

OKANOGAN COUNTY

ORDINANCE NO. 2009 - 001

AN ORDINANCE AMENDING OKANOGAN COUNTY CODE CHAPTER 16.12 "Short Subdivisions"; AMENDING SECTIONS OF 16.12 TO ALLOW OKANOGAN COUNTY CODE TO BE MORE CONSISTENT WITH THE WASHINGTON ADMINISTRATIVE CODE AND REVISED CODE OF WASHINGTON.

SECTION 1 FINDINGS AND RECITALS

- 1.1. The proposed code amendment modifies a series of Okanogan County code sections 16.12, Short Subdivisions.
- 1.2. The proposed code amendments will allow Okanogan County Code 16.12 to be more consistent with the Washington Administrative Code and Revised Code of Washington.
- 1.3. On January 5, 2009 information regarding the proposed code amendment was forwarded to appropriate public agencies for their respective review and comment.
- 1.4. On January 7, 2009, public notice of the proposed code amendment, public hearing, and SEPA environmental determination was published in Okanogan County's legal periodical of record, the Omak Chronicle.
- 1.5. Information regarding the proposed code amendment has been forwarded to those persons requesting additional information.
- 1.6. A threshold (preliminary) environmental determination of non-significance was issued by the Okanogan County responsible SEPA official on December 31, 2008 as authorized under WAC 197-11. The comment period ended as of January 22, 2009.
- 1.7. A final environmental determination of non-significance was issued by the Okanogan County responsible SEPA official on January 29, 2009 as authorized under WAC 197-11. The determination appeal period ended on February 19, 2009.
- 1.8. On February 4, 2009, notice of the final determination was published in Okanogan County's legal periodical of record, the Omak Chronicle.
- 1.9. The Okanogan County Regional Planning Commission conducted the public hearing for the proposed code amendments. The Planning Commission heard public testimony. The Planning Commission motioned to recommend that the Board of Okanogan County Commissioners approve these code amendments.
- 1.10. The Board of Okanogan County Commissioners conducted a public hearing for the proposed code amendment, at which time the Board considered the recommendation offered by the Okanogan County Regional Planning Commission.

SECTION 2 OKANOGAN COUNTY 16.12 SHORT SUBDIVISION POLICY CODE AMENDMENTS

The Board of Okanogan County Commissioners do hereby ordain as follows:

Based on the Findings and Recitals cited herein, "Okanogan County Code Chapter 16, Section 16.12", as described in attachment A is hereby amended.

DATED at Okanogan, Washington this 4th day of May, 2009.

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**



ATTEST:

B. Crowell
Brenda Crowell, Clerk of the Board

Mary Lou Peterson
Mary Lou Peterson, Chair

ABSENT

Don (Bud) Hover, Member

Andrew Lampe
Andrew Lampe, Member

ATTACHMENT A

SHORT SUBDIVISIONS

Sections:

16.12.010	Administration
16.12.020	Application Fee
16.12.025	Application Time Line
16.12.030	Application and Contents
16.12.040	Review, Determination, and Notification
16.12.050	Notice of Action on Short Subdivision Application
16.12.060	Short Subdivision Expiration
16.12.070	Final Short Plat Submittal
16.12.080	Approval of Short Plats
16.12.090	Recording of Short Plats, Final Notice and LUPA Appeals
16.12.095	Short Plat Alteration
16.12.100	Short Plat Vacation
16.12.110	Resubdivisions
16.12.120	Prohibition on construction other than "model homes" and required improvements prior to final plat approval

16.12.010 Administration

1. The Okanogan County Office of Planning & Development Director (Administrator), or the designee, is vested with the duty of administering and interpreting the short subdivision provisions of this title and with the authority to summarily approve, approve with conditions, disapprove or return for modification proposed short subdivisions;
2. The administrator may prepare and require the use of such forms as deemed necessary to administer this title; and
3. Deviations - The Administrator may, after conferring with appropriate agencies, grant minor deviations from literal compliance with the requirements of this Chapter. Such deviations are intended to provide relief from literal compliance with specific provisions of this Section in instances where there is an obvious practical problem with doing so, and sufficient information is available to complete the review. Any deviation granted must meet the requirements for variance set forth in RCW 36.70.810(2) and is subject to the appeal provisions of 16.12.085.

16.12.020 Application Fee

An application for short subdivision shall be accompanied by an application fee as specified in the adopted Okanogan County Planning, Public Health, and Public Works fee schedules.

