

BINGEN LAND DIVISION ORDINANCE

Title 16

Subdivisions, Short Plats, and Boundary Line Adjustments

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Chapter 16.04 – Purpose, Applicability, and Severability

A. Purpose

This title is enacted in compliance with RCW Chapter 58.17 to establish procedures and standards for subdivisions, short plats, and boundary line adjustments for all land under the land use planning and permitting authority of the City of Bingen. These regulations, along with the city's requirements for the underlying zoning and comprehensive Plan provisions, provide the procedures and standards to evaluate these land use actions.

B. Applicability

1. The provisions of this title apply to the following actions as defined in Chapter 16.08:
 - a. Subdivisions;
 - b. Short plats;
 - c. Boundary line adjustments; and
 - d. Binding site plans.
2. The provisions of this title do not apply to the following:
 - a. Cemeteries and other burial plots;
 - b. Land divisions made by testamentary provision or the laws of descent that are ordered by a court of competent jurisdiction and

where each lot so created meets the applicable minimum lot size;
and

- c. A land division for the purpose of lease when no residential structure other than manufactured/mobile homes or travel trailers are permitted to be placed upon the land so long as the lease complies with the provisions of Title 17 – Zoning, as now or hereafter amended.

C. Severability

If any part of this title is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that part shall be deemed separate from the balance of this title and the invalidation of any part of this title shall not affect the validity nor the enforceability of any of the remaining chapters, sections, or portions of this title.

Chapter 16.08 - Definitions

Abut/abutting. Two or more properties or lots joined by a common boundary or point.

Access. The right to cross between public and private property allowing pedestrians, bicyclists, and vehicles to enter and leave property.

Appeal. A request that a final decision by an approval authority be considered by a higher authority as described in this title.

Applicant. A person who applies for a land use review or building permit. An applicant can be the owner of the property or someone the owner states in writing is representing the owner.

Approval authority. Either the City Administrator or City Council.

Binding site plan. A scale drawing as specified in Chapter 16.44, which (1) identifies the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local, state, or federal regulations; (2) contains inscriptions or attachments setting forth such appropriate limitations and conditions for use of the land as established by the approval authority; and (3) contains provisions requiring any development on the subject to conform with the approved site plan.

Boundary line adjustment. A modification to the common boundaries of two tracts of land which does not create any additional parcels or tracts of land.

Building. Any structure, permanent, mobile, demountable or movable, built or used for the support, shelter, or enclosure of any person, animals, goods, equipment, or chattels and property of any kind.

City. The City of Bingen, Washington.

City Council or Council. The City Council for the City of Bingen, Washington.

City Administrator or Administrator. The person who is charged with the responsibility of administering this title.

Complete application. The submittal of materials by an applicant in support of a land division or boundary line adjustment application, which contains all of the necessary information required by this title.

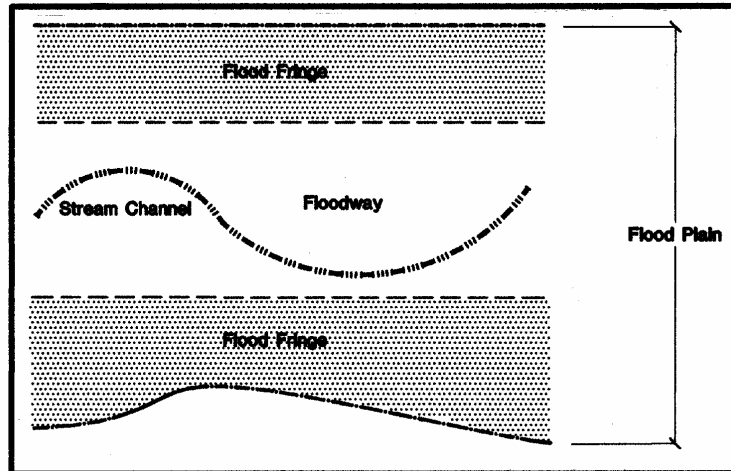
Comprehensive Plan. The Bingen Comprehensive Plan as adopted and amended by the city council.

Final plat. A map, diagram, drawing or replat containing all descriptions, location, specifications, dedications, provisions and information concerning a land division as specified by this ordinance.

Flood plain-related definitions:

- **Flood or flooding.** A general and temporary condition of partial or complete inundation of normal dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.
- **Flood Insurance Rate Map (FIRM).** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

- **Flood plain.** The flood plain includes land subject to a 100-year flood (a flood that has a 1% chance of occurring each year) and areas subject to flooding that have been identified based on historical information. The 100-year flood plain is also called the area of Special Flood Hazard by the Federal Emergency Management Agency (FEMA) and includes the floodway and floodway fringe along the Columbia River and Jewett Creek.
- **Floodway.** The normal stream or drainage channel and that adjoining area of the flood plain needed to convey flood water. Floodways must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation.
- **Floodway fringe.** The area within the flood plain lying outside of the floodway.
- **Lowest floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable design requirements in Bingen Municipal Code Title 15.16 Flood Hazard Protection, as now and hereafter amended.



Geologically hazardous areas or geologic hazards. Areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

Hearing, de novo. Anew; afresh; a second time. Appeal hearings, which are held “de novo” allow participants to introduce new evidence or information for the consideration of the approval authority.

Hearing, on the record. Appeal hearings, which are held only to consider the written record of the application including, but not limited to, the application, staff report, comments from review agencies and interested parties, and minutes or transcripts from previous hearings.

Land division. A subdivision or short plat.

Lot. A fractional part of divided lands having fixed boundaries, and being of sufficient area and dimensions to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

Lot area. The total horizontal area within the lot lines of a lot.

Lot, flag. A lot located behind another lot that has normal street frontage. A flag lot includes a strip of land or access easement that goes out to the street and is generally used for an access drive. There are two distinct parts to a flag lot; the flag which comprises the actual building site located behind another lot, and the pole which provides access from the street to the flag. A flag lot results from the division of a large lot with the required area and depth for two lots, but which has insufficient width to locate both on the street frontage.

Meander corner. A point established on a line which intersects a meanderable shore or meanderable stream but which does not represent a point on a property line unless indicated by specific reference.

Net area. The total usable area exclusive of space dedicated to such things as streets, easements, and uses out of character with the principal uses.

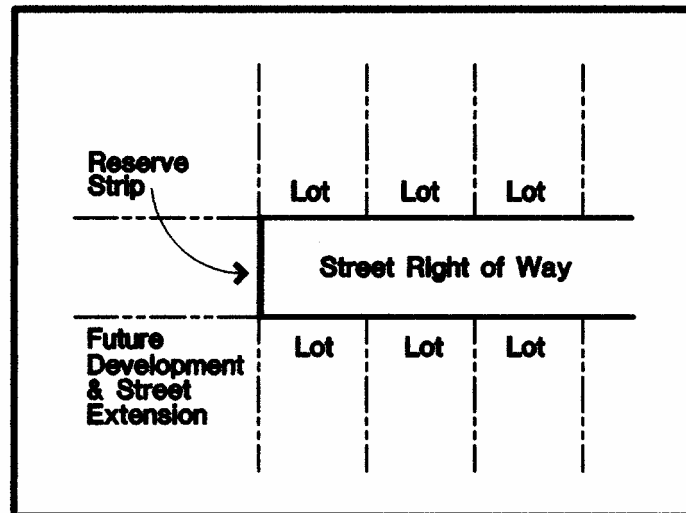
On-site. All lands in the development application and one-half (1/2) the right-of-way (to centerline) of roads lying adjacent to such lands.

Pathway. Any off-street way, which is intended for the primary use of pedestrians and/or bicyclists.

Plat. A map or representation of a subdivision or short plat showing the division of a parcel into lots, blocks, streets, and alleys or other division and dedications.

Preliminary map. A neat and approximate drawing of a proposed subdivision or short plat showing the general layout of roads, lots, blocks and other elements consistent with the requirements of Chapter 16.24 and shall be the basis for the approval or disapproval of the general layout of a subdivision or short plat.

Reserve strip. A strip of land reserved between the end or side of a street or alley and abutting a parcel of land to be held by the City until future street extension or widening occurs.



Right-of-way. Land dedicated to the public for access or utilities.

Riparian area. It is the area adjacent to a river, lake, or stream, which is the area of transition from an aquatic ecosystem to a terrestrial ecosystem

Road or Street. A public or private way that is created to provide access for vehicles or persons to one or more lots, parcels, or tracts of land.

Short plat or short subdivision. A division or redivision of land into 4 or fewer lots for the purpose of sale, lease, or transfer of ownership. Future divisions of approved lots within a short plat may be considered a subdivision even though the division would be 4 or fewer lots.

Sidewalk. A concrete way located generally parallel to a street within the right-of-way, which meets adopted design standards. It is primarily intended for use by pedestrians.

Staff report. A report provided by the City Administrator or designated staff that provides review of the proposed development in relation to the requirements and approval criteria.

Subdivision. A division or redivision of land into an accumulative of 5 or more lots for the purpose of sale, lease, or transfer of ownership.

