

ORDINANCE NO. 1585

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating subdivisions; replacing Title 17 DMMC; and repealing the previously codified provisions of Title 17 DMMC and underlying Ordinances.

WHEREAS, Title 17 DMMC, entitled "Subdivisions," contains many Ordinances that regulate the division of land and promote the public health, safety, and general welfare, and

WHEREAS, numerous amendments to Title 17 DMMC since enactment have adversely affected the Title's organization, and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's Subdivision Code; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Title 17 DMMC and all underlying Ordinances are hereby repealed and replaced with the following:

**TITLE 17
SUBDIVISIONS**

**Chapter 17.01
Subdivision Code**

Sections:

17.01.010	Title.
17.01.020	Application.
17.01.030	Purpose.
17.01.040	Authority.
17.01.050	Definitions.
17.01.060	Rules of construction.
17.01.070	Liability
17.01.080	Violation and penalty.
17.01.090	Severability.
17.01.100	Appeal.

Sec. 1. 17.01.010. Title. This Title shall be referred to as the "Subdivision Code." This chapter shall be entitled "General Provisions."

Sec. 2. 17.01.020. Application. The provisions of this chapter shall apply to all chapters contained within Title 17 DMMC.

(1) The provisions of this Title shall apply to each division of land applied for after the effective date of this Title except as listed below and as set forth in RCW 58.17.040:

(a) Cemeteries and other burial plots while used for that purpose;

(b) Divisions of land into lots or tracts each of which is 1/128 of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this subsection which borders on a street or road, the lot size shall be expanded to include that area which would be bordered by the centerline of a road or street and the side lot lines of the lot running perpendicular to such centerline;

(c) Divisions made by testamentary provisions or by the laws of descent and distribution.

(d) Divisions of land into lots or tracts classified for industrial or commercial use when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(e) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the City has approved a binding site plan for the use of the land in accordance with local regulations;

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel,

site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(g) Divisions of land into lots or tracts if: (a) such division is the result of subjecting a portion of a parcel or tract of land to either chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land;

(h) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service; and

(i) A division of land into lots or tracts of less than three acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations.

(2) Land use review procedures provided in chapter 18.20 DMMC (Land use review procedures) shall apply in addition to applicable provisions within this Title.

Sec. 3. 17.01.030. Purpose. The purpose of this Title is to regulate the division of land and to promote the public health, safety, and general welfare in accordance with the standards established in this Title and set forth in chapter 36.70A RCW and RCW 58.17.010.

Sec. 4. 17.01.040. Authority. This chapter is adopted pursuant to the provisions of chapter 58.17 RCW and the general police powers granted to the City pursuant to 35A.13 and 35A.63 RCW and other applicable laws.

Sec. 5. 17.01.050. Definitions. As used in this Title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this chapter shall have the indicated meanings. All other words or phrases appropriate to the context of their uses shall be interpreted as defined in the zoning code.

"Alteration" means a change to any recorded plat, short plat or binding site plan, except as defined in "lot line adjustment" below.

"Applicant" means a person who applies for any approval under this Title and who is an owner of the subject property or the authorized agent of the owner. "Applicant" includes any current owner who purchased property from a previous owner who submitted an application.

"Binding site plan" means a scale drawing or map which identifies and shows the areas and locations of all streets, roads, utilities, improvements, open spaces, easements, and any other significant development features and which binds future development to be in accordance with the drawing.

"Block" means a group of lots, tracts, or parcels of common origin or relationship within a boundary which is distinct and separated from other lots, tracts, or parcels by physical features such as public or private streets or topography.

"Comprehensive plan" means the document as adopted in DMMC 18.05.060.

"County auditor" means the office or person as defined in chapter 36.22 RCW, as presently constituted or as may be subsequently amended, or the office or person assigned such duties under a county charter.

"County treasurer" means the office or person as defined in chapter 36.29 RCW, as presently constituted or as may be subsequently amended, or the office or person assigned such duties under a county charter.

"Dedication" means the deliberate appropriation of land by its owner for any general and public uses, reserving to himself/herself no other rights except those which are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by its owner by the presentment of a document of conveyance, or a final plat, short plat, binding site plan, or lot line adjustment, for filing or recording with the county auditor, showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat or conveyance for filing by the appropriate governmental unit.

"Easement" means a specific air, surface, submerged, or subsurface right, of perpetual duration for a legally described parcel of land, which is conveyed for use by someone other than the owner of the subject property, or to benefit some property other than the subject property.

"Final plat" means the final drawing or map of a subdivision, together with all dedications, covenants, certifications, and signatures prepared for filing for record with the county auditor and containing all elements and requirements set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended, and in this Title.

"Improvements" means streets, with or without curb or gutter, sidewalks, pedestrian ways, water mains, sanitary and storm sewers, street trees, lighting, and other appropriate items.

"Lot" means a fractional part of divided lands having fixed boundaries, means of access, and sufficient area and dimension to meet minimum yard, area, and open space requirements of the zoning code for the zone in which the lot is located at the time such lot was created.

"Lot line adjustment" means:

(1) A division made for the purpose of alteration by adjusting boundary lines between platted or unplatted lots or both; or

(2) A consolidation of multiple lots into one single lot; provided, that the division or consolidation does not create any additional lot, tract, or parcel; and does not create any lot, tract, or parcel which contains insufficient area and dimension to meet minimum requirements for width and area of a building site as required by Title 18 DMMC.

"Material error" means an error in fact or an omission of substantive information in an application, or supplementary study, supplied to the City, which would constitute the basis for a decision.

"Parcel" means an existing lot, tract, or division of land.

"Pedestrian way" means a tract or right-of-way, dedicated to public use, for the purpose of facilitating pedestrian access to nearby streets and properties.

"Planning official" means the Director of the Planning, Building and Public Works Department or his/her designee.

"Preliminary plat" means a scale drawing or map of a proposed subdivision showing the general layout of streets, lots, blocks, restrictive covenants to be applicable to the subdivision, and other related information required by the City of a subdivision. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

"Registered land surveyor" means an individual licensed as a land surveyor pursuant to chapter 18.43 RCW (Professional Engineers Registration Act), as presently constituted or as may be subsequently amended.

"Right-of-way" means land dedicated to the public primarily for the movement of vehicles and pedestrians and providing for primary access to adjacent parcels. Secondarily, it means that land which provides space for utility lines and appurtenances and similar components.

"Security" means a commitment of funds guaranteeing the payment of a previously specified amount of money if in the opinion of the administrator in charge, certain work is not performed satisfactorily or work results in damage to property or the environment. Security may be in the form of a cash, line of credit, bond, or a set-aside account previously approved by the City.

"Shoreline master program" means the document as adopted in chapter 16.20 DMMC.

"Short plat" means the final drawing or map of a short subdivision, together with all dedications and covenants, prepared for filing for record with the county auditor and containing all elements and requirements set forth in chapter 58.17 RCW.

"Short subdivision" means the division or redivision of land into nine or fewer lots for the purpose of sale, lease, or transfer of ownership.

"Significant trees" means healthy ever-green trees six inches DBH (diameter at breast height) or greater and healthy deciduous trees (excluding alders, European ashes, cottonwoods and willows) eight inches DBH or greater.

"Street Development Standards" means the document adopted by chapter 12.15 DMMC.

"Subdivision" means the division or redivision of land into 10 or more lots or the redivision of a short subdivision into 10 or more lots within a period of five years from the filing of such short plat for the purpose of sale, lease, or transfer of ownership.

"Tract" means land reserved for special uses including but not limited to open space, surface water retention, utilities, or access. Tracts are neither counted as lots nor considered as building sites.

"Vacation" means the elimination of a recorded lot line, right-of-way, or easement.

"Vehicular access tract" means a privately owned tract providing vehicular and pedestrian access to parcels.

Sec. 6. 17.01.060. Rules of construction. The following rules of construction shall apply unless inconsistent with the obvious meaning in the context of the provision.

(1) Tense. Words used in the present tense shall include the future tense.

(2) Number. Words used in the singular shall include the plural, and words used in the plural shall include the singular.

(3) Headings. In the event that there is any conflict or inconsistency between the heading of a chapter, section, or paragraph of this Code, and the content thereof, the said heading shall not affect the scope, meaning, or intent of the content.

(4) Citations. Citations to state or federal laws shall mean that law as presently constituted or as it may be subsequently amended in the future.

Sec. 7. 17.01.070. Liability. It is the specific intent of this Title and procedures adopted under this Title to place the obligation of complying with the requirements of this chapter upon the permittee, and no provision is intended to impose any duty upon the City, or any of its officers, employees, or agents. Nothing contained in this Title is intended to be or shall be construed to create or form the basis for liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from the failure of the permittee to comply with the provisions of this Title, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this Title or any procedures adopted under this Title by the City, its officers, employees, or agents.

Sec. 8. 17.01.080. Violation and penalty.

(1) General. It is a violation of this Title for a person to divide, segregate, sell, or transfer, or offer to sell or transfer, real property in violation of this Title. It is a violation of this Title to do any other thing with respect to a lot, tract, parcel, or property in the City that violates this Title or violates a plat or short plat restriction imposed by the City.

(2) Enforcement. The City shall use the applicable provisions of the Zoning Code (Title 18) in the investigation, enforcement, and prosecution of the violations of this Title.

(3) Civil infraction. Except as otherwise provided in this Title, no person shall violate or fail to comply with this Title. A violation of or failure to comply with this subsection is a class 1 civil infraction.

(4) Criminal penalty. Except as otherwise provided in this Title, in addition to or as an alternative to any other penalty provided in this Title or by law, a person convicted of a violation of this Title is guilty of a gross misdemeanor. Upon conviction a person may also be ordered to abate, discontinue, or correct a violation of this Title.

(5) Other lawful remedies. Nothing in this section shall limit the right of the City to pursue other lawful criminal, civil, or equitable remedies to abate, discontinue, or correct violations of this Title.

Sec. 9. 17.01.090. Severability. The provisions of this Title are severable. If any section, sentence, clause or phrase of this code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of the DMMC.

Sec. 10. 17.01.100. Appeal. Appeals of decisions made pursuant to this Title shall be as set forth in the applicable chapter and pursuant to chapter 18.20 DMMC.

Chapter 17.02
Interpretation of Title 17 DMMC

Sections:

17.02.010 Title.
17.02.020 Application.
17.02.030 Purpose.
17.02.040 Authority.
17.02.050 Interpretation.
17.02.060 Provisions not affected by headings.
17.02.070 Appeal.

Sec. 11. 17.02.010. Title. This chapter shall be entitled "Interpretation of Title 17 DMMC."

Sec. 12. 17.02.020. Application. This chapter shall apply to the interpretation of Title 17 DMMC.

Sec. 13. 17.02.030. Purpose. The purpose of this chapter is to provide for the interpretation of development code provisions in Title 17 DMMC.

Sec. 14. 17.02.040. Authority. This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63 and 36.70A RCW and other applicable laws.

Sec. 15. 17.02.050. Interpretation.

(1) Interpretation of Title 17 shall be responsibility of the Planning, Building and Public Works Director.

(2) Interpretations of Title 17 may be initiated by the submittal of a written request to the City Manager or the City Manager's designee.

(3) Requests for interpretations of code shall be processed as a Type I land use action.

(4) The City Manager or the City Manager's designee shall periodically submit to the City Council a summary of the interpretations requested and the corresponding interpretations made by the Planning, Building and Public Works Director. As

needed, the summary shall include recommendations regarding the need for textual code amendments that would clarify DMMC provisions.

Sec. 16. 17.02.060. Provisions not affected by headings. Chapter and section headings contained in this Title shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section hereof.

