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No. 238423

COURT OF APPEALS

STATE OF WASHINGTON

DIVISION III

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**DAVID L. HORNBACK and SUSAN HORNBACK, husband and  
wife,  
Appellants/Plaintiffs,**

v.

**KEN WENTWORTH and DIANE WENTWORTH, husband and  
wife  
Cross Appellants/Defendants.**

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BRIEF OF APPELLANTS

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**A. ASSIGNMENTS OF ERROR**

1. The court erred in failing to award statutory rescission and statutory damages as provided by RCW 58.17.210 and Grant County Short Plat and Short Subdivision Ordinance.
2. The court erred when it failed award prejudgment interest commencing on date of each contract.

**B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

1. Should the Grant County Superior Court have taken judicial notice of local Grant County subdivision and zoning ordinances and awarded rescission, damages and attorney fees pursuant to RCW 58.17.210 and the Grant County ordinances when the Hornbacks' parcel could not be conveyed to them and the Hornbacks could not obtain a building permit for their parcel because it was not subdivided or segregated from the parent parcel? (Assignment of Error 1).
2. Should the court have awarded statutory relief of rescission, damages and attorney fees pursuant to RCW 58.17.210 when the statutory elements for relief are met regardless of proof of the terms of a local short plat regulation? (Assignment of Error 1).
3. When a real estate contracted is rescinded for a complete breach does prejudgment interest commence for each payment on the date

of each payment or on the date the buyer first demands rescission?  
(Assignment of Error 3).

### C. STATEMENT OF THE CASE

1. Procedural Statement of Case. The Hornbacks commenced this cause of action against the Wentworths on May 9, 2001 by filing a complaint against them. An Amended Complaint was filed on May 18, 2001 and thereafter served upon the Wentworths. (CP 122-133). The Defendants filed their Second Amended Answer on January 24, 2003. (CP 134-137). The parties filed cross motions for summary judgment, which were heard on October 3, 2001. An Order denying both motions was entered on October 12, 2001. A bench trial to the Honorable Evan E. Sperline was held on September 27 and 28, 2004. The Honorable Evan E. Sperline personally prepared Findings of Fact and Conclusions of Law that were entered on October 6, 2004 without notice to either party. (CP 31 & 32-40). The Hornbacks filed a Motion to Reconsider the Findings of Fact and Conclusions of Law on October 12, 2004. (CP 41-42). The Wentworth's Motion for Reconsideration was filed on October 13, 2004. (CP 45-46). The Hornbacks then filed an Amended Motion on October 13, 2004. (CP 63-67). On January 28, 2005 the court entered an Order on the Motions for

Reconsideration granting the motions in part but denying substantially all of the requested relief. (CP 106-107). The Plaintiff filed its Notice of Appeal on February 17, 2005. (CP 111-118).

2. Factual Statement of the Case. The Honorable Evan E. Sperline drafted detailed Findings of Fact. (CP 32-38) that provides the relevant factual circumstances and basis for this litigation. The Hornbacks therefore adopt the Findings of Fact as their factual statement for purposes of this appeal. (Appendix 1).

#### **D. SUMMARY OF THE CASE**

1. Statutory and Common Law Rescission. The Hornbacks sought statutory and common-law rescission of their Real Estate Contract with the Wentworths. The relief was sought because the Wentworths, at the time conveyance of title was required of them, had not subdivided the parent parcel as provided by Grant County Ordinances. After a two-day trial to the bench, the Honorable Evan E. Sperline awarded a common law rescission of the Contract to the Hornbacks and awarded interest on the damages from the date of notice of rescission. (CP 108-110). The Honorable Evan E. Sperline refused to award statutory rescission, damages or reasonable attorney's fees authorized by RCW 58.17.210 or the

1976 Grant County Short Plat and Short Subdivision Ordinance. (CP 40; CL 13). The judge denied the right to relief granted by the statute and ordinance holding that the parties had not proven the existence of the ordinance in effect in October of 1995. (CP 40; CL 13). This was error because the court had actual notice of the ordinances and was required to take judicial notice of the Grant County ordinances. It was also error to deny relief granted by RCW 58.17.210 because there was not any dispute that the Wentworths had divided the Hornback parcel from the parent parcel in violation of Grant County ordinances.

2. Actual Notice. The court was in error because a copy of the 1976 Short Plat Ordinance and Short Subdivision Ordinance (hereinafter the 1976 Short Plat Ordinance) was provided to the Court during the trial. (Appendix 2). On November 10, 2004 the Hornbacks submitted to the court a second copy of the 1976 Ordinance together with a letter from the Grant County Planning Department. The letter stated the 1976 Ordinance had been in effect in October of 1995. (CP 81 & Appendix 3). Entry of the Order on Judgment and the hearing on the parties' motions to reconsider the Findings of Fact and Conclusions of Law was not heard until January 28, 2005. The court had actual notice of the

existence of the 1976 Short Plat Ordinance and that it was in effect in October of 1985.

3. Judicial Notice. The Grant County Superior Court was required to take judicial notice of the Grant County ordinances and regulations. CR 9(j). The court had been provided notice of the title of the ordinance and the date it was enacted. In addition, the Grant County Superior Court's venue is Grant County. It is deemed to know the particular law of the Grant County regulations and ordinances. Town of Forks v. Fletcher, 33 Wn. App. 104, 105, 652 P.2d 16 (1982). It is reasonable to expect the court to be aware of the Grant County regulations and ordinances because they have a special connection to the County. When the court entered Finding of Fact 3 it was taking judicial notice of a part of the ordinance. The court should have taken judicial notice of all of the Grant County regulations and ordinances or at least applied that portion of the ordinances it did recognize. The Wentworths did not subdivide the Hornbacks parcel in conformance with this provision. Violation of this portion of the ordinances grants the Hornbacks the right to invoke the relief granted by RCW 58.17.210. This relief including an award of reasonable attorney's fees should have been granted to Hornbacks.

4. Which Grant County Ordinance Was In Effect Not Relevant to RCW 58.17.210 Relief. RCW 58.17.210 provides the alternative relief of statutory rescission of a contract if the parcel sold was divided in violation of Grant County regulations. It is undisputed that the Wentworths failed to comply with any Grant County ordinance to subdivide the Hornbacks' parcel. Regardless of which subdivision ordinance was in effect the Wentworths violated it. The Hornbacks were therefore entitled to the relief granted by RCW 58.17.210. The only condition to the Hornbacks exercising the right of statutory rescission, recovery of sums paid, costs and expenses and reasonable attorney's fees was the violation of a Grant County subdivision ordinance. The over whelming evidence establishes the Wentworths did violate an ordinance in subdividing the Hornbacks parcel. It was therefore error for the court to refuse to grant Hornbacks the relief provided by RCW. 58.17.210.
5. Prejudgment Interest From Date of Each Payment. The goal in rescission of the Hornback/Wentworth Contract should be to place the Hornbacks in the status quo prior to entry into the contract. Colpe v. Lindblom, 57 Wash. 106, 115-116, 106 P. 634 (1910). Hornback will more nearly be placed in the status quo if prejudgment interest is awarded from the date the damages are

liquidated. A liquidated damage for each payment is established from the date it was made. Thomas v. Ruddell Lease-Sales, Inc., 43 Wn. App. 208, 216, 716 P.2d 911 (1986). Prejudgment interest should therefore be awarded from the date of each payment because that amount is liquidated damages on that date.

#### E. ARGUMENT

**Issue 1.** Should the Grant County Superior Court have taken judicial notice of local Grant County subdivision and zoning ordinances and awarded rescission, damages and attorney fees pursuant to RCW 58.17.210 and the Grant County ordinances when the Hornbacks' parcel could not be conveyed to them and the Hornbacks could not obtain a building permit for their parcel because it was not subdivided or segregated from the parent parcel? (Assignment of Error 1).

1. Court Had Actual Notice of the Local Ordinance. The Honorable Evan Sperline personally drafted the Findings of Fact and Conclusions of Law and they were entered on October 6, 2004 without notice to the parties. Both parties filed motions to amend the Findings and Conclusions. (CP 41-42 & 45-46). The trial court denied the Hornbacks statutory relief of rescission and damages granted by RCW 58.17.210 and Grant County ordinances. The trial court granted rescission on common law principals. RCW 58.17.210 and the Grant Count ordinances provide a greater measure of relief than the common law. The

court expressed its reasoning for denying the statutory relief and the relief granted by Grant County ordinances in conclusions of law, Number 11, as amended and Number 13, as amended.

Number 11 as amended states:

“If the real estate contract between the parties was a violation of the Grant County ordinances adopted pursuant to chapter 58.17 *at the time it was entered into*, that is, October 31, 1995, because it required a segregation which had not, as of that date, been applied for or accomplished, then Hornbacks would be entitled to recover the statutory damages and costs, together with any other recovery authorized by the Grant County ordinances. However the parties did not at trial provide to the court evidence that the provisions of Grant County subdivision ordinances as they existed in 1976 continued in effect in October, 1995.”

Number 13 states:

There being no basis upon which the Court can determine that the 1995 contract violated Grant County Ordinances, Hornbacks have failed to prove the same; no further relief is therefore appropriate beyond that set forth in Conclusion of Law No. 7 *supra*

The trial court concluded that the local ordinance that should have been proven to the court was the ordinance that was in effect on October 31, 1995. Based on these two conclusions the trial court denied the Hornbacks statutory relief pursuant to RCW 58.17.210 and denied the relief provided by Section 34 of the 1976 Short Plat Ordinance (Appendix 2) or Section 39 of the 1997 Short Plat Ordinance. (Appendix 4) The Hornbacks provided a

copy to the court at time of trial of the Grant County Short Plats and Short Subdivisions Ordinance of 1976 as amended January 23 1979 (Appendix 2) that was in effect in 1995 and a copy of the Short Plat and Short Subdivisions Ordinance of 1997 (hereinafter the 1997 Short Plat Ordinance). (Appendix 4).

Seventy-nine days prior to the hearing on the parties' motions for reconsideration and prior to entry of judgment, the Plaintiff supplied proof to the court and to the Wentworth's attorney that the Short Plat Ordinance of 1976 as amended January 23 1979 was the subdivision ordinance in effect in October of 1995. (CP 81) (Appendix 3). The Grant County Planning Department states in its letter it had searched its records and determined this was the ordinance in effect in October of 1995. This proof was attached to the Plaintiffs' Memorandum Regarding Motions For Reconsideration of the Findings of Fact and Conclusions of Law filed on November 10, 2004 together with another copy of the Ordinance. (CP 82-91). The Order On Motions For Reconsideration filed by Plaintiffs and Defendants (CP 106) and Judgment On Amended Complaint (CP 108-110) were entered on January 28, 2005 after the court had been given a copy of the law to consider. The Wentworths have not suggested

or offered proof that there was some other ordinance that was in effect with which they did comply. In addition the Hornbacks provided a copy of a 1997 Short Plat Ordinance (Exhibit 19 – Appendix 4) that was in effect until October of 2000. An Ordinance (Exhibit 23- Appendix 5) was supplied to the court that adopted by reference the Grant County Unified Development Code of 2000 (hereinafter the 2000 UDC) that is currently in effect. The subdivision portion of the 2000 UDC is attached hereto as Appendix 6. The trial court should have taken judicial notice and actual notice of the 1976 Short Plat Ordinance, the 1997 Short Plat Ordinance and the 2000 Uniform Development Code.

2. Court Judicially Recognized Relevant Portion of a Subdivision Ordinance. The court made some findings, which probably are conclusions of law, of specific provisions of the local ordinance.

In Finding of Fact 3 (CP 33) the court stated:

Segregation of a single lot was permissible under the then applicable Grant County Subdivision Ordinances. The ordinances permitted one segregation each 5 years, with a minimum lot size of 1-acre, without compliance with platting procedures, so long as the newly created lot would be occupied as a residence by its owners (Ex. 25).

It should first be pointed out that Exhibit 25 is a November 24, 1987 letter and probably relates to the Snegosky transaction.

FF 3 and Exhibit 17 establish that the Wentworths segregated and sold a parcel to Snegosky in 1990. The Wentworths successfully complied with these same ordinances in conveying property to the Snegoskys in 1990. This finding/conclusion demonstrates the existence of some provisions of the Grant County subdivision ordinances and the existence of a lawful method to subdivide the Hornback parcel. The Wentworths did not comply with these provisions in subdividing the Hornbacks parcel. We know this is true because numerous findings of fact (CP 32-40) establish they did not and because the court granted rescission of the Contract to the Hornbacks under the common law. The rescission was granted because the Wentworths could not convey title of the Hornbacks' parcel to them as it had been subdivided in violation of Grant County ordinances. (CP 37, FF 22). The court should have granted relief pursuant to RCW 58.17.210 and/or the 1976 Short Plat Ordinance.

3. Judicial Notice of Local Ordinance Required. Ordinances and statutes are not ordinarily required to be admitted as evidence to prove it exists or does not exist, the effective date or the terms of the ordinance. CR 9(j). In any case a copy of the 1976 Short Plat Ordinance, was submitted to the court during the trial. (RP 24-26).

The Court was directed to 1976 Short Plat Ordinance included in the Plaintiffs' three ring binder of Exhibits as Exhibit 21. While Exhibit 21 was not admitted as an item of evidence the ordinance was never-the-less supplied to the court. The trial judge was required to take judicial notice of the statute because the title of the ordinance and the date it was enacted was brought to the attention of the court. CR 9(j). The Plaintiff in this case took the additional step of providing the court with a complete copy of the Ordinance.

In addition to the civil court rule requiring the a court to take judicial notice of any city ordinance of the State of Washington, the Grant County Superior Court is also obligated to take judicial notice of any local ordinance within its judicial district. Town of Forks v. Fletcher, 33 Wn. App. 104, 105, 652 P.2d 16 (1982). The judicial district of the Grant County Superior Court is limited to Grant County. The Grant County Superior Court has a special relationship to Grant County because it is the venue where they sit. It is therefore reasonable to expect the judges of the County to know and have available the ordinances of Grant County.