16.12.025 Application Time Line
Application Time Line

The administrator shall use the following time line for all short subdivisions:

- A. Within 28 days of receiving, or receipting in of appropriate fees, of a project application a written determination shall be sent to applicant stating:

1. The application is vested; or
2. The application is incomplete and what is necessary to make the application complete;

(A) Should an application be deemed incomplete the applicant shall have 21 days (expressed in calendar days) from date of determination to submit additional documentation;

(B) Shall additional documentation not be submitted within 21 days the administrator will return to applicant application along with receipted fees, minus cancellation fee per Okanogan County Fee Schedule);

3. Within 14 days of additional documentation being submitted a written determination shall notify applicant whether application is vested or what additional documentation is needed; if additional documentation is needed the timeline of set out in 2(A) above will take affect. This process shall continue under the timelines above until such time as the application is vested or additional documentation wasn't submitted pursuant to section 2(B).
- B. Notice of application and SEPA determination will be published in Okanogan County official newspaper of record per 16.12.040.
- C. The publishing date is the first day of the 30 day (expressed in calendar days) comment period in accordance with 16.12.040.
- D. Within 60 days (expressed in calendar days) of vestment a preliminary determination letter per 16.12.080 will be sent to applicant and/or agent/surveyor.
- E. The project will have 4 years from the date of preliminary determination, when approved, to complete the project.

16.12.030 Application and Contents

Application for a short subdivision shall be submitted to the Office of Planning & Development on an application form including an environmental review questionnaire, provided by the Planning Department. The preliminary short plat shall be completed by or under the supervision of a land surveyor. The submitted drawing shall be indicated on or be accompanied by:

- I. Copies of the preliminary short plat requirement include two 18"x24", one 11"x17", and one electronic copy or one 11"x17" and five 18"x24" hard copies.
- II. The entire lot, tract, parcel, site or division constituting the parent parcel and its legal descriptions (legal description of the exterior boundaries of the property proposed for platting);
- III. The parcel number or numbers as assigned to parent parcel by the County Assessor, together with their legal descriptions;
- IV. The names or recording numbers of any contiguous subdivisions or short subdivisions or record of surveys;
- V. Lines marking the division of the property into the proposed four or less lots, tracts, parcels, sites or divisions;
- VI. Individual acreage of proposed lots and number of each lot;
- VII. Existing structures;
- VIII. Location of existing roads or streets, or existing deeds or easements with their auditor's file numbers. In addition, provide designation of "public" and/or "private" regarding the road and/or the beneficiary of the easement if known;

- IX. Location of any roads, rights-of-way or easements proposed to serve the short subdivision with a clear designation of their purpose and nature, including whether they will be private or dedicated public roads, right-of-ways or easements;
- X. Identify existing access or proposed access.
 - A. Right-of-way width for private or public roads and streets, to be determined by the standards set by Okanogan Public Works Department road and street standards and guidelines for development, but not to exceed that required for regular plats, shall be dedicated if the short subdivision contains two or more lots which are contiguous to:
 - 1. An existing subdivision where partial street right-of-way has been dedicated;
 - 2. An existing partial right-of-way deeded for public road purposes; and
 - 3. A location where an ordinance, or long range road program, or comprehensive plan, indicates the need for a future road or street.
- XI. Right-of-way for access to utilities or service parcels not expected to be in regular use may be less than 25 feet in width;
- XII. Location of streams, wetlands, natural resource lands and other fish and wildlife habitat areas if readily apparent or ascertainable;
- XIII. Mileage, accurate within 100 feet, to the primary access point of each lot as measured from the "zero point" (see 16.08.165) of the County road from which access is obtained for the purposes of assigning an E-911 address.

16.12.040 Review, Determination, and Notification

- I. The administrator shall mail a brief notification of an application that's vested to all taxpayers of record of property within 300 feet of the proposed short subdivision as shown by the records of the county assessor. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided. .

Notice of the filing of a preliminary short subdivision shall be published in the Okanogan County's official newspaper of record.

Notice of the filing of a short subdivision adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities, shall be given to the appropriate city or town authorities.