Wetland or wetlands. Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands shall include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

Chapter 16.12 – Processing Land Division and Boundary Line Adjustment Applications

Sections

- 16.12.010 Initiation and Withdrawal of Action
- 16.12.020 Pre-Application Conference
- 16.12.030 Application
- 16.12.040 Application Submittal and Acceptance
- 16.12.050 Notice of Development Actions
- 16.12.060 Staff Report
- 16.12.070 Decisions
- 16.12.080 Burden of Proof

16.12.010 Initiation and Withdrawal of Action

- A. Applications may be initiated only by:
 - 1. All the owners and all the contract purchasers of the subject property, or any person authorized in writing to act as agent of the owners or contract purchasers. Contract purchasers shall indicate in writing that the contract vendor(s) has been notified of the application;
 - 2. The City Council; or
 - 3. The City Administrator.
- B. No application shall be deemed complete and further processed if it is determined that any necessary authorization to file has not been obtained.
- C. The City Administrator may withdraw any application or petition for review at the request of the applicant or petitioner. Once accepted as complete, however, the applicant or petitioner shall be entitled to withdraw by right only if the City Administrator determines that written consent to withdraw an application has been obtained from a majority of the owners or contract purchasers or the majority interest holders in the property, or all signers of the petition for review.
- D. If an application, petition for review, or motion for reconsideration is withdrawn after public notice has been provided and the approval authority has not rendered a decision, the City Administrator shall provide written notification of the withdrawal to all persons that were entitled to be mailed a public notice of pending review and all persons who submitted written comments.
- E. When applications and petitions for review are withdrawn at the request of the applicant, the application fees shall be refunded, less the actual costs incurred by the City.

16.12.020 Pre-Application Conference

- A. No application for a land division or boundary line adjustment shall be received by the Administrator unless the applicant or the applicant's representative has attended a pre-application conference with the City Administrator.
- B. The purpose of the pre-application conference is to acquaint the applicant or representative with the requirements of this title, Title 17 – Zoning as now or hereafter amended, the Comprehensive Plan as now and hereafter amended, and other relevant criteria. It is designed to assist the applicant. It is impossible, however, for the conference to be an exhaustive review of all potential issues

and failure of the City Administrator to provide any information required by this title or otherwise shall not constitute a waiver of the policies, standards, or criteria relevant to the application.

- C. Pre-application conferences shall be scheduled by the City Administrator at the earliest reasonable time.
- D. Another preapplication conference is required if an application is submitted more than 6 months after the preapplication conference is held.

16.12.030 Application

- A. Applications for development actions shall be submitted in accordance with the format and upon such forms as may be established by the City Administrator.
- B. A complete application contains the information required to address the relevant standards of the Comprehensive Plan and this title. It shall include at least the following:
 - 1. A completed original application form, signed and notarized by all people having ownership or interest in the subject property;
 - 2. A current radius search showing the tax parcel number and ownership of the subject property and all properties within 300 feet of the subject property.;
 - 3. Relevant public facilities information;
 - 4. A SEPA checklist, as provided in Chapter 15.20 of the Bingen Municipal Code, for land division applications, unless expressly exempted from SEPA review under WAC 197-11-800(6)(a) as now or hereafter amended;
 - 5. A subdivision guarantee from a recognized title company;
 - 6. Additional information directly related to the applicable standards of this title or the Comprehensive Plan as deemed essential by the City Administrator to evaluate adequately the specific application for compliance with those criteria and standards; and

16.12.040 Application Submittal and Acceptance

- A. Applications shall be submitted to the City Administrator in the number specified on the application form. The City Administrator, however, may waive copies of specific documents, maps, or exhibits upon a determination that the difficulty or burden of copying outweighs the usefulness of the copies.
- B. No application shall be received by the City for determination of completeness without the appropriate application fee. The applicable fees adopted by the City Council are hereby incorporated by reference as the fees herein. These fees may be amended by resolution.
- C. The date of submission shall be recorded. Within 7 calendar days for boundary line adjustment decisions and 20 calendar days for land division decisions, the City Administrator shall determine whether the application is complete. The City Administrator shall notify the applicant when the application is accepted as complete or rejected as incomplete if deficiencies are found. Resubmitted applications shall be subject to another 7 or 20 calendar day completeness

check.

- D. Upon determination of completeness, applications shall be accepted immediately. The date of acceptance shall be recorded. The City Administrator shall notify the applicant that the application is complete. Within 14 calendar days of determining completeness, the City Administrator shall initiate the notice procedure set out in 16.12.050 and set a hearing date for the land division application to be heard by the City Council. Unless otherwise directed by the City Council, applications shall be processed in the order accepted.
- E. Rejection by the City Administrator for incompleteness shall be based solely on failure to address the relevant standards or supply required information and shall not be based on differences of opinion as to quality or accuracy. Acceptance indicates only that the application is ready for review. The applicant shall be notified in writing what is necessary to make the application complete.
- F. Upon rejection for incompleteness, the applicant may object in writing to any alleged deficiencies and direct the City Administrator to process the application.

16.12.050 Notice of Development Actions

A. General Provisions

- 1. All public notices shall be deemed to have been provided or received upon the date the notice is deposited in the mail or personally delivered, whichever occurs first.
- 2. The records of the Klickitat County Assessor shall be used for determining the property owner of record. Persons not on file with that department at the time an application is filed need not be notified. Failure actually to receive notice shall not invalidate an action if a good faith attempt was made to notify all persons entitled to notice. A sworn certificate of mailing issued by the person conducting the mailing shall be conclusive evidence of a good faith attempt to contact all persons listed in the certificate.
- 3. For notice purposes, the boundary of the subject property shall be the property, which is the subject of the application, together with all contiguous property under identical ownership.

B. Solicitation of Agency Comments

1. Distribution

Within 14 days of determining that an application is complete, the City Administrator shall send notice of the land division application to affected agencies for review and comment. The agency representatives will be asked to provide detailed comments within 20 calendar days regarding any aspect of the proposed land division as it relates to each agency's area or regulatory authority. These agencies will also be requested to provide suggested conditions of land division approval as appropriate. The following agencies shall be notified if applicable:

- a. Klickitat County Health Department;
- b. City of White Salmon;
- c. Washington Fish and Wildlife;

- d. Washington State Historic Preservation Office;
- e. Washington Department of Ecology;
- f. Washington Department of Transportation; and
- g. Other potentially affected agencies as determined by the City Administrator.

2. Notice Contents

This agency notice shall include:

- a. Date of application completeness and mailing of agency notice;
- b. A description of the proposed land division and related project permits in the form of either a vicinity location sketch or a written description other than a legal description (See RCW 58.17.090(2).);
- c. The identification of other permits not included in the land division application to the extent known by the City Administrator;
- c. The proposed hearing date, time, and location before the City Council, and
- d. SEPA threshold determination, if applicable.

C. Boundary Line Adjustment Review

- 1. No public notice of review is required.
- 2. Written notice of the decision of the City Administrator shall be provided to the applicant.
- 3. Notification of pending actions and decisions shall be provided to affected jurisdictions upon request.

D. Subdivision and Short Plat Review

- 1. Public notice of land division hearing shall be sent by mail at least 20 calendar days before the hearing.
- 2. The notice of public hearing shall be mailed to:
 - a. The applicant or representative;
 - b. All property owners of record within 300 feet of the subject property, and
 - c. Newspaper of general circulation within the county (See RCW 58.17.090(a)). Notice published in the newspaper may be summarized.
- 3. The notice of public hearing shall contain:
 - a. The name of the applicant or owner;

- b. A description of the proposed subdivision or short plat;
 - c. A description of the subject property reasonably sufficient to inform the public of its location;
 - d. The designation of the City Council as the approval authority and the time, date, and place of hearing;
 - e. A statement that all interested persons may appear and provide testimony and that only those who submit written comments or testify at the hearing shall be entitled to appeal;
 - f. The applicable review criteria that apply to the application;
 - g. A statement that failure of an issue to be raised in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the City Council an opportunity to respond to the issue precludes appeal to the Superior Court based on that issue;
 - h. The City telephone number where additional information may be obtained;
 - i. A statement that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 - j. A statement that a copy of the staff report, if any, will be available for inspection at no cost at least 7 calendar days prior to the hearing and will be provided at reasonable cost; and
 - k. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. A statement that the record of the hearing shall remain open if a request is made before the close of the public hearing.
4. In addition to all other notice, at least 10 calendar days before the public hearing, notice shall be provided in a newspaper of general circulation in the city, and the city shall post a notice, visible from a public right-of-way, if possible, on the subject property.
5. Additional notice of any hearing may be required by the City Council.
6. Notice of the decision shall be provided to all persons who submitted written comments or testified during the hearing. The notice shall contain:
- a. A brief summary of the decision and conditions of approval, if any;
 - b. A description of the subject property reasonably sufficient to inform the public of its location;
 - c. The date the decision was provided and the due date for an appeal;
 - d. A statement that the decision is final and any further appeals must be pursued through Superior Court.

- e. A statement that the complete case, including findings and conclusions, and conditions of approval, if any, are available for review at the City.