4. Wentworths Were Required to Short Plat the 3.57 Acres. The Wentworths did in fact violate the 1976 Short Plat Ordinance by

failing to comply with its terms. (Appendix 2)

The relevant portions of the 1976 Short Subdivision

Ordinance state:

SECTION 5. PROCEDURE – APPLICATION AND FEE. *Any person* desiring to divide land situated within an unincorporated area of Grant County into two, three or four lots in which the smallest lot created by the division equals 40 acres or less *for the purpose of lease or sale* shall submit an application for short plat approval to the Administrator. The application shall be accompanied by a file fee of 50.00 for deposit with the County Treasurer. (Emphasis added).

SECTION 23. DESIGN – CONFORMANCE TO COMPREHENSIVE PLAN AND ZONING. All short subdivisions shall conform to the Grant County Comprehensive Plan and all zoning controls in effect at the time a short plat is filed for approval.

SECTION 31. ILLEGAL TRANSFER – MISDEMEANOR. It shall be unlawful for any person, firm or corporation to transfer, sell, or lease any land in violation of the requirements of this Ordinance. Any person convicted of violating any provision of this Ordinance shall be guilty of a misdemeanor, and shall be punished by a fine of not more than \$300.00 or by imprisonment in the county jail for a period not to exceed 90 days or both, for each said violation.

SECTION 32. ILLEGAL TRANSFER INJUNCTIVE RELIEF. Whenever land is divided in violation of the provisions of this Ordinance, or any person, firm or corporation transfers, sells, leases, or rents any part of such land, the Prosecuting Attorney may commence an action to enjoin further violations or attempted violations of this Ordinance by the said person, firm, corporation, or successors thereof, and to compel compliance with this Ordinance.

SECTION 34. ILLEGAL TRANSFER – DAMAGE RECOVERY FOR PURCHASER. A transferee who cannot secure a building permit, septic tank permit or other developmental permit for the reason that his transferor failed to comply with any provision of this Ordinance may recover damages from his transferor, to include compensation for the loss of his bargain, actual costs of investigation and suit reasonable attorney's fees and such additional elements as the law allows.

Attached hereto as Appendix 7 is a copy of the Record of Survey (Exhibit 3) flagged with arrows to illustrate the location and boundaries of the Sample's parcel, the Wentworth parcel, the Snegosky parcel and the 3.57-acre parcel that was to be subdivided into three 1.19-acre parcels. (Page 1, Exhibit 3). Exhibit 3 as marked clearly illustrates the findings of the court regarding the respective location of the various parcels and the division of the 3.57-acre parcel. (CP 33-34; FF 2, 3, 4, 6 & 7) There is no question the Wentworths intended to divide the 3.57-acre parent parcel into three parcels (CP 33, FF 6) for the purpose of a sale of the center parcel to Hornbacks. Section 5 of the 1976 Short Plat Ordinance required the Wentworths to submit an application for a short plat because the proposed division of the 3.57-acre parcel was for three (3) 1.19-acre parcels and for the *sole purpose of selling* one of the parcels to the Hornbacks. Section 3(5) of the 1976 Short Plat Ordinance defines a parcel as:

Lot: is a fractional part of subdivided lands having fixed boundaries being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts and *parcels*.”(Emphasis added).

Dividing a parent parcel into two or three or four parcels for the purpose of selling a parcel requires compliance with the 1976 Short Plat Ordinance. The Wentworths did not file an application for a short plat or otherwise attempt to subdivide the land prior to October 31, 1995, or at any time thereafter. The Wentworths therefore violated several Sections of the 1976 Short Plats Ordinance including Sections 5 and 31. Because they failed to comply with any ordinance they could not convey the Hornbacks’ parcel to them and because of the same violations the Hornbacks could not secure a building permit. (CP 36, FF 17 & Ex 9). The Wentworths are subject to the relief granted by Subsection 34 of the 1976 Short Plat Ordinance and RCW 58.17.210. The Wentworths are liable for damages and reasonable attorneys fees as provided by Section 34 of the 1976 Short Plat Ordinance as well as the separate relief provided by RCW 58.17.210.

5. Ordinances between 1976 and 2005 Provide Hornbacks The Same Relief. The Hornbacks supplied a copy of the 1976 Short

Subdivision Ordinance and the 1997 Short Subdivision Ordinance, which repealed the 1976 Short Subdivision Ordinance, to the Court. (Ex 19, Appendix 4). The Court was advised during closing argument that all of the ordinances provided for similar requirements for subdivision and relief. (RP 24-26). The relevant provisions of the 1976 Ordinance and the 1979 Ordinance contain the same terms but some sections bear different section numbers. Section 5 of the 1976 Ordinance is Section 5 of the 1997 Ordinance, Section 23 of the 1976 Ordinance is Section 20 of the 1997 Ordinance, Section 31 of the 1976 is Section 36 of the 1997 Ordinance, Section 32 of the 1976 Ordinance is Section 37 of the 1997 Ordinance and Section 34 of the 1976 Ordinance is Section 39 of the 1997 Ordinance. Under the terms of either of these two ordinances Wentworth was required to go through the short plat process to create the three 1.19-acre parcels. The Wentworths did not divide the parent parcel according to the terms of either of these two ordinances. Nor do the Wentworths claim that they complied with any other ordinance or legal method of subdivision of the Hornbacks' parcel.

The 1997 Short Plat Ordinance was repealed and replaced with the 2000 UDC on September 19, 2000. (Exhibit 23). Chapter

22.04 of the Uniform Development Code is now the subdivision ordinance for Grant County. CUDC 22.04.010(b). (Appendix 5).

GCUDC 22.04.0130 (e) states:

“A transferee who cannot secure a building permit, septic tank permit or other developmental permit for the reason that his transferor failed to comply with any provision of this Chapter may recover damages from his transferor, to include compensation for the loss of his bargain, actual costs of investigation and suit reasonable attorney’s fees and such additional elements as the law allows.”

With the exception of the substitution of the word Chapter for Ordinance the language is identical to Section 31 of the 1972 Subdivision Ordinance and Section 39 of the 1997 Subdivision Ordinance. Regardless of which Ordinance should be applied 1976, 1997 or 2000 it makes no difference. All of the ordinances from 1976 to the present provided that the Wentworths parent parcel had to be subdivided. Each provided the same relief on rescission. The Hornbacks are entitled to statutory damages and reasonable attorney fees and damages and attorney’s fees authorized by all of the Grant County Short Plat Ordinances. It makes no difference whether the 1976 Ordinance when the Contract was executed, the 1997 Ordinance when the building permit was denied or the 2000 UDC when the trial was held is the

correct ordinance to consider under the circumstances of the case.

The Hornbacks are entitled to the same relief.

6. Damages Should Have Been Awarded. The court should have entered a judgment granting Hornbacks rescission of the Contract as provided by the statute and the ordinance. RCW 58.17.210, Section 34, 1976 Short Plat Ordinance. The Court should also have awarded all damages and reasonable attorney fees authorized by Section 34 of the 1976 Ordinance as amended January 23 1979 and RCW 58.17.210.
  
7. Wentworths Defense To The Violation of the Subdivision Ordinances. Wentworths defense for failing to comply with the subdivision ordinances, stripped to its core, is: It's the Hornbacks fault because if they had paid the balance of the purchase price on January 10, 1996 then we would have segregated the Hornbacks parcel. The Wentworths freely and voluntarily agreed to change the terms of the written contract of when the principal balance was due. The Wentworths from the inception of the contract had failed to comply with the subdivision ordinances. They now regret agreeing to modify the Contract to extend the due date on the balance due. It was not the Contract modification, which caused their failure to comply with the subdivision ordinance which is the

direct cause of their failure to convey title of the Hornbacks' parcel to them. It was their continued refusal to subdivide the Hornbacks' parcel in compliance with the subdivision ordinances that eventually prevented them from conveying title to the parcel to them permanently.

**Issue 2.** Should the court have awarded statutory relief of rescission, damages and attorney fees pursuant to RCW 58.17.210 when the statutory elements for relief are met regardless of proof of the terms of a local short plat regulation? (Assignment of Errors 1 and 2).

1. Proof of Which Short Subdivision Ordinance Was in Effect Was Not Necessary. The trial court stated in Conclusions of Law 11 and 13 that the Hornbacks were not entitled to relief pursuant to RCW 58.17.210 because they had failed to prove the existence or terms of the of the Grant County Ordinance in effect in 1995. Proof of which of the Grant County Short Plat Ordinance was in effect was not necessary. It was only necessary to present proof the Wentworths failed to divide the property in compliance with Grant County regulations. RCW 58.17.210. Proof that the Wentworths failed to divide the parent parcel as provided by local regulations is established by any one of the following Findings of Fact:

1. Their admissions the property was not segregated or divided. (CP 34-5, FF 10; CP 37, FF's 19 & 22).
2. FF 9 that Wentworths "had made no application to Grant County to segregate the parcel nor any other arrangement to obtain and provide a deed. (CP 34).
3. FF 15 that Security Title Guaranty's Preliminary Commitment identified the Hornback parcel as part of the Wentworth's parent parcel. (CP 36).
4. FF 17 that the Grant County Building Department wrote on development permit that the Hornbacks' 1.19 acres was to be segregated from the parent parcel of 5.82 acres<sup>1</sup>. (CP 36 & Ex 9). Hornbacks also advised the segregation could not take place. (CP 36).
5. FF 22 that Wentworth's were unable to convey the property because they could not segregate (divide) the Hornback parcel. (CP 37).
6. The Hornbacks were unable to secure a development permit because the Wentworths had failed to divide the parent parcel. (CP 36, FF 17).

Regardless of the actual Grant County regulation or process to divide the parent parcel the Wentworths did not comply. Had they complied Hornbacks' parcel could have been conveyed to them and they could have obtained a building permit or development permit. The above referenced facts point directly to a division of the Hornbacks' parcel in violation of the local regulations. Where no deed of conveyance can be recorded and no development permit can be issued it is irrelevant which ordinance, version of the ordinance or particular term was violated for the

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<sup>1</sup> On Exhibit 9 the planning department's reference to 5.82 acres includes the Wentworth and Snegosky parcels. Apparently the Snegosky subdivision was not disclosed in the planning department records.

purposes of RCW 58.17.210. The statute only requires that the violation have occurred. It does not provide for any exceptions for the transferor. These facts establish that the Wentworths had not segregated or otherwise divided the parent parcel, a violation occurred. The statutory right of rescission, right to costs and expenses of suit and reasonable attorney's fees are in addition to rights granted in a common law rescission. Nervik v. Transamerica Title Ins. Co., 38 Wn. App. 541, 547-548, 687 P.2d 872 (1984). The statutory rights "simply augment the usual panoply of measures which flow from a purchaser's common law right of rescission." Once the trial court granted rescission under the common law the rights granted by RCW 58.17.210 should also have been awarded to the Hornbacks as additional relief arising out of the rescission.

**Issue 3.** When a real estate contract is rescinded for a complete breach does prejudgment interest commence for each payment on the date of each payment or on the date the buyer first demands rescission? (Assignment of Error 3).

1. Damages were liquidated on dates of payment when contract rescinded. The parties entered into a Real Estate Contract (hereinafter Contract) on October 31, 1995 to transfer to the Plaintiffs the real property described in the Contract for the sum of

Twenty-thousand Dollars (\$20,000.00). The Hornbacks paid \$1,000.00 on October 12, 1995, \$9,000.00 on October 30, 1995 and \$5,000.00 was paid on August 30, 1999. The trial court granted the Hornbacks a rescission of the Contract and ordered the return of the three payments plus prejudgment interest from the date of rescission, October 20, 2000. The Hornbacks requested prejudgment interest of 12% on the \$1,000.00 payment to commence on October 12, 1995, interest on the \$9,000.00 payment to commence on October 30, 1995 and interest on the \$5000 payment to commence on August 30, 1999. The interest should be payable on each payment from the date the Wentworths received the payment as the amount of each payment is liquidated from the time the payment was made. If interest commences on the date of each payment the Wentworths would then be liable for the time use value of the funds from the time they first commenced using the funds. Awarding the Hornbacks interest from the date of each payment more nearly places them in the status quo before they entered into the Contract. Colpe v. Lindblom, 57 Wash. 106, 115-116, 106 P. 634 (1910). The Hornbacks will receive full use value of their funds while they were in the hands of the Wentworths.

The trial court relied on two cases as authority to commence interest on October 18, 2000, the date of rescission of the Contract. These cases were Thomas v. Ruddell Lease-Sales, Inc., 43 Wn. App. 208, 216, 716 P.2d 911 (1986) and Vermette v. Andersen, 16 Wn. App. 466, 472, 558 P.2d 258 (1976). These cases appear to have conflicting rulings. The ruling can be distinguished.

In the case of Vermette v. Andersen the Plaintiffs requested the trial court grant them prejudgment interest from the date of notice of rescission. The trial court had granted interest from the date of judgment. On appeal the Plaintiffs requested the Appellate Court grant prejudgment interest from the date of rescission. The appellate court granted the relief requested. The court did not consider whether interest should start from date of rescission or date of payment of the installments.

In Thomas v. Ruddell Lease-Sales, Inc. the purchaser on rescission of the purchase of a motor vehicle sought prejudgment interest from the date of sale, the date the purchase price was paid. The court of appeals held the date the purchase price was paid was the correct date to commence prejudgment interest. The Court reasoned this was the correct date because the purchase price was

the measure of damages and was liquidated on the date paid. The date of payment of the purchase price in Thomas v. Ruddell equates to each of the individual payments made by the Hornbacks to the Wentworths.