Sec. 17. 17.02.070. Appeal. A decision of the Planning, Building and Public Works Director made in accordance with this chapter shall be considered a final administrative decision. A person aggrieved by such decision of the Planning, Building and Public Works Director may appeal such decision to the Hearing Examiner in accordance with DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC.

Chapter 17.05 Short Subdivisions¹

Sections:

17.05.010	Title.
17.05.020	Application.
17.05.030	Purpose.
17.05.040	Authority.
17.05.050	General provisions.
17.05.060	Short subdivisions processed simultaneously.
17.05.070	Burden of providing documentation.
17.05.080	Application.
17.05.090	Acceptance for filing/vesting.
17.05.100	Comments - Requests.
17.05.110	Public notice.
17.05.120	Deadline for comments.
17.05.130	Changes required.
17.05.140	Planning, Building and Public Works Director's decision - General.
17.05.150	Planning, Building and Public Works Director's decision - Decisional criteria.
17.05.160	Planning, Building and Public Works Director's decision - Conditions, restrictions, and modifications.

- 17.05.170 Planning, Building and Public Works Director's decision - Dedication.
- 17.05.180 Planning, Building and Public Works Director's decision - Contents of decision.
- 17.05.190 Planning, Building and Public Works Director's decision - Distribution of written decision.
- 17.05.200 Processing short subdivisions - Time limits.
- 17.05.210 Appeal.
- 17.05.220 Filing final short subdivision documents.

Sec. 18. 17.05.010. Title. This chapter shall be entitled "Short Subdivisions."

Sec. 19. 17.05.020. Application. This chapter shall apply to all divisions of land, not exempt, into nine or fewer lots for the purpose of sale, lease or transfer of ownership.

Sec. 20. 17.05.030. Purpose. The purpose of this chapter is to adopt the process and procedures for the administrative approval of short subdivisions in a manner consistent with chapter 58.17 RCW.

Sec. 21. 17.05.040. Authority. The chapter is adopted pursuant to the provisions of RCW 58.17.020(1), (6) and (8), and RCW 58.17.030 and .060 and other applicable laws.

Sec. 22. 17.05.050. General provisions.

(1) The provisions of this chapter describe the procedure that the City shall use to review and approve, conditionally approve, or deny a proposed short subdivision. Chapter 17.35 DMMC contains the substantive requirements applicable to short subdivisions.

(2) A lot that is created by a short subdivision shall not be further divided by short subdivision in any manner within a period of five years, except that when the original short subdivision contains fewer than nine lots, nothing in this section shall prevent the filing of an alteration within the five-year period to create up to a total of nine lots within the original short subdivision boundaries. Any further division

within such five-year period shall be processed under the provisions of this Title regarding subdivisions (chapter 17.10 DMMC).

Sec. 23. 17.05.060. Short subdivisions processed simultaneously. Unless the applicant requests in writing otherwise, a short subdivision application shall be processed simultaneously with applications for variances, planned unit developments, site plan reviews, street vacations, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing as determined by the Planning, Building and Public Works Director.

Sec. 24. 17.05.070. Burden of providing documentation. The burden of providing all information necessary to satisfy the requirements of this Title shall be upon the applicant requesting the short subdivision. The decision of the Planning, Building and Public Works Director as to the sufficiency of information provided by an applicant shall be considered a final decision for the purposes of this chapter.

Sec. 25. 17.05.080. Application. The owner of the subject property or the authorized agent(s) of the owner may apply for a short subdivision by submitting to the Planning, Building and Public Works Department the information specified in DMMC 17.40.050 and .060.

Sec. 26. 17.05.090. Acceptance for filing/vesting.

(1) An application for a short subdivision shall not be considered as accepted for filing for the purpose of vesting of development rights until:

(a) The planning official verifies that the applicant has fully complied with DMMC 17.05.080; and

(b) The Planning, Building and Public Works Director issues a notice of complete application and the deadline for written comments established in DMMC 17.05.120 has expired.

(2) Applications found to contain and be based on material errors shall be deemed withdrawn and subsequent resubmittals shall be treated as a new application and shall require a new application fee.

(3) Applicant-generated requests for revision(s), i.e., those requests which are not made in response to staff review or public appeal, which result in substantial changes to the proposed land use action, as determined by the Planning, Building and Public Works Director, including but not limited to the creation of additional lots, the elimination of open space, or the alteration of conditions of approval on an approved short plat, shall be treated as a new application as of the date of receipt of the revision by the Planning, Building and Public Works Department and shall require a new application fee.

Sec. 26. 17.05.100. Comments - Requests. Within 14 days of issuing a notice of complete application in response to a short subdivision application, the planning official shall distribute a request for comments in addition to the public notice specified by DMMC 17.40.120. The request for comments shall contain a copy of the proposed subdivision plan, a legal description of the short subdivision, and a vicinity map. The request for comments shall be distributed to interested City departments, affected agencies including, but not limited to, those agencies providing water, sanitary sewer, power, telecommunication, public health, public education, and fire protection service to the proposed short subdivision, and to the Department of Transportation if the proposed short subdivision is adjacent to any state-owned right-of-way.

Sec. 27. 17.05.110. Public notice. The planning official shall give public notice of the hearing as set forth in DMMC 17.40.120.

Sec. 28. 17.05.120. Deadline for comments. The planning official shall consider all written comments and information regarding the proposed short subdivision that are delivered to the Planning, Building and Public Works Department within 15 days of the date of distribution. The planning official may extend the deadline for comments upon request by a department, agency, authority, or owner of property, if he/she

determines that an extension is necessary to obtain information relevant to the short subdivision application. When a short subdivision involves review under the State Environmental Policy Act and comments are requested from all affected agencies, departments, and authorities during such review, the planning official shall not be required to request additional comments.

Sec. 29. 17.05.130. Changes required. The planning official shall make available all received comments to the applicant within five days of the comment deadline. Within 15 days from the end of the comment period, the applicant may make changes to the proposed short subdivision application in response to received comments. An applicant may submit a written request for time extension, not to exceed 15 days, which may be approved by the planning official if it is determined that additional time is warranted, giving consideration to the nature and extent of the changes. Time spent by the applicant to make changes to the original short subdivision application shall not be counted toward the application processing time limit specified in DMMC 17.05.200 (Processing short subdivisions - Time limits).

Sec. 30. 17.05.140. Planning, Building and Public Works Director's decision - General. Following the comment deadline and, if applicable, receipt of any proposed changes to the short subdivision submitted by the applicant, the Planning, Building and Public Works Director shall issue a written decision to either:

- (1) Approve the short subdivision; or
- (2) Approve the short subdivision subject to certain conditions; or
- (3) Return the short subdivision to the applicant for modification; or
- (4) Disapprove the short subdivision.

Sec. 31. 17.05.150. Planning, Building and Public Works Director's decision - Decisional criteria. The Planning,

Building and Public Works Director may approve the short subdivision only if he/she finds that:

(1) It is consistent with the applicable provisions of the comprehensive plan, zoning code, shoreline master program, and other City policies and regulations; and

(2) It is consistent with the applicable provisions of chapter 17.35 DMMC; and

(3) 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

(4) It will serve the public use and interest and is consistent with the public health, safety, and welfare. The Planning, Building and Public Works Director shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended; and

(5) The Planning, Building and Public Works Director has reviewed the proposed short plat documents to be filed and certifies that they comply with the applicable provisions of this Title; and

(6) The proposed short subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to shared access where appropriate.

Sec. 32. 17.05.160. Planning, Building and Public Works Director's decision - Conditions, restrictions, and modifications. The Planning, Building and Public Works Director shall include in the written decision any conditions, restrictions, and modifications that are determined to be necessary to eliminate or minimize any undesirable effects or impacts that would result from approving the proposed short subdivision. Such conditions, restrictions, and modifications

shall be related to, and commensurate with, specified potential adverse impacts that may otherwise occur. Any conditions, restrictions, and modifications that are imposed shall become part of the decision.

Sec. 33. 17.05.170. Planning, Building and Public Works Director's decision - Dedication. The Planning, Building and Public Works Director may require dedication of tracts, easements, or rights-of-way for access, utility, or other public purposes. Such dedications shall be clearly shown and described on all documents required by this chapter.

Sec. 34. 17.05.180. Planning, Building and Public Works Director's decision - Contents of decision. The written decision shall include:

(1) A statement approving, approving with conditions, returning to the applicant for modifications, or disapproving the short subdivision; and

(2) Any conditions, restrictions, and modifications that are imposed; and

(3) Findings of fact that support the decision, including any conditions, restrictions, and modifications that are imposed; and

(4) A statement of the criteria used in making the decision; and

(5) A summary of the rights, as established in this chapter, of the applicant and others to appeal the decision.

Sec. 35. 17.05.190. Planning, Building and Public Works Director's decision - Distribution of written decision. Within seven days after the written decision is issued, the planning official shall distribute the decision as follows:

(1) To the applicant; and

(2) Post at the posting places designated in DMMC 1.08.010; and

(3) To each person who submitted timely written comments.

Sec. 36. 17.05.200. Processing short subdivisions - Time limits. Applications for any proposed short subdivision and dedication shall be approved, disapproved, approved with conditions, or returned to the applicant for modifications within 30 days following the date of filing of a complete application thereof unless the applicant consents in writing to an extension of such time period.

Sec. 37. 17.05.210. Appeal. Short subdivisions as governed by this chapter are Type II decisions. Appeals are outlined in DMMC 18.20.170.

(1) Who may appeal. Any person who is aggrieved by the decision of the Planning, Building and Public Works Director concerning a short subdivision may appeal the decision in accordance with subsection (3) of this section.

(2) No construction or permits pending appeals. The City shall not issue any permits and the applicant shall not engage in any activity based on the decision approving the short subdivision until the time to appeal has expired. If the decision is appealed, the City shall not issue any permits and the applicant shall not engage in any activity based on the decision until the City administrative appeals process has been exhausted.

(3) Filing deadline and procedures.

(a) The appeal, in the form of a letter of appeal, shall be delivered to the Planning, Building and Public Works Department together with the filing fee as established by the City Manager or the City Manager's designee no later than 10 days following the date of distribution of the Planning, Building and Public Works Director's decision. The appeal shall be in accordance with the applicable provisions of chapter 18.20 DMMC.

(b) Any appeal shall contain:

(i) A clear reference to the short subdivision being appealed; and

(ii) A statement of the specific factual findings or conclusions of the Planning, Building and Public Works Director disputed by the person filing the appeal.

(c) Failure to comply with the provisions of this section shall be grounds for denial of the appeal.

Sec. 38. 17.05.220. Filing final short subdivision documents.

(1) General. The applicant shall submit to the Planning, Building and Public Works Department the final short subdivision documents specified in DMMC 17.40.090 (Required materials - Final short plats, plat alterations, plat vacations, and binding site plans) following:

(a) Issuance of the written decision to approve a short subdivision; and

(b) Expiration of time to appeal or exhaustion of City administrative appeals process; and

(c) Installation of all required improvements or submittal of securities to cover the cost of installation in accordance with DMMC 17.40.140 (Securities).

(2) Signing of Subdivision Documents. The Planning, Building and Public Works Director and public works director shall sign the final short subdivision documents if:

(a) All necessary final short subdivision documents have been signed and acknowledged by all persons holding an ownership interest in the land being subdivided; and

(b) The applicant has complied with all requirements of this section and the Planning, Building and Public Works Director's decision specified in DMMC 17.05.140 (Planning, Building and Public Works Director's decision -

General), 17.05.150 (Planning, Building and Public Works Director's decision - Decisional criteria), 17.05.160 (Planning, Building and Public Works Director's decision - Conditions, restrictions, and modifications), 17.05.170 (Planning, Building and Public Works Director's decision - Dedication), 17.05.180 (Planning, Building and Public Works Director's decision - Contents of decision), and 17.05.190 (Planning, Building and Public Works Director's decision - Distribution of written decision); and

(c) All existing structures or improvements that would be made nonconforming with current City standards or codes by the proposed short subdivision have been demolished or modified to conform.

