause the final plat approval to be null and void. Plats are not considered final until they are recorded.

23.20.050 Copy furnished by surveyor.

In accordance with the state law and with regulations of this title, the applicant shall furnish the city with an electronic .pdf copy, or other electronic format approved by the city, of the final plat as filed prior to the city issuing any further land use or building permits for any lot within the final plat boundaries.

23.20.060 Effect of an approved final plat.

A. Any lot in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws and shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect on the date of the
complete application of the preliminary plat pursuant to those time limitations in RCW 58.17.170 unless the Director finds that a change in conditions creates a serious threat to the public health or safety of residents within or outside the subdivision.
Chapter 23.24
BINDING SITE PLANS

Sections:
23.24.010 Purpose.
23.24.020 Approval required.
23.24.030 Procedures.
23.24.040 Decision criteria-General binding site plan.
23.24.050 Review and approval process- General binding site plan.
23.24.060 Filing with county auditor – General binding site plan.
23.24.070 Effect of decision.
23.24.080 Expiration – General binding site plan.
23.24.090 Time limitations – Extension of a general binding site plan.
23.24.100 Modifications to an approved general binding site plan permit.
23.24.110 Application procedure for specific binding site plan approval.
23.24.120 Filing with county auditor – Specific binding site plans.
23.24.130 Effect of an approved specific binding site plan-Valid land use
23.24.140 Copy furnished by surveyor-General and specific binding site plans.

23.24.010 Purpose.

The binding site plan process provides an alternative to the standard subdivision process to divide land for the following specific types of development:

A. Sale or lease of commercially or industrially zoned property as provided in RCW 58.17.040 (4);
B. Mobile home parks, recreational vehicle parks or trailer courts; and
C. Condominiums as provided in either Chapter 64.32 or 64.34 RCW, consistent with RCW 58.17.040 (7).

23.24.020 Approval required.

Any action at an applicant’s request which will result in the division of land for sale or lease of any use described in BMC 23.24.010 (A-C) above requires approval subject to the procedures and criteria set forth in this chapter.

23.24.030 Procedures.

A. 2-Step Review process. Applications for general and specific binding site plan approval shall follow the procedures in Chapter 21.10 BMC. The review and approval of a binding site plan is a two-step process: general and specific. The
process begins with a general binding site plan and ends with specific binding site plan. Subject to the city’s approval, the two-step process may be combined.

1. General binding site plan. The purpose of a general binding site plan is to identify in broad terms the scope and feasibility of development anticipated within the boundaries of the affected parcels, as well as to identify the location of the various lots created by the general binding site plan. The general binding site plan is a guiding document for future development, including specific binding site plans, and provides a general layout, establishes or reconfigures internal lot lines, identifies the location of critical areas and mitigation for the impact of those areas, identifies stormwater requirements and primary access points, and provides specific conditions for future construction. Review of a general binding site plan follows the Type II process in BMC 21.10.110, and the decision on the general binding site plan is based on the criteria in BMC 23.24.040.

2. Specific binding site plan. The purpose of the specific binding site plan is to enable the applicant to create individual lots for lease or sale, and to develop lots within the approved general binding site plan without undergoing a lengthy review and approval process; provided, that public and/or private infrastructure is in place to adequately serve the lots proposed within the specific binding site plan application. Review of a specific binding site plan follows the Type I process in BMC 21.10.100 unless an application for a specific binding site plan is submitted for review concurrently with an application for general binding site plan, in which case shall be reviewed through the Type II process in BMC 21.10.110.

B. Approval Required. The City will not issue building permits prior to final approval of a specific binding site plan.

C. Notification. In addition to the notification requirements of BMC 21.10.200, the following agencies shall also be provided notice of an application for a general binding site plan:

1. For binding site plans adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport, written notice including a legal description of the general binding site plan and a location map shall be sent to the Secretary of Transportation. Notice of intent to divide shall also be sent to the local airport authority.

2. If the proposed binding site plan is located in whole or in part in a designated floodplain as provided in Chapter 86.16 RCW, the Director shall give written notice of the application, including a legal description of the binding site plan and a location map, to the State Department of Ecology.