The damages awarded should place the Hornbacks as nearly as possible in the position they would have been in had they not entered into the contract. Colpe v. Lindblom, Supra. Following the holding in Thomas v. Ruddell more nearly puts the Hornbacks in the position they would have occupied had they not paid the payments to the Wentworths. The amount of damages was liquidated on the date of each payment. Each payment should therefore bear prejudgment interest from the date it was a liquidated amount. Thomas v. Ruddell, Supra.

2. Attorney Fees On Appeal. The Hornbacks requested an award of reasonable fees from the trial court as provided by RCW 58.17.210. Authority for an award of reasonable fees to the Hornbacks lies with the Grant County ordinances or with RCW 58.17.210. The Grant County ordinances stand separate from RCW 58.17.210. Relief can be granted under both or either. As illustrated in Part D of this brief the 1976, 1977 and 2000 Ordinances all provide that the transferee is entitled to costs of suit,

loss of bargain, damages and reasonable attorney's fees.

Rescission was granted because the Wentworths had not divided/and or segregated the parent parcel in compliance with local regulations. As a result they could not convey the Hornbacks' parcel to them. Regardless of what ordinance or other process that might be provided for division of land in Grant County, the Wentworths violated the regulation. The Hornbacks are entitled to reasonable attorney's fees for the proceedings in the trial court. Hornbacks are requesting reasonable fees on appeal. RCW 58.17.210. A statute that is the basis of an award of attorney's fees is also a basis for an award of attorney's fees in the appellate courts as well. Puget Sound Plywood, Inc. v. Mester, 86 Wn.2d 135, 144 (1975).

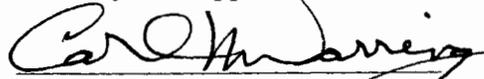
#### **F. CONCLUSION**

In conclusion the Hornbacks are requesting the court to reverse that portion of the courts decision denying the statutory relief pursuant to RCW 58.17.210 and Grant County Short Subdivision Ordinances. The Hornbacks are requesting the trial court be directed to use its discretion to grant all damages, costs and expenses authorized by RCW 58.17.210 and be directed to award reasonable attorney's fees to the Hornbacks against

the Wentworths as provided by RCW 58.17.210 and/or the Grant County Ordinances.

Respectfully Submitted this 18 day of May, 2005,

**Warring Law Firm, P.S.**  
Attorneys for Appellants

  
Carl N. Warring, W.S.B.A. 6312

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**Appendix 1**



04-078772

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THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR THE COUNTY OF GRANT

DAVID HORNBACK and SUSAN  
HORNBACK, husband and wife,

Plaintiffs,

vs.

KEN WENTWORTH and DIANE  
WENTWORTH, husband and wife,

Defendants.

NO. 01-2-00491-0

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

THIS MATTER came before the Court for bench trial on the 27<sup>th</sup> and 28<sup>th</sup> days of September, 2004, Plaintiffs DAVID HORNBACK and SUSAN HORNBACK personally appearing along with their counsel, Carl N. Warring, and Defendants KEN WENTWORTH and DIANE WENTWORTH personally appearing along with their counsel, Larry W. Larson; the Court having considered the testimony and exhibits admitted during trial, and the arguments of counsel, and being otherwise fully satisfied in the premises herein, now makes the following:

FINDINGS OF FACT

1. Plaintiffs DAVID HORNBACK and SUSAN HORNBACK ("Hornbacks") comprise a marital community residing in or near Moses Lake, Washington. Defendants KEN WENTWORTH and DIANE WENTWORTH ("Wentworths") comprise a marital community residing in or near Moses Lake, Washington. At all relevant times, it was the practice of Wentworths to spend 180 days each

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FINDINGS OF FACT AND  
CONCLUSIONS OF LAW - Page 1

**S**

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1 year, from October or November through April or May, residing in Mexico.

2 2. In 1986, Wentworths acquired a 10-acre parcel of undeveloped real property West of the City  
3 of Moses Lake (Ex. 16). The parcel consists of a rectangle approximately 365 feet wide running  
4 northerly 1320 feet from the north frontage road along Interstate 90 (Ex. 3). The parcel is bounded  
5 on the East by proposed Road F N.E., which Wentworths developed as a gravel road.

6 3. In 1990, Wentworths sold the southerly 4 acres of the parcel to a developer, Sample. At  
7 about the same time, Wentworths sold a parcel of approximately 1 acre to Snegosky (Ex. 17) by  
8 means of segregation. Segregation of a single lot was permissible under the then applicable Grant  
9 County subdivision ordinances. The ordinances permitted one segregation each 5 years, with a  
10 minimum lot size of 1 acre, without compliance with platting procedures, so long as the newly created  
11 lot would be occupied as a residence by its owners (Ex. 25). Wentworths had also segregated a  
12 parcel from a Quincy-area farm as a residence for Ken Wentworth's son.

13 4. Wentworths had developed their residence in the area of about one acre, more or less, lying  
14 between the parcels sold to Sample and Snegosky. As a consequence of the two sales, Wentworths'  
15 remaining property consisted of two non-contiguous parcels sharing a single parcel number in County  
16 records, that is, their residence parcel and the approximately 3.6 undeveloped acres lying northerly  
17 of the Snegosky parcel.

18 5. In 1994, Wentworths experienced some flooding damage in their home and contacted  
19 Hornbacks' business, Moses Lake Mobile Home Service, to complete some repairs. As a result of  
20 this contact, Wentworths and Hornbacks became social friends. Their friendship continued through  
21 1999.

22 6. During social contacts, Hornbacks expressed to Wentworths an interest in acquiring a rural  
23 parcel, such as Wentworths enjoyed, on which to establish their home. As the parties discussed this  
24 prospect in 1995, Wentworths indicated that the timing was right (five years since the Snegosky  
25 segregation) to segregate off another lot of at least one acre. Wentworths showed Hornbacks the  
26 northerly 3.6 acres, indicating they would divide it into 3 lots.

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FINDINGS OF FACT AND  
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1 7. After further discussions, the parties agreed that Hornbacks would purchase the middle of the  
2 three lots for \$20,000, and that Wentworths would obtain and pay for a survey. Wentworths  
3 obtained a survey from Boundary Engineering in Moses Lake (Ex. 3) in July, 1995, including a legal  
4 description of the middle lot, consisting of approximately 1.19 acres.

5 8. During September, 1995, Wentworths prepared a rough draft of a written contract (Ex. 13)  
6 which Hornbacks reviewed and approved. Ultimately, the parties reduced their agreement to a formal  
7 written contract (Ex. 1) which they executed on October 31, 1995. They met at Washington Trust  
8 Bank in Moses Lake, where their signatures on the contract were notarized, and where Hornbacks  
9 paid Wentworths the remaining \$9000 (\$1000 earnest money had previously been paid) of the initial  
10 \$10,000 payment required by the contract. Within a day or two, Wentworths departed for their  
11 annual winter residence in Mexico.

12 9. Thereafter, neither Wentworths nor Hornbacks abided by the provisions of their written  
13 contract. The contract required the final \$10,000 payment to be made in the form of a deposit to  
14 Wentworths' bank account by January 10, 1996, but by that time, Hornbacks had encountered  
15 financial difficulties in their business and were unable to pay. The contract required Hornbacks to  
16 pay real property taxes as they became due, but they have never paid any taxes on their "lot." The  
17 contract allowed Wentworths to pay taxes in Hornbacks' stead and add the amount to the contract  
18 balance; Wentworths continued paying taxes on their entire parcel, but made no demand for  
19 Hornbacks to pay them, nor added any amount to the contract balance when they later determined  
20 a payoff amount. The contract required Wentworths to provide a statutory warranty deed upon  
21 receipt of final payment (contractually due by January 10, 1996), but Wentworths were in Mexico  
22 until Spring, had made no application to Grant County to segregate the parcel, nor any other  
23 arrangement to obtain or provide a deed. The contract required Wentworths to obtain a title  
24 insurance policy within ten days, but they made no attempt to do so, nor did Hornbacks pay any  
25 attention to that provision.

26 10. Wentworths' intent at the time of the written contract was to complete the segregation and  
27

1 provide a deed upon their return in May. Near the time of entering into the contract, Wentworths  
2 telephoned the Grant County Planning Department and were advised that segregation was available  
3 as a means of conveying a parcel of at least one acre to Hornbacks. Hornbacks had no experience  
4 in selling or purchasing real estate and no familiarity with the process of segregation, the requirement  
5 of excise tax, or recording contracts. Neither party filed their contract in public records, nor did  
6 Wentworths pay real estate excise taxes.

7 11. When Wentworths returned from Mexico in 1996, Hornbacks discussed with them the  
8 financial difficulties and consequent litigation experienced by Hornbacks in their business.  
9 Wentworths assured Hornbacks they would wait for the final contract payment of \$10,000 until  
10 Hornbacks were able to pay it. This circumstance continued for three years, the parties occasionally  
11 discussing infrequently and informally the Hornbacks' financial issues. Wentworths never made oral  
12 or written demand for payment of the contract balance, nor took any action to forfeit the contract.

13 12. In the summer of 1999, Hornbacks' financial circumstances improved to a level which  
14 permitted them to qualify for a loan to purchase a triple-wide mobile home and complete the land  
15 payment. On or about August 29, 1999, Hornbacks telephoned Wentworths to obtain a pay-off  
16 figure for the land purchase. Ken Wentworth prepared a handwritten accounting (Ex. 4) showing  
17 the balance of principal and interest to be \$14,679.27, and communicated that figure to Hornbacks.  
18 Hornbacks agreed to meet Wentworths the following day to pay at least the principal owing. Ken  
19 Wentworth volunteered that if Hornbacks would pay the principal, "we'll forget about the interest."

20 13. On August 30, 1999, Hornbacks paid Wentworths half of the remaining principal balance,  
21 \$5,000 (Ex. 2). While Wentworths expected to receive the entire \$10,000 owing, there is no  
22 evidence of any protest or other conversation between the parties accompanying the \$5,000 payment.

23 14. Hornbacks continued their search for an appropriate mobile home, eventually locating a  
24 suitable one. In early September, 1999, they applied for financing with Mortgage Resources of  
25 Spokane (Ex. 7). On September 24, they contracted to purchase the mobile home for \$58,764 (Ex.  
26 11). By the terms of the purchase contract, Hornbacks were to provide their own financing, and fund  
27

1 the purchase by October 30. In early October, Hornbacks were tentatively approved for financing  
2 through Interwest Bank, their anticipated loan being approximately \$90,000 at 8.474% (Ex. 10). The  
3 required appraisal was completed on November 5, for which Hornbacks paid \$400 (Ex. 7).

4 15. On October 21, 1999, Security Title Guaranty completed a Preliminary Commitment for  
5 Title Insurance relating to Hornbacks' purchase of real estate. The commitment identified the  
6 property in question as the entire Wentworth estate, that is, their residential parcel and the non-  
7 contiguous 3.6 acres from which Hornbacks' lot was to be segregated. On November 5, Security  
8 Title Guaranty notified Hornbacks that the transaction had been placed with that company for closing  
9 by Mortgage Resources (Ex. 15). Ultimately, in December, <sup>2000</sup>1999, Mortgage Resources cancelled the  
10 order. ffs

11 16. In November, 1999, Hornbacks had leveling, excavation and septic system design work done  
12 on their lot in anticipation of moving their mobile home in, paying a contractor \$890 for the work  
13 (Ex. 5). On November 18, the contractor filed his septic design with the Grant County Health  
14 District in support of Hornbacks' application for a sewage permit. On November 29, Hornbacks  
15 completed their application for a sewage permit, paying Grant County a fee, all but \$50 of which was  
16 eventually refunded (Ex. 8).

17 17. On December 7, 1999, Hornbacks applied to the Grant County Building Department for a  
18 building permit, paying a fee of \$487.69 (a portion of which, \$234.99, was eventually refunded) (Ex.  
19 9). Building Department staff wrote on the application that the Hornbacks' lot was to be 1.19 acres  
20 segregated from a "parent" parcel of 5.82 acres. The staff advised Hornbacks that the segregation  
21 could not be accomplished due to a change in Grant County subdivision ordinances.

22 18. At some time in the interim between October 31, 1995, when the parties executed their  
23 written contract, and December 7, 1999, when Hornbacks applied for a building permit, Grant  
24 County ordinances were amended to increase the minimum lot sizes required for segregation.  
25 Previously, a minimum of 1 acre was required for both the parcel being segregated and what remained  
26 of the "parent" parcel. By 1999, the minimum size for both parcels was 2.5 acres.

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FINDINGS OF FACT AND  
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1 19. Hornbacks also learned that it was necessary to remove their new triple-wide mobile home  
2 from the seller's business premises by the end of December, as the business was closing. They  
3 notified Wentworths in Mexico of what they had learned from the Building Department and of the  
4 need to move their new home (Ex. 6). Wentworths advised they would address the segregation issue  
5 when they returned from Mexico in the Spring.

6 20. Because their loan fell through due to the real estate problems, Hornbacks needed to re-  
7 negotiate their purchase contract for the mobile home in order to continue to pursue their goal of  
8 acquiring the home and land. The original contract was for the purchase price only, it being  
9 anticipated that moving and set up costs would be funded by the bank loan. On December 17,  
10 Hornbacks renegotiated with the mobile home seller, agreeing to pay \$71,459.06, at least in form (Ex.  
11 12). The seller agreed to rebate to them the difference between the original selling price and the new  
12 larger figure so that Hornbacks would have funds for moving and setting up the mobile home, and  
13 to pay other bills.

14 21. The closure of the seller's business premises required Hornbacks to move the new mobile  
15 home to a mobile home park, on Longview Street in Moses Lake, where they paid lot rent of \$185  
16 a month. The rent increased in frequent increments, reaching \$295 in September, 2001. At that time,  
17 the Hornbacks were able to sell their previous home, a single-wide mobile home on property they  
18 owned in Cascade Valley, and move the triple-wide onto that property. The moving cost was  
19 approximately \$2,500. During the interim, the single-wide was occupied by Susan Hornback's son,  
20 who made the \$400 monthly payments on behalf of Hornbacks.