Notice of the filing of a short subdivision shall be sent to the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, the Colville Confederated Tribe Planning Department, Washington State Department of Archaeology and Historic Preservation, affected Irrigation District, and any agency in the vicinity which may have jurisdiction. The notification shall include:

- A. Identification of the applicant;
- B. A vicinity map and copy of the preliminary short plat;

- C. A brief explanation of the process involved, mailing address and date by which any written comments should be submitted; and
 - D. SEPA checklist, if required for DS, DNS, or MDNS along with Threshold Determination, or Final Determination for Categorically Exempt.
- II. The Administrator, after conferring with appropriate officials, agencies having an interest in the proposed short subdivision, and reviewing any written public input, shall determine whether the short plat should be approved, disapproved or returned to the applicant for changes in light of the following criteria and requirements:
- A. The proposed short subdivision is in conformity with the comprehensive plan and any applicable zoning requirements or other land use controls which may exist;
 - B. The proposed short subdivision provides legal access for ingress and egress in accordance with current road standards and criteria or has received a deviation per Section 16.34;
 - C. Certification by the Okanogan County Health District that the proposed short subdivision is served by adequate water supply and contemplated sewage disposal meets state and local regulations;
 - D. For proposed short subdivision within an irrigation district, adequate provisions have been made for mitigation pursuant to Section 58.17.310 RCW;
 - E. The public use and interest will be served by permitting the proposed division of land;
 - F. The proposed short subdivision adequately treats and relates to critical areas; and
 - G. A noxious weed inventory and control plan, if applicable.

16.12.050 Notice of Action on Short Subdivision Application

The administrator shall prepare a letter to the applicant indicating:

- I.
 - A. That the preliminary short subdivision application is approved as a final short subdivision as submitted; or
 - B. That the preliminary short subdivision is approved subject to certain specified conditions which must be met prior to final short plat approval; or
 - C. That the short subdivision application cannot be approved for specified reasons.
- II. In the case of (a) or (b) above, a final short plat properly completed together with appropriate fees and evidence of compliance with all required conditions may be submitted within one (1) year of the date of this notice without further review; and
- III. The specific certification(s), such as required for any agency with jurisdiction, that must be completed and included as part of the final short plat submittal.

16.12.060 Short Subdivision Expiration

An approved preliminary short plat application shall be effective for four years from the date of the preliminary approval letter as provided for in 16.12.050, 1, a and b. The expiration date will not be extended under any circumstance that might arise.

16.12.070 Final Short Plat Submittal

- A. The final short plat submitted for recording shall comply with the conditions specified in the Notice of Action/Preliminary Approval letter on Short Subdivision Application issued by the Administrator;
- B. The final short plat shall be completed by or under the supervision of a licensed land surveyor of the State of Washington and shall be based on a survey of the property. Said survey shall be in compliance with the requirements of the Survey Recording Act of 1973, Chapter 58.09 RCW and 332-130 WAC as it now exists or is here after amended.
- C. Prior to submittal of a final short plat one of the following must be submitted:
 - a. five 18"x24" paper copies of the final short plat to be circulated for final approval
 - b. an electronic copy of the final short plat to be circulated for final approval
 - c. the applicant can prove, with evidence of compliance, that all agency approvals have been met;
- D. A revised final short plat on an 18" by 24" stable base mylar that is stamped by a licensed land surveyor in accordance with all requirements of Okanogan County Code 16.12.030 is to be submitted to the Planning and Development Department.
- E. In the event private roads are used to serve the proposed short plat, whether exterior or interior, the following statement shall appear on the face of the short plat: "Okanogan County has no responsibility to build, improve, maintain, or otherwise serve any private road for this short plat";
- F. Utility easements having a minimum width of ten (10) feet shall serve each interior lot. Utility easements may be included within the access easement and may serve as a joint use easement with the access easement;
- G. A title report, issued within 120 days of submittal of final short plat, showing all parties having any interest in the parent parcel being subdivided, any encumbrances, and all Auditor filing numbers;
- H. The final short plat shall be signed by all parties having ownership interest in the land being subdivided and their signatures shall be acknowledged, and notarized;
- I. Easements of record shall be depicted or noted including their auditor's file numbers;
- J. All taxes for the current year, including back taxes and irrigation assessments, must be paid in full to the County Treasurer, or irrigation district if required;
- K. Tax classifications will be reviewed; and
- L. All necessary signature blocks and plat notes shall be on final short plat.

16.12.080 Approval of Short Plats

The Administrator shall complete written findings of fact, in the form of a preliminary approval letter, pursuant to RCW 58.17.060 for the approval of any short plat meeting all of the requirements of Section 16.12.070. In the Findings of Fact, the administrator shall determine

- A. If appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that insure safe walking conditions for students who walk to and from school; and
- B. Whether the public interest will be served by the subdivision and dedication. Dedication of land, any public body, provisions of public improvements to serve the subdivision, may be required as a condition of subdivision approval. Dedication shall be clearly shown on the final short plat. No dedication or provision of public improvements shall be allowed that constitutes an unconstitutional taking of private property.