23.24.040 Decision criteria - General binding site plan.
A. The Director shall approve a general binding site plan, with or without conditions, upon finding that all of the following have been satisfied:

1. It is consistent with the applicable provisions of this title, the Bellingham Comprehensive Plan and the Bellingham municipal code;

2. It is consistent with the applicable provisions of Chapter 23.08 BMC;

3. The division of land provides for coordinated development with adjoining properties or future development of adjoining properties through, where appropriate, the extension of public infrastructure, shared vehicular and pedestrian access, and abutment of utilities;

4. Each lot in the proposal can reasonably be developed in conformance with applicable provisions of the BMC, including but not limited to critical areas, setbacks, and parking, without requiring a variance that is not processed concurrently with the subdivision application pursuant to Chapter 23.48 BMC;

5. There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and

6. It will serve the public use and interest and is consistent with the public health, safety, and welfare. The Director shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as amended.

B. Notwithstanding the approval criteria set forth in subsection A of this section, in accordance with RCW 58.17.120, as amended, a proposed binding site plan may be denied because of flood, inundation or presence of environmentally sensitive areas as regulated by Chapter 16.55 BMC. Where any portion of the proposed subdivision lies within both a flood control zone, as established pursuant to Chapter 86.15 RCW, and the area of special flood hazard as defined in Chapter 17.76 BMC, the city shall not approve the general binding site plan unless it imposes a condition requiring the applicant to comply with the applicable regulations in Chapters 16.55 and 17.76 BMC and any written recommendations from the Washington Department of Ecology. In such cases, no development permit associated with the proposed binding site plan shall be issued by the city until flood control problems have been resolved.

23.24.050  Review and approval process - General binding site plan.

A. The Director shall review an application and determine whether the application satisfies the decision criteria as specified in BMC 23.24.040, with or without
conditions. An application for general binding site plan approval that does not comply with these criteria shall be denied by the city.

B. An applicant for a general binding site plan may request that certain requirements established or referenced by this chapter be modified pursuant to Chapter 23.48 BMC. Such requests shall be processed according to the procedures and criteria for administrative departure or variances in Chapter 23.48 BMC.

C. The city’s decision shall be in the form of a written permit and either approve, with or without conditions, or deny the application, and be issued within the time limitations pursuant to Title 21 BMC.

23.24.060 Filing with county auditor – General binding site plan.

Upon preliminary approval of a general binding site plan permit, the applicant shall prepare a general binding site plan consistent with the requirements of this title and the general binding site plan permit. The applicant shall file the general binding site plan with the Whatcom County Auditor in compliance with state and county laws and regulations within 1 year of the city’s issued date of the general binding site plan permit or the application shall become null and void. The City will not approve a specific binding site plan until the general binding site plan has been recorded or a specific binding site plan is recorded concurrently with the general binding site plan.

23.24.070 Effect of decision.

A. The general binding site plan permit is the general acceptability of the terms and conditions deemed necessary to develop within the binding site plan boundary and provide for the orderly extension of public infrastructure to adjoining properties. Engineering detail and additional permits, approved by the city, may be necessary to fulfill the general binding site plan permit conditions.

B. After final approval of the public facility construction agreement and the review and approval of any other required permits identified within the general binding site plan permit, work on the binding site plan improvements may be commenced. All such agreements and permits shall be contingent upon compliance with the conditions specified on the general binding site plan permit, conformance with all applicable city development standards, the payment of all fees, and the submittal of financial assurances as may be required.

C. The general binding site plan does not authorize the issuance of a building permit for a site covered under a binding site plan application until such time a specific binding site plan in accordance with the chapter is recorded.
23.24.080  Expiration – General binding site plan permit.

Specific binding site plans may be filed for a period of 5 years from approval date of the
general binding site plan permit, unless an extension of time for the general binding site
plan permit is approved in accordance with BMC 23.24.090. If a specific binding site
plan compliant with this title is not filed within the above stated time frame, the general
binding site plan permit shall be determined null and void upon expiration of the general
binding site plan permit and no specific binding site plans may be filed after the permit
has expired.