21 22. Upon Wentworth's return from Mexico in the Spring of 2000, they inquired of the Planning  
22 Department regarding the availability of segregation of Hornbacks' lot, with the same lack of success  
23 encountered by Hornback the previous December. Wentworths advised Hornbacks that they would  
24 continue trying to get the conveyance accomplished, but were eventually unable to do so.

25 23. Hornbacks ultimately consulted an attorney, who requested return of their payments from  
26 Wentworths, which the latter refused. This litigation ensued. Hornbacks seek rescission of the

1 contract pursuant to chapter 58.17 RCW or, in the alternative, under common law principles.

2 ///

3 ///

4 Based upon the foregoing Findings of Fact, the Court now makes the following:

5 CONCLUSIONS OF LAW

6 1. This court has jurisdiction over the subject matter and the claims of these parties.

7 2. The parties entered into a valid and enforceable contract for the sale of adequately described  
8 real property on October 31, 1995. By the terms of their contract, Hornbacks were required to pay  
9 the remaining \$10,000 purchase price, together with interest at 11% per annum from the date of the  
10 contract, on or before January 10, 1996. Wentworths were required, upon payment, to convey the  
11 real property to Hornbacks.

12 3. The parties thereafter amended their contract, orally and by their conduct, to permit payment  
13 of remaining principal and interest at a later date when the Hornbacks' financial circumstances  
14 improved. Hornbacks were prepared to tender the remaining contract payment in November, 1999.

15 4. By November, 1999, performance of the Wentworths' obligation to convey became a legal  
16 impossibility. If the performance of a duty is made impossible or impracticable by having to comply  
17 with a governmental regulation not in existence at the time of the contract, that regulation is an event  
18 the non-occurrence of which was a basic assumption on which the contract was made. Restatement  
19 (Second) of Contracts § 264 (1981).

20 5. Because performance of the contract by Wentworths was legally impossible, tender of the  
21 final purchase payment by Hornbacks would have been an utter futility, not required of them in order  
22 to pursue rescission.

23 6. Rescission of a contract is an appropriate remedy where performance has become legally  
24 impossible or impracticable. Rescission is an equitable remedy, under which the court must try, to  
25 the extent possible and appropriate under the factual circumstances, to restore the parties to the  
26 positions they occupied prior to entering their contract.

27

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FINDINGS OF FACT AND  
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1           7. Hornbacks are entitled to a judgment of rescission and to recover from Wentworths the  
2 payments made by Hornbacks, to wit., \$1,000 on 10/12/95; \$9,000 on 10/31/95; and \$5,000 on  
3 8/30/99, together with interest at the statutory rate, 12%, from the date of payment to the date of  
4 judgment.

5           8. Because the legal impossibility arose as a consequence of the parties' *mutual* modification of  
6 their contract, the remedy should not include such consequential damages as might be appropriate  
7 in an action for breach of the contract. Those sums each party spent in pursuit of their legally  
8 impossible contract should remain the burden of the party making the expenditure. Thus, Hornbacks  
9 are not entitled to the governmental and appraisal fees they paid, the interest differential on their  
10 mobile home purchase, the lot rental incurred after December, 1999, or the costs incurred for  
11 preparation of the lot for occupancy. Neither are the Wentworths entitled to an offset for the cost  
12 of a survey, which in actuality was incurred by them in anticipation of entering their contract, not  
13 pursuant to it.

14           9. Under the equitable remedy of rescission, each couple should bear its own attorney fees and  
15 costs of suit.

16           10. Chapter 58.17 RCW regulates the subdivision of real estate. It distinguishes between  
17 "subdivisions," involving the division of land into five (or, at local option, up to a maximum of nine)  
18 or more lots, and "short subdivisions," involving division of land into fewer lots. For the most part,  
19 chapter 58.17 leaves the regulation of short subdivisions to local legislators. RCW 58.17.060.  
20 Subdivisions must comply with the statute, while short subdivisions must comply with local  
21 regulations. RCW 58.17.030. A purchaser of land from a seller who does not comply with such local  
22 regulations may recover "damages...including any amount reasonably spent as a result of inability to  
23 obtain any development permit...as well as cost of investigation, suit, and reasonable attorneys'  
24 fees..." RCW 58.17.210.

25           11. If the real estate contract between the parties was a violation of the Grant County ordinances  
26 adopted pursuant to chapter 58.17 RCW *at the time it was entered into*, that is, October 31, 1995,

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FINDINGS OF FACT AND  
CONCLUSIONS OF LAW - Page 8

1 because it required a segregation which had not, as of that date, been applied for or accomplished,  
2 then Hornbacks would be entitled to recover the statutory damages and costs, together with any other  
3 recovery authorized by the Grant County ordinances. However, the parties <sup>had</sup> not <sup>at trial</sup> provided to the  
4 court, <sup>evidence that</sup> the provisions of Grant County subdivision ordinances as they existed in October, 1995. <sup>1996 continued in effect</sup> in

5 12. A subsequent version of the Grant County Short Plats and Short Subdivisions ordinance (Ex.  
6 19), exempts from its provisions:

7 The division or segregation of unplatted land for an owner occupied residence pursuant to  
8 Section V (B) (8) of the Grant County Zoning Ordinance; provided any subsequent division  
9 of either of the two (2) parcels within a five (5) year period shall require a short plat or  
major plat in conformance with the minimum lot size requirements in the applicable zoning  
district, and this ordinance or the Grant County Platting and Subdivision Ordinance.

10 While "Section V (B) (8) of the Grant County Zoning Ordinance" was not admitted into evidence as  
11 an exhibit, nor otherwise provided, the Court has obtained and reviewed that provision as it existed  
12 in 1995. Section V (B) (8) provided as follows (under "USES PERMITTED" in "A  
13 (AGRICULTURAL)" ZONES:

14 Any owner occupied residence which is located in the agricultural district may be segregated  
15 in accordance with the Grant County Short Plat exemption once every five years, so long  
16 as the segregation contains no less than one acre and the remainder of the original parcel  
contains two acres or more.

17 13. There being no basis upon which the Court can determine that the 1995 contract violated  
18 Grant County ordinances, Hornbacks have failed to prove the same; no further relief is therefore  
19 appropriate beyond that set forth in Conclusion of Law No. 7 *supra*.

20 DONE IN OPEN COURT this 4<sup>th</sup> day of October, 2004.

21   
22 \_\_\_\_\_  
23 Evan E. Sperline, Judge

## Appendix 2

**AN ORDINANCE RELATING TO  
SHORT PLATS AND SHORT SUBDIVISIONS**

**WHEREAS**, Protection of the public health, safety and general welfare requires that the division of any land into two or more lots proceed in accordance with standards to prevent the overcrowding of land; to lessen congestion of streets and highways to provide adequate space, light and air; to provide adequate facilities for water, sewage, solid waste, utilities, parks and recreation areas, sites for schools and school grounds, and other public and general uses; to provide for proper ingress and egress; and to require conveyancing by accurate legal description; and

**WHEREAS**, This Board had enacted an ordinance regulating the division of any land into five or more lots in the unincorporated areas of Grant County, and has been vested with authority, by Chapter 58.17 Laws of 1974, First Ex. Sess., to regulate what are referred to in the said statute as short subdivision and short plats; and

**WHEREAS**, This Board deems the controls, standards, and procedures set forth in this ordinance to be essential to the protection of the public health, safety and general welfare of the citizens of Grant County; and the adoption thereof to be in the public interest;

**NOW THEREFORE, BE IT ORDAINED, BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, WASHINGTON:**

**SECTION 1. APPLICABILITY** Any division of land for the purpose of lease or sale into two or more lots but less than five lots, parcels or tracts within the unincorporated area of Grant County shall proceed in compliance with this ordinance.

**SECTION 2. EXEMPTIONS** The provisions of this Ordinance shall not apply to:

- (1) Any cemetery or burial plot, while used for that propose.
- (2) Any division of land in which the smallest lot created by the division equals more than 40 acres in area.
- (3) Boundary line adjustments or divisions not in a plat or short plat where access is not affected and where no new division is created thereby or where no division is reduced in size below the minimum square footage required by an applicable zoning control.
- (4) Farmstead: The subdivision which is created as a result of this exemption may not be resubdivided for five years unless it is in accordance with this ordinance or with the ordinance dealing with subdivisions of five or more lots.
- (5) Any division made by testamentary provision, the laws of descent or upon court order.
- (6) Any division made in compliance with the platting and subdivision ordinance dealing with five (5) or more lots.

- (7) The division of land into two (2) parcels; provided any subsequent division of either of the two (2) parcels within a period of five (5) years shall require a surveyed plat. This does not release a subdivider from complying with the Survey Recording Act, Chapter 50, Laws of 1973.

**SECTION 3. DEFINITIONS** Whenever the following words and phrases appear in this Ordinance they shall be given the meaning attributed to them by this Section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making a decision.

- (1) Short Subdivision: is the division of land into four or fewer lots.
- (2) Short Plat: is a document consisting of a map of a short subdivision together with written certificates, dedications and date.
- (3) Dedication: is the deliberate appropriation of land by an owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidence by the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat in the manner provided in this ordinance.
- (4) Easement: is a grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.
- (5) Lot: is a fractional part of subdivided lands having fixed boundaries being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts and parcels.
- (6) Public Road: is an improved and maintained public right-of-way which provides vehicular circulation or principal means of access to abutting properties, and which may also include provisions for public utilities, pedestrian walkways, public open spaces and recreation areas, cut and fill slopes and drainage.
- (7) Private Road: is a right-of-way for vehicular circulation not owned, improved or maintained by Grant County.
- (8) Cul-de-sac: is a road closed at one end by a circular area (with a 50 foot radius or as approved) for turning vehicles around.
- (9) Alley: is a strip dedicated to private use providing for vehicular and pedestrian access to the rear side of properties which abut and are served by a public road.
- (10) Comprehensive Plan: is the current Comprehensive Plan of Grant County adopted by the Board pursuant to state law.
- (11) Planning Commission: is the Grant County Planning Commission.

- (12) Board: is the legislative authority of Grant County.
- (13) Subdivider: is a person, including a corporate person, who undertakes to create a subdivision.
- (14) Administrator: is the Grant County Planning Director and/or Engineer, or person(s) duly authorized by said officials.
- (15) Farmstead: is that area of agricultural land devoted to but not limited to dwellings, outbuildings, corrals, gardens and orchards for personal and non-commercial use or as determined by the Administrator.
- (16) Lease: for the purpose of this ordinance, is contract between the owner and lessee giving the right to use the land for more than 10 years.

**SECTION 4. PROCEDURE - ADMINISTRATOR'S DUTIES** The Grant County Planning Director and/or Public Works Director referred to in this ordinance as the Administrator, is vested with the duty of administering the provisions of this ordinance and with authority to summarily approve or disapprove short plats. The Administrator may prepare and require the use of such forms as he deems essential to his duties.

**SECTION 5. PROCEDURE - APPLICATION AND FEE** Any person desiring to divide land situated within an unincorporated area of Grant County into two, three or four lots in which the smallest lot created by the division equals 40 acres or less for the purpose of lease or sale shall submit an application for short plat approval to the Administrator. The application shall be accompanied by a file fee of 50.00 for deposit with the County Treasurer.

**SECTION 6. PROCEDURE - PLATS AND PLANS REQUIRED.** A subdivider shall submit with his application for short plat approval:

- (1) Six copies of a short plat;
- (2) A sketch of proposed roads, utilities and other improvements;
- (3) A copy of the survey and field notes.

**SECTION 7. ADEQUACY AND DISTRIBUTION OF PLATS AND PLANS** If the Administrator determines that the proposed short plat contains sufficient elements and data to furnish a basis for its approval or disapproval, and that the sketch of proposed roads, utilities and other improvements are adequate to aid the County Public Works Director in approving or disapproving the construction of future improvements, the Administrator shall affix a file number and date of receipt to the application and promptly forward the sketch of proposed roads, utilities and other improvements to the County Public Works Director. The Administrator shall promptly forward one copy of the proposed plat each to the County Public Works Department, County Health District, P.U.D, State Highway Department, County Assessor, Department of Ecology and/or Department of Social and Health Services, telephone and gas companies, and irrigation Districts where applicable.

**SECTION 8. PROCEDURE - NOTICE OF FILING** Within five (5) days the Administrator shall give notice of the filing of a proposed short plat or subdivision as follows:

- (1) Through the United States Mail to:
  - (a) The legislative authority of any city or town adjacent to or within one mile of the proposed short subdivision, or the public utilities of which are contemplated for use in the proposed short subdivision.
  - (b) The State Highway Department, or its successor, of the proposed short subdivision is adjacent to the right-of-way of any state highway; and
  - (c) The Department of Ecology if the proposed short subdivision lies within a flood control zone.
- (2) By posting notices thereof at three conspicuous places on the boundaries of the proposed short subdivision.

**SECTION 9. PROCEDURE - CONTENT OF NOTICE** Any notice given pursuant to Section 7 shall recite.

- (1) The date of filing of the proposed short subdivision plat.
- (2) The legal description of the tract.
- (3) The name of the applicant.
- (4) The name, title and office address of the Administrator.

**SECTION 10. APPROVAL - REVIEW BY AGENCIES** Within fifteen days (15) following the filing of the proposed short subdivision plat:

- (1) The Grant County Health District shall notify the Administrator that water and sanitary sewage disposal methods contemplated for use in the proposed short subdivision do or do not conform to current standards.
- (2) The County Public Works Director shall notify the Administrator the proposed roads, utilities and other improvements do or do not conform to current standards; and that the survey does or does not conform to standard practices and principles of land surveying.
- (3) All other offices to which a copy of the proposed short subdivision plat has been submitted may make their needs known to the Administrator and shall be considered prior to plat approval.