(3) Filing - Time limits. The applicant shall submit all signed short plat documents, together with required recording fees, to the Planning, Building and Public Works Department for recording with the county auditor. Any short plat not submitted to the Planning, Building and Public Works Department for recording with the county auditor within six months from the date of approval specified in DMMC 17.05.200 (Processing short subdivisions - Time limits) shall be deemed void and any development rights that have vested in the applicant shall be considered abandoned. The Planning, Building and Public Works Department shall transmit all short plat documents to the county auditor and other appropriate county offices within 15 days from the date the applicant submits the short plat for recording.

Chapter 17.10 Subdivisions

Sections:

17.10.010	Title.
17.10.020	Application.
17.10.030	Purpose.
17.10.040	Authority.
17.10.050	General provisions.
17.10.060	Burden of providing documentation.
17.10.070	Subdivision application.

- 17.10.080 Preliminary subdivisions processed simultaneously.
- 17.10.090 Acceptance for filing/vesting.
- 17.10.100 Comments.
- 17.10.110 Staff report.
- 17.10.130 City Council review.
- 17.10.140 Public testimony and participation at public hearings.
- 17.10.150 Continuation of hearing.
- 17.10.160 City Council's decision.
- 17.10.170 Reconsideration period - Final decision unless reconsidered.
- 17.10.180 Reconsideration.
- 17.10.190 Processing preliminary subdivisions - Time limits.
- 17.10.200 Effect of preliminary subdivision approval.
- 17.10.210 Final subdivision filing - Time limits.
- 17.10.220 Contents of final plat.
- 17.10.230 Administrative review of final plats.
- 17.10.240 City Council action.
- 17.10.250 Processing final subdivisions - Time limits.
- 17.10.270 Filing of plat documents.
- 17.10.280 Appeal.

Sec. 39. 17.10.010. Title. This chapter shall be entitled "Subdivisions."

Sec. 40. 17.10.020. Application. This chapter shall apply to all division or redivision of land into ten or more lots for the purpose of sale, lease or transfer of ownership and as more specifically defined herein.

Sec. 41. 17.10.030. Purpose. The purpose of this chapter is to adopt the process and procedures for the administrative approval of short subdivisions in a manner consistent with chapter 58.17 RCW.

Sec. 42. 17.10.040. Authority. This chapter is adopted pursuant to the provisions of chapter 58.17 RCW.

Sec. 43. 17.10.050. General provisions. The provisions of this chapter describe the procedure that the City shall use to review and approve, conditionally approve or deny proposed subdivisions. Chapter 17.35 DMMC contains the

substantive requirements applicable to subdivisions.

Sec. 44. 17.10.060. Burden of providing documentation. The burden of providing all information necessary to satisfy the requirements of this Title shall be upon the applicant requesting the subdivision. The decision of the Planning, Building and Public Works Director as to the sufficiency of information provided by an applicant shall be considered a final decision for the purposes of this chapter.

Sec. 45. 17.10.070. Subdivision application. The owner of the subject property or the authorized agent(s) of the owner may apply for a subdivision by submitting to the Planning, Building and Public Works Department a preliminary subdivision application containing the information specified in DMMC 17.40.050 and 17.40.060.

Sec. 46. 17.10.080. Preliminary subdivisions processed simultaneously. Unless the applicant requests in writing otherwise, a preliminary subdivision application shall be processed simultaneously with applications for variances, planned unit developments, site plan reviews, street vacations, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing as determined by the Planning, Building and Public Works Director.

Sec. 47. 17.10.090. Acceptance for filing/vesting.

(1) An application for a preliminary subdivision shall not be considered as accepted for filing for the purpose of vesting of development rights until:

(a) The planning official verifies that the applicant has fully complied with DMMC 17.10.070; and

(b) The Planning, Building and Public Works Director issues a notice of complete application and the deadline for written comments established in DMMC 17.10.100(2) has expired.

(2) Applications found to contain and be based on material errors shall be deemed withdrawn and subsequent resubmittals shall be treated as a new application and shall require a new application fee.

(3) Applicant-generated requests for revision(s), i.e., those requests which are not made in response to staff review or public appeal, which result in substantial changes to the proposed subdivision, as determined by the Planning, Building and Public Works Director, including but not limited to the creation of additional lots, the elimination of open space, or the alteration of conditions of approval on an approved preliminary plat, shall be treated as a new application as of the date of receipt of the revision by the Planning, Building and Public Works Department and shall require a new application fee.

Sec. 48. 17.10.100. Comments.

(1) Requests for comments. Within 14 days of issuing a notice of complete application in response to a subdivision application, the planning official shall distribute a request for comments in addition to the public notice specified by DMMC 17.40.120. The request for comments shall contain a copy of the proposed subdivision plan, a legal description of the subdivision, and a vicinity map. The request for comments shall be distributed to interested City departments and affected agencies including but not limited to those agencies providing water, sanitary sewer, power, telecommunication, public health, public education, and fire protection service to the proposed subdivision and to the Secretary of the State Department of Transportation if the proposed subdivision is adjacent to any state-owned right-of-way.

(2) Deadline for comments. The planning official shall consider all written comments and information from interested or affected agencies, departments, authorities regarding the proposed preliminary subdivision that are delivered to the Planning, Building and Public Works Department within 15 days of the date of distribution. The planning official may extend the deadline for comments upon request by a department, agency, or authority, if he/she determines that an extension is necessary

to obtain information relevant to the preliminary subdivision application. When a preliminary subdivision involves review under the State Environmental Policy Act and comments are requested from all affected agencies, departments, and authorities during such review, the planning official shall not be required to request additional comments.

(3) Changes required. The planning official shall make available all received comments to the applicant within five days of the comment deadline. Within 15 days of receiving the comments, the applicant may make changes to the proposed preliminary subdivision application in response to received comments. An applicant may submit a written request for time extension, not to exceed 15 days which may be approved by the planning official if it is determined that additional time is warranted, giving consideration to the nature and extent of the required changes. Time spent by the applicant to make changes to the original preliminary subdivision application shall not be counted toward the application processing time limit specified in DMMC 17.10.190.

Sec. 49. 17.10.110. Staff report.

(1) Contents. The planning official shall prepare a staff report containing the following information:

(a) All pertinent application materials;

(b) All comments regarding the matter received by the Planning, Building and Public Works Department prior to distribution of the staff report;

(c) An analysis of the proposed preliminary subdivision in relation to the applicable provisions of this Title, the zoning code, the comprehensive plan, and the City street development standards;

(d) Information demonstrating compliance with the State Environmental Policy Act;

(e) A statement of the facts found by the Planning, Building and Public Works Director and the conclusions drawn from those facts;

(f) A recommendation on the action to be taken on the proposed subdivision;

(g) The minutes of any previous public meeting concerning the proposed preliminary subdivision.

(2) Distribution in general. Not less than three days before the scheduled meeting or hearing, the planning official shall distribute or cause to be distributed the staff report as follows:

(a) To the applicant; and

(b) To each member of the body required to review the proposed preliminary subdivision at a public hearing or meeting.

Sec. 50. 17.10.130. City Council review.

(1) General. Pursuant to chapters 17.10 and 18.20 DMMC, the City Council shall hold a public hearing on each proposed Type IV land use action. No later than the first regular public meeting after receiving the recommendation of the Planning, Building and Public Works Director on the preliminary subdivision, the City Council shall set by motion the date of the hearing.

(2) Notice. The Planning, Building and Public Works Director shall prepare and distribute public notice of the hearing as set forth in DMMC 17.40.120.

(3) Electronic sound recording. The City Council shall make a complete electronic sound recording of each public meeting involving the review of a Type IV land use action.

Sec. 51. 17.10.140. Public testimony and participation at public hearings. Any person may participate in the public hearing in either or both of the following ways:

(1) By submitting written testimony either by delivering this testimony to the Planning, Building and Public Works Department prior to the hearing or by giving it directly to the City Council at the hearing.

(2) By appearing in person, or through a representative, at the hearing and making oral testimony directly to the City Council. The presiding officer may reasonably limit the extent of oral testimony to facilitate the orderly and timely conduct of the hearing.

Sec. 52. 17.10.150. Continuation of hearing. The City Council may continue the hearing if, for any reason:

(1) It is unable to hear all of the public testimony on the matter;

(2) It determines that it needs more information on the matter; or

(3) It directs that the proposed preliminary subdivision be modified.

If, during the hearing, the City Council announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

Sec. 53. 17.10.160. City Council's decision.

(1) General. Following its consideration of the matter, the City Council shall by motion direct administration to return the proposed preliminary subdivision to the applicant for modification or draft a resolution to either:

(a) Approve the preliminary subdivision; or

(b) Approve the preliminary subdivision subject to certain conditions; or

(c) Disapprove the preliminary subdivision.

(2) Decisional criteria. The City Council may approve the proposed preliminary subdivision only if it finds that:

(a) It is consistent with the applicable provisions of the Comprehensive Plan, Zoning Code, Shoreline Master Program, and other City policies and regulations; and

(b) It is consistent with the applicable provisions of chapter 17.35 DMMC (layout and design of subdivisions); and

(c) 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

(d) It will serve the public use and interest and is consistent with the public health, safety, and welfare. The City Council shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended;

(e) The proposed preliminary subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate.

(3) Conditions, restrictions, and modifications. The City Council shall include in its decision any conditions, restrictions, and modifications that are determined as necessary to eliminate or minimize any undesirable effects or impacts that would result from approving the proposed subdivision. Any conditions, restrictions, and modifications that are imposed shall become part of the decision.

(4) Dedication. The City Council may require dedication of tracts, easements, or rights-of-way for utility or other

public purposes. Such dedications shall be clearly shown and described on all documents required by this chapter.

(5) Contents of decision. The City Council shall adopt by resolution:

(a) A statement approving, approving with conditions, or denying the preliminary subdivision; and

(b) Any conditions, restrictions, and modifications that are imposed; and

(c) Findings of fact that support the decision, including any conditions, restrictions, and modifications that are imposed; and

(d) A statement of the criteria used in making the decision; and

(e) A summary of the rights, as established in this chapter, of the applicant and others to request reconsideration of the decision of the City Council.

(6) Distribution of decision. Within five days following the City Council decision, the planning official shall distribute the resolution as follows:

(a) To the applicant; and

(b) To each person who submitted timely written or oral testimony to the City Council for inclusion in the record.

(7) Failure to resubmit. Preliminary subdivision applications returned to the applicant for modification that are not resubmitted to the planning official within 45 days of the date of the City Council public hearing will be, for the purposes of this chapter, considered withdrawn; except that the Planning, Building and Public Works Director may extend the period to resubmit the application for an additional 45 days upon written request by the applicant submitted within the initial 45-day resubmittal period. Time spent by the applicant

to make modifications as directed by the City Council shall not be counted toward application time limits specified in DMMC 17.10.190 (Processing preliminary subdivisions - Time limits).

Sec. 54. 17.10.170. Reconsideration period - Final decision unless reconsidered. The applicant shall not engage in any activity based on the decision approving the preliminary subdivision until the time to request reconsideration has expired. If the request for reconsideration is granted, the applicant shall not engage in any activity based on the decision approving the application until the City issues a final decision on the matter. If the decision of the City Council is not timely reconsidered, that decision shall be the final decision of the City. Distribution of the decision in resolution form under DMMC 17.10.160(6) (City Council decision) and as required by chapter 18.20 DMMC (Development Review Procedures) shall constitute notice of final decision.