23.24.090  Time limitations - Extension of a general binding site plan.

A. An initial request for a one-year extension, which has been filed at least ninety days
prior to the expiration of the period of approval, may be granted administratively
through the Type I permit process in BMC 21.10.100 upon a finding that the
applicant has attempted in good faith to file a specific binding site plan within the
period of approval. Submittal of complete engineering plans for the specific binding
site plan prior to the expiration of the approval period time limit shall constitute a
good faith effort.

B. Two additional requests for one-year extensions, which are filed at least ninety days
prior to the expiration of the period of approval, may be granted administratively
through the Type I permit process in BMC 21.10.100 if the following criteria are met:

1. The applicant has pursued submitting the specific binding site plan in good faith.
   Submittal of complete engineering plans for the specific binding site plan prior to
   the expiration of the approval period time limit shall constitute a good faith effort
   on the part of the applicant;

2. There have been no changes to the comprehensive plan, zoning ordinance,
   development standards or other applicable codes which are inconsistent with the
   approved general binding site plan, unless such changes can be incorporated
   into the approved general binding site plan without significantly altering the
   original approval; and

3. There are no other significant changed conditions that would render filing of a
   specific binding site plan contrary to the public health, safety or general welfare.

23.24.100  Modifications to an approved general binding site plan permit.

Any changes proposed by an applicant to the approved general binding site plan may
be deemed a minor modification if the modification complies with all of the requirements
of this chapter and does not violate any terms and conditions of the general binding site
plan permit, unless provisions in the permit give authority for such modifications. Minor
modifications to binding site plans are Type I administrative decisions.
A. Minor modifications to an approved general binding site plan permit may be
requested by the applicant and approved by the Director through the Type I permit
process in BMC 21.10.100 if the Director determines the following criteria are met:

1. The modification complies with all of the requirements of this chapter, including
the decision criteria; and

2. The modification is consistent with the intent of its original conditions.

B. Requests for modifications that are not consistent with the criteria above shall be
processed as a new general binding site plan application.

C. Approval of a minor modification does not extend the time limitations of the issued
general binding site plan permit.

23.24.110 Application procedure for specific binding site plan approval.

A. Review Criteria. Specific binding site plan applications shall be approved upon
finding by the PCDD and Public Works directors that all of the following have been
satisfied:

1. The checkprints conform to Chapter 23.36 BMC;

2. All conditions of the general binding site plan approval have been completed and
accepted by the city or if the specific binding site plan is proposed to be recorded
concurrently with the general binding site, all construction related permit to meet
the terms and conditions of the general binding site plan permit have been issued
by the city;

3. Unless the specific binding site plan is proposed to be recorded concurrently with
the general binding site plan, the record drawings associated with the
construction of any infrastructure required by the general site plan approval have
been submitted to and accepted by the city. If concurrent recording of the specific
and general binding site plans is proposed, the record drawings shall be
submitted to and accepted by the city prior to issuance of a certificate of
occupancy;

4. All financial sureties for maintenance or any uncompleted work have been
submitted and accepted by the city;

5. Required easements, deeds, covenants, and any other formal document required
by the general binding site plan permit approval have been prepared in
accordance with this title and submitted and accepted by the city; and

6. The specific binding site plan conforms to state law, Chapter 58.17 RCW.
B. Notice of Approval. The Director will notify the applicant when the city determines
the checkprints conform to this title and the general binding site plan and the city will
accept mylars for city approval.

C. Final Action. Upon receipt of the mylars, the city will sign the mylar document as an
acknowledgement that the above criteria for specific binding site plan approval have
been met.

**23.24.120  Filing with county auditor – Specific binding site plans.**

Upon city approval pursuant to BMC 23.24.110 (C), the specific binding site plan mylar
shall be filed for record with the Whatcom county auditor in compliance with state and
county laws and regulations within 30 days of city approval. Failure to record the mylars
within 30 days will cause the specific binding site plan approval to be null and void,
unless a written request is submitted by the applicant prior to this time limitation
requesting a one-time 30 day extension to record the specific binding site plan.