E. Notice of Hearing and Notice of Decision on Appeal

Notice of a public hearing conducted by the City Council to review a boundary line adjustment decision by the City Administrator shall be provided in the same manner as required for City Council actions. Notice of decision on appeal shall be provided to all parties of record

16.12.060 Staff Report

- A. A staff report is not required for boundary line adjustment decisions.
- B. All full subdivision decisions shall be made with a staff report. Staff reports shall be provided for short subdivisions if the City Administrator determines one is needed. This report shall be provided to the applicant without charge. All others may obtain a copy upon request and payment of a reasonable fee to cover the cost of reproduction, overhead, and mailing.
- C. A staff report shall be available no later than 7 calendar days before a City Council hearing. Staff reports are mailed approximately 7 calendar days prior to the public hearings to the applicant and interested parties who request them. Mailing the report does not guarantee sufficient time prior to the public hearing to respond to the conditions of approval. Obtaining a copy of the staff report in person at the City best assures ample time for review and comment at the public hearing.
- D. Notwithstanding the above, the staff report may be amended as necessary to address issues or information not reasonably known at the time the report is due.
- E. If staff submits additional evidence or an amended staff report regarding the application, any party shall be entitled to a continuance of the hearing.

16.12.070 Decisions

A. Decision Types

After review of all evidence is submitted to the record, the approval authority may:

- 1. Approve or deny all or part of the application;
- 2. Approve all or part with modifications or conditions of approval as described in Section 16.12.070 F.;
- 3. Defer a decision as provided in Subsection 16.12.070 H.; and
- 4. Dismiss without prejudice due to procedural error or remand to correct a procedural error.

B. Announcement of Decision

No decision is final for the purposes of reconsideration or appeal until it has been reduced to writing and signed by the approval authority or its designee. If a public hearing has been held, the approval authority may announce a tentative decision at the close of the public hearing, but shall in any case announce a date

certain on which the decision shall be adopted or issued. If no public hearing has been held, the decision shall be announced in writing and made available to all parties as simultaneously as reasonably possible. The City shall release such a decision within 90 days of the date the application was determined to be complete. Extensions to this time limit may be extended as provided in RCW 58.17.140.

C. Basis for Decision

An approval or denial of a subdivision, short plat, or boundary line adjustment shall be based upon substantial evidence in the record that addresses the pertinent standards and criteria set forth in the applicable provisions of state law, the Comprehensive Plan, this title, and other applicable laws as determined by the approval authority.

D. Findings and Conclusions – Land Divisions

For land division decisions, the City Council shall provide brief and concise findings of fact, conclusions of law, and an order for all application approvals, conditional approvals, or denials. The findings and order shall set forth the criteria and standards considered relevant to the decision, state the facts relied upon, and briefly indicate how those facts support the decision. In the case of denial, it shall be sufficient to address only those standards upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.

E. Re-application

No new application for a boundary line adjustment or land division that is the same or substantially similar to an action that was denied shall be accepted for a period of 1 year from the date of the City's final decision of denial.

F. Conditions of Approval

1. The approval authority may impose conditions on any boundary line adjustment or land division approval. Such conditions shall be designed to protect the public from potential adverse impacts of the proposed use or development or to fulfill an identified need for public services within the impact area of the proposed development. Conditions shall not restrict residential densities to less than that authorized by the development standards of this or Bingen Municipal Code Title 17 – Zoning as now and hereafter amended.
2. In addition to conditions imposed pursuant to Section 16.12.070 F.1., a condition is valid and enforceable when the applicant has:
 - a. Requested the condition; and
 - b. Consented to the condition in writing or testimony at a public hearing.
3. Assurance of Compliance with Conditions

A bond, cash deposit, or other security acceptable to the approval authority may be required from the applicant in an amount sufficient to ensure compliance with a condition of approval.

4. Time Limits on Conditions

Conditions shall be fulfilled within the time limitations set forth or prior to completion of the development approved by the City if no time limitations are specified. Failure to fulfill a condition within said time may result in initiation of revocation of the approval, citation, or such other enforcement action as the City deems appropriate.

5. Failure to Fulfill Previous Conditions

Notwithstanding any other provision, the approval authority shall refuse to issue an approval with conditions, and deny an application, upon a determination that the applicant, or any officer, or principal of the applicant, willfully has failed to fulfill conditions of approval imposed in any previous boundary line adjustment, land division, or other development action and a determination that such a decision would encourage compliance or is necessary to protect the public from future noncompliance.

6. Modification or Removal of Conditions

Modification or removal of conditions of approval may be sought on appeal or as a new land division or boundary line adjustment application. A new application shall be processed through the same procedure as was used to impose the conditions.

G. Development Agreements

For subdivisions, the city may elect to enter into a development agreement as provided in RCW 36.70B.170 through 210, as amended. Such an agreement shall be considered as part of the subdivision application and shall be adopted by resolution or ordinance.

H. Deferral

For land division applications, the City Council may continue the public hearing and defer a decision to a date certain. No new notice is required for hearings continued to a date certain. Any deferral to a date certain that exceeds 90 days from the date an application was found to be complete by the City Administrator may only be extended as provided in RCW 58.17.140.

I. Date of Final Decision

1. Decisions of the City Administrator on a boundary line adjustment application shall be deemed final and effective upon expiration of the appeal period if no petition for review is filed within that time. Once final and effective, the decision cannot be appealed.
2. Decisions of the City Council on a land division application or boundary line adjustment appeal shall be deemed final as follows:
 - a. If no petition for reconsideration is filed within 7 calendar days, the decision shall be deemed final on the date notice of the decision was provided to the parties; or
 - b. If no appeal has been filed with the Superior Court within 21 calendar days of the City Council's final order.

16.12.080 Burden of Proof

Except as otherwise provided, the applicant initially, or the appealing party on appeal, shall bear the burden of proof that the proposal is in compliance with the applicable standards.

Chapter 16.16 Public Hearings

Sections

16.16.010	Notice
16.16.020	Rules of Procedure
16.16.030	Parties
16.16.040	Record
16.16.050	Procedural Rights
16.16.060	Presentations
16.16.070	Evidence

Public hearing on all development actions, including appeals, shall be conducted in accordance with this chapter.

16.16.010 Notice

Notice of public hearing shall be provided in accordance with Section 16.12.050 of this title and the rules of procedure adopted by the City Council.

16.16.020 Rules of Procedure

- A. Public hearings shall be conducted in accordance with the rules of procedure adopted by the City Council.
- B. At the beginning of the hearing for an application, a statement shall be made to those in attendance that:
 - 1. Lists the applicable substantive criteria;
 - 2. States that testimony and evidence must be directed toward the criteria described in B.1. of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
 - 3. States that failure to raise an issue with sufficient specificity to afford the City Council and the parties an opportunity to respond to the issue precludes appeal to the Superior Court based on that issue.

16.16.030 Parties

- A. The following persons, or their authorized representatives, may participate during the public hearing:
 - 1. The applicant or applicant's representative and the owners of the subject property;
 - 2. Those persons entitled to notice; and
 - 3. Any other person who demonstrates to the City Council that the person's rights may be adversely affected or aggrieved by the decision.
- B. Appearance of record shall mean:
 - 1. An oral statement made at the hearing sufficiently identifying the speaker and the speaker's address; or
 - 2. A written statement giving the name and address of the maker of the statement and introduced into the record prior to or at the public hearing.

3. A person's name and address on a petition introduced into the record constitutes an appearance of record.

16.16.040 Record

- A. Absent mechanical failure or inadvertent error, a verbatim written or mechanical record of the hearing may be made. In addition, written minutes giving a true reflection of the matters discussed and the views of the participants shall be taken. Such minutes shall substitute for a verbatim record in the event of mechanical failure or inadvertent error.
- B. Failure to comply with Section 16.16.040 A. shall not invalidate any action provided that a de novo appeal or other relief is available.

16.16.050 Procedural Rights

Subject to the specific standards and limitations set forth in this title, the following procedural entitlements shall be provided at the public hearing.

- A. A reasonable opportunity for those persons entitled to notice or who may be adversely affected or aggrieved by the decision to present evidence.
- B. A reasonable opportunity for the applicant to rebut evidence submitted by opponents.
- C. An impartial City Council shall remain as free from potential conflicts of interest and prehearing ex parte contacts as reasonably possible. It is recognized, however, that the public has a countervailing right of free access to public officials:
 1. City Council members shall disclose the substance of any significant pre-hearing ex-parte contacts with regard to the matter at the commencement of the public hearing on the matter. The member shall state whether the contact has impaired the impartiality or ability of the member to vote on the matter and shall participate or abstain accordingly.
 2. A member of the City Council shall not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: The member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is serving or has served within the previous 2 years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interests shall be disclosed at the meeting of the review authority where the action is being taken.
 3. Disqualification of a City Council member due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote.
 4. If all members abstain or are disqualified, the administrative rule of necessity shall apply. All members present who declare their reasons for abstention or disqualification shall thereby be requalified to act.

16.16.060 Presentations

- A. The City Council may set reasonable time limits for oral presentations. The City Council may determine not to receive cumulative repetitious, immaterial,

derogatory, or abusive testimony. Persons may be required to submit written testimony in lieu of oral if the City Council determines that a reasonable opportunity for oral presentations has been provided.