Sec. 55. 17.10.180. Reconsideration.

(1) Who may request reconsideration. A request to reconsider the decision or action of the City Council connected with the subdivision application, other than a motion to reconsider brought under City Council rules of procedure, may be made by:

(a) The applicant; or

(b) Any person who submitted timely written or oral testimony to the City Council for inclusion in the record.

(2) How to request reconsideration. The request for reconsideration, in the form of a letter, shall be delivered to the Planning, Building and Public Works Department within 10 days following the day of the City Council's decision. The request shall contain:

(a) A clear reference to the preliminary subdivision to be reconsidered; and

(b) A statement of the specific factual findings or conclusions of the City Council disputed by the person filing the request for reconsideration.

(3) Criteria. The City Council shall reconsider a decision if it is determined that:

(a) An error of fact, law, or procedure that is more likely than not to affect the outcome of the decision has been made; or

(b) The person requesting reconsideration is seeking to enter previously unavailable information that is more likely than not to affect the outcome of the decision.

(4) Rules. Except as provided in this chapter, requests for reconsideration shall otherwise be processed in conformance with chapter 4.12 DMMC (City Council - Rules of Procedure).

(5) Notice of decision. If the City Council, under the rules of reconsideration specified in this section, reconsiders an application for a preliminary subdivision and adopts a resolution which results in a change in the original City Council decision specified in DMMC 17.10.160 (City Council's decision), the planning official shall within five days of the decision prepare a notice of decision and distribute it to:

(a) The applicant;

(b) Each person who submitted timely written or oral testimony for inclusion in the record.

Sec. 55. 17.10.190 Processing preliminary subdivisions - Time limits. Applications for any proposed subdivision and dedication shall be approved, approved with conditions, disapproved, or returned to the applicant for modification within 90 days from the date the application satisfies all of the requirements specified by DMMC 17.10.090 (Acceptance for filing/vesting), unless the applicant consents in writing to an extension of such time period.

Sec. 56. 17.10.200. Effect of preliminary subdivision approval.

(1) General. The approval of a preliminary subdivision by the City constitutes approval of the general concept and layout of the plat as approved. Preliminary subdivision approval does not signify acceptance of all engineering details of the plat. These engineering details remain subject to approval by the public works director.

(2) Construction of certain improvements. The applicant shall submit detailed design documents for all required right-of-way, easement, utility, or other improvements to the Planning, Building and Public Works Department. These documents shall be reviewed and approved by the Public Works Director and planning official. Following such approval, the City may issue the necessary permits to construct the improvements.

(3) Deviations from the preliminary plat. The City shall not authorize improvements to be constructed, unless the improvements are consistent with the plat concept and layout of the preliminary subdivision approved by the City Council. In making such a determination, the public works director and planning official shall utilize the criteria for minor deviations set forth in DMMC 17.10.240(2). If consistency with the criteria is not clear, the public works director or planning official shall request a determination from the City Council.

Sec. 57. 17.10.210 Final subdivision filing - Time limits.

(1) General. The applicant shall submit a final plat to the Planning, Building and Public Works Department, meeting the requirements of this Title and the preliminary subdivision approval, together with required recording fees, within the time period set forth in RCW 58.17.140 following the date the preliminary subdivision was approved or the preliminary subdivision approval shall be deemed void and any development rights that have vested in the applicant shall be considered abandoned.

(2) Extension. The applicant may file a request to extend the preliminary subdivision approval for up to one year. The request must be delivered in writing to the Planning, Building and Public Works Department at least 30 days prior to expiration of the five-year period. The Planning, Building and Public Works Department shall forward the request to the City Council within 30 days of receipt. The City Council shall grant approval of the extension if it is shown that the applicant has attempted in good faith to submit the final plat within the five-year period. If the final plat has not been submitted to the City Council within any extended period the preliminary subdivision approval shall terminate in accordance with subsection (1) of this section.

Sec. 58. 17.10.220. Contents of final plat. Final plats submitted to the City for consideration shall contain the information specified in DMMC 17.40.090.

Sec. 59. 17.10.230. Administrative review of final plats. Upon receipt of a final plat and all required information, it shall be reviewed by the public works director and the Planning, Building and Public Works Director. The Planning, Building and Public Works Director shall prepare a report, including an appropriate recommendation and motion to the City Council. This report and the final plat shall be transmitted to the City Council.

Sec. 60. 17.10.240. City Council action.

(1) General. The City Council shall, at a public meeting, consider the final plat and by majority vote of a quorum of its entire membership, pass a resolution approving the final plat, and finding that:

(a) The plat is consistent with the approved preliminary subdivision, except for minor deviations under subsection (2) of this section.

(b) The plat is consistent with the provisions of this Title and chapter 58.17 RCW, as presently constituted or as may be subsequently amended.

(c) All required improvements are installed or securities to cover the cost of installation are submitted in accordance with DMMC 17.40.140.

(2) Minor deviations. The City Council may approve a final plat that is different from the preliminary subdivision if any change:

(a) Is necessary because information provided in the survey for final plat was not available and reasonably could not have been provided during consideration of the preliminary subdivision; and

(b) Does not increase the number of lots; and

(c) Complies with the provisions of chapter 17.35 DMMC; and

(d) Does not substantially change the location or nature of any improvements or any other element of the subdivision; and

(e) In no way significantly alters the subdivision.

Final plats with changes that do not meet the criteria for minor deviations shall be processed as new preliminary subdivisions and shall require a new application fee.

Sec. 61. 17.10.250. Processing final subdivisions - Time limits. Applications for any proposed final subdivision shall be approved, approved with conditions, disapproved, or returned to the applicant for modification or correction within 30 days following the date of filing the final plat documents specified in DMMC 17.40.090, unless the applicant consents in writing to an extension of such time period.

Sec. 62. 17.10.270. Filing of plat documents.

(1) General. Following approval of a final plat by City Council the Mayor shall sign the plat signifying approval by the City.

(2) Recording - Time limits. Within 15 days from the date the plat documents are signed by the Mayor, the planning official shall transmit the documents to the county auditor and any other appropriate county offices for recording.

(3) Dedication. The signature of the Mayor on the plat documents shall constitute acceptance of all dedications shown on the plat by the City.

Sec. 63. 17.10.280. Appeal.

(1) Preliminary determinations regarding subdivisions as governed by this chapter are Type IV decisions. The process for appeals is outlined in DMMC 18.20.190.

(2) Final determinations regarding subdivisions as governed by this chapter are Type V decisions. The process for appeals is outlined in DMMC 18.20.200.

**Chapter 17.15
Modified Subdivisions and Short Subdivisions**

Sections:

17.15.010	Title.
17.15.020	Application.
17.15.030	Purpose.
17.15.040	Authority.
17.15.050	Requirements - Generally.
17.15.060	Procedure.
17.15.070	Approval criteria.
17.15.080	Contents of decision.
17.15.090	Limitations shown on subdivision or short subdivision.

Sec. 64. 17.15.010. Title. This chapter shall be entitled "Modified Subdivisions and Short Subdivisions."

Sec. 65. 17.15.020. Application. This chapter shall apply to subdivision applications not in compliance with one or more of the requirements identified in chapter 17.10 DMMC.

Sec. 66. 17.15.030. Purpose. The purpose of this chapter is to provide an alternative process for approval of plats where minor modifications are justified and the provisions of chapter 58.17 RCW are met.

Sec. 67. 17.15.040. Authority. This chapter is adopted pursuant to the provisions of chapter 58.17 RCW.

Sec. 68. 17.15.050. Requirements - Generally. The provisions of this chapter establish a mechanism whereby an applicant may propose and the City may consider and approve an innovative or unusual subdivision or short subdivision that does not comply with one or more of the requirements specified in chapter 17.35 DMMC.

Sec. 69. 17.15.060. Procedure. Requests for modified subdivisions and short subdivisions shall be processed and decided upon as specified in chapters 17.10 and 17.05 DMMC, (Subdivisions and Short Subdivisions), respectively; except that the following additional requirements shall apply:

(1) Public notice shall be expanded to include a description of which aspects of the proposed modified subdivision/short subdivision are requested to deviate from City standards.

(2) The applicant shall submit as part of the required application materials a written narrative entitled "Modified Subdivision/Short Subdivision Design Justification" which states why proposed deviations from City standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions/short subdivisions, are incorporated into the proposal to offset the need for such standards.

(3) Within 21 days of the date of the decision to approve, approve with conditions, or disapprove a short subdivision, the planning official shall provide notice of the decision, written findings, and other relevant materials to the City Council at a regularly scheduled public meeting. The City Council shall by motion decide whether to concur with the Planning, Building and Public Works Director's decision or review the matter further at a future meeting. The decision to approve, approve with conditions, or disapprove an application for modified short subdivision shall not be considered final until City Council action on the matter is complete.

Sec. 70. 17.15.070. Approval criteria. The City may approve a proposed modified subdivision or short subdivision under this chapter only if it finds that all of the following criteria are met:

(1) It is consistent with the intent of the comprehensive plan, zoning code, and shoreline master program; and

(2) All lots within a subdivision meet the lot area and lot width requirements for the zone classification assigned to the property proposed to be subdivided; and

(3) Except for those requirements specifically requested by the applicant to be modified, it is consistent with the applicable provisions of chapter 17.35 DMMC; and

(4) 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

(5) It serves the public use and interest and is consistent with the public health, safety, and welfare. The City Council shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW, as presently constituted or as may be subsequently amended; and

(6) The proposed modified subdivision/short subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate; and

(7) The applicant has demonstrated that the proposal includes design features or improvements which are beneficial to the public, typically not found in traditional subdivision proposals, and equivalent in scale or value to the improvements or requirements from which the proposal deviates; and

(8) In subdivisions containing tracts for wetlands, streams, or required buffers, as required by DMMC 17.35.190, the minimum lot size established by Title 18 DMMC for the zone classification assigned to the property proposed to be subdivided may be reduced, provided:

(a) The number of lots within the subdivision shall be no more than allowed by Title 18 DMMC under the provisions for limited density transfer for environmentally critical areas; and

(b) Adequate recreation area shall be provided on each lot or by establishing a separate recreation tract in addition to that required by DMMC 17.35.180.

Sec. 71. 17.15.080. Contents of decision. The written decision shall include:

(1) A statement approving, approving with conditions, or disapproving the short subdivision; and

(2) Any conditions, restrictions, and modifications that are imposed; and

(3) Findings of fact that support the decision, including any conditions, restrictions, and modifications that are imposed; and

(4) A statement of the criteria used in making the decision; and

(5) A summary of the rights, as established in this chapter, of the applicant and others to appeal the decision.

Sec. 72. 17.15.090. Limitations shown on subdivision or short subdivision. If a modification is granted under this chapter, the recorded subdivision or short subdivision must clearly reflect that each lot and tract in the subdivision or short subdivision must be used, developed, or maintained consistent with the entire approved subdivision or short subdivision. Any proposed change to the use, development, or existence of any of the lots or tracts in the subdivision or short subdivision shall not be approved unless the entire subdivision or short subdivision is subject to City review and modification.

Chapter 17.20 Alteration and Vacation of Plats

Sections:

17.20.010 Title.
17.20.020 Application.
17.20.030 Purpose.
17.20.040 Authority.
17.20.050 Alteration and vacation of subdivisions, short subdivisions, and binding site plan applications.
17.20.060 Filing final alterations and vacations.

Sec. 73. 17.20.010 Title. This chapter shall be entitled "Alteration and Vacation of Plats."