**SECTION 11. APPROVAL - TIME LIMITATION** The Administrator shall make a decision not later than the thirteenth day following filing. The Administrator shall determine whether the proposed short subdivision and short plat satisfy the requirements of this ordinance, and whether the proposed short subdivision will apparently serve the public use and interest. From there, the Administrator shall approve or disapprove an application.

**SECTION 12. APPROVAL - FILING, DEDICATION** When the short plat or a short subdivision containing a dedication is approved, the applicant shall file the final short plat with the County Auditor for recording. All dedications shall be noted on the face of the short plat.

**SECTION 13. DISAPPROVAL - NOTIFICATION** If the Administrator disapproves the proposed short plat and/or short subdivision, he shall notify the subdivider in writing of the specific reasons for his/her disapproval.

**SECTION 14. DISAPPROVAL - NOTICE OF APPEAL** Within twenty (20) days following issuance of the Administrator's written notice of disapproving a short plat or a proposed short plat subdivision, the subdivider may file a notice of appeal with the Administrator. The notice shall be on a form provided by the Administrator.

**SECTION 15. DISAPPROVAL - APPEAL PROCEDURE, MEETING DATE** The Administrator shall immediately transmit a notice of appeal, together with a copy of the proposed short plat, copies of all reports received by the Administrator, and a copy of the Administrator's letter of disapproval to the Planning Commission. The Planning Commission shall at its regular meeting, set the date for consideration of the appeal at a public meeting.

**SECTION 16. DISAPPROVAL - APPEAL MEETING, DECISION** In reviewing an appeal, the Planning Commission shall consider all matters submitted by the Administrator together with such other evidence as it deems relevant, and shall either affirm or reverse the Administrator's decision, or remand the matter for further investigation by the Administrator.

**SECTION 17. DISAPPROVAL - RECONSIDERATION OF APPEAL** If the Administrator disapproves an application on remand from the Planning Commission, the Board shall, on the subdividers petition therefor, consider the appeal.

**SECTION 18. APPROVAL - APPEAL BY OTHERS** Within twenty days following the Administrator's approval of the proposed short plat and short subdivision any interested person may file notices of appeal with the Administrator; or the secretary of the Planning Commission. Only the following shall be deemed interested persons for the purpose of this section.

- (1) Any public officer or agency.
- (2) Any person who holds or owns a substantial interest in the property situated within 750 ft. of any boundary of the proposed short subdivision or short plat.

**SECTION 19. APPROVAL - APPEAL PROCEDURE, MEETING DATE** If an appeal is filed, the Administrator shall immediately transmit a copy of the short plat and copies of all reports received by the Administrator to the Secretary of the Planning Commission. The Auditor shall refrain from accepting a short plat containing a dedication for recording until notified by the Administrator that the matter had been finally disposed. The Planning Commission shall at its next regular meeting following filing of the appeal notice, set the date for consideration of the appeal at a public hearing.

**SECTION 20. APPROVAL - APPEAL MEETING, DECISION** In reviewing an appeal, the Planning Commission shall consider all matters submitted by the Administrator together with such other evidence as it deems relevant, and shall either affirm or reverse the Administrator's decision, or remand the matter for further investigation by the Administrator.

**SECTION 21. APPROVAL - RECONSIDERATION OF APPEAL** If the Administrator approves the application on remand from the Planning Commission, the Board shall, on the original appellant's petition therefor, consider the appeal.

**SECTION 22. DEDICATIONS - REQUIRED** No short plat shall be approved unless adequate provision is made in the short subdivision for such drainage ways, roads, and other general purposes as may be required to protect the public health, safety and welfare.

**SECTION 23. DESIGN - CONFORMANCE TO COMPREHENSIVE PLAN AND ZONING** All short subdivisions shall conform to the Grant County Comprehensive Plan and all zoning controls in effect at the time a short plat is filed for approval.

**SECTION 24. DESIGN - EASEMENTS** Easements shall be granted to assure that land within each short subdivision is adequately drained and that all lots can be provided with water, fire protection and utilities.

**SECTION 25. DESIGN - ACCESS TO LOTS** Every lot shall be provided with an adequate public or private access connecting to an existing improved public road.

**SECTION 26. SURVEY STANDARDS** Every subdivision of land shall be surveyed by, or under the supervision of a registered land surveyor, unless there exists an accurate amount of survey data. The preparation of preliminary and final short plats thereof shall be certified on the plat by said registered land surveyor that it is a true and correct presentation of the lands actually surveyed, where applicable. All surveys shall conform to the practices and principles for land surveying of the State of Washington.

**SECTION 27. SURVEY - MONUMENTS AND MARKERS** All permanent monuments within the subdivision shall be located and described as shown on the plat and all controlling corners on the boundaries of the short subdivision shall be marked with a 3/4" x 18" long galvanized iron pipe or approved equivalent driven into the ground. All monuments and markers shall be shown on the face of the plat.

**SECTION 28. DEDICATIONS** Land for public use may be acquired by:

- (1) Dedicating land for public use.
- (2) By reserving land for future public acquisition and development.
- (3) By conveying land or easements therein to nonprofit corporations for use by all or a limited segment of the public.

**SECTION 29. DEDICATIONS - SHOWN ON THE FACE OF SHORT PLAT** All dedications and reservations shall be clearly and precisely recited on the face of the plat.

**SECTION 30. SHORT SUBDIVISIONS - PLAT STANDARDS** Every short plat required to be recorded with the Auditor shall consist of one or more pages clearly and legibly drawn on reproducible material and shall contain a map of the short subdivision. The Plat shall be produced on an 18" x 24" sheet; the horizontal scale of which shall be 100 ft. to the inch (1" = 100') together with written data in such form that when read together, disclose the following information:

- (1) The legal description of the land.
- (2) The names, addresses and telephone numbers of all persons holding interest in the land.
- (3) The name, address, telephone number and seal of the registered land surveyor who made, or under owner whose direction was made, a survey of the subdivision.
- (4) The date of the survey.
- (5) The boundary lines of the short subdivision.
- (6) The boundaries of lots within the short subdivision.
- (7) The location of roads and existing important natural features and improvements within the short subdivision.
- (8) A layout of roads and easements.
- (9) The boundaries of all parcels dedicated or reserved for public or community uses.
- (10) Plans of proposed water distribution systems, sewage disposal systems, drainage systems, utility and irrigation easements when applicable.
- (11) A certificate bearing the typed or printed names of all persons having an interest in the divided land, signed and acknowledged by them before a Notary Public which:
  - (a) States their consent to the division of land.
  - (b) Recites a dedication by them and their successors of all claims for damages against any governmental authority.
  - (c) Grants a waiver by them and their successors of all claims for damages against any governmental authority.
- (12) The approval of the Administrator.
- (13) Total acreage within the short subdivision.
- (14) Space for signatures of Grant County Treasurer, Grant County Subdivision Administrator, Grant County Auditor.
- (15) The approval of the Irrigation District where applicable.
- (16) The approval and space for signatures for the Board of County Commissioners; Chairman, Clerk of the Board; and the County Engineer.

**SECTION 31. ILLEGAL TRANSFER - MISDEMEANOR** It shall be unlawful for any person, firm or corporation to transfer, sell, or lease any land in violation of the requirements of this Ordinance. Any person convicted of violating any provision of this Ordinance shall be guilty of a misdemeanor, and shall be punished by a fine of not more than \$300.00 or by imprisonment in the county jail for a period not to exceed 90 days or both, for each said violation.

**SECTION 32. ILLEGAL TRANSFER INJUNCTIVE RELIEF** Whenever land is divided in violation of the provisions of this Ordinance, or any person, firm or corporation transfers, sells, leases, or rents any part of such land, the Prosecuting Attorney may commence an action to enjoin further violations or attempted violations of this Ordinance by the said person, firm, corporation, or successors thereof, and to compel compliance with this Ordinance.

**SECTION 33. ILLEGAL TRANSFER - ASSURANCE OF DISCONTINUANCE**

The Prosecuting Attorney may accept a written assurance of discontinuance of any act or practice violative of this Ordinance from any person who has committed or is committing such act or practice to be filed with and approved by the Superior Court of Grant County. The assurance may include a promise to file a proposed short plat for approval and to satisfy all reasonable conditions required to affect its approval. Any willful failure to perform a promise contained in such an assurance shall constitute a separate misdemeanor, punishable to the same extent as other misdemeanors defined by this Ordinance.

**SECTION 34. ILLEGAL TRANSFER - DAMAGE RECOVERY FOR PURCHASER**

A transferee who cannot secure a building permit, septic tank permit or other developmental permit for the reason that his transferor failed to comply with any provision of this Ordinance may recover damages from his transferor, to include compensation for the loss of his bargain, actual costs of investigation and suit reasonable attorney's fees and such additional elements as the law allows.

**SECTION 35. UNAPPROVED SHORT PLAT - NOT TO BE RECORDED**

The Auditor shall refuse to accept for recording, any short plat which does not bear the Administrator's certificate of approval. Should a short plat be recorded without such a certificate, the Prosecuting Attorney shall apply for a writ of mandate on behalf of the Administrator, directing the Auditor to remove the unapproved plat from the Auditor's records.

**SECTION 36. METES AND BOUNDS FILINGS - AUDITOR TO QUESTION**

The County Auditor shall inquire of every person who tenders for recording a deed or contract for the sale of land in which appears one or more metes and bounds legal description of land, as to whether the land so described is a new division of a larger tract. In the event that it is a new division, or if the inquiry is not answered, the Auditor shall promptly notify the Administrator of the recording. Upon learning of any such recording, the Administrator shall investigate the same to determine whether a division of land in violation of this Ordinance may have occurred.

**SECTION 37. NEW SEGREGATION - ASSESSOR TO NOTIFY ADMINISTRATOR**

The Assessor shall promptly notify the Administrator of every new segregation of land made upon the Assessor's records. Upon learning of such segregation the Administrator shall investigate the same to determine whether a division of land in violation of this Ordinance may have occurred.

**SECTION 38. RE-SUBDIVISION REQUIREMENTS**

Land within a short subdivision, the short plat of which has been approved within five years immediately preceding may not be further divided until a final plat thereof has been approved and filed for record pursuant to the Ordinance dealing with subdivision of five or more lots.

**SECTION 39. SEVERABILITY**

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or the application of this provision to other persons or circumstances shall not be affected.

**SECTION 40. EFFECTIVE DATE**

This Ordinance shall become effective on 1st day of November 1976.

**SECTION 41. REVIEW** No later than on a year after the effective date of this Ordinance the Planning Commission shall review this Ordinance in public session to determine whether or not it is operating adequately, specifically, the need for survey and the minimum jurisdiction section acreage shall be reviewed.

Done this 13th day of  
September, 1976.

Board of County Commissioners  
Grant County, Washington

S E A L

F.D. O'DONNELL  
Chairman

ATTEST:

ROBERT A. LUDOLPH

H.E. SNEAD

J.F. PEDDYCORD  
COUNTY AUDITOR AND CLERK OF THE BOARD

\* Amended January 23, 1979, per Irrigation District request for review.

NOTICE OF HEARING  
GRANT COUNTY SHORT PLAT ORDINANCE AMENDMENT

NOTICE IS HEREBY GIVEN that the Grant County Planning Commission will consider an amendment to the Grant County Short Plat ordinance in the following section:

SECTION 30. SHORT SUBDIVISIONS - PLAT STANDARDS

(14) Space for signatures of Grant County Treasurer, Grant County Subdivision Administrator, Grant County Auditor

ADD: Public Works Director, and Board of County Commissioners

NOTICE IS FURTHER GIVEN, that the Grant County Planning Commission will, on December 1, 1993, commencing at 7:00 hold a meeting at which time a hearing on the approval of said amendment will be conducted as provided by statute, in the office of the Board of County Commissioners at the Courthouse in Ephrata, at which time any person or persons

## Appendix 3

## GRANT COUNTY PLANNING DEPARTMENT

32 C Street N.W.



P.O. Box 37 • Ephrata, Washington 98823 • Ph: (509) 754-2011 Ext. 620 • FAX: (509) 754-6097

October 22, 2004

Mary Mahaney Otey  
Warring Law Firm  
1340 East Hunter Place  
Moses Lake WA 98837

RE: Public Records Request dated October 15, 2004

Dear Ms. Otey,

We received the above referenced Request for Public Records on October 15, 2004 requesting the following information listed in italics:

1. *Ordinance relating to short plats and subdivisions in effect in Oct. 1995; and*

RESPONSE: Based on telephone conversations with you on October 21, 2004, we understand that you already have the document requested. Based on our review of the records located in our office, we believe the Short Plat Ordinance as amended January 23, 1979 to be the short plat ordinance in effect in October of 1995. If you require an additional copy, please advise.

2. *Grant County Interim Zoning effective March 25, 1997 sections 1-5 only.*

REPOSE: Enclosed is a copy of Grant County Ordinance 97-39-CC, adopted March 25, 1997, which we believe this ordinance fulfills your request. Based on our review, it does not appear that 97-39-CC dealt with any interim development regulations within sections 1-5 of the code.

The enclosed materials are supplied at a cost of \$.90. Please make check payable to Grant County Planning Department at your earliest convenience.

If you have any questions, comments or concerns please contact me at (509) 754-2011 ext. 620.

Sincerely,

Sonja K. Baker  
Planning Secretary

cc: File

## **Appendix 4**



## Ordinance 97-190-CC

### AN ORDINANCE RELATING TO SHORT PLATS AND SHORT SUBDIVISIONS

The document filed under Grant County Auditor's file number 1017024 on November 24, 1997 known as AN ORDINANCE RELATING TO SHORT PLATS AND SHORT SUBDIVISIONS is hereby assigned Ordinance Number 97-190-CC by the Grant County Board of County Commissioners.