- B. No testimony shall be accepted after the close of the public hearing unless the City Council sets a deadline for such testimony and provides an opportunity for review and rebuttal, oral or written, at the direction of the City Council.
- C. Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least 7 days after the hearing. Such an extension shall be subject to the limitations of RCW 58.17.140.
- D. When the City Council reopens a record to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony, or criteria for decision-making, which apply to the matter at issue.
- E. Counsel for the City Council may be consulted solely on legal issues without reopening the public hearing. Objections alleging that counsel is discussing or testifying as to factual matters shall be heard.
- F. The presiding officer shall preserve order at all public hearings and shall decide questions of order subject to a majority vote of the City Council. Persons who become disruptive or abusive may be ejected from the hearing.
- G. If documents or evidence are entered into the record for the application, any interested party shall be entitled to a continuance of the hearing for the sole purpose of responding to the new documents or evidence.

16.16.070 Evidence

- A. The City Council may place any person submitting testimony under oath or affirmation. Once sworn or affirmed, all testimony subsequently given by the person during the hearing or a continuation thereof shall be deemed to be under oath.
- B. Cumulative, repetitious, immaterial, or irrelevant evidence may be excluded. Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Evidence may be received subject to a later filing regarding its admissibility. Erroneous admission or evidence shall not invalidate or preclude action unless shown to have prejudiced the substantial rights of a party.
- C. Members of the City Council may take official notice of judicially cognizable facts of general, technical, or scientific facts within their specialized knowledge. Such notice shall be stated and may be rebutted.
- D. Exhibits shall be marked to provide identification upon review. Unless required for an appeal, all exhibits shall be retained by the City for a period of not less than 30 calendar days after expiration of all appeals. Exhibits may be disposed of as approved by the City Administrator.
- E. Any member of the City Council may visit the subject property and may use information gained to reach a decision, provided the information relied upon is disclosed and an opportunity to rebut provided.

Chapter 16.20 Appeals

Sections

- 16.20.010 Decision
- 16.20.020 Appeal Authority
- 16.20.030 Petition for Review – Boundary Line Adjustments
- 16.20.040 Minutes and Transcripts
- 16.20.050 Nature of Hearing
- 16.20.060 Decisions of the City Council

16.20.010 Decision

- A. A decision of the City Administrator may be appealed by filing a complete petition for review with the City Clerk within fourteen (14) days of the decision of the City Administrator.
- B. A decision of the City Council, other than on petition for review or reconsideration, may be appealed with the City Clerk within fourteen (14) days of the decision of the City Council.
- C. A decision of the City Council on a petition for review or reconsideration may be appealed pursuant to RCW Chapter 36.70C as now or hereafter amended.

16.20.020 Petition for Review and Petition for Reconsideration

A petition for review or a petition for reconsideration shall not be complete unless it contains the following and is accompanied by the applicable fee.

- A. The name of the applicant and the City case file number.
- B. The name and signature of each petitioner and statement of the interest of each petitioner to determine party status. Multiple parties may join in filing a single petition for review, but each petitioner shall designate a single contact representative for all contact with the City. All City communications regarding the petition, including correspondence, shall be with this contact representative.
- C. The date that notice of the decision was sent as specified in the notice.
- D. The nature of the decision and the specific grounds for review or reconsideration.
- E. Failure to file, by 5:00 p.m. on the due date and with the applicable fee, a signed and complete original petition for review or a petition for reconsideration shall constitute a jurisdictional defect.

16.20.030 Minutes and Transcripts

- A. The City shall prepare minutes and keep a record of all land division action hearings and hearings on petitions for review and reconsideration.
- B. Transcripts
 - 1. The appellant has a right to a transcript, prepared by the City, if the appellant pays for the estimated cost of transcription and printing. The City shall procure the cost estimate in a timely manner.
 - 2. The appellant shall deposit the estimated cost of the transcription and printing. If the actual cost is more than the estimated cost, the appellant

shall pay the difference in addition to the deposit before receiving the transcript. If the actual cost is less than the estimated cost, the City shall pay the difference to the City upon delivery of the transcript to the appellant.

3. In the event the appellant fails to pay the actual cost of the transcript, the City Council may rely upon the minutes only for purposes of its consideration of the petition for review or petition for reconsideration.

16.020.040 Nature of Hearing

- A. At the hearing on petition for review or petition for reconsideration, participants shall be limited to the applicant, those who made the appeal, those persons who were entitled to be mailed a public notice of the pending review or reconsideration pursuant to Section 16.12.050 and those who made written comments as prescribed in Chapter 16.12.
- B. Except as provided in Sections 16.20.040 C. and D., petitions for review and petitions for reconsideration shall be confined to the record.
- C. At the hearing on petition for review or petition for reconsideration, the City Council may take such testimony as it deems necessary to fully and fairly address the significant procedural or substantive issues raised in the petition. The City Council shall only allow testimony or evidence beyond that in the record below only when in its discretion:
 1. Such evidence or testimony is necessary to fully and properly evaluate a significant issue relevant to the issues specified in the petition;
 2. the substantial rights of the issues will not be significantly and unfairly prejudiced thereby, and;
 3. consideration of such evidence or testimony is not necessitated by improper or unreasonable conduct of the party requesting such evidence or testimony or by a failure to present such evidence or testimony that was available at the time of the original decision.
- D. Hearings on a petition for review or petition for reconsideration, either on the record only or with additional testimony or evidence, may have time limitations for parties to testify or present argument. Said time limitations may be announced at the beginning of the hearing.

16.20.050 Decision of the City Council Upon Petitions for Review or Petitions for Reconsideration

- A. Decisions of the City Council are governed by Section 16.12.070.
- B. In addition to the decisions listed in Section 16.12.070 A., the city Council, may in its sole discretion, remand the matter to the City Administrator for further proceedings as the City Council directs. The decision as to whether to so remand shall not be subject to appeal. Upon such remand, the applicant shall be entitled to a refund of the fee attendant to filing the petition for review or petition for reconsideration. Appeal from a decision on remand shall be taken as any other appeal.

Chapter 16.24 Land Divisions

Sections

16.24.010	Purpose
16.24.020	Administration
16.24.030	Submittal Requirements: Preliminary Map
16.24.040	Approval Standards: Preliminary Map
16.24.050	Phased Development: Subdivision
16.24.060	Submittal Requirements: Final Plat
16.24.070	City Review of Final Plat: Approval Criteria
16.24.080	Modification of an Approved Plat
16.24.090	Survey Requirements
16.24.100	Financial Guarantees
16.24.110	Filing and Recording
16.24.120	Prerequisites to Recording the Plat
16.24.130	Alteration of Subdivisions and Short Plats
16.24.140	Vacation of Subdivisions and Short Plats
16.24.150	Vacation of Streets

16.24.010 Purpose

The purpose of this chapter is to:

- A. Implement the Comprehensive Plan.
- B. Implement the relevant provisions of Bingen Municipal Code Title 17 – Zoning as now and hereafter amended.
- C. Provide rules, regulations, and standards governing the approval of subdivisions and short plats.
- D. Carry out the development pattern and plan of the city.
- E. Promote the public health, safety, and general welfare.
- F. Lessen congestion in the streets and secure safety from fire, flood, geologic hazard, pollution, and other dangers.
- G. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage, and drainage.

16.24.020 Administration

- A. An application for a subdivision or short plat shall be processed through a two-step process: the preliminary map and the final plat:
 - 1. The preliminary map shall be approved by the approval authority before the final plat can be submitted for approval consideration; and
 - 2. The final plat shall reflect all conditions of approval of the preliminary map.
- B. The application and preliminary map for a short plat shall be administered and reviewed by the City Administrator in accordance with the provisions of this title.

- C. The application and preliminary map for a subdivision shall be administered and reviewed by the City Council in accordance with the provisions of this title.
- D. Final subdivision plats and short plats shall be administered and reviewed by the City Council in accordance with the provisions of this title.