Sec. 74. 17.20.020. Application. This chapter shall apply to all requests to alter or vacate subdivisions, short subdivisions or binding site plans.

Sec. 75. 17.20.030. Purpose. The purpose of this chapter is to provide for the process and procedure to be followed when subdivisions and short subdivisions of building site plans are altered or vacated.

Sec. 76. 17.20.040. Authority. This chapter is adopted pursuant to the provisions of RCW 58.17.212-.218.

Sec. 77. 17.20.050. Alteration and vacation of subdivisions, short subdivisions, and binding site plan applications.

(1) The following actions shall be applied for, reviewed and acted upon in the same manner as an application for a subdivision as set forth in chapter 17.10 DMMC except as specifically set forth below:

(a) Alteration or vacation of subdivisions; and

(b) Alteration or vacation of short subdivisions and binding site plans involving a public dedication; and

(c) Alteration or vacation of binding site plans involving more than four lots and not involving a public dedication.

(2) The following actions shall be applied for, reviewed and acted upon in the same manner as is applicable for a short subdivision as set forth in chapter 17.05 DMMC except as specifically set forth below:

(a) Alteration or vacation of short subdivisions which do not involve a public dedication; and

(b) Binding site plans involving four or fewer lots and not involving a public dedication.

(3) Except as provided in RCW 58.17.040(6), the owner of the subject property or the authorized agent(s) of the owner may apply for alteration or vacation of a subdivision, short subdivision, or binding site plan by submitting to the Planning, Building and Public Works Department the information specified in DMMC 17.05.050, 17.40.060, and 17.40.080.

(4) When a vacation application is specifically for a City street, the procedures for street vacation found in chapter

35.79 RCW, as presently constituted or as may be subsequently amended, and chapter 12.10 DMMC shall be utilized for the street vacation. When the application is for the vacation of the subdivision, together with the streets, the procedure for vacation described in this chapter shall be used; provided, that street vacations that are prohibited under RCW 35.79.035 shall not be made.

(5) The Planning, Building and Public Works Director may limit the scope or portion of the subdivision, short subdivision, or binding site plan for which an alteration or vacation document is required to be recorded. This may be limited to that portion that is to be altered or vacated and any related matters.

Sec. 78. 17.20.060 Filing final alterations and vacations.

(1) Final alteration or vacation documents. Final alterations or vacations of subdivisions, short subdivisions, or binding site plans submitted to the City for consideration shall contain the information specified in DMMC 17.40.090.

(2) Time limits to file final alteration and vacations.

(a) General. The applicant shall submit to the Planning, Building and Public Works Department the final alteration or vacation, meeting the requirements of this Title and any conditions of approval, within six months following the date the alteration or vacation was approved or the alteration or vacation approval shall be considered void, and any development rights which have vested in the applicant shall be considered abandoned.

(b) Extension. The applicant may file a request to extend the alteration or vacation approval for up to six months. The request shall be delivered in writing to the Planning, Building and Public Works Department not less than 30 calendar days prior to expiration of the initial six-month period. The Planning, Building and Public Works Director shall grant the extension only upon a showing that the applicant has attempted in good faith to submit the alteration or vacation

within the six-month period. If the alteration or vacation is not submitted to the Planning, Building and Public Works Department before the expiration of any granted extension it shall be considered void, and any development rights which have vested in the applicant shall be considered abandoned.

Chapter 17.25
Lot Line Adjustment

Sections:

17.25.010 Title.
17.25.020 Application.
17.25.030 Purpose.
17.25.040 Authority.
17.25.050 Scope.
17.25.060 Administrative review.
17.25.070 Filing for recording.
17.25.080 Appeal.

Sec. 79. 17.25.010. Title. This chapter shall be entitled "Lot Line Adjustment."

Sec. 80. 17.25.020. Application. This chapter shall apply to all adjustments of existing lot lines wherein an additional lot or lots are not created.

Sec. 81. 17.25.030. Purpose. The purpose of this chapter is to identify the criteria, process and procedures to adjust certain lot lines as contemplated by this chapter.

Sec. 82. 17.25.040. Authority. This chapter is adopted pursuant to the provisions of chapter 58.17 RCW and other applicable laws.

Sec. 83. 17.25.050. Scope.

(1) The boundary lines separating two to four parcels of record may be adjusted under the provisions of this chapter; provided, that such adjustment:

(a) Will not result in the creation of any additional lot, tract, or parcel; and

(b) Will not create any lot, tract, or parcel which contains insufficient area and dimensions to meet the requirements of the zoning code; and

(c) Will not adversely affect access, easements, environmentally critical areas, or drain fields; and

(d) Will be consistent with any applicable health, building, or similar regulations; and

(e) Will not increase the nonconforming aspects of an existing nonconforming lot.

(2) The boundary lines of multiple lots that constitute a single "building site," as defined in DMMC 18.01.050 may be adjusted under the provisions of this chapter to consolidate the multiple lots into one single lot when the "development activity," as defined in DMMC 18.01.050, on the building site is subject only to administrative review and approval; and provided, that such adjustment:

(a) Will not result in the creation of any additional lot, tract, or parcel; and

(b) Will not create any lot, tract, or parcel which contains insufficient area and dimensions to meet the requirements of the zoning code; and

(c) Will not adversely affect access, easements, environmentally critical areas, or drain fields; and

(d) Will be consistent with any applicable health, building, or similar regulations; and

(e) Will not increase the nonconforming aspects of an existing nonconforming lot.

Sec. 84. 17.25.060. Administrative review.

(1) The owner of the subject property or the authorized agent(s) of the owner may apply for a lot line adjustment by submitting to the Planning, Building and Public Works Department all of the information specified in DMMC 17.40.110 (Application materials - Lot line adjustments).

(2) Within 14 days of issuing a notice of complete application in response to a lot line adjustment application, the planning official shall distribute a notice of application and request for comments. The request for comments shall contain a copy of the proposed lot line adjustment plan. The notice of application and request for comments shall be distributed to interested departments and affected agencies including, but not limited to, the public works director and fire department. The planning official shall consider all comments and information regarding the proposed lot line adjustment that are delivered to the Planning, Building and Public Works Department within 15 days of the date of distribution. The planning official may extend the deadline for comments if he/she determines that an extension is necessary to obtain information relevant to the application.

(3) Within 30 days of the date of the notice of complete application, the Planning, Building and Public Works Director shall approve, disapprove, or return to the applicant for modifications the requested lot line adjustment. In making a decision, the director shall make appropriate findings of fact in writing. Following a decision, the planning official shall issue a notice of decision.

(4) If an application for a lot line adjustment is disapproved by the Planning, Building and Public Works Director, the applicant may appeal such disapproval to the hearing examiner. Any such appeal shall be brought within 10 days of such disapproval and in accordance with the Hearing Examiner Code.

Sec. 85. 17.25.070 Filing for recording.

(1) The applicant shall submit to the Planning, Building and Public Works Department, together with required recording fees, a final lot line adjustment plan meeting the requirements of this Title and the lot line adjustment approval. The submittal shall occur within 120 days following the date the lot line adjustment is approved or the lot line adjustment approval shall be deemed void and any development rights that have vested in the applicant shall be considered abandoned.

(2) The final lot line adjustment plan shall be prepared by a registered land surveyor, and shall be drawn on a standard 18-by-24-inch mylar at a scale of one inch equals 50 feet unless otherwise approved by the planning official. The final lot line adjustment plan shall contain language that property deeds consistent with the lot line adjustment shall be recorded with the county auditor within 270 days of the date the lot line adjustment is recorded or the lot line adjustment shall be null and void.

(3) The lot corners shall be set on the applicant's property by a registered land surveyor using appropriate permanent materials.

(4) If the lot line adjustment plan complies with the approved lot line adjustment and all requirements of this Title, the Planning, Building and Public Works Director shall sign the approved lot line adjustment plan.

(5) Within 15 days of the date the applicant submits a final lot line adjustment plan, the planning official shall transmit the approved lot line adjustment for recording with the county auditor.

Sec. 86. 17.25.080. Appeal. A decision made pursuant to this chapter is a Type I decision. An appeal of such decision shall be as set forth in DMMC 18.20.150 - .160.

**Chapter 17.30
Binding Site Plans**

Sections:

17.30.010 Title.
17.30.020 Application.
17.30.030 Purpose.
17.30.040 Authority.
17.30.050 Review procedures.
17.30.060 Approval criteria.
17.30.070 Final binding site plan.
17.30.080 Certificate of segregation.
17.30.090 Appeal.

Sec. 87. 17.30.010. Title. This chapter shall be entitled "Binding Site Plans."

Sec. 88. 17.30.020. Application. The following may be processed as binding site plans under the provisions of this chapter:

(1) A division of land for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land; or

(2) A division of land into lots or tracts located within nonresidential zones as defined on the zoning map and its accompanying code; or

(3) A division of land into lots or tracts if the improvements constructed or to be constructed thereon will be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest.

Sec. 89. 17.30.030. Purpose. The purpose of this chapter is to provide for the approval of such divisions as an alternative to the procedures established for subdivisions and short subdivisions.

Sec. 90. 17.30.040. Authority. This chapter is adopted pursuant to the provisions of RCW 58.17.035 and RCW 58.17.040(4), (5) and (7) and other applicable laws.

Sec. 91. 17.30.050. Review procedures.

(1) The owner of the subject property or the authorized agent(s) of the owner may apply for a binding site plan by submitting to the Planning, Building and Public Works Department the information specified in DMMC 17.40.050, 17.40.060, and 17.40.070.

(2) An application for a binding site plan creating four or fewer lots shall be reviewed and acted upon in accordance with the applicable provisions of chapter 17.05 DMMC. An application for a binding site plan creating more than four lots shall be reviewed and acted upon in accordance with the applicable provisions of chapter 17.10 DMMC.

Sec. 92. 17.30.060. Approval criteria. A binding site plan shall be approved only if:

(1) It is consistent with the applicable provisions of the comprehensive plan, zoning code, shoreline master program, and other City policies and regulations.

(2) 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

(3) It will serve the public use and interest and is consistent with the public health, safety, and welfare; and

(4) It provides for coordinated future development of lots within the subject property and with adjoining properties or future development of adjoining properties including but not limited to shared access where appropriate.

Sec. 93. 17.30.070. Final binding site plan. Prior to approval of the final binding site plan, it shall be revised to accurately reflect all required improvements and conditions of preliminary approval, the final binding site plan shall include all applicable inscriptions deemed necessary, setting forth such appropriate limitations and conditions for the use of the land and shall include a statement that requires future development be in conformity with the plan.

Sec. 94. 17.30.080. Certificate of segregation.

(1) Prior to issuance of any building permit for construction within an approved binding site plan, that portion of the plan for which the building permit is requested shall be legally described and receive a certificate of segregation from the Planning, Building and Public Works Department. Such certificate shall insure the segregation and construction complements the approved binding site plan.

(2) Prior to the issuance of any building permit for construction within a binding site plan, all improvements required to adequately service that portion of the plan for which the building permit will be issued shall be installed, inspected, and accepted by the City, or in the alternative, a performance security has been deposited with the City in accordance with DMMC 17.40.140.

Sec. 95. 17.30.090. Appeal. The appeal of decisions concerning binding site plans shall be in accordance with the applicable chapter identified in DMMC 17.30.050(2).