Peggy Gigg  
Clerk of the Board of County Commissioners

November 25, 1997

RECEIVED  
JAN 27 2000



## AN ORDINANCE RELATING TO SHORT PLATS AND SHORT SUBDIVISIONS

**WHEREAS**, Protection of the public health, safety and general welfare requires that the division of any land into four lots or less shall proceed in accordance with standards herein to prevent the overcrowding of land; to lessen congestion of streets and highways; to provide adequate space, light and air; to provide adequate facilities for water, sewage, solid waste, utilities, parks and recreation areas, sites for schools and school grounds, and other public and general uses; to provide for proper ingress and egress; and to require conveyancing by accurate legal description; and

**WHEREAS**, This Board had enacted an ordinance regulating the division of any land into five or more lots in the unincorporated areas of Grant County, and has been vested with authority, by Chapter 58.17 Laws of 1974, First Ex. Sess., to regulate what are referred to in the said statute as short subdivision and short plats; and

**WHEREAS**, This Legislative Authority of Grant County deems the controls, standards, and procedures set forth in this ordinance to be essential to the protection of the public health, safety and general welfare of the citizens of Grant County; and the adoption thereof to be in the public interest.

**WHEREAS**, The Grant County Planning Commission on October 1, 1997 held a public hearing in the matter of updating the existing Grant County Short Plat Ordinance.

**WHEREAS**, The Grant County Commissioners on October 27, 1997, November 10, 1997, and November 17, 1997 held public hearings in the matter of updating the existing Grant County Short Plat Ordinance.

**WHEREAS**, The Grant County Commissioners on November 17, 1997 upheld the recommendation of the Grant County Planning Commission in the matter of updating the existing Grant County Platting and Subdivision Ordinance.

**NOW THEREFORE, BE IT ORDAINED, BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, WASHINGTON:**

**SECTION 1. APPLICABILITY** Any division of land for the purpose of rent, lease, or sale into four lots, parcels or tracts or less within the unincorporated area of Grant County shall proceed in compliance with this ordinance except as provided in Section 2 Exemptions below.



**SECTION 2. EXEMPTIONS:** The provisions of this ordinance shall not apply to:

1. Any cemetery or burial plot, while used for that purpose.
2. Any division of land in which the smallest lot created by the division equals 40 acres or more in area.
3. A division made for the purpose of alteration by adjusting boundary lines, between platted and unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site or division which is reduced in size below the minimum square footage required by an applicable zoning control.
4. Any division made by testamentary provision or the laws of descent.
5. Any division made in compliance with the platting and subdivision ordinance dealing with five (5) or more lots.
6. The division of unplatted land into two (2) parcels except where the land d is located in the Agricultural Zoning District; provided any subsequent division of either of the two (2) parcels within a five (5) year period shall require a short plat or major plat in conformance with the minimum lot size requirements in the applicable zoning district, and this ordinance or the Grant County Platting and Subdivision Ordinance.
7. The division or segregation of unplatted land for an owner occupied residence pursuant to Section V (B) (8) of the Grant County Zoning Ordinance; provided any subsequent division of either of the two (2) parcels within a five (5) year period shall require a Short Plat or Major Plat in conformance with the minimum lot size requirements of the Agriculture Zone, and this ordinance or the Grant County Platting and Subdivision Ordinance.

8. Binding Site Plans:

The division of land into lots or tracts classified for industrial or commercial use for sale or lease of commercially or industrial zoned property pursuant to the requirements of RCW 58.17.035 and the Grant County Binding Site Plan Ordinance.

A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land pursuant to RCW 58.17.035 and the Grant County Binding Site Plan Ordinance.

Condominium Binding Site Plans Pursuant to RCW 58.17.035, RCW 58.17.040, RCW 64.32, RCW 64.34 and the Grant County Binding Site Plan Ordinance.

**SECTION 3. DEFINITIONS** Whenever the following words and phrases appear in this Ordinance they shall be given the meaning attributed to them by this Section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making a decision.

1. Administrator: is the Grant County Planning Director, or person(s) duly authorized by said officials.
2. Alley is a strip of land dedicated for public use providing vehicular and pedestrian access to the rear side of properties which abut and are served by a public or private road. An alley can not be used for the sole legal access to any parcel of land.



3. Block is a group of lots, tracts or parcels within well defined and fixed boundaries.
4. Board: is the legislative authority of Grant County.
5. Commission: is the Board of County Commissioners.
6. Comprehensive Plan: is the current Comprehensive Plan of Grant County adopted by the Board pursuant to state law.
7. Cul-de-sac is a road closed at one end by a circular area (with a fifty (50) foot improved radius or as approved) for turning vehicles around.
8. Dedication is the deliberate appropriation of land by an owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. Dedications in an undivided interest status shall also be considered as a public use as it relates to the users and inhabitants of the plat. The intention to dedicate shall be evidenced by the owner by the presentation for filing of a final plat or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat for filing by the Board of County Commissioners of Grant County.
9. Department Head is the Planning Director.
10. Easement: is a perpetual grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.
11. Final Plat is the final drawing of the subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in Chapter 234, Laws of 1974, First Ex. Session, and in this Ordinance adopted pursuant thereto.
12. Lease: for the purpose of this ordinance, is contract between the owner and lessee giving the right to use the land for more than 10 years.
13. Lot: is a fractional part of subdivided lands having fixed boundaries being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts and parcels.
14. Minor Revision shall mean a minor adjustment to the preliminary plat based upon the comments received from agencies with jurisdiction or corrections to the engineering of the layout of the plat. The decision as to whether any modification to a complete application is a minor revision shall be determined by the Grant County Planning Director or his/her designee.
15. Performance Bond is an executed bond or other acceptable security, in an amount acceptable to the Board, to assure full and final completion of all required improvements within the specified time.
16. Planning Commission is the Grant County Planning Commission.
17. Planning Department is the planning agency legally constituted by the Board to deal with planning in Grant County.

18. Plat is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, roads and alleys or other divisions or dedications.
19. Preliminary Plat is a neat and approximate drawing of a proposed subdivision showing the general layout of roads and alleys, lots, blocks, as set forth in Chapter 234, Laws of 1974, First Ex. Session, and in this ordinance adopted thereto.
20. Private Road: is a right-of-way for vehicular circulation not owned, improved or maintained by Grant County.
21. Public Road is a full width improved and maintained public right-of-way which provides vehicular circulation or principal means of access to abutting properties, and which may also include provisions for public utilities, pedestrian walkways, public open space and recreation areas, cut and fill slopes, and drainage.
22. Rental Unit Subdivision includes mobile home parks, R.V. parks, travel trailer and camping parks and other kinds of land developments deemed similar by the Planning Commission where parcels of land are offered on a rental or lease basis and where no land is offered for sale.
23. Reproducible Material shall mean legibly drawn, printed or reproduced by a process guaranteeing a permanent record on a translucent stock, either polyester film or tracing cloth, with an opaque line suitable for reproducing on a diazo process type machine. Acetate not acceptable. Diazo process paper intermediates will not be acceptable for recording purposes. Plats submitted with any information taped or attached by staples or similar means will not be accepted for recording purposes.
24. Short Plat: is a document consisting of a map of a short subdivision together with written certificates, dedications and date.
25. Short Subdivision: is the division of land into four or fewer lots.
26. Subdivider is a person, including a corporate person, who undertakes to create a subdivision. (Synonymous with Developer)
27. Subdivision is the division of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease or rent and shall include all resubdivision of land.
28. Unplatted: Land which has not been involved in the formal platting process whereby a final drawing of a subdivision and dedication has been prepared and filed with the Grant County Auditor showing the general layout of streets, lots, blocks, and other elements of a subdivision consistent with this ordinance or Grant County Platting and Subdivision Ordinance, and RCW 58.17.
29. Way is something other than a road, street, or alley which provides vehicular or pedestrian circulation or principal means of access to abutting properties.

**SECTION 4. PROCEDURE - ADMINISTRATOR'S DUTIES** The Grant County Planning Director or his/her designee referred to in this ordinance as the Administrator, is vested with the duty of administering the provisions of this ordinance and with authority to summarily approve or disapprove short plats. The Administrator may prepare and require the use of such forms and application fees as required by the Grant County Local Project Review Ordinance.

**SECTION 5. PROCEDURE - APPLICATION AND FEE** Any person desiring to divide land situated within an unincorporated area of Grant County into four lots or less in which the smallest lot



created by the division equals less than 40 acres for the purpose of lease or sale shall submit an application for short plat approval to the Administrator. The application shall be accompanied by a file fee as required by Grant County Ordinance.

### **SECTION 6. PROCEDURE - PLATS AND PLANS REQUIRED.**

Every preliminary short plat shall consist of one or more maps, the horizontal scale of which will be 100' to the inch or another scale that is acceptable as determined by the Planning Department; contour scale (when applicable) shall be at five (5) foot intervals, together with written data in such form that when the maps and written data are considered together they shall fully and clearly disclose the following information.

1. The name of the proposed short subdivision.
2. The full legal description of land contained within the subdivision.
3. The names, addresses, and telephone numbers of all persons, firms, and corporations holding interests in said land.
4. The name, address, telephone number and seal of the registered land surveyor who made, or under whose supervision was made, a survey of the proposed short subdivision.
5. The complete date of the survey.
6. The boundary lines of the proposed subdivision.
7. All existing monuments and markers.
8. The boundaries and approximate dimensions of all lots within the proposed subdivision; together with the numbers proposed to be assigned each lot and block.
9. The location, names and width of all existing streets, roads, rights-of-way and easements within the proposed subdivision and adjacent thereto.
10. The location and, where ascertainable, sizes of all permanent buildings, wells, water courses, bodies of water, all overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over or under the land proposed to be subdivided.
11. Contour lines of (sufficient intervals to show the topography of the land to be subdivided) referenced to either the United States Coast and Geodetic Survey datum, county datum, or other datum acceptable to the Public Works Director (this may be omitted if acceptable by the Public Works Director).
12. A layout of proposed roads, alleys, utility mains, and parcels proposed to be dedicated or reserved for public use.
13. Plans of proposed water distribution system, sewage disposal system, wells, sanitary control areas, irrigation and drainage systems (as required) indicating locations.
14. A sketch of the general vicinity at least 800' in all directions from which the land proposed for subdivision lies, upon which are identified owners of the land adjacent to the subdivision and the names of any adjacent subdivisions.
15. A copy of all restrictive covenants proposed to be imposed upon land within the subdivision.
16. The approximate location of all existing houses within the area to be platted.



17. The preliminary plat shall also be accompanied by a separate Plat Certificate showing true ownership of platted property from a Title company licensed to do business in the State of Washington.
18. Location of any delineated wetland area and associated buffer areas as required by the Grant County Resource Lands and Critical Areas Development Ordinance 93-49-CC and the Washington State Department of Ecology.
19. A copy of the final plat drawing file on electronic media shall be provided to the Grant County Assessor in CAD format (.dwg) in accordance with Grant County Ordinance.

The Subdivider shall inquire with the Auditor's Office as to the acceptability of the name of the final plat. No final plat shall be filed with the County Auditor's office containing the exact name as a previously filed plat or very similar name, as determined by the County Auditor.

**SECTION 7. ADEQUACY AND DISTRIBUTION OF PLATS AND PLANS** If the Administrator determines that the proposed short plat contains sufficient elements and data to furnish a basis for its approval or disapproval, and that the surveyed drawing of proposed roads, utilities and other improvements are adequate to aid the County Public Works Director in approving or disapproving the construction of future improvements, the Administrator shall affix a file number and date of receipt to the application and promptly forward the surveyed drawing of proposed roads, utilities and other improvements to the County Public Works Director. The Administrator shall promptly forward one copy of the proposed plat each to the County Public Works Department, County Health District, Public Utility District, Washington State Department of Transportation, County Assessor, Washington State Department of Ecology, and/or Washington State Department of Health, telephone and gas companies, Washington State Department of Fish and Wildlife, affected Tribes, affected school district, United States Bureau of Recreation and Irrigation Districts where applicable.

**SECTION 8. PROCEDURE - NOTICE OF FILING** Within fourteen (14) days after issuing a determination of completeness on proposed short plat or short subdivision applications, the Administrator shall give notice of the filing of a proposed short plat or subdivision as provided in accordance with the content requirements provided in the Local Project Permit Review Ordinance 24.06.010(A).

**SECTION 9. PROCEDURE - CONTENT OF NOTICE** Any notice given pursuant to Section 7 shall recite.

- (1) The date of filing of the proposed short subdivision plat.
- (2) The legal description of the tract.
- (3) The name of the applicant.
- (4) The name, title and office address of the Administrator.
- (5) A copy of the short plat map.
- (6) A copy of the application.
- (7) A copy of the plat certificate.

**SECTION 10. APPROVAL - REVIEW BY AGENCIES** Within fifteen days (15) following the filing of the proposed short subdivision plat:

- (1) The Grant County Health District shall notify the Administrator that water and sanitary sewage disposal methods contemplated for use in the proposed short subdivision do or do not conform to current standards.
- (2) The County Public Works Director shall notify the Administrator whether proposed roads, utilities and other improvements do or do not conform to current standards; and that the survey does or does not conform to standard practices and principles of land surveying.

- (3) All other offices to which a copy of the proposed short subdivision plat has been submitted may make their needs known to the Administrator and shall be considered prior to plat approval.

**SECTION 11. APPROVAL - TIME LIMITATION** The Administrator shall make a decision not later than Ninety (90) Days following the issuance of a determination of completeness and in conformance with the time limitations of the Local Project Review Ordinance and RCW 58.17. The Administrator shall determine whether the proposed short subdivision and short plat satisfy the requirements of this ordinance, and whether the proposed short subdivision will serve the public use and interest. No Short Plat shall be approved unless the County makes formal written findings of fact that the proposed short subdivision is in conformance with all applicable zoning ordinances and other land use controls. A plat that has been approved by the County must be filed five (5) years from the date of the resolution approving the short plat. If the plat is not filed within the five (5) year period, it shall be declared null and void. An one (1) year extension to the five (5) year time period may be granted by the Administrator. All requests for an extension to the time period must be filed with the Administrator at least thirty (30) days prior to the expiration date of the plat approval.