16.24.030 Submittal Requirements: Preliminary Map

- A. In addition to the forms and information required in Section 16.12.030, the following information shall be submitted for a subdivision or short plat:
 - 1. The preliminary map and required data or narrative (number to be determined at the preapplication conference);
 - 2. The preliminary map and data or narrative shall include the following:
 - a. The name and address of:
 - i. the owner(s) of the subject property;
 - ii. the owner(s)' authorized agent; and
 - iii. the land surveyor and engineer.
 - 3. Sheet size for the preliminary map shall be 18 inches by 24 inches;
 - 4. The scale shall be of such size to provide the greatest clarity;
 - 5. A reduced version of the preliminary map prepared on an 8.5 by 11 inch or 11 by 17 inch paper;
 - 6. The proposed name of the short plat or subdivision shall not duplicate or resemble the name of any other subdivision in Klickitat County, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the applicant files and records the consent of the party that platted the subdivision bearing that name;
 - 7. Vicinity map showing the general location of the subject property in relationship to arterial, collector, and local streets;
 - 8. The date of application;
 - 9. The boundary lines of the tract to be subdivided;
 - 10. The recording information of any adjacent subdivisions;
 - 11. A contour map may be required;
 - 12. The location and type of the following which affect or serve the proposed subdivision parcel:
 - a. Adjoining and contiguous rights-of-way and easements;
 - b. Public and private sanitary and storm sewer lines, domestic water mains including fire hydrants, gas mains, major power (50,000 volts or higher), telecommunication lines, and watercourses; and

- c. Proposed reservations for parks, open spaces, pathways, and any other land encumbrances.
14. A grading and erosion control plan;
 15. Approximate location of all streets, proposed rights-of-way, pathways and easements;
 16. The proposed lot configurations, approximate lot dimensions, and lot numbers. Where lots are to be used for purposes other than residential, it shall be indicated upon such lots;
 17. The general location of all areas within the flood plain, floodway or areas subject to inundation or storm water overflow (as identified by the Federal Insurance Rate Maps [FIRM] or other sources), and the location, and direction of flow of all watercourses and drainageways;
 18. Existing natural features including potential geologically hazardous areas, wetlands, and riparian areas;
 19. The existing use of the property, including location of all structures;
 20. Supplemental information including proposed plan for provision of improvements; and
 21. The north arrow.
- B. If any of the foregoing information cannot practicably be shown on the preliminary map, it shall be submitted with the application.
 - C. The City Administrator may require information in addition to that required by this chapter when it is found that certain information is necessary to properly evaluate the application.
 - D. The City Administrator may waive a specific requirement for information when it is found that such information is not necessary to properly evaluate the application.

16.24.040 Approval Standards for Land Division: Preliminary Map

- A. The approval authority may approve, approve with conditions, or deny a preliminary map based on the following approval criteria:
 1. The proposed preliminary map complies with provisions of this title; Bingen Municipal Code Title 17 – Zoning as now and hereafter amended, and other applicable ordinances and regulations;
 2. The proposed plat satisfies the provisions of RCW 58.17;
 3. The proposed roads, streets, alleys, sidewalks, and pathways are designed in accordance with this title and the City's street standards, as provided in Section 16.32.070;
 4. The roads and streets are laid out so as to connect to those already approved for adjoining property as to width and in all other respects unless the City determines it is in the public interest to modify the street or road pattern;

5. How the subdivision design may allow for efficient development of adjoining properties;
 6. All subdivision proposals shall have appropriate utilities and facilities such as sewer, gas, electrical, water, telecommunications and storm water systems as well as access for emergency services;
 7. Potential geologic hazards have been identified and the construction associated with the proposed land division includes appropriate mitigation methods;
 8. The subdivision or short plat does not include any land for building construction situated in a flood hazard area (flood plain or drainage way) without written approval from the Washington Department of Ecology; and
- B. Waiver of remonstrance agreements may be required by the City to provide the opportunity to form a local improvement district (LID) in the future. The purpose of an LID is to finance needed public improvements, which must involve more than one property or development.
- C. The City Council may attach such conditions as are necessary to carry out the comprehensive plan and other applicable ordinances and regulations.

16.24.050 Phased Development: Subdivision

- A. The City Council may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period for any phase be greater than 3 years without applying a new preliminary subdivision or short plat approval.
- B. The following criteria for approving a phased subdivision proposal shall be:
1. Access and utilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of such public facilities prior to the issuance of a building permit;
 2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. (For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable City or district standard); and
 3. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as a part of the approval of the preliminary map.
- C. A request for phased development approval shall be heard concurrently with the preliminary subdivision plat application.

16.24.060 Submittal Requirements: Final Plat

The applicant shall submit a final subdivision plat or short plat and three copies to the City Administrator within 3 years of the preliminary map approval (or extended time as provided in Section 16.24.050A), which complies with the approved preliminary map.

16.24.070 City Review of Final Plat: Approval Criteria

The City Council and the City's consulting engineer shall promptly review the final subdivision plat or short plat and shall approve or deny the final plat. The City Council

shall prepare written findings consistent with RCW 58.17.195, which address the following:

- A. The final plat complies with the requirements approved by the City Council and all conditions of approval have been satisfied.
- B. The plat complies with the applicable provisions of this title and other applicable City regulations.
- C. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
- D. The streets and roads held for private use and indicated on the final plat of such subdivision have been approved by the City.
- E. The plat contains a statement of dedication to the public for all streets, roads, and parks, and easements to the City of Bingen for sewage disposal and water supply systems.
- F. An explanation regarding all of the common improvements required as conditions of approval are provided to be recorded.
- G. Proper verification has been provided showing that the necessary water, sanitary, storm drainage, and other utilities will be available.
- H. The final plat has been made upon materials that comply with the State of Washington recording requirements.
- I. The lettering of the approvals, dedication and affidavit of the surveyor is of such a size and type, and the plat is at such a scale, as will be clearly legible and shall meet the requirements of WAC 332.130.
- J. If there is more than one sheet, each page shall be numbered as ____ of ____ sheets.
- K. The plat contains the applicable following information:

SHORT PLAT BLOCKS:

OWNERS:

We, owners of the Short Plat shown herein, hereby declare that this division of land has been made with our free consent and in accordance with our desires. We further dedicate all roads as shown, not noted as private.

NOTARY:

WITNESS MY HAND AND OFFICIAL SEAL

Dated this _____ day of _____, 2004.

Notary Public in and for the State of Washington
residing in _____.
My commission expires _____.

SUPERINTENDENT OF PUBLIC WORKS:

I hereby certify that this short subdivision has been examined by me and that it contains adequate provision for water supply and sewage disposal for domestic use.

KLICKITAT COUNTY TREASURER:

I hereby certify that all taxes and compensating taxes and/or penalties and property contained within the plat shown herein have been paid, discharged or satisfied.

SURVEYOR'S CERTIFICATE:

I, _____, registered as a land surveyor by the State of Washington, certify that this plat is based on an actual survey of the land described herein, conducted by me or under my supervision, during the period of _____, 2004; that the distances, courses and angles are shown thereon correctly; and that monuments, other than those approved for setting at a later date, have been set and lot corners staked on the ground as depicted on the plat.

CITY COUNCIL:

Approved _____, 2004 by Bingen City Council.
Mayor _____ City Clerk _____
Dated _____, 2004

AUDITOR'S CERTIFICATE:

(at bottom right of sheet)

SHORT SUBDIVISION FILED FOR RECORD AT THE
REQUEST OF _____ ON THIS _____
DAY OF _____, 2004, AT _____ AND RECORDED
IN VOLUME _____ OF SHORT PLATS AT
PAGE _____, AF# _____
RECORDS OF KLICKITAT COUNTY, WASHINGTON.

Land within this short subdivision shall not be further divided for a period of five (5) years unless a final plat is filed pursuant to Bingen City Code, Title 16 as now and hereafter amended.

Construction and maintenance of any private road easements providing access to and/or within this short subdivision are not the responsibility of the City of Bingen.

CC&R's and Road Maintenance Agreement for this short plat are recorded at AF# _____

SUBDIVISION BLOCKS:

SURVEYOR'S CERTIFICATE: (same as Short Plat)

OWNERS:

We, owners of the Plat shown herein, hereby declare that this division of land has been made with our free consent and in accordance with our desires. We further dedicate all roads as shown, not noted as private.

NOTARY: (same as in Short Plat above)

KLICKITAT COUNTY TREASURER: (same as in Short Plat above)

FIRE CHIEF:

I hereby certify that this plat has been examined by me and that it contains adequate safe provisions for water supply and access for the purposes of fire protection.

ENGINEER(City/County):

I hereby certify that this plat has been reviewed and examined by me and that it conforms Klickitat County Comprehensive Plan, Zoning Ordinance, Floodplain Ordinance, Environmental Ordinance and any other applicable laws or policies.

At such time as the lots within this plat are developed, addresses will be assigned in accordance with the Klickitat County addressing system.

Building permits may not be issued within this plat until evidence of a potable water supply is certified, except as provided by state law.

Land within this subdivision shall not be further divided for a period of five (5) years unless a final plat is filed pursuant to Bingen City Code, Title 16 as now and hereafter amended.

Construction and maintenance of any private road easements providing access to and/or within this subdivision are not the responsibility of the City of Bingen.

Covenants, Conditions and Restrictions, Road Maintenance Agreement and other conditions for this plat are recorded in AF# _____

AUDITOR'S CERTIFICATE:

(at bottom right of sheet)

SUBDIVISION FILED FOR RECORD AT THE

REQUEST OF _____ ON THIS _____

DAY OF _____, 2004, AT _____ AND RECORDED

IN VOLUME _____ OF PLATS AT PAGE _____, AF# _____

RECORDS OF KLICKITAT COUNTY, WASHINGTON.

16.24.080 Modification of an Approved Plat

All modifications to subdivision or short plats that have received final plat approval shall be applied for and processed as a new subdivision or short plat application as provided by this title.

16.24.090 Survey Requirements

A survey, prepared by a professional land surveyor licensed in the state of Washington, is required for all subdivision and short plat applications and must be prepared and presented in accordance with the requirements of this section.