Chapter 17.35

Layout and Design of Subdivisions and Similar Requirements

Sections:

17.35.010 Title.

- 17.35.020 Application.
- 17.35.030 Purpose.
- 17.35.040 Authority.
- 17.35.050 Lot standards.
- 17.35.060 General layout.
- 17.35.070 Access - General.
- 17.35.080 Access - Rights-of-way.
- 17.35.090 Access - Private streets within vehicular access tracts.
- 17.35.100 Access - Pedestrian ways.
- 17.35.110 Utilities and related improvements - General.
- 17.35.120 Utilities and related improvements - Water system.
- 17.35.130 Utilities and related improvements - Surface water.
- 17.35.140 Utilities and related improvements - Sanitary sewer.
- 17.35.150 Utilities and related improvements - Undergrounding.
- 17.35.160 Utilities and related improvements - Easements.
- 17.35.170 Provision for public and semipublic lands.
- 17.35.180 Parks.
- 17.35.190 Natural features - General.
- 17.35.200 Natural features - Land adjacent to Puget Sound.
- 17.35.210 Natural features - Significant vegetation.
- 17.35.230 Subdivision names.

Sec. 96. 17.35.010. Title. This chapter shall be entitled "Layout and Design of Subdivisions and Similar Requirements."

Sec. 97. 17.35.020. Application. The provisions of this chapter apply to each subdivision, short subdivision, subdivision alteration, subdivision vacation and, to the extent possible, each binding site plan, modified subdivision, and modified short subdivision within the City. For the purposes of this chapter, the term "subdivision" also includes "short subdivision," "subdivision alteration," "subdivision vacation," "binding site plan," and "modified subdivision." The provisions of this chapter shall also apply to any subdivisions approved in conjunction with a planned unit development (PUD) pursuant to Title 18 DMMC, unless the provisions are specifically varied by the PUD.

Sec. 98. 17.35.030. Purpose. The purpose of this chapter is to identify layout and design standards for the actions set forth in DMMC 17.35.020 above.

Sec. 99. 17.35.040. Authority. This chapter is adopted pursuant to the provisions of chapter 5817 RCW and other applicable laws.

Sec. 100. 17.35.050. Lot standards.

(1) General. All lots within a subdivision shall meet the minimum size and dimension requirements of Title 18 DMMC for the zone classification assigned to the property proposed to be subdivided.

(2) Configuration. Lots shall be shaped so that reasonable use and development is possible. Where topography, natural features, and the existing development pattern permit, the depth of lots less than 15,000 square feet in area shall be at least equal to, but not more than twice the width of the lot.

(3) Orientation. Where topography, natural features, and the existing development pattern permit, side lot lines generally shall be at right angles to the street upon which the lot faces, except that on curved streets they shall be at a right angle to the tangent of the curve.

(4) Frontage. Every lot shall have a minimum of 20 feet of frontage on a street that is fully improved and approved by the City.

(5) Corner lots. All corner lots shall be five feet wider than the minimum lot width required by the underlying zone.

(6) Odd lots. Subdivisions having lots with an irregular shape and unable to be classified under Title 18 DMMC shall show setback lines for such lots and provide covenants requiring such setbacks with recording of the final plat.

Sec. 101. 17.35.060 General layout.

(1) General. The subdivision shall be designed to allow for reasonable subdivision and use of adjoining properties, including, but not limited to considerations related to surface water management, all utilities, and pedestrian and vehicular access. While the subdivision should generally conform to the City's grid pattern and street plan, innovative layouts will be considered based on the general requirements of this chapter.

(2) Maximum length. Where topography, natural features, and the existing development pattern permit, blocks shall not exceed 500 feet in length. Blocks that are more than 750 feet in length should allow for midblock pedestrian ways pursuant to DMMC 17.35.100.

(3) Project integration. All proposed subdivisions shall be designed to provide pedestrian and vehicular connections to adjoining developed or vacant properties when such connections will result in improved access or planned access and be in the public interest.

Sec. 102. 17.35.070 Access - General.

(1) All lots shall have direct legal access to either a right-of-way or a private street within a vehicular access tract meeting the requirements of this chapter. Access shall be to a right-of-way unless extension of a right-of-way to a lot is constrained by topography, or the existing development pattern. The City shall determine whether access will be by right-of-way or vehicular access tract on a case-by-case basis; provided, that in no instance shall a vehicular access tract serve more than four lots.

(2) An owned vehicular access having a minimum width of 20 feet shall be permitted to serve one lot only (e.g., panhandle or flag lot). The area of the vehicular access strip shall not be included in the computation of lot area.

(3) No lot shall have an easement across another lot for vehicular access.

(4) Access to lots which abut two or more rights-of-way or vehicular access tracts shall be established on a case-by-case basis. Generally, lots shall obtain access from the right-of-way having the least amount of through traffic.

Sec. 103. 17.35.080. Access - Rights-of-way.

(1) General. All rights-of-way within and abutting the subdivision shall be improved in accordance with the standards set forth in chapter 12.15 DMMC.

(2) Designation of rights-of-way. If a new right-of-way is proposed within a subdivision, the Planning, Building and Public Works Director shall classify the right-of-way based on the projections for that right-of-way using the right-of-way definitions established in "City of Des Moines Street Development Standards" as adopted by chapter 12.15 DMMC.

(3) Dedication. The City may require the dedication of rights-of-way to serve adjacent properties in order to provide a safe and efficient circulation system within the City.

(4) Construction of street system improvements on rights-of-way abutting the subdivision and off-site from the subdivision. Such street system improvements as are defined in Title 12 DMMC shall be constructed on rights-of-way abutting the subdivision and off-site from the subdivision as directed by the City Council in the course of discretionary review of the subdivision. The subdivision applicant required to construct off-site street system improvements are entitled to reimbursement as provided in Title 12 DMMC.

(5) Modifications. The applicant may request and the Public Works Director may grant a modification of the right-of-way improvements defined in the current Street Development Standards for subdivisions that do not yield more than two lots based upon the following criteria:

(a) The subdivision contains less than 100 lineal feet of street frontage and would not match existing improvements; or

(b) The subdivision does not front on a street identified in the Priority Pedestrian Network in the current Comprehensive Transportation Plan and would not match existing improvements; or

(c) The subdivision does not front on a street identified in the Priority Pedestrian Network in the current Comprehensive Transportation Plan and unusual topographic or physical conditions preclude the construction of the improvements as required.

Sec. 104. 17.35.090. Access - Private streets within vehicular access tracts.

(1) General. If vehicular access within the subdivision will be provided by means other than rights-of-way, the subdivision shall establish tracts which provide the legal right of access to each of the lots served and establish joint maintenance responsibilities. The City may require that the legal right of access be granted to other adjoining properties in order to provide a safe and efficient circulation system within the City. The ownership of vehicular access tracts is shared by owners of all lots having the right to access through the tracts.

(2) Private streets. All private streets within the subdivision shall be improved in accordance with the standards set forth in chapter 12.15 DMMC.

(3) Other improvements. The City may require additional or other requirements for private streets within vehicular access tracts, if necessary to address unusual circumstances.

(4) Lot area. The area of vehicular access tracts shall not be included in the computation of lot area for any lot.

Sec. 105. 17.35.100. Access - Pedestrian ways. The City may require the installation of pedestrian ways within dedicated rights-of-way or tracts in any of the following circumstances:

(1) If a pedestrian way is indicated as appropriate in the comprehensive plan.

(2) If the pedestrian way is reasonably necessary to provide efficient pedestrian access to a school, park, business district, or transit stop or to integrate pedestrian travel throughout the neighborhood.

(3) To provide a midblock connection between parallel streets where the total length of a block is 750 feet or more.

Sec. 106. 17.35.110. Utilities and related improvements - General. All utility system improvements shall be designed and installed in accordance with all standards of the applicable serving utility.

Sec. 107. 17.35.120. Utilities and related improvements - Water system. The subdivision shall be served by a system which provides potable water service to each lot created. The system shall provide adequate fire flow, as specified by the fire marshal, and all firefighting infrastructure and appurtenances required by City codes.

Sec. 108. 17.35.130. Utilities and related improvements - Surface water.

(1) General. The subdivision shall be served by a permanent surface water control system designed to accommodate runoff from all land within the subdivision and convey any runoff which passes through the subdivision in accordance with the surface water management program requirements of Titles 11 and 18 DMMC.

(2) Tracts required. All surface water detention and above-ground conveyance improvements shall be located in separate tracts which provide for surface water functions. The area dedicated under this section shall become the property of

the City, which shall thereafter assume all maintenance and other ownership responsibilities.

(3) Lot area. The area of surface water tracts shall not be included in the compilation of lot area for any lot.

Sec. 109. 17.35.140. Utilities and related improvements - Sanitary sewer. The subdivision shall have a sanitary sewer system to serve each lot.

Sec. 110. 17.35.150. Utilities and related improvements - Undergrounding.

(1) Underground installation required. All electrical and communication systems shall be installed underground in all subdivisions. Existing above-ground electrical and communication systems located in all rights-of-way adjoining the proposed subdivision and extending from the subdivision to the nearest utility pole also shall be undergrounded unless:

(a) The systems are located within the one-half of the right-of-way which does not abut the subdivision; or

(b) The existing above-ground system cannot be undergrounded without either adding a new utility pole or undergrounding systems on private property not within the subdivision. When existing above-ground utility systems are not required to be undergrounded, conduit shall be installed within the abutting right-of-way in accordance with utility standards, as necessary to preclude excavation within the right-of-way at such time as undergrounding is feasible.

(2) Exceptions. The following electrical and communication systems shall not be required to be installed underground:

(a) Electrical utility substations, pad-mounted transformers and switching facilities not located on the public right-of-way and where site screening is or will be provided in accordance with design review standards;

(b) Electrical transmission systems of a voltage of 110 kilovolts or more;

(c) Street lighting standards;

(d) Telephone pedestals, cross-connect terminals, repeaters, and cable warning signs;

(e) Municipal equipment, including but not limited to, traffic control equipment and police and fire sirens;

(f) Temporary services for construction.

(3) Costs. The cost of undergrounding all electrical and communication systems in excess of any costs paid by the serving utility shall be the sole responsibility of the applicant.

Sec. 111. 17.35.160. Utilities and related improvements - Easements. Utility lines not located within rights-of-way or vehicular access tracts shall be within easements. All easements shall meet the standards of the serving utilities; provided, that easements for sewer, surface water, and water lines shall have a width of at least 20 feet.

Sec. 112. 17.35.170. Provision for public and semipublic lands. The City may require dedication of land, for school sites, parks and open space, utilities infrastructure, or other similar public or semipublic uses of land if such dedication is reasonably necessary as a result of the subdivision.

Sec. 113. 17.35.180. Parks.

(1) General obligation. Proposed residential subdivisions shall either provide a minimum of 778 square feet of park area per lot consistent with the requirements of subsections (2) through (4) of this section or make an in-lieu fee payment consistent with the requirements of subsection (5) of this section in order to comply with the level of service standard of six and one-half acres of park land per 1,000

population established in the City of Des Moines 2010 Parks, Recreation and Senior Services Master Plan, Section 2.3.

(2) Criteria for city acceptance of a mini-park. Applicants proposing to develop a mini-park in order to fulfill the general obligation to provide appropriate provisions for parks and playgrounds as established in subsection (1) of this section shall comply with the following criteria:

(a) Use/Description. The proposed mini-park shall be designed and improved as play space for toddlers and young children to serve the basic needs of the neighborhood.

(b) The amenities within the mini-park shall include sand play areas, play apparatus, play equipment, picnic area, sports courts, and sanitation accommodations.

(c) Size. The proposed mini-park shall be a minimum of one-half acre.

(3) Tracts required. Recreational areas shall be located in a separate tract which shall be deeded to the City.

(4) Lot area. The area of the mini-park tract shall not be included in the compilation of lot area for any lot.