**SECTION 12. APPROVAL - FILING, DEDICATION** When the short plat or short subdivision containing a dedication is submitted, the Board of County Commissioners must approve of the dedication before the final plat may be filed. All dedications shall be noted on the face of the short plat. The final short plat shall be submitted to the Planning Department for recording with the Auditor's Office. A short plat shall not be deemed "approved" until so filed with the County Auditor.

**SECTION 13. DISAPPROVAL - NOTIFICATION** If the Administrator disapproves the proposed short plat or short subdivision, the administrator shall notify the subdivider in writing of the specific reasons for disapproval.

**SECTION 14. DISAPPROVAL - NOTICE OF APPEAL** An appeal to the Administrators decision must be filed in accordance with the procedures of appeal contained in the Grant County Local Project Review Ordinance.

**SECTION 15. DISAPPROVAL - APPEAL PROCEDURE, MEETING DATE** The Administrator shall immediately transmit a notice of appeal, together with a copy of the proposed short plat, copies of all reports received by the Administrator, and a copy of the Administrator's letter of disapproval to the Board of County Commissioners. The Board of County Commissioners shall at its regular meeting, set the date for consideration of the appeal at an open record public hearing.

**SECTION 16. DISAPPROVAL - APPEAL HEARING DECISION** In reviewing an appeal, the Board of County Commissioners shall consider all matters submitted by the Administrator together with such other evidence as it deems relevant, and shall either affirm or reverse the Administrator's decision, or remand the matter for further investigation by the Administrator.

**SECTION 17. DISAPPROVAL - RECONSIDERATION OF APPEAL** If the Administrator disapproves an application on remand from the Board of County Commissioners, the Board shall, either affirm or reverse the Administrator's decision at a closed record appeal hearing.

**SECTION 18. APPROVAL - APPEAL BY OTHERS** Following the Administrator's approval of the proposed short plat and short subdivision any interested person may file notices of appeal with the Administrator; or the Clerk of the Board of County Commissioners in accordance with the procedures of appeal contained in the Grant County Local Project Review Ordinance. Only the following shall be deemed interested persons for the purpose of this section.

- (1) Any public officer or agency.
- (2) Any person who holds or owns a substantial interest in the property situated within 750 ft.

of any boundary of the proposed short subdivision or short plat.

**SECTION 19. DEDICATIONS - REQUIRED** No short plat shall be approved unless adequate provision is made in the short subdivision for such drainage ways, roads, and other general purposes as may be required to protect the public health, safety and welfare. No short plat shall be approved unless adequate provision is made in the short subdivision for considering sidewalks and/or other planning features that assure safe walking conditions for students who walk to and from school.

**SECTION 20. DESIGN - CONFORMANCE TO COMPREHENSIVE PLAN AND ZONING** All short subdivisions shall conform to the Grant County Comprehensive Plan, zoning controls, and all other applicable local, state, and federal laws in effect at the time a short plat is filed for approval.

**SECTION 21. DESIGN - EASEMENTS** Easements shall be granted to assure that land within each short subdivision is adequately drained and that all lots can be provided with water, fire protection and utilities. Where applicable, all lots shall be provided with irrigation easements as required by the jurisdictional irrigation district and/or the United States Department of Interior, Bureau of Reclamation.

**SECTION 22. DESIGN - ACCESS TO LOTS** Every lot shall be provided with an adequate public or private access connecting to an existing improved public road as required by the Grant County Public Works Director/County Engineer.

**SECTION 23. SUMMARY REVIEW CRITERIA** All applications for short plat shall follow the procedures for pre-application review and acceptance by the Administrative Official outlined in the Grant County Local Project Review Ordinance Section 24.05.

**SECTION 24. SURVEY STANDARDS** Every subdivision of land shall be surveyed by, or under the supervision of a registered land surveyor. The preparation of preliminary and final short plats thereof shall be certified on the plat by said registered land surveyor that it is a true and correct representation of the lands actually surveyed, where applicable. All surveys shall conform to the practices and principles for land surveying of the State of Washington.

**SECTION 25. SURVEY - MONUMENTS AND MARKERS** All permanent monuments within the subdivision shall be located and described as shown on the plat and all controlling corners on the boundaries of the short subdivision shall be marked with a 3/4" x 18" long galvanized iron pipe or approved equivalent driven into the ground. All monuments and markers shall be shown on the face of the plat.

**SECTION 26. SURVEY - SURVEY NOTES, ACCURACY.** The surveyor shall furnish the Public Works Department with a full set of survey notes, which shall clearly show:

1. The ties to each permanent monument; regardless of the size of the plat, section lines shall be shown with bearings and distances at one-half (1/2) mile intervals;
2. All existing monuments shall be shown on the plat;
3. At least three durable, distinctive reference points or monuments;
4. Sufficient data to determine readily the bearing and length of each line;
5. The base meridian referred to;
6. Statement as to Datum used;
7. A traverse of the boundaries of the subdivision and all lots and blocks shall close



within an error of one foot in 5,000 feet, or third order.

**SECTION 27 SURVEY - ORIENTATION OF THE SUBDIVISION.** Primary survey control point shall be referenced to section corners and monuments. Corners of adjoining subdivisions or portions thereof shall be identified and ties shown.

**SECTION 28 SURVEY - PERMANENT CONTROL MONUMENTS.** Permanent control monuments shall be established at:

1. All controlling corners on the boundaries of the subdivision;
2. The intersections of center lines of roads within the subdivision;
3. The beginning and ends of curves on center lines;
4. All block corners.

Upon prior approval of the Public Works Department permanent control monuments may be placed on offset lines. The position and type of every permanent monument shall be noted on all plats of the subdivision. Permanent control monuments shall be 3/4" x 30" galvanized iron pipe including cap, driven into the ground and encased in six (6) inches of concrete. A monument case shall be furnished and placed over all monuments when set in oiled roads. In graveled roads, monument cases may be omitted.

**SECTION 29 SURVEY - PERMANENT CONTROL MONUMENTS IN ROADS.** Permanent control monuments within the streets shall be set after the roads are graded. In the event a final plat is approved before roads are graded the surety deposited to secure grading shall include the cost to place the required monumentation and also be sufficient to pay the costs of repairing the roadway prior to actual use by the residents in the plat.

**SECTION 30 SURVEY - LOT CORNERS.** Every lot corner shall be marked by a 3/4" by 18" long galvanized iron pipe or approved equivalent driven into the ground.

**SECTION 31 SURVEY - PROPERTY CONTIGUOUS TO WATER.** If any land in a subdivision is contiguous to a body of water a meander line shall be established along the shore at a safe distance back from the ordinary high-water mark. Property lying beyond the meander line shall be defined by distances along the side property lines extended from the meander line. If the thread of a stream lies within a subdivision or forms the boundary of a subdivision, such thread shall be defined by bearings and distances as it exists at the time of the survey.

**SECTION 32. DEDICATIONS** Land for public use may be acquired by:

- (1) Dedicating land for public use.
- (2) By reserving land for future public acquisition and development.
- (3) By conveying land or easements therein to nonprofit corporations for use by all or a limited segment of the public.

**SECTION 33. DEDICATIONS - SHOWN ON THE FACE OF SHORT PLAT** All dedications and reservations shall be clearly and precisely recited on the face of the plat map filed with the Grant County Auditor's Office.

**SECTION 34. SHORT SUBDIVISIONS - FINAL PLAT STANDARDS** Every short plat required to be recorded with the Auditor shall consist of one or more pages clearly and legibly drawn on reproducible material and shall contain a map of the short subdivision. The Plat shall be produced on a 18" X 24" sheet; the horizontal scale of which shall be 100 ft. to the inch (1" = 100') together with written data in such form that when read together, disclose the following information:



- (1) The legal description of the land.
- (2) The names, addresses and telephone numbers of all persons holding interest in the land.
- (3) The name, address, telephone number and seal of the registered land surveyor who made, or under owner whose direction was made, a survey of the subdivision.
- (4) The date of the survey.
- (5) The boundary lines of the short subdivision.
- (6) The boundaries of lots within the short subdivision.
- (7) The location of roads and existing important natural features and improvements within the short subdivision.
- (8) A layout of roads and easements.
- (9) The boundaries of all parcels dedicated or reserved for public or community uses.
- (10) Plans of proposed water distribution systems, sewage disposal systems, drainage systems, utility and irrigation easements when applicable.
- (11) A certificate bearing the typed or printed names of all persons having an interest in the divided land, signed and acknowledged by them before a Notary Public which:
  - (a) States their consent to the division of land.
  - (b) Recites a dedication by them and their successors of all claims for damages against any governmental authority.
  - (c) Grants a waiver by them and their successors of all claims for damages against any governmental authority.
- (12) The approval of the Administrator.
- (13) Total acreage within the short subdivision.
- (14) The size of each lot in square feet and/or acres.
- (15) The number and/or letter of each lot.
- (16) Space for signatures of Grant County Treasurer, Grant County Auditor, Grant County Planning Director, Grant County Fire Marshal Grant County Assessor, Grant County Engineer, and Grant County Sanitarian.
- (17) The approval of the Irrigation District and United States Bureau of Reclamation, where applicable.
- (18) The approval and space for signatures for the Board of County Commissioners; Chairman, Clerk of the Board; and the County Engineer.

A copy of the final plat drawing file on electronic media shall be provided to the Grant County Assessor in CAD format (.dwg) in accordance with Grant County Ordinance.

The Subdivider shall inquire with the Auditor's Office as to the acceptability of the name of the final plat. No final plat shall be filed with the County Auditor's office containing the exact name as a previously filed plat or very similar name, as determined by the County Auditor.

**SECTION 35 WRITTEN APPROVAL FROM WASHINGTON STATE**

**DEPARTMENT OF ECOLOGY.** Any short plat which is situated in a flood control zone as provided in chapter 86.16 RCW must have prior written approval from the Washington State Department of Ecology before submittal for review by Grant County and may not be filed with the Grant County Auditor's Office without said approval.

**SECTION 36. ILLEGAL TRANSFER - MISDEMEANOR** It shall be unlawful for any person, firm or corporation to transfer, sell, or lease any land in violation of the requirements of this Ordinance. Any person convicted of violating any provision of this Ordinance shall be guilty of a misdemeanor, and shall be punished by a fine of not more than \$300.00 or by imprisonment in the county jail for a period not to exceed 90 days or both, for each said violation.

**SECTION 37. ILLEGAL TRANSFER INJUNCTIVE RELIEF** Whenever land is



divided in violation of the provisions of this Ordinance, or any person, firm or corporation transfers, sells, leases, or rents any part of such land, the Prosecuting Attorney may commence an action to enjoin further violations or attempted violations of this Ordinance by the said person, firm, corporation, or successors thereof, and to compel compliance with this Ordinance.

**SECTION 38. ILLEGAL TRANSFER - ASSURANCE OF DISCONTINUANCE**

The Prosecuting Attorney may accept a written assurance of discontinuance of any act or practice in violation of this Ordinance from any person who has committed or is committing such act or practice to be filed with and approved by the Superior Court of Grant County. The assurance may include a promise to file a proposed short plat for approval and to satisfy all reasonable conditions required to affect its approval. Any willful failure to perform a promise contained in such an assurance shall constitute a separate misdemeanor, punishable to the same extent as other misdemeanors defined by this Ordinance.

**SECTION 39. ILLEGAL TRANSFER - DAMAGE RECOVERY FOR PURCHASER**

A transferee who cannot secure a building permit, septic tank permit or other developmental permit for the reason that his transferor failed to comply with any provision of this Ordinance may recover damages from his transferor, to include compensation for the loss of his bargain, actual costs of investigation and suit reasonable attorney's fees and such additional elements as the law allows.

**SECTION 40. UNAPPROVED SHORT PLAT - NOT TO BE RECORDED**

The Auditor shall refuse to accept for recording, any short plat which does not bear the Administrator's certificate of approval. Should a short plat be recorded without such a certificate, the Prosecuting Attorney shall apply for a writ of mandate on behalf of the Administrator, directing the Auditor to remove the unapproved plat from the Auditor's records.

**SECTION 41. METES AND BOUNDS FILINGS - AUDITOR TO QUESTION**

The County Auditor shall inquire of every person who tenders for recording a deed or contract for the sale of land in which appears one or more metes and bounds legal description of land, as to whether the land so described is a new division of a parcel of land or a boundary line adjustment. In the event that it is a new division or boundary line adjustment, or if the inquiry is not answered, the Auditor shall not accept the deed for recording. All requests for the creation and/or adjustment of parcel boundaries exempt from this ordinance must be processed by completion of a Segregation Application. This Segregation Application process enables the Administrator to determine if the division or boundary line adjustment is an exempt division as described in Section Two of this ordinance. It also allows the Administrator to determine if the proposed segregation or Boundary Line Adjustment complies with all local, state, and federal laws, including, but not limited to, RCW 58.17 and the Grant County Zoning Ordinance. Upon learning of any recording of a deed in which a new division of a parcel or a boundary line adjustment is involved without the filing of a Segregation Application, the Administrator shall investigate the same to determine whether a division of land is in violation of this Ordinance or any other local, state, or federal law. If a violation of any law has indeed taken place, the Administrator shall notify the Grant County Prosecuting Attorney's Office of the violation. The creation of a parcel by means of a metes and bounds description does not guarantee that development permits will be issued.

**SECTION 42. NEW SEGREGATION - ASSESSOR TO NOTIFY ADMINISTRATOR**

The Assessor shall promptly notify the Administrator of every new segregation of land made upon the Assessor's records.