A. Section Reference

Primary survey control points shall be referenced to controlling corners and monuments. Corners of adjoining subdivisions or short plats thereof shall be identified and shown on the survey. The standard of error of closure on the boundaries shall be in compliance with WAC 332-130-090.

B. State Plane Coordinate System

When practicable, monuments shall be referenced under the Washington Plane Coordinate System.

C. Permanent Control Monuments

For all subdivision and short plats processed under this title, permanent control monuments shall be established at the following:

1. All controlling corners on the boundaries of the subdivision or short plat;
2. The intersections of centerlines (or edges of rights-of-way as approved by the City Administrator) of roads within a subdivision;
3. The beginning and end of curves on centerlines (or edges of rights-of-way as approved by the City Administrator) within a subdivision;
4. All block corners of the subdivision or short plat; and
5. All meander corners of the subdivision or short plat.

As a minimum a permanent control monument shall consist of 5/8" by 30" iron bar with a 1-1/2" diameter metal cap.

D. Lot Corners

Every lot corner shall be marked by a 5/8 inch diameter by 30-inch long iron bar with a metal cap.

E. Survey Discrepancy

Whenever a survey of a proposed subdivision or short plat reveals a discrepancy, the discrepancy shall be noted on the face of the plat. For purposes of this requirement, this shall include:

1. A boundary hiatus;
2. A boundary overlap;
3. A physical appurtenance, which indicates lines of possession or conflicts of title.

16.24.100 Financial Guarantees

When conditions of land division approval require the applicant to construct certain public improvements, the City may allow the applicant to submit a financial guarantee in lieu of actual construction of the improvements in order to obtain final plat approval. However, the City will not issue building permits unless all public improvements and other work required as conditions of plat approval are completely constructed, accepted, or otherwise fulfilled. Financial guarantees shall be governed by this section.

A. Form of Guarantee

Guarantees shall be in a form approved by the City attorney, including a surety bond, an irrevocable stand-by letter of credit issued by a recognized lending institution to the benefit of the City, a certified check, dedicated bank account or allocation of a construction loan held in reserve by the lending institution for the benefit of the City, or an irrevocable escrow deposit. The guarantee shall be filed with the City Administrator.

B. Amount of Guarantee

The amount of the performance guarantee shall be equal to at least 110% of that estimated cost of constructing the improvement in question. The amount of the performance guarantee may be larger than 110% if deemed necessary by the City Administrator. The cost estimate substantiating the amount of the guarantee must be provided by the applicant and supported by either an engineer's estimate or written estimates by three contractors with their names and addresses. The estimates shall separately itemize all materials, labor, and other costs.

C. Duration of the Guarantee

The guarantee shall remain in effect until the improvement is actually constructed and accepted by the City. Once the City has inspected and accepted the improvement, the City shall release the guarantee to the applicant. If the improvement is not completed to the City's satisfaction within the time limits specified in the permit approval or the guarantee, the City Administrator may, at his/her discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the City. Once constructed and approved by the City, any remaining funds shall be refunded to the applicant.

D. Deferred Improvements

If the applicant elects to defer construction of improvements by using a financial guarantee, the applicant shall agree to construct the improvements upon written notification by the City, or by a mutually established date. If the applicant fails to commence construction of the required improvements within 6 months of being instructed to do so, the City may, without further notice, undertake the construction of the improvements and draw upon the applicant's performance guarantee to pay those costs as provided in subsection C. above.

16.24.110 Filing and Recording

A. Within 60 days of the City review and approval, the applicant shall submit the final plat to the County for signatures of county officials and recording with the Klickitat County Auditor.

B. For final recording with the County, the applicant shall submit:

1. One mylar and 2 archive quality copies of the final plat to the County; and
2. One archive quality copy of the recorded final plat to the City showing evidence of recordation.

16.24.120 Prerequisites to Recording the Plat

- A. Each and every plat, or replat of any property shall contain a certification from the proper officer or officers in charge of tax collections that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.
- B. The county auditor must refuse to accept any plat for filing until the local legislative body has issued approval of the final plat as provided by RCW 58.17.090 and/or if the plat does not meet the requirements of WAC 332-130.

16.24.130 Alteration of Subdivisions and Short Plats

Except as provided in RCW 58.17.040(6), alterations of a recorded plat shall be reviewed and processed as a new subdivision or short plat application..

16.24.140 Vacation of Subdivisions and Short Plats

- A. Any plat or portion thereof may be vacated by the owner of the platted area at any time prior to the sale of any lot within the platted subdivision.
- B. All applications for a plat or street vacation shall be made in accordance with Sections 16.24.020 and 16.24.030.
- C. The application may be approved by the City Council when it finds that the proposed vacation complies with the relevant provisions of RCW 58.17.212 and 215.

16.24.150 Vacation of Streets

All street vacations shall comply with the procedures and standards set forth in RCW 36.87, Roads and Bridges – Vacations, or 35.79, Streets - Vacations.

Chapter 16.28 Boundary Line Adjustments

Sections

16.28.010	Purpose
16.28.020	Applicability of Provisions
16.28.030	Administration
16.28.040	Preliminary Application Submission Requirements – Boundary Line Adjustments
16.28.050	Boundary Line Adjustment Approval Criteria
16.28.060	Final Boundary Line Adjustment Submittal Requirements
16.28.070	Recording Boundary Line Adjustments
16.28.080	Lot Consolidation Review

16.28.010 Purpose

The purpose of this chapter is to provide rules, regulations, and standards governing approval of boundary line adjustments.

16.28.020 Applicability of Provisions

- A. A boundary line adjustment approval is required for any adjustment to a property line, which does not create an additional lot of record nor violation of the requirements of this title and Bingen Municipal Code Title 17 – Zoning as now and hereafter amended.
- B. A lot consolidation review is required to demonstrate that any newly configured lot resulting from a consolidation of two or more lots satisfies the requirements of this title and Bingen Municipal Code Title 17 – Zoning as now and hereafter amended.

16.28.030 Administration

Boundary line adjustment applications and lot consolidation reviews shall be administered and reviewed by the City Administrator in accordance with the provisions of this title.

16.28.040 Preliminary Application Submittal Requirements – Boundary Line Adjustments

- A. In addition to the form and information required in Section 16.12.030, the following information shall be submitted:
 - 1. Copies of the preliminary boundary line adjustment map (number of copies determined at preapplication conference) and necessary data or narrative;
 - 2. The preliminary boundary line adjustment map and necessary data or narrative shall include the following:
 - a. The name and address of the following:
 - i. The owner(s) of the subject property;
 - ii. The owner(s)' authorized agent; and
 - iii. The land surveyor and engineer (if applicable).

3. Sufficient description to define the location and boundaries of the proposed area to be adjusted;
 4. The map scale, north arrow, and date;
 5. The scale shall be of such size to provide the greatest clarity;
 6. The location, width, and names of streets or other public ways and easements within and adjacent to the proposed boundary line adjustment;
 7. Other important features to include:
 - a. The location of all permanent buildings on the property;
 - b. The location and width of all drainageways and/or floodplain areas;
 - c. Any identified wetlands or riparian areas;
 - d. All slopes greater than 15 percent and potential geologically hazardous areas; and
 - e. The location of existing utilities and utility easements; and
 8. Any deed restrictions that apply to the existing lots.
- B. The preliminary plan shall be as accurate as possible to ensure proper review by the City Administrator.

16.28.050 Boundary Line Adjustment Approval Criteria

The City Administrator shall approve a request for a boundary line adjustment when the following criteria are satisfied.

- A. No lots are to be reduced below the minimum lot size for the applicable zoning district.
- B. Lots and structures on the lot will not violate any existing regulations for the applicable zoning district.
- C. Lots shall have an access easement of a minimum width of 20 feet to a public street.

16.28.060 Final Boundary Line Adjustment Submittal Requirements

- A. All final plats for a boundary line adjustment shall be submitted within one (1) year of the final boundary line adjustment approval. They shall be made on forms provided by the City Administrator and shall be accompanied by 3 copies of the boundary line adjustment map prepared by a land surveyor or engineer licensed to practice in Washington, and necessary data or narrative.
- B. The final boundary line adjustment map and data or narrative shall include the following:
 1. Sheet sizes for the final boundary line adjustment map shall be 18 inches by 24 inches;
 2. The scale of the map shall be of such size to provide the greatest clarity;

3. The name and address of the following:
 - a. The owner(s) of the subject property;
 - b. The owner(s)' authorized agent; and
 - c. The land surveyor and engineer (if applicable).
4. The assessor's lot number and a description of the adjusted area and a subdivision guarantee from a title company;
5. The map scale, north arrow, and date;
6. Indication of original lot lines plus table of old and new lot areas;
7. Names of boundary line adjustments, short plats, subdivisions abutting the property;
8. The locations, width, and names of streets or other public ways and easements within and adjacent to the proposed boundary line adjustment;
9. Any deed restrictions that apply to the existing lots; and
10. Signature blocks for boundary line adjustments as below:

BOUNDARY LINE ADJUSTMENT BLOCKS:

CITY COUNCIL: (same as Short Plat)

SURVEYOR'S CERTIFICATE:

I, _____, registered as a land surveyor in the State of Washington certify that this boundary line adjustment is based on an actual survey conducted by me or under my supervision, during the period of _____, 2004; that the distances, courses and angles are shown thereon correctly; and that monuments have been set and the adjustment lot line is staked on the ground as depicted on this drawing.