(5) Payment in lieu of mini-park development. If the land proposed to be developed as a mini-park does not meet the criteria established in subsection (2) of this section, then the applicant shall make an in-lieu cash payment to the City which shall be deposited into the City's MCI fund. The in-lieu amount shall be based on the following formula:

Total number of existing residential units equals
(=) W

Total number of lots within the subdivision equals
(=) X

Total site area of the proposed subdivision equals
(=) Y

Total appraised value of all property within the proposed subdivision as determined by the King County assessor's website at the time of approval of the final plat documents equals (=) Z

In-lieu fee equals (=) Z multiplied by (((X-W) multiplied by 778 square feet)) divided by Y).

Sec. 114. 17.35.190. Natural features - General.

(1) General. The proposed subdivision shall demonstrate sensitivity to the natural features of the property including, but not limited to, topography, streams, lakes, wetlands, habitat, geologic features, and vegetation. Any division of land shall be designed to preserve and enhance as many of these valuable features as possible. In addition to the specific provisions of this chapter, the subdivision shall comply with all applicable provisions of Title 18 DMMC and other specific requirements regarding development restrictions due to natural features.

(2) Tracts required. All wetlands, streams, and required buffers, pursuant to chapter 16.20 DMMC, shall be located in separate tracts which limit development activity. The area dedicated under this section shall become the property of the City, which shall thereafter assume all maintenance and other ownership responsibilities.

(3) Lot area. The area of the open space tracts shall not be included in the computation of lot area for any lot area.

Sec. 115. 17.35.200. Natural features - Land adjacent to Puget Sound. Subdivisions adjacent to Puget Sound shall comply with the provisions of the Des Moines shoreline master program (chapter 16.20 DMMC) regarding open space and public access.

Sec. 116. 17.35.210. Natural features - Significant vegetation.

(1) Buffers. Significant trees or other natural vegetation located along the boundary of a subdivision shall be

retained if the City determines that retention will provide beneficial buffering for or from abutting properties or rights-of-way. Vegetation which is retained shall be protected by establishing open space easements or tracts.

(2) Rights-of-way and tracts. Following preliminary subdivision approval, the applicant shall be allowed, pursuant to the provisions of Title 14 DMMC, to clear all vegetation which the Planning, Building and Public Works Director determines is necessary to install required improvements within rights-of-way and access or utility tracts shown on the approved preliminary subdivision.

(3) Lots. Removal of vegetation in the remainder of the subdivision shall occur on a lot-by-lot basis. No vegetation removal shall occur on any lot until and unless a complete building permit application has been submitted and a land grading, clearing, and filling permit has been issued for that lot in compliance with chapter 14.20 DMMC. On each lot, all significant trees as defined in DMMC 17.01.050, shall be retained except:

(a) Those trees which are located in areas where structures or improvements are proposed or areas which, in the judgment of the planning official, must be cleared to allow construction of proposed structures or improvements; and

(b) Those trees which, in the judgment of the planning official would constitute a danger to public safety; and

(c) No more than one tree for each 2,400 square feet of lot area shall be required to be preserved on any lot. On lots which contain more than three significant trees, the planning official shall indicate which of the trees shall be retained. In making this decision, the planning official shall give preference to retaining large healthy trees or trees which are of an unusual species.

(4) Replacement. Any tree identified to be retained that is destroyed or damaged during construction shall be replaced by the applicant with five trees on the subject

property or within a street planting strip near the subject property. Replacement trees shall be a minimum size of eight feet in height for evergreen trees and two inches in caliper for deciduous and shall be approved by the planning official. These street trees shall be provided in addition to any street trees required under chapter 12.15 DMMC. The exact location for and type of street trees shall be determined by the planning official.

Sec. 117. 17.35.220. Subdivision names.

(1) No subdivision shall be approved which bears a name which is the same as, similar to, or pronounced the same as a name of any other subdivision in the county unless the land so divided is contiguous to the subdivision bearing the same or similar name. All such subdivisions shall continue the block or lot numbers of the subdivision of the same name last filed. This section shall not be construed to limit the use of such descriptive words such as "town," "city," "place," "court," "addition," "acres," "heights," "villa," or words of a similar nature.

(2) No subdivision shall be approved which bears the name of a geographic feature or place unless the spelling of such name conforms to that adopted by either the United States or Washington State Board on Geographic Names.

(3) No subdivision shall be approved which bears a name that either attempts to change a name in local usage or name an unnamed geographic feature.

(4) The name of a subdivision shown on a final plat shall be the same name under which approval was granted; provided, that the Planning, Building and Public Works Director shall be authorized to change the plat name appearing on the final plat documents to meet the requirements of this section.

Chapter 17.40
Miscellaneous Provisions

Sections:

- 17.40.010 Title.
- 17.40.020 Application.
- 17.40.030 Purpose.
- 17.40.040 Authority.
- 17.40.050 Application materials - Short subdivisions, preliminary subdivisions, binding site plans, plat alterations, and plat vacations.
- 17.40.060 Application materials - Public notice.
- 17.40.070 Application materials - Additional information for binding site plans.
- 17.40.080 Application materials - Additional information for subdivision vacations and alterations.
- 17.40.090 Required materials - Final short plats, plats, plat alterations, plat vacations, and binding site plans.
- 17.40.100 Additional submittals required.
- 17.40.110 Application materials - Lot line adjustments.
- 17.40.120 Notice of application.
- 17.40.130 Official file.
- 17.40.140 Securities.
- 17.40.150 Illegal division of land.

Sec. 118. 17.40.010. Title. This chapter shall be entitled "Miscellaneous Provisions."

Sec. 119. 17.40.020. Application. This chapter shall apply to all applications set forth in this Title and specified herein.

Sec. 120. 17.40.030. Purpose. The purpose of this chapter is to identify all additional miscellaneous provisions applicable to applications set forth in this chapter.

Sec. 121. 17.40.040. Authority. This chapter is adopted pursuant to the provisions of chapter 58.17 RCW and other applicable laws.

Sec. 122. 17.40.050. Application materials - Short subdivisions, preliminary subdivisions, binding site plans, plat alterations, and plat vacations. The following application materials and other materials as may be required by DMMC 17.40.060, 17.40.070, and 17.40.080 (Application materials - Public notice, Application materials - Additional information for binding site plans, Application materials - Additional information for subdivision vacations and alterations) shall be submitted for any proposed short subdivision, preliminary subdivision, binding site plan, plat alteration, or plat vacation. For the purposes of this section, the term "subdivision" also includes "short subdivision," "preliminary subdivision," "binding site plan," "plat alteration," and "plat vacation."

(1) Three blue line paper drawings of the subdivision drawn on one or more standard 18-inch-by-24-inch sheets at a scale between one inch equals 20 feet and one inch equals 50 feet in 10-foot increments, and one paper copy of each sheet reduced to 8 1/2 inches by 11 inches containing the following information:

- (a) Proposed name of the subdivision, if applicable;
- (b) Legal description;
- (c) Name, address, and phone number of the owner and agent, if any;
- (d) Scale, date, and north arrow;
- (e) Existing topography of the subdivision indicated by contours at two-foot intervals. If the proposed subdivision has slopes that exceed 15 percent, five-foot contour intervals may be used in those areas;
- (f) Location and extent of significant natural features, such as streams, wetlands, the size and species of all significant trees, and any bodies of water on and adjacent to the property;

(g) An indication of which trees are proposed to be retained;

(h) Present zoning classification of the subject property and adjacent properties;

(i) The lot lines and owners of adjacent properties for a distance of not less than 100 feet from the external boundaries of the subject property;

(j) Exact location, dimension, and number or name of all rights-of-way, tracts, easements, driveways, parks or other public spaces, structures, lots, blocks, etc., shown in reference to and in scale with the proposed subdivision;

(k) Existing and proposed water, sewer, power, communication, and drainage systems on, under, or over the property showing size, grades, and location;

(l) Layout, name, and dimensions of proposed rights-of-way, tracts, and easements;

(m) Layout, number, dimensions, and square footage of proposed lots and tracts;

(n) Tracts of land intended to be dedicated for public use, or reserved for use of owners of the property in the subdivision, including the dimensions and square footage of such tracts;

(o) A notation which shows the dimensioned setback of all existing structures, including those on adjoining properties, relative to existing property lines and to proposed lot lines, if such structures are proposed to remain and are within 30 feet of existing or any proposed lot lines;

(p) Tax lot numbers as assigned by the county auditor;

(q) Additional copies of the subdivision drawings shall be provided as required by the planning official to distribute to other agencies and the City Council.

(2) Copies of existing and proposed easements, deed restrictions, or other encumbrances restricting the use of the subject property.

(3) A vicinity map at a scale of one inch equals 400 feet or larger showing the proposed subdivision's relation to the area for a distance of at least 300 feet on which the subject property is outlined with a bold or colored line.

(4) A current Title company certificate for the subject property that has been issued no more than 30 calendar days prior to submitting the subdivision application. The certificate shall include the name of all persons holding any ownership interest in the property.

(5) Any additional information required by the planning official, including, but not limited to, dedications or conditions of development required by this Title.

(6) A boundary survey certified by a registered land surveyor that references either the Washington coordinate system (north zone), the King County coordinate system, or a properly determined subdivision corner. Exterior boundary corners shall be set using appropriate permanent materials in the ground.

(7) Documentation of the date and method of segregation for the subject property verifying that the lot or lots were not created in violation of the short subdivision or subdivision laws in effect at the time of creation.

(8) The application fee as established by the City Manager or the City Manager's designee.

(9) All information required under the State Environmental Policy Act (chapter 43.21C RCW, as presently constituted or as may be subsequently amended), the SEPA administrative guidelines (chapter 197-11 WAC, as presently constituted or as may be subsequently amended), and local Ordinances adopted to implement such Act and guidelines.

Sec. 123. 17.40.060. Application materials - Public notice. Applications for short subdivisions, preliminary subdivisions, binding site plans, plat alterations, and plat vacations shall include the following public notice information:

(1) Address labels obtained from the county containing the names and addresses of property owners as specified in chapter 16.05 DMMC. Such address labels shall be no more than six months old.

(2) Address labels marked "resident" or "tenant" for all property adjacent to and across the street from the property within the proposed subdivision. These labels may be prepared by the applicant.

(3) A copy of the county assessor's map identifying the properties specified in subsections (1) and (2) of this section.

Sec. 124. 17.40.070. Application materials - Additional information for binding site plans. A general development plan for the proposal indicating:

(1) The types of buildings and site locations; and

(2) The locations of off-street parking areas with dimensions; and

(3) The locations of pedestrian walks and malls, both public and private; and

(4) A circulation plan indicating the proposed movement of vehicles and pedestrians within the development, and to and from adjacent public thoroughfares; and

(5) The stages to be built in progression, if any.

Sec. 125. 17.40.080. Application materials - Additional information for subdivision vacations and alterations.

(1) The area to be altered or vacated using words and illustrations which are depicted on a plat map.

(2) For a subdivision alteration, the applicant shall submit the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels in the subject subdivision or portion to be altered. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

(3) For a subdivision vacation, the applicant shall submit the reasons for vacation and the signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

Sec. 126. 17.40.090. Required materials - Final short plats, plats, plat alterations, plat vacations, and binding site plans. When filing a final short plat, final plat, final plat alteration or final plat vacation, the application shall include the items required by this section. For purposes of this section and DMMC 17.40.100, the term "plat" includes "short plat," "final plat," "final plat alteration," and "final plat vacation."

