

CHAPTER 20.80

GENERAL PROVISIONS – SUBDIVISION CODE

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20.80.010 Title.

- (1) The ordinance codified in this subtitle shall be known as the City of Port Orchard subdivision code.
- (2) This chapter shall be entitled “General Provisions.” The provisions of this chapter shall apply to all chapters within this subtitle.

20.80.020 Authority.

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

20.80.030 Purpose.

The purpose of this subtitle is to provide rules, regulations, requirements, and standards for the subdivision of land, for obtaining binding site plans, and of the adjustment of existing lot lines within the City, ensuring:

- (1) That the highest feasible quality in subdivisions will be obtained;
- (2) That the public health, safety, general welfare, and aesthetics of the City shall be promoted and protected, complying with the provisions of Chapter 58.17 RCW;
- (3) That orderly growth, development, and the conservation, protection, and proper use of land shall be promoted;
- (4) That the proper provisions for all public facilities, including connectivity, circulation, utilities, and services, shall be made;
- (5) That maximum advantage of site characteristics shall be taken into consideration;

- (6) Undue and unnecessary burdens are not placed on either the applicant or the City; and
- (7) That the process shall be in conformance with provisions set forth in Port Orchard Municipal Code; PMC Title 20, Land Use Code; and the Port Orchard Comprehensive Plan.

20.80.040 Applicability.

- (1) The provisions of this subtitle shall apply to all lot line adjustments and the division of any land within the corporate limits of the City of Port Orchard for sale, lease, transfer, or building development into two (2) or more parcels, except as expressly stated in this subtitle.
- (2) Land use review procedures provided in chapter 20.80 POMC, Land Use Review Procedures, shall apply in addition to applicable provisions within this subtitle.
- (3) No person, firm, or corporation proposing to make, or having made, any division of land as described above within the City limits shall enter any contract for the sale of, or shall offer to sell, any part of the division without having first obtained its approval as a short plat, subdivision plat, or binding site plan in accordance with this subtitle, unless such agreement for sale complies with RCW 58.17.205.
- (4) All contiguous land shall be included in a plat application. Multiple applications or applications and/or exemptions shall not be utilized as a substitute for comprehensive subdividing in accordance with the requirements of this subtitle. The applicant shall certify that she/he has included all contiguous land in a plat application and that she/he does not own or otherwise have a legal interest in ownership of contiguous parcels.
- (5) Any land being divided into ~~ninefour~~ (94) or fewer parcels, lots, tracts, or sites shall conform to the short plat provisions of this subtitle. Nothing in this subtitle shall prevent a landowner who has short-platted a parcel into fewer than ~~ninefour~~ (94) lots from filing a short plat within a five (5) year period to create up to a total of ~~ninefour~~ (94) lots within the boundary of the original short plat. Any land being divided into ~~tenfive~~ (105) or more parcels, lots, tracts, or sites for any purpose, and any land which has been divided under the short plat process within five (5) years, shall conform to the provisions of the preliminary and final plat procedures of this subtitle. The only exception to this provision shall be those lands being subdivided through the binding site plan procedures of this subtitle.

20.80.050 Exemptions.

Pursuant to RCW 58.17.040, the following activities are not considered short plats or plats and the provisions of this subtitle shall not apply:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions made by testamentary provisions, or the laws of descent;
- (3) Divisions of land into lots or tracts classified for industrial or commercial use when the City has approved a binding site plan for the use of the land in accordance with this chapter;

- (4) 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 this subtitle;
- (5) Lot line adjustments made pursuant to this subtitle;
- (6) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless service" means any federally license personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters and support structures;
- (7) A division of land related to the acquisition or exchange of land by public agencies for public use, except human occupancy, including but not limited to subdivisions made for road construction purposes;
- (8) Portions of property deeded to the City for the limited purpose of providing a right-of-way and/or utility facilities, such as but not limited to the installation of linear utility facilities, such as electric power lines, telephone lines, water supply lines, sewer service lines, cable lines or other utility facilities of a similar or related nature; or a pumphouse, reservoir or well site; provided the remaining property is not reduced in size below the minimum square footage required by applicable zoning, that no conflict is created with any applicable design standards for the property, and that written approval from the Planning Director is received.
- (9) Division of land due to condemnation or sale under threat thereof by an agency or division of government vested with the power of condemnation; if sale is made under threat of condemnation, such threat must be evidenced by the government agency filing affidavit so stating with the County Auditor.

20.80.060 Consent to access.

All persons applying for approvals under this subtitle shall permit free access to the land subject to the application to all agencies with jurisdiction considering the proposal for the period of time extending from the date of application to the time of final action.

20.80.070 Limitation of liability.

It is the specific intent of this subtitle and procedures adopted under this subtitle to place the obligation of complying with the requirements of this subtitle 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 subtitle 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 subtitle, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this subtitle or any procedures adopted under this subtitle by the City, its officers, employees, or agents.

20.80.080 Severability.

If any part, sentence, paragraph, subsection, section, or clause of this subtitle is adjudged unconstitutional, or held invalid, the remainder of the subtitle or the application of the provisions to other persons, property, structures, or circumstances shall not be affected. Whenever any condition or limitation is included in an order authorizing a planned development or any site plan approval, it shall be conclusively presumed that the authorizing officer or body consider such condition or limitation necessary to carry out the spirit and purpose of this subtitle or the requirement of some provision hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.