AUDITOR'S CERTIFICATE:

(at bottom right of sheet)

BOUNDARY LINE ADJUSTMENT FILED FOR RECORD AT THE REQUEST OF _____ ON THIS _____ DAY OF _____, 2004, AT _____ AND RECORDED IN VOLUME _____ OF BOUNDARY LINE ADJUSTMENTS AT PAGE _____, AF# _____, RECORDS OF KLICKITAT COUNTY, WASH.

16.28.070 Recording Boundary Line Adjustments

Upon the City Administrator's approval of the final boundary line adjustment application, the applicant shall record the boundary line adjustment with Klickitat County and submit the recordation numbers to the City to be incorporated into the record.

Chapter 16.30 Lot Consolidation

Sections

16.30.10 Lot Consolidation Review

16.30.010 Lot Consolidation Review

- A. The applicant shall submit a map and narrative, which clearly describes the existing lots proposed for consolidation.
- B. The City Administrator shall review the proposal for compliance with this title and Title 17 – Zoning as now and hereafter amended. Upon determining compliance, the City Administrator shall provide a letter allowing the applicant to record the consolidation with Klickitat County.

Chapter 16.32 Improvements: Land Divisions

Sections

16.32.010	Purpose
16.32.020	Applicability of Provisions
16.32.030	Administration
16.32.040	Approval Standards – On-Site Street and Circulation System
16.32.050	Approval Standards – Pathways
16.32.060	Modification of Standards
16.32.070	Street Standards
16.32.080	Private Streets
16.32.090	Ownership, Liability, and Maintenance of Private Streets and Pathways
16.32.100	Utilities

16.32.010 Purpose

The purpose of this chapter is to provide suitable facility improvements to support new land divisions in a manner that is consistent with the Bingen Comprehensive Plan.

16.32.020 Applicability of Provisions

The standards in this resolution shall apply to the following:

- A. Land division applications; and
- B. Street or utility improvement projects sponsored by the City or other agencies.

16.32.030 Administration

Street and circulation provisions of this chapter shall be administered by the City Administrator.

16.32.040 Approval Standards – On-Site Street and Pathway Circulation

- A. On-site streets shall satisfy the following criteria:
 - 1. A subdivision shall have a minimum of two routes of egress and ingress.
 - 2. Streets shall connect to existing streets which abut the development site at existing intersections.
 - 3. Cul-de-sacs and permanent dead-end streets shall be prohibited except where construction of a through street is found to be impracticable according to the provisions of Section 16.32.060.
 - 4. When cul-de-sacs and permanent dead-end streets are allowed, they shall be limited to 200 feet of street length and no more than 12 dwelling units.

- B. Pathways shall satisfy the following criteria:
1. When approved block lengths exceed 600 feet, as provided in Section 16.32.060, a pathway shall be provided to connect streets for every 300 feet of frontage or portion thereof.
 2. Pathways shall connect with all existing or approved pathways, which abut the development site;
 3. Pathways shall provide practicable access to abutting pedestrian oriented uses, which are not served by a direct street connection from the subject property;
 4. Direct connection of cul-de-sacs and dead-end streets to the nearest available street or pedestrian oriented use; and
 5. Pathways may be required to stub into adjacent developed property if the city administrator or the approval authority determines that existing development patterns or other constraints do not physically preclude future development of an pathway on the developed property and the adjacent developed property attracts a greater than average level of pedestrian use.

16.32.050 Approval Standards – Pathways

- A. Pathways shall be constructed to enhance safety and security for users and adjacent properties.
- B. Pathways shall have a maximum slope of 5 percent wherever practical.
- C. Pathways shall be no longer than 300 feet in length between streets. Pathways shall include a 10-foot wide right-of-way with a 6-foot wide paved surface to safely accommodate both pedestrians and bicyclists.
- D. The pathway shall be free of horizontal obstruction and shall have a 9 foot, 6 inch vertical clearance to accommodate bicyclists.
- E. The right-of-way of a pathway shall be landscaped at a minimum with ground cover. New landscaping materials may include canopy trees, shrubs, ground cover, vines, flowers, lawns, brick, bark, timber, decorative rock, or other decorative materials.
- F. Pathway surfaces shall be constructed of asphaltic concrete or other all-weather compacted surfaces approved by the city administrator.
- I. Pathway curb ramps shall be provided where pathways intersect with streets.
- J. Pathways shall be signed to prohibit access by unauthorized motor vehicles where pathways intersect with streets.

- K. Pathways shall require a physical barrier at all intersections with streets, to prevent use of the facility by unauthorized motor vehicles. Barriers shall:
1. Be removable, lockable posts permitting access by authorized vehicles;
 2. Be reflectorized for night visibility and painted a bright color for day visibility; and
 3. Be spaced 4 feet apart.

16.32.060 Modification of Standards

The City Administrator or approval authority may approve a modification to the standards of Sections 16.32.040 and 050 based upon the relevant approval criteria in this section.

A. On-Site Street and Pathway Circulation

1. On-site street and pathway circulation standards in Section 16.32.040 may be modified based on findings that the modification is the minimum necessary to address the constraint and the application of the standard is impracticable due to one or more of the following circumstances:
 - a. Physical or topographic conditions make a street or walkway connection impracticable. These conditions include but are not limited to controlled access streets, railroads, steep slopes, wetlands, or water bodies where a connection could not reasonably be provided. Although grades may be too steep for a street, they are not necessarily too steep for a pathway.
 - b. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment.
 - c. Where streets or pathways would violate provisions of leases, easements or similar restrictions that are demonstrated to be legally beyond the control of the applicant, developer, or property owner.
 - d. Arterial or collector street access restrictions.
2. When a cul-de-sac is justified as provided in Section 16.32.060 A. 1, a pathway shall be provided to connect with another street, school, or similar destination unless one or more of the circumstances listed in this section also apply to an pathway.

B. Pathways

Pathway standards in Section 16.32.050 may be modified by the City Administrator or approval authority based on findings that the modification is the minimum necessary to address the constraint, the application of the standard is

impractical, and the alternative design solution proposed by the applicant meets the intent of the standards in this chapter.

16.32.070 Street Standards

A. Street Classifications

The streets within and adjacent to a land division shall be improved in a manner consistent with the street classifications provided in Table 16.32-1.

B. Street Construction Standards

The appropriate street construction standards employed shall be determined by the city administrator according to the *Washington State Department of Transportation Standard Specifications* as now and hereafter amended.

C. Street Right-of-Way and Roadway Widths

1. Requirements

The required right-of-way and roadway widths for local and collector street classifications are shown in Table 16.32 – 1 below.

2. Selection of Appropriate Street Standards

The City Administrator or the approval authority, in the case of a related land division application, shall use the following guidelines in Table 16.32 – 1 to determine the appropriate street standard to apply.

Table 16.32 - 1

Local Residential Street Type		Application Guidelines
ROW Width	Street Width	
60 feet	38 feet	Through street with curb and sidewalk on both sides. Intended for new residential or mixed residential/commercial development with anticipated average daily traffic (ADT) for the street of over 600 vehicles per day. Anticipated on-street parking demand is relatively high due to existing uses with limited on-site parking, nearby commercial uses, or other factors. Generally, this standard should be required for developments with more than 40 residential units. If physical constraints prevent construction of all design elements, curb-to-curb pavement width should be reduced first, followed by omitting a sidewalk on one side of the street.
60 feet	30 feet	Through street with curb and sidewalks on both sides. Intended for new residential development with anticipated average daily traffic (ADT) for the street of less than 600 vehicles per day. Anticipated on-street parking demand is relatively low because of sufficient on-site parking, low density uses, or other factors.

		Generally, this standard should always be required for developments with more than 20 residential units. This standard is also appropriate for infill development of any size when comparable street improvements, such as curb and sidewalk, exist or are anticipated in the immediate vicinity. If physical constraints prevent construction of all design elements, curb-to-curb pavement width should be reduced first, followed by omitting a sidewalk on one side of the street.
60 feet for street and 45-foot radius for bulb	30 feet	Cul-de-sac or hammerhead with curb and sidewalk on both sides. Intended for new residential development with anticipated average daily traffic (ADT) for the street of less than 200 vehicles per day. Street width and cul-de-sac bulb radii should be designed to accommodate anticipated on-street parking and emergency access. Generally should be allowed to serve a maximum of 12 dwelling units.
50 feet	24 feet	Through street without curb and sidewalk. Intended for new residential development with anticipated average daily traffic (ADT) for the street of less than 600 vehicles per day. Anticipated on-street parking demand is relatively low because of sufficient on-site parking, low density uses, or other factors. This standard should be required for developments of any size only when it is determined that the 38-foot or 30-foot standard is not appropriate.
60 feet	40 feet	Through street with curb and sidewalk on both sides. Intended for designated collector streets where the anticipated on-street parking demand is relatively low because of low intensity uses and/or sufficient on-site parking. Although it may take a long time to complete, sidewalks and bicycle lanes should be planned for and ultimately provided on both sides of the street. This street design should be used in areas with difficult topography or similar physical constraints. For significantly constrained situations, consideration should be given to omit design features in the following general order: 1. Sidewalk on one side; 2. Bicycle lanes; and 3. Prohibit parking on both sides. Safety and anticipated need should be evaluated to determine which features to omit.
60 feet	48 feet	Through street with curb and sidewalk on both sides. Intended for designated collector streets where the anticipated on-street parking demand is relatively high due to existing uses with limited on-site parking, nearby commercial uses, or other factors. Although it may take a long time to complete, sidewalks and bicycle lanes should be planned for and ultimately provided on both sides of the street.