**23.24.130  Effect of an approved specific binding site plan – Valid land use.**

A. Any lot in a specific binding site plan filed for record shall be a valid land use
notwithstanding any change in zoning laws and shall be governed by the terms of
approval of the statutes, ordinances and regulations in effect on the date of the
complete application of the general binding site plan application for a period of 5
years unless the Director finds that a change in conditions creates a serious threat to
the public health or safety to the general public.

B. In the event a portion of an approved general binding site plan permit is developed
and recorded as a specific binding site plan and the remainder of the overall binding
site plan is left undeveloped, the approval of the general binding site plan permit for
the undeveloped portion(s) of the binding site plan shall expire unless an extension
is approved as provided for in BMC 23.24.090.

**23.24.140  Copy furnished by surveyor–General and specific binding site plans.**

In accordance with state law and with regulations of this title, the applicant shall furnish
the city with an electronic .pdf copy, or other electronic format approved by the city, of
the recorded general and specific binding site plans prior to the city issuing any further
land use or building permits for the lots included in the specific binding site plan
boundaries.
Chapter 23.30

ALTERATION AND VACATIONS

OF SHORT PLATS, FINAL PLATS AND BINDING SITE PLANS

Sections:
23.30.010 Approval required.

23.30.010 Approval required.

A. Alterations. When any person is interested in the alteration of a short or final plat, binding site plan or the alteration of any portion thereof, that person shall submit an application to request the alteration to the city pursuant to RCW 58.17.215, with the exception of the following:

1. Lot line adjustments pursuant to Chapter 23.10 BMC are exempt from this provision;
2. The alteration of a short plat shall be processed pursuant to a new short subdivision application pursuant to Chapter 23.12 BMC and this title;
3. The modification of any easement established by the recording of a mylar that is determined to have no substantive impacts on the rights of the property owners in the land division.

B. Vacations. When any person is interested in the vacation of a short or final plat or portion thereof, or any area designated or dedicated for public use, that person shall file an application to request the vacation to the city pursuant to RCW 58.17.212.
Chapter 23.36

Survey, Mylar and Dedications

23.36.010 Purpose.

The purpose of the chapter is to establish and acknowledge minimum city and state
surveying and drafting standards for the preparation of any legal documents, such as
but not limited to record of survey, mylars, lot line adjustments, plats, binding site plans,
easements, and dedications, that are required as a condition of approval for any land
use action required by this title.

23.36.020 Compliance.

Any legal document, such as but not limited a records of survey, easements, deeds,
covenants and dedications, that is required as a condition of approval for any land use
action required by this title shall be found compliant with all state laws concerning
surveying and this title and prepared and filed as a separate document unless
specifically approved by the city.

23.36.030 Survey.

All lot line adjustments, divisions, redivisions, alterations and vacations of land require a
survey meeting the following minimum standards:

A. A survey of a division, redivision, alteration, vacation, or lot line adjustment must be
   conducted by or under the supervision of a registered land surveyor in the state of
   Washington.
   1. Basis of bearing. The survey shall include a basis of bearing upon a line of two
      found monuments, which shall be shown on the survey, together with a
      description of found monuments and bearing and distance between them.
   2. Surveyor certification. The surveyor shall certify on the final map that it is a true
      and correct representation of the lands actually surveyed and that the survey was
      done in accordance with state law.

B. Monumentation. All divisions of land shall set the following monumentation:
   1. Lot corners with rebar, cap and surveyor number per state law;
2. Perimeter of the land division boundary consistent with city of Bellingham detail number ST-173 per Bellingham Development and Design Standards, as amended; and
3. Street monuments consistent with the city of Bellingham detail number ST-174 per Bellingham Development and Design Standards, as amended.

C. Residential condominiums. Prior to the recording of all residential condominium binding site plans where all lots are not to be shown, the boundary of the parcel must be surveyed and all lot corners set or found in accordance with the provisions of this section. If divisions are submitted in accordance with an approved phasing plan, all new lot corners must be set or found prior to recording.