A plat drawn on a standard 18-inch-by-24 inch mylar in a format specified by the City. The scale of the plat shall be at one inch equals 50 feet unless otherwise approved by the public works director so that all distances, bearings, and other data are clearly shown. The plat shall show the following information:

- (1) Name of the plat;

(2) Legal description;

(3) Scale, date, and north arrow;

(4) The boundary lines of the plat, based on an accurate traverse, with angular and linear dimensions;

(5) Exact location, dimensions, number, or name of all new or existing rights-of-way, tracts, and easements within and adjoining the plat and an indication of the purpose of each, and a clear statement as to whether each is to be dedicated or held in private ownership;

(6) True courses and distances to the nearest established right-of-way lines or official monuments which will accurately locate the plat;

(7) Radii, internal angles, points of curvature, tangent bearings, and lengths of all arcs;

(8) All lot and block numbers assigned in accordance with chapter 12.50 DMMC and lines, with accurate dimensions in feet and hundredths of feet;

(9) Accurate locations of all monuments at such locations as required by the public works director;

(10) All plat meander lines or reference lines along bodies of water. Such lines shall be established above, but not farther than 20 feet from the high water lines of the water or within a reasonable distance, to ensure reestablishment;

(11) All restrictions and conditions pertaining to the lots or tracts or other areas in the plat required by the City Council;

(12) Appropriate signature blocks and certifications as follows:

(a) The signature of all persons having an ownership interest in the property and a statement certifying

that the subdivision is made with the free consent and according to the desires of the owner or owners. If the plat includes a dedication, the certifications shall contain the dedication of all rights-of-way and other areas to the public, and person or persons, as shown on the plat, and an undertaking to save, defend, indemnify, and hold harmless, any governmental authority, including the City, in respect of all claims for damages against any governmental authority including the City that may be occasioned to the adjacent land by the established construction, drainage, or maintenance of the right-of-way or other areas so dedicated. The certificate shall be signed and acknowledged before a notary public by all parties having an ownership interest in the land being subdivided.

(b) The signature and seal of the registered land surveyor responsible for preparation of the final plat, and a certification by the surveyor to the effect that it is a true and correct representation of the land actually surveyed by the registered land surveyor.

(c) The signature of the proper officer in charge of tax collections certifying that all taxes and delinquent assessments as shown on the Title certification under DMMC 17.40.100(4) have been paid, satisfied, or discharged.

(d) The signature of the public works director and the Planning, Building and Public Works Director certifying that all of the required sewage disposal, water supply, and other public improvements have been installed, inspected, and accepted, and accepted by such department or agency, or in the alternative, performance security has been deposited in accordance with DMMC 17.40.140;

(13) For short subdivisions and subdivisions only, each building address conforming with chapter 12.50 DMMC shall be clearly shown on the short plat or final plat;

(14) The submittals required by DMMC 17.40.100; and

(15) Additional pertinent information required at the discretion of the public works director or Planning, Building and Public Works Director.

Sec. 127. 17.40.100. Additional submittals required.

When filing a final short plat, final plat, final plat alteration or final plat vacation, the application shall also include the following items:

(1) A boundary survey prepared by a registered land surveyor shown on the proposed final plat and referencing the plat to either the Washington State coordinate system (North Zone) or the King County coordinate system, or properly determined subdivision corner referenced to either of the above with a physical description of such corners. Exterior boundary corners shall be staked in the ground;

(2) A complete survey of the section or sections in which the plat is located, or as much thereof as may be necessary to properly orient the plat within the section or sections;

(3) A computer printout showing closures of boundaries, road centerlines, lots, and tracts with a maximum allowable error of closure of one foot in 15,000 feet. Mathematical lot closure shall be submitted showing an error of closure not to exceed $0.005/n$ feet, where n = number of sides and/or curves on a lot;

(4) A Title company certification which is not more than 30 calendar days old containing:

(a) A legal description of the total parcel sought to be subdivided;

(b) A list of those persons holding an ownership interest in the parcel;

(c) Any easements or restrictions affecting the property with a description, purpose, and reference by auditor's file number and/or recording number;

(d) Any encumbrance on the property; and

(e) Any delinquent taxes or assessments on the property;

(5) If lands are to be dedicated or conveyed to the City as part of the subdivision, an American Land Title Association Title policy may be required; and

(6) The filing fee as established by administrative order of the City Manager or the City Manager's designee.

Sec. 128. 17.40.110. Application materials - Lot line adjustments. The following application materials shall be submitted for any proposed lot line adjustment:

(1) Three copies of a plan, drawn to scale and accurately dimensioned, clearly showing the following information:

(a) The proposed lot lines for all affected lots, indicated by heavy solid lines, and

(b) The existing lot lines proposed to be changed, indicated by heavy broken lines, and

(c) The location of all structures existing upon the affected lots, and

(d) The location and dimensions of any drain field, easement, tract, or right-of-way existing within or adjacent to any affected lot, and

(e) The area and dimensions of each affected lot if the proposed adjustment were approved;

(2) A legal description of affected lots before and after the lot line adjustment;

(3) The application fee as established by the City Manager or the City Manager's designee.

Sec. 129. 17.40.120. Notice of application.

(1) Contents. The planning official shall prepare a notice of each application for a short subdivision, preliminary subdivision, subdivision alteration, subdivision vacation, and binding site plan containing the following information:

(a) The name of the applicant and, if applicable, the project name;

(b) A brief description of the application, including the number of proposed lots or any proposed modifications under chapter 17.35 DMMC (Layout and design of subdivisions);

(c) The street address of the subject property, or, if this is not available, a locational description in nonlegal language along with a vicinity map that identifies the subject property;

(d) The citation of the provision of this Title describing the applied-for decision;

(e) The time and place of the public hearing, if applicable;

(f) A statement of the availability for review of the official file;

(g) For short subdivisions, a statement of the right of any person to submit written comments and a deadline for such comments;

(h) For applications requiring a public hearing, a statement of the right of any person to submit written comments prior to the public hearing and to appear at the public hearing to give comments orally.

(2) Distribution - Public hearing. Not less than 15 calendar days prior to the public hearing required by DMMC 17.10.130 (City Council review), the planning official shall distribute or cause to be published this notice as follows:

(a) In accordance with the requirements of chapter 18.20 DMMC; and

(b) To the appropriate county officials if the subdivision adjoins unincorporated area; and

(c) To the appropriate City officials if the proposed subdivision is either: adjacent to or within one mile of the municipal boundaries of that City; or if the proposed subdivision contemplates the use of the City's utilities.

(3) Distribution - Administrative review. Within 14 days of the date of the notice of complete application, the planning official shall cause this notice to be distributed in accordance with the requirements of DMMC 16.04.190 (Public notice procedure - Notice of DNS, mitigated DNS, or DS).

Sec. 130. 17.40.130. Official file.

(1) Contents. The planning official shall compile an official file for each application containing the following:

(a) All application materials submitted by the applicant;

(b) Any staff report(s) prepared for the proposal;

(c) All written comments received about the proposal;

(d) All documents prepared or submitted pursuant to State Environmental Policy Act compliance;

(e) If available, the electronic recording of any public meeting on the matter;

(f) The decision or recommendation of the Planning, Building and Public Works Director and City Council, as applicable;

(g) If the decision of the Planning, Building and Public Works Director on a short subdivision is appealed, or the decision of the City Council on a preliminary subdivision plat alteration or plat vacation is reconsidered, the following shall be added to the file:

(i) The letter of reconsideration or appeal;

(ii) All written comments submitted regarding the reconsideration or appeal;

(iii) The staff report on the appeal;

(iv) The electronic sound recording and minutes of the hearing on the appeal;

(v) The decision of the City Council on the reconsideration;

(vi) The decision of the hearing examiner on the appeal;

(h) Any other relevant information.

(2) Availability. The official file shall be available for inspection and copying during regular City business hours.

Sec. 131. 17.40.140. Securities.

(1) Maintenance. A maintenance security shall be submitted regarding any of the improvements or landscaping installed or maintained under this Title. The Planning, Building and Public Works Director shall establish the provisions regarding maintenance securities with respect to the acceptance, amount, administration, utilization, and all other components of such securities; provided, that a maintenance security shall not be held in excess of three years following the installation of required improvements.

(2) Performance security. In lieu of installing all required improvements and components required under this Title,

the applicant may propose security to ensure completion of these requirements within one year of the recording of the division of the land. The Planning, Building and Public Works Director shall establish provisions regarding performance securities with respect to the acceptance, amount, administration, utilization, and all other aspects of such securities. A one-time extension of the one-year period may be approved by the City Manager or the City Manager's designee, if the applicant demonstrates that he/she will be able to complete the required improvements within an additional one-year period. Any extension granted shall be for a period not to exceed one year, and additional security shall be submitted for the period of the extension. The amount of the security shall be increased by the City Manager or the City Manager's designee to cover any increased construction costs.

Sec. 132. 17.40.150. Illegal division of land. The City shall not issue any permit for construction on, modification to, or use of any property divided or segregated in violation of this Title or state law unless officials of the City specifically approve a permit based on all of the following criteria:

(1) That the owner purchased the property as an innocent purchaser for value without reasonable notice that the property was divided or segregated in violation of law.

(2) That the public interests shall not be adversely affected by approving the permit. In determining the public interest, the City shall use substantially the same criteria as would be used by the City in reviewing a preliminary or short subdivision application under this Title.

Nothing in this section in any way limits the rights granted by RCW 58.17.210.

Chapter 17.45
Amendments

Sections:

17.45.010 Title.
17.45.020 Application.
17.45.030 Purpose.
17.45.040 Authority.
17.45.050 Subdivision code may be amended.
17.45.060 Initiation of amendment.
17.45.070 Notice.

Sec. 133. 17.45.010. Title. This chapter shall be entitled "Amendments."

Sec. 134. 17.45.020. Application. This chapter shall apply to all amendments to this Title.

Sec. 135. 17.45.030. Purpose. The purpose of this chapter is to provide for the process and procedures to amend this Title.

Sec. 136. 17.45.040. Authority. The chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63 and 58.17 RCW,

Sec. 137. 17.45.050. Subdivision code may be amended. Whenever public necessity, public convenience, and general welfare require, the provisions of this Title may be amended.

Sec. 138. 17.45.060. Initiation of amendment. Amendments to this Title may be initiated either:

(1) By adoption of a motion by the City Council directing the City Manager or the City Manager's designee to initiate an amendment through the Planning, Building and Public Works Department; or

(2) By the Planning, Building and Public Works Department with the approval of the City Manager or the City Manager's designee.

Sec. 139. 17.45.070. Notice.

(1) Content. The planning official shall prepare a notice of each proposed amendment to this Title containing the following information:

(a) The section(s) of this Title that would be affected by the proposed amendment;

(b) A summary of the effect of the proposed amendment;

(c) The date, time, and location of the City Council meeting where the proposed amendment will have its first reading.

(2) Distribution. No less than 15 calendar days prior to the date of the City Council meeting where the amendment will have its first reading, the planning official shall distribute or cause to be published this notice as follows:

(a) Posted at the posting places designated in DMMC 1.08.010 (Posting places);

(b) Printed at least once in the official newspaper of the City;

(c) Displayed in character form on the City's cable television access channel for not less than three days;

(d) Mailed to individuals or organizations that have submitted a written request to the Planning, Building and Public Works Director for notice and have paid a fee, set by the City Manager or the City Manager's designee, to defray the costs of providing notice.

Sec. 140. Repealer. Title 17 DMMC as presently constituted and codified is hereby repealed in its entirety along with all underlying Ordinances.

Sec. 141. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 142. Effective date. This Ordinance shall take effect and be in full force on January 1, 2014.

PASSED BY the City Council of the City of Des Moines this 24th day of October, 2013 and signed in authentication thereof this 24th day of October, 2013.


MAYOR

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Published: October 24, 2013

Effective Date: January 1, 2014

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1585, Adopted October 24, 2013.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to subdivisions; replaces Title 17 DMMC; and repeals the previously codified provisions of Title 17 DMMC and underlying Ordinances.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins
City Clerk

Published: October 29, 2013