16.32.080 Private Streets

The City Administrator or approval authority may allow the use of private streets to serve lots created by a land division, when the following criteria are satisfied:

- A. The private street shall serve no more than a maximum of 4 (four) lots or 8 (eight) dwelling units;
- B. At a minimum, the private street shall be constructed to the same standard as the 24-foot wide local street described in Table 16.32 – 1 and shall be within an easement or tract that is sufficient to accommodate the private street; and

16.32.090 Ownership, Liability and Maintenance of Private Streets and Pathways

To ensure that all private streets and pathways will be adequately maintained over time, the city administrator shall require the following:

- A. The developer shall incorporate the pathway or private street in a recorded easement, which specifically requires the property owner and future property owner(s) to provide for the ownership, liability, and maintenance of the pathway or private street. In this case, the city administrator shall determine whether the pathway shall be recorded as an easement.
- B. A maintenance agreement should be recorded.

16.32.100 Utilities

Utilities shall be available to serve the lots created by a land division according to the following provisions:

A. Sanitary Sewer

All lots created in the City shall be served by the city sanitary sewer system. The specific design requirements shall be determined by the City Administrator.

B. Water

All lots created in the City shall be served by the city water system. The specific design requirements shall be determined by the City Administrator.

B. Storm Drainage

All lots created in the City shall be served by appropriate storm drainage facilities. The specific design requirements and method for conveying storm water shall be determined by the City Administrator.

D. Other Utilities

Other utilities provided by public utility companies including, but not limited to, electrical power, natural gas, and telecommunications shall be available as necessary.

E. Utility Easements

1. Easements for public utilities shall be required. Easements for utilities shall be a minimum of 10 feet wide and generally centered on rear or side

lot lines. Additional easement width and/or alternative locations may be required by the City Administrator.

2. When a lot is traversed by a drainage way or stream, a storm water easement may be required, which has a width and alignment that corresponds to the location of the watercourse.

F. Design Standards

City utility facilities shall be designed in accordance with the standards provided by the City of Bingen Public Works Department.

Chapter 16.36 Variances

Sections

16.36.010	Purpose
16.36.020	Applicability of Provisions
16.36.030	Administration
16.36.040	Submittal Requirements
16.36.050	Approval Criteria

16.36.010 Purpose

The purpose of this chapter is to provide standards for the granting of variances from the applicable provisions of this title where it can be shown that, owing to special and unusual circumstances, the literal interpretation of these provisions would cause an undue or unnecessary hardship without a corresponding public benefit.

16.36.020 Applicability of Provisions

A variance application may be requested relating to any provision of this title.

16.36.030 Administration

Variance applications shall be administered and reviewed by the City Council as a part of the associated land division or boundary line adjustment. Boundary line adjustments that include a variance request shall be reviewed by the City Council.

16.36.040 Submittal Requirements

In addition to the application form and information required for the related land division or boundary line adjustment application, the applicant shall submit a narrative and/or site plan, with the number of copies to be determined at the preapplication conference, which explains how the variance satisfies the relevant approval criteria in Section 16.36.050.

16.36.050 Approval Criteria

A variance application shall only be approved or approved with conditions when the City Council finds that all of the following criteria have been satisfied:

- A. The proposed variance will equally or better meet the purpose of the regulation being modified and any associated policies of the comprehensive plan;
- B. There are special circumstances, such as peculiar lot size or shape, topographic constraints or limitations caused by existing development, over which the applicant has no control, and which are not applicable to other properties in the same zoning district;
- C. The use proposed is a permitted or conditional use as allowed in the applicable zoning district, and the standards of this title will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;
- D. Existing physical and natural systems, such as but not limited to transportation facilities, utilities and sensitive lands, will not be adversely affected any more than would occur if the use or structure were developed in accordance with the provisions of this title;

- E. The requirement to be varied is not mandated by state or federal law; and
- F. The hardship is not self-imposed and the variance requested is the minimum variance, which would alleviate the hardship.

Chapter 16.40 Planned Development

Sections

16.40.010	Purpose
16.40.020	Applicability of Provisions
16.40.030	Administration
16.40.040	Submittal Requirements
16.40.050	Allowed Uses
16.40.060	Applicability of Development Standards
16.40.070	Common Open Space
16.40.080	Approval Criteria

16.40.010 Purpose

The purposes of the Planned Development review process are to:

- A. Provide a means for creating planned environments by applying flexible standards, which allow the use of innovative design techniques, which will result in a superior living arrangement;
- B. Facilitate the efficient use of land while preserving the existing landscape features and amenities to a greater extent than the normal standards of this title would allow;
- C. Encourage transferring density and development to the most suitable portions of the site;
- D. Encourage design features, which provide a variety of housing opportunities, public recreation, and other community amenities; and
- E. Promote protection or avoidance of important natural and hazardous areas by using flexible standards and incentives.

16.40.020 Applicability of Provisions

Planned development review may apply to a subdivision application as provided by this title.

16.40.030 Administration

Planned developments shall be administered and reviewed in conjunction with a related subdivision application in accordance with this title.

16.40.040 Submittal Requirements

- A. The application and support information required by this title for a related subdivision application shall be submitted.
- B. The applicant shall also provide supporting narrative, illustrations, plans, and related information to clearly identify all requirements in this title that area proposed for modification as part of the planned development, and a demonstration of compliance with the provisions of this chapter.

16.40.050 Allowed Uses

A planned development may contain a mixture of uses subject to the density provisions of the base zone. Subject to Section 16.40.080, the following uses may be allowed as part of a planned development approval in addition to the permitted and conditional uses allowed by the base zone:

- A. Accessory services directly serving the planned development only and which are customary or associated with, but clearly incidental to, the residential uses permitted in the base zone;
- B. Community building;
- C. Indoor and/or outdoor recreation facilities including fitness center, racquetball court, swimming pool, tennis court, or similar use; and
- D. Recreational vehicle storage area, which only serves residents in the planned development.

16.40.060 Applicability of Development Standards

- A. Except as provided in Section 16.40.060 B., the development standards of the base zone and this title shall continue to pertain to a planned development.
- B. The following standards of this title are optional within a planned development:
 - 1. Minimum lot size for lots that do not abut another property in the same or a more restrictive zoning district;
 - 2. Minimum average lot width for lots that do not abut another property in the same or a more restrictive zoning district;
 - 3. Minimum average lot depth for lots that do not abut another property in the same or a more restrictive zoning district;
 - 4. Side and rear yard setbacks for buildings that are more than 50 feet away from the perimeter of the planned development;
 - 5. When more than one zoning district applies to the site, the zone designations may be moved within the boundaries of the planned development, provided the total area of each zoning district remains the same.

16.40.070 Common Open Space

- A. The planned development shall provide a minimum of 20 percent (20%) of usable common open space as approved by the City Council. All common open space areas shall be minimum of 1,000 square feet with minimum dimensions in any direction of 10 feet.

- B. To the extent feasible, the planned development shall retain the natural topographic features, such as drainage swales, slopes, ridgelines, rock outcroppings, vistas, natural areas, and trees.
- C. Designated common open space shall comply with the following:
 - 1. The open space area shall be shown on the final plan or plat and recorded in a manner required by the city manager; and
 - 2. The open space shall be conveyed in accordance with one of the following methods:
 - a. By dedication to the City as publicly-owned and maintained as open space. Open space proposed for dedication to the City must be acceptable with regard to the size, shape, location, improvement, and budgetary and maintenance limitations;
 - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Administrator for guaranteeing the following:
 - (1) The continued use of such land for the intended purposes;
 - (2) Continuity of property maintenance;
 - (3) When appropriate, the availability of funds required for such maintenance;
 - (4) Adequate insurance protection; and
 - (5) Recovery for loss sustained by casualty and condemnation or otherwise.
 - 3. By any alternative method, which achieves the objectives set forth in Subsection 2 above.

16.40.080 Approval Criteria

The City Council shall approve, approve with conditions, or deny a planned development based upon the following approval criteria:

- A. All proposed uses under Section 16.40.050 shall be consistent with the residential character of the proposed subdivision and compatible with existing or planned development on surrounding properties.
- B. The alternative design and/or development standards under Section 16.40.060 shall provide a character for the development that is the same or better than the character which would result by using the normal requirements of this title.

- C. The common open space requirement of Section 16.40.070 shall be satisfied.
- D. The applicable requirements of this title for the related subdivision application shall be satisfied.