D. Lot line adjustment. A record of survey must be filed with the county auditor in accordance with this title and lot corners shall be set for only the newly established corners of the adjusted lot line(s).

E. Survey discrepancies. When a survey differs from the platted dimensions of an officially recorded plat, the city may allow a 10 percent deviation of the platted dimensions to be used for compliance with site area, lot area, and dimensions requirements for this title. In these situations, the final mylar document for the land division shall state both the platted and surveyed dimensions.

23.36.040 Mylar.

A. A record of survey document of mylar quality or better shall be prepared by a Washington State licensed land surveyor based upon a survey recorded at the county auditor’s office in conformance with Chapter 58.17 RCW and this title. The mylar shall be prepared in the format identified in the final subdivision application.

B. Size. For short plats, the mylar shall be 18 inches by 24 inches in size and for all other land divisions, the mylars shall be 24 inches by 24 inches in size.

C. Content. The mylar shall include the specific information as required in Chapter 58.17 RCW and the final subdivision application.

D. Modifications. Amendments and alterations to a record of survey mylar document shall be made in accordance with those procedures established by state law and the Washington State Department of Natural Resources.

E. Naming. Every mylar document filed for record shall include a title that has been reviewed and accepted by the Whatcom county auditor’s office and city of Bellingham prior to filing.
F. Notations. The city has the authority to impose notes on the final subdivision map for the purposes of providing notice to future owners, such as but not limited to critical areas, density, use restrictions and vehicular access restrictions.

23.36.050 Dedications.

A. Right-of-way. Any dedication of a right-of-way shown on a land division map shall convey the same right to the public as the dedication of a similar right-of-way by a separate easement. The owner shows intent to dedicate the right-of-way by presenting for filing the final division map showing the dedication thereon and the public accepts the dedication by the city approving such final maps for filing.

B. Easements. All easements required as a condition of approval shall be established by the filing of a separate document that is recorded concurrently with the final subdivision map and cross referenced on the final subdivision map.

1. Public easements. The city shall establish standard language for the establishment of public easements and shall make the standard language available with the submittal requirements checklist for final subdivision approval. The legal descriptions of the burdened property and the easement area shall be defined by the proposed or anticipated legal description of the land division.

2. Private easements. Private easements that are necessary to comply with a condition of approval for a land division shall be the sole responsibility of the applicant to prepare for review and acceptance by the city. The easement shall include the rights established by the easement, legal descriptions of the burdened property and the easement area, and exhibits determined necessary to illustrate the easement area. If the easement is for the use of a structured facility, such as a driveway, the easement shall include cost sharing and maintenance provisions.

3. All private easements that are required to fulfill a condition of approval shall include a statement that the easement shall not be amended or relinquished without the express written consent of the city of Bellingham.

C. Deeds. With the exception of right-of-way, all lands granted to the city for public ownership shall only be accepted by the city upon review of title information and the filing of deeds, prepared by the city, concurrently with the final subdivision map unless authorized by the city.

D. Covenants and Condominium declarations. Private covenants proposed to be filed with or for a land division shall be submitted with the final subdivision application for review by the city.
Chapter 23.48

VARIANCES AND DEPARTURES

Sections:
23.48.010 Approval required.
23.48.020 Review procedure.
23.48.030 Departure.
23.48.040 Subdivision variance.
23.48.050 Time limitation.

23.48.010 Approval required.
Any request to modify a requirement of this title or any requirement of Title 20 BMC that is considered concurrently with a request for a lot line adjustment or land division shall be processed as an administrative departure or variance under the provisions of this chapter.

23.48.020 Review procedure.
A. Review process. Applications for administrative departure and variance shall follow the procedures in Chapter 21.10 BMC.

B. Departures. Departures associated with a lot line adjustment or land division shall have the review and decision consolidated into a single permit.

C. Variances are Type III-A or Type III-B processes subject to BMC 21.10.120.

23.48.030 Departure.
A. Purpose. Departures are not variances and are not required to meet all of the criteria typically associated with a variance application. Rather, departures allow adjustment of standards to achieve better outcomes in cases where strict application of the standard would result in an inferior subdivision design.