Approval shall contain a requirement that land and short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short subdivision contains fewer than four parcels.

16.12.090 Recording of Short Plats, Final Notice and LUPA Appeals

Recording of short plats shall be done with the County Auditor following all approvals. The applicant shall submit appropriate filing fees, payable to the Okanogan County Auditor. The applicant shall produce the final short plat on an 18" by 24" stable base mylar stamped by a licensed surveyor. The Office of Planning and Development shall transmit final mylar to County Auditor for filing.

Once a final short plat is recorded the following final notices shall be given:

- A. , the administrator shall mail a brief notification to all taxpayers of record within 300 feet of the proposed short subdivision, as shown by the records of the county assessor (in accordance with OCC 16.12.040) .
- B. Previously notified agencies.
- C. Shall be published in Okanogan County's official newspaper of record.
- D. To all public members who commented on the project.

All final decisions will be consistent with the appeal process under RCW 36.70C.

16.12.095 Short Plat Alteration

Once a short plat has been recorded with the County Auditor, it may be altered or vacated in whole or part as long as no more than four lots are created from the original short plat. If a proposed alteration or vacation involves a public dedication, the alteration or vacation shall be processed in accordance with Chapter 58.17 RCW. If the proposed alteration or vacation does not involve a public dedication, the altered short plat shall be processed in accordance with the following provisions:

1. If the proposed alteration involves consolidation of lots, altering the location of lot lines provided for in section 16.04.080 (Boundary Line Adjustment), or any other change that would lessen the impacts to the public health, safety, morals, and general welfare, it may be reviewed and summarily approved by the administrator. If the proposed alteration involves the creation of new lots, altering the location of lot lines not provided for in section 16.04.080, or any other change that would increase the impacts to the public health, safety, morals, and general welfare, the altered short plat must comply with the procedures and requirements of this chapter for original short plat. A new line must be surveyed in accordance with 332-130 WAC;

2. The title of the altered short plat shall be: Plat Alteration Name of Short Plat Name, SPA #. [FOR EXAMPLE: Funny Dew Alteration of the Last Chance Short Plat, SPA 94-71]; and
3. Corrections not involving the location of lot lines may be approved by the administrator. An affidavit must be recorded with the County Auditor specifically referencing the short plat by number and the correction.

16.12.100 Short Plat - Vacation

Whenever any person is interested in the vacation of any subdivision or portion thereof, or any area designated or dedicated for public use, that person shall file an application for vacation with the legislative authority of the city, town, or county in which the subdivision is located. The application shall set forth the reasons for vacation and shall contain 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.

When the vacation application is specifically for a county road or city or town street, the procedures for road vacation or street vacation in chapter 36.87 or 35.79 RCW shall be utilized for the road or street vacation. When the application is for the vacation of the plat together with the roads and/or street, the procedure for vacation in this section shall be used, but vacations of streets may not be made that are prohibited under RCW 35.79.030, and vacations of roads may not be made that are prohibited under RCW 36.87.130.

The legislative authority of the city, town, or county shall give notice as provided in RCW 58.17.080 and 58.17.090 and shall conduct a public hearing on the application for a vacation and may approve or deny the application for vacation of the subdivision after determining the public use and interest to be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, town, or county, shall be deeded to the city, town, or county unless the legislative authority shall set forth findings that the public use would not be served in retaining title to those lands.

Title to the vacated property shall vest with the rightful owner as shown in the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the legislative authority has found that retaining title to the land is not in the public interest, title thereto shall vest with the person or persons owning the property on each side, thereof, as determined by the legislative authority. When the road or street that is to be vacated was contained wholly within the subdivision and is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

This section shall not be construed as applying to the vacation of any plat of state-granted tide or shore lands.

16.12.110 Resubdivisions

Short subdivision may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels

16.12.120 Prohibition on construction other than "model homes" and required improvements before end of appeal period without release of liability.

An applicant for a building permit on a lot within an approved plat may be issued the building permit and may proceed construction before the end of the 30-day appeal period if she/he signs a statement absolving the County of liability arising from issuance of said permit in any appeal filed. No new permits shall be issued, nor shall any construction or site alterations begin within the area being subdivided before the thirty (30) day appeal period on final plat approval as provided for in RCW 58.17.180 has expired except a home constructed or placed on the property for demonstration purposes and those improvements required as part of the plat approval.