B. Departures Permitted.
1. Departures from the identified land use and subdivision standards as listed below, may be permitted as part of a lot line adjustment and land division application. To obtain a departure, an applicant must demonstrate that the overall development, including departures from the standards, would better serve the public interest, and the city must find that each proposed departure meets or exceeds the intent
of the respective standard as compared to a strict application of the established standard.

C. Maximum Departure.
1. Lot Line Adjustments. Lot line adjustments are minor adjustments of two or more lots that cannot be used to create additional lots. The city permits a greater degree of departure for a lot line adjustment than for a land division.

A departure not to exceed 50 percent of each measurement for a lot line adjustment may be requested upon demonstration that the departure is the minimum necessary to accommodate the proposed adjustment. Departures from the following standards may be requested:
   i. Any development regulation in Title 20 BMC from which the applicant would otherwise be allowed to seek a variance;
   ii. Building envelope (BMC 23.08.060 (D));
   iii. Landscaping (BMC 23.08.080); and
   iv. Public infrastructure abutment (BMC 23.08.060 (E)).

2. Land Divisions. A departure not to exceed 10 percent of each measurement for a land division from the following standards may be requested:
   i. Any development regulation in Title 20 BMC from which an applicant would otherwise be allowed to seek a variance;
   ii. Building envelope (BMC 23.08.060 (D));
   iii. Landscaping (BMC 23.08.080);
   iv. Public infrastructure abutment (BMC 23.08.060 (E)); and
   v. Cluster open space improvements and grades (BMC 23.08.060 (F)).

D. Departure Approval Process. The Director shall issue a decision for the departure concurrently with the decision for Type I and II applications and shall issue a recommendation to the hearing examiner for all Type III applications.

23.48.040 Subdivision variance.

A. Variance. The hearing examiner may grant a variance from any term of this title, except minimum lot size, if it is shown that the proposal is consistent with the following criteria:

1. a. Because of unusual shape, the location of preexisting improvements, other extraordinary situation or condition, or physical limitation including, but not limited to, exceptional topographic conditions, geological problems, or environmental constraints, in connection with a specific piece of property, the literal enforcement of this title would involve difficulties, result in an undesirable land division or preclude a proposal from achieving zoned density; or

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b. The granting of the variance will establish a better lot design resulting in a
development pattern found to be consistent with the neighborhood character
including, but not limited to, development orientation to the street, setbacks, lot
orientation, or other contextual element associated with the proposed
development; and

2. The granting of any variance will not be unduly detrimental to the public welfare
nor injurious to the property or improvements in the vicinity and subarea in which
the subject property is located.

23.48.050   Time limitation.

An approved departure and/or variance shall be valid for the same period of time as the
associated decisions for the land division.
Chapter 23.52

PENALTY

Sections:
23.52.010 Violation – Penalty.
23.52.020 Validity.

23.52.010 Violation – Penalty.
A. Civil Violations and Penalties.

1. Any person who violates any provision of this chapter shall be subject to a civil infraction not to exceed $1,000 for each violation. The minimum civil penalty shall be $100.00.

2. Each violation of this chapter shall be a separate offense, and in the case of a continuing violation, each day’s continuance shall be deemed to be a separate and distinct violation.

3. Civil infractions under this chapter shall be issued and processed in accordance with Chapter 7.80 RCW.

4. All civil infractions under this chapter shall be heard by municipal court.

B. Criminal Violations and Penalties.

1. Any person who intentionally, knowingly, recklessly, or criminally negligently violates any provision of this chapter shall be guilty of a misdemeanor.

2. Each violation of this chapter shall be a separate offense, and in the case of a continuing violation, each day’s continuance shall be deemed to be a separate and distinct violation.

3. Any person convicted of a crime under subsection (B) (1) of this section shall be punished by a fine of not more than $1,000 and/or imprisonment of not more than 90 days. In no case shall such a violation be punished by a fine of less than $250.00.

23.52.020 Validity.

Should any section, clause, or provision of this chapter be declared by the courts to be invalid or unconstitutional, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.