**SECTION 43. RE-SUBDIVISION REQUIREMENTS**

Land within a short subdivision, the short plat of which has been approved within five years immediately proceeding may not be further divided until a final plat thereof has been approved and filed for record pursuant to the Ordinance dealing with subdivision of five or more lots.

**SECTION 44. SEVERABILITY**

If any provision of this Ordinance or its application to any



person or circumstance is held invalid, the remainder of this Ordinance or the application of this provision to other persons or circumstances shall not be affected.

**SECTION 45.** No land segregation's will be allowed which do not comply with the requirements of applicable local, state , or federal laws, including minimum lot size and set back requirements, except as specified in the Grant County Zoning Ordinance, Section V (B) (8), Section V (B) (10), or promulgated exemptions to the Grant County Short Plat or Long Plat Subdivision Ordinances.

**SECTION 46 SEVERABILITY** If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances shall not be affected.

**SECTION 47 REPEALER** All previous regulations and rules and/or ordinances relating to the subdivision and platting or land adopted prior to this ordinance, are repealed, effective as of the effective date of this ordinance.

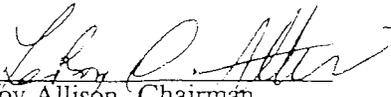


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**SECTION 48 EFFECTIVE DATE** This ordinance shall become effective on November 24, 1997

Done this 24th day of  
November, 1997

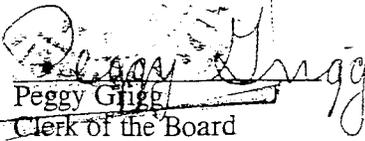
Board of County Commissioners  
Grant County, Washington

  
Leroy Allison, Chairman

Helen Fancher, Member

  
Tim Snead, Member

ATTEST:

  
Peggy Gigg  
Clerk of the Board

APPROVED AS TO FORM BY:

Steven Hallstrom  
Deputy Prosecuting Attorney

## Appendix 5

**BOARD OF COUNTY COMMISSIONERS**  
**GRANT COUNTY, WASHINGTON**

**ORDINANCE NO. 2000-114-CC**

**An Ordinance Relating to Adoption of a Unified Development Code for Grant County in Accordance with the Washington State Growth Management Act (RCW 36.70A) and the State Environmental Policy Act (SEPA, Chapter 43.21.C RCW); and Rescinding Conflicting Ordinances, Resolutions and Codes.**

**WHEREAS**, in 1990 the Washington State Legislature passed and the Governor signed into law the Growth Management Act (GMA) as contained in SHB No. 2929 (Washington Laws, 1990 1<sup>st</sup> Ex. Sess., Ch.17), which was subsequently codified as, among other chapters, Chapter 36.70A RCW; and

**WHEREAS**, Chapter 36.70A RCW required Grant County to adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan; and

**WHEREAS**, on September 30, 1999, the Grant County Board of Commissioners adopted Ordinance No. 99-158-CC, adopting the Grant County Comprehensive Plan together with the integrated Draft Environmental Impact Statement and the Final Environmental Impact Statement; and

**WHEREAS**, the Grant County Comprehensive Plan is intended to, among other things, direct and prepare for future growth and development in the County;

**WHEREAS**, implementation of the Comprehensive Plan is essential to direct the future growth and development of the County in a manner consistent with the Comprehensive Plan's goals, objectives, policies, land use designations, future land use map and mapping criteria; and

**WHEREAS**, the general purpose of the adoption of development regulations is to implement the goals and policies of the Grant County Comprehensive Plan and to:

1. Encourage land use decision-making in accordance with the public interest, protection of private property rights and the public good, and applicable laws of the State of Washington;
2. Protect the general public health, safety, and welfare;
3. Implement the Grant County Comprehensive Plan goals and policies through land use and other regulations;
4. Provide for the economic, social, and aesthetic advantages of orderly development through harmonious groupings of compatible and complementary land uses and the application of appropriate development standards;
5. Provide for adequate public facilities and services in conjunction with development; and
6. Promote general public safety by regulating development of lands containing physical hazards and to minimize adverse environmental impacts of development; and

**WHEREAS**, current Grant County ordinances pertaining to land division, zoning, environment, and administration of development regulations are not, in every case, consistent with State law and the Grant County Comprehensive Plan; and

**WHEREAS**, integration of revised regulations consistent with State law and the Grant County Comprehensive Plan into a unified development code will simplify administration and promote ease of use by developers of land in Grant County; and

**WHEREAS**, beginning in January 2000, the Grant County Planning Commission initiated a thorough review of all existing County ordinances relating to land development in Grant County: to update their

contents; incorporate State mandated regulatory reform process initiatives; and achieve consistency with State law and the Comprehensive Plan: and

**WHEREAS**, the Grant County Department of Community Development formulated an advisory committee that included agency representatives, land development professionals, representatives of groups having a special interest or expertise in land development, zoning, or environmental protection, to prepare draft text, proposed modifications and recommendations to the Grant County Planning Commission of certain chapters of the Unified Development Code; and

**WHEREAS**, the Grant County Department of Community Development, in consultation with its advisory committee, produced a final draft Unified Development Code, consisting of revisions and/or additions to the following chapters of the Grant County Code: Title 22 Subdivisions and Plats, Chapters 22.04 Land Division; Title 23 Zoning, Chapters 23.04 Zoning Districts, 23.08 Performance and Use Standards, and 23.12 Development Standards; Title 24 Environment, Chapters 24.04 State Environmental Policy Act, 24.08 Critical Areas and Resource Lands, 24.12 Shorelines, and 24.16 Flood Damage Prevention; Title 25 Administration of Development Regulations, Chapters 25.01 General Provisions, 25.02 Definitions, 25.04 Project Permit Review Procedures, 25.08 Conditional Uses and Variances, 25.12 Legislative Actions, 25.16 Enforcement and Penalties, 25.20 Concurrency, and 25.24 Mitigation and Impact Fees; and

**WHEREAS**, the Grant County Planning Commission relied upon best available data and science in developing a final draft Unified Development Code; and

**WHEREAS**, in March 2000, the Grant County Department of Community Development notified the public of the process and schedule for preparation and public review of the Draft Unified Development Code through the mailing of the GMA newsletter, the *Grant County Skyline* to more than 1,000 citizens and agency representatives; and

**WHEREAS**, free copies of draft development regulations were provided at public hearings, mailed or distributed to agencies, citizens, and interest groups, and placed on the Grant County web site for review; and

**WHEREAS**, Notice of Proposed Adoption of the Unified Development Code was given to State agencies on March 13, 2000, and, pursuant to SEPA (RCW 43.21C.030(2)(c)), a Notice of Determination Of Significance and Adoption Of Existing Environmental Documentation was given on March 13, 2000; and

**WHEREAS**, the Grant County Planning Commission completed an extensive public review process that meets or exceeds the requirements of Grant County Resolution establishing *Grant County Growth Management Act (GMA) Public Participation Program* pursuant to RCW 36.70A.020(11) and RCW 36.70A.140; and

**WHEREAS**, the Grant County Planning Commission compiled an extensive public record, including studies, documents, and correspondence, that was carefully considered during review of the Draft Unified Development Code; and

**WHEREAS**, the Grant County Planning Commission, having carefully considered the written and oral testimony of the public, agencies, recommendations from staff, changes proposed by the advisory committee, changes proposed by Planning Commission members in its deliberations, did revise the Draft Unified Development Code consistent with the Comprehensive Plan's goals, objectives, policies, land use designations, future land use map and mapping criteria; and

**WHEREAS**, the Grant County Planning Commission, having sufficiently considered the matter, adopted a motion on July 11, 2000 recommending that the Board of County Commissioners adopt the Draft Unified Development Code, together with the attached findings of fact; and

**WHEREAS**, upon public notice, the Board of Grant County Commissioners conducted an open record public hearing on August 7, 8 and 9, 2000, to consider the recommendations and findings of fact of the Grant County Planning Commission along with other public comment pertaining to the Draft Unified Development Code; and

**WHEREAS**, upon public notice, the Board of Grant County Commissioners conducted closed record public workshops on August 24, 25, 28, 30, and 31, 2000, in the Commissioners Public Hearings Room where they reviewed and considered both the July 11, 2000 final recommendations and the complete record provided by the Grant County Planning Commission as well as the public testimony and written comment provided on the Comprehensive Plan during their August 7, 8 and 9, 2000 open record hearings; and

**WHEREAS**, the Board of Grant County Commissioners considered the entire hearing record including the Planning Commission's recommendation, and written and oral testimony submitted during the Commissioner's hearings; and

**WHEREAS**, the Unified Development Code has been reviewed by affected State and local agencies and found, generally, to be in compliance with the requirements of the GMA and other pertinent State law; and

**WHEREAS**, the comments and correspondence provided by affected State and local agencies has been considered during review of the Unified Development Code; and

**WHEREAS**, to meet the requirements of RCW 43.21C.030(2)(c), Grant County, acting through its Responsible SEPA Official, adopted the Grant County Comprehensive Plan/Draft Environmental Impact Statement and Final Environmental Impact Statement, all of which were reviewed and considered by the Grant County Planning Commission, as being appropriate for the environmental review needs of the proposed adoption of the Unified Development Code; and

**WHEREAS**, a number of pre-existing development regulations and ordinances that conflict with the Unified Development Code should be rescinded or modified to avoid conflict or confusion; now therefore,

**IT IS HEREBY ORDAINED** that the Board of Grant County Commissioners adopts the recommendations and findings of fact of the Grant County Planning Commission Recorded Motion dated July 11, 2000, attached as Exhibit E, except as modified or supplemented in the annexed Additional Findings of Fact; and

**BE IT FURTHER ORDAINED** that the Board of Grant County Commissioners adopts the Grant County Unified Development Code and the Official Zoning Map, dated September 19, 2000; accepts the Grant County Comprehensive Plan/Draft Environmental Impact Statement and Final Environmental Impact Statement as meeting the environmental review needs for the Unified Development Code; adopts the attached Additional Findings of Fact and Conclusions of Law; accepts the attached record compiled by the Grant County Planning Commission; and accepts the attached record compiled by the Board of Grant County Commissioners.

**BE IT FURTHER ORDAINED** that the Board of Grant County Commissioners rescinds and repeals in their entirety all conflicting ordinances and resolutions including, but not limited to, the following:

1. Grant County Zoning Ordinance, date unknown;
2. Airport Zoning Ordinance, date unknown;

3. Resolution No. 88-2-CC, Binding Site Plan Ordinance, dated October 3, 1984;
4. Flood Damage Prevention Ordinance, dated February 13, 1989;
5. Ordinance No. 90-92-CC, Resolution No. 90-92-CC, Right to Farm Ordinance. dated September 10, 1990;
6. Ordinance No. 91-127-CC, Short Term R.V. Park, dated September 24, 1991;
7. Ordinance No. 92-98-CC, Extended Use R.V. Park, dated July 14, 1992;
8. Ordinance No. 92-110-CC, An Ordinance Relating to Residential Recreational Vehicle Parks, dated September 8, 1992;
9. Ordinance No, 93-49-CC, Resource Lands and Critical Areas Development Ordinance, dated May 23, 1993;
10. Ordinance No. 95-60-CC, Grant County SEPA Ordinance, dated May 1995;
11. Ordinance dated November 4, 1996 rescinding portions of Section V(B)(8) of the Grant County Zoning Ordinance (Segregations);
12. Ordinance dated November 4, 1996 rescinding Exemption No. 4 and portions of Exemption No. 7 under section 2 of the Grant County short plat ordinance (Farmsteads);
13. Ordinance dated November 5, 1996 adopting new section of Grant County short plat ordinance (Section 42);
14. Ordinance No. 97-39-CC dated March 25, 1997 (interim residential zoning density regulations);
15. Ordinance No. 97-150-CC, dated September 23, 1997 re-adopting interim residential zoning density regulations;
16. Ordinance 97-190-CC, An Ordinance Relating to Short Plat and Short Subdivisions, dated November 25, 1997;
17. Ordinance No. 97-191-CC, Platting and Subdivision Ordinance, dated November 25, 1997;
18. Ordinance No, 97-192-CC, Local Project Permit Review Ordinance, dated November 25, 1997;
19. Ordinance No. 98-18-CC, An Ordinance Regarding a Public Interest Determination Affecting Development of Land within the Unincorporated Areas of Grant County, dated February 10, 1998;
20. Ordinance No. 98-29-CC dated March 24, 1998 re-adopting interim residential zoning density regulations;
21. Ordinance No. 98-32-CC dated March 24, 1998 prohibiting commercial, industrial and residential zones within the Agricultural District;
22. Ordinance No. 98-36-CC dated April 7, 1998 adopting legal non-conforming use ordinance;
23. Ordinance No. 98-37-CC dated April 7, 1998 adopting Interim Official Controls in Agricultural District protecting agricultural lands from urban development;
24. Ordinance No. 98-38-CC dated April 7, 1998 adopting reasonable use exception requirements;
25. Ordinance No. 98-144-CC dated September 25, 1998 re-adopting interim residential zoning density regulations;
26. Ordinance No. 98-145-CC dated September 23, 1998 re-adopting Interim Official Controls in Agricultural District protecting agricultural lands from urban development;
27. Ordinance No. 98-157-CC, Interim Official Controls Relating to Reasonable Use Exception, dated October 6, 1998 and extended by Ordinance No. 99-46-CC, dated April, 1999;
28. Ordinance No. 98-174-CC, An Ordinance Establishing Regulation Governing the Siting of Wireless Control Towers, Antennas, Related Apparatus and Structures, for Wireless Communications Systems, Resolution No. 98-174-CC, dated November 2, 1998;
29. Ordinance No. 99-39-CC dated March 23, 1999 re-adopting interim residential zoning density regulations;
30. Ordinance No. 99-40-CC dated March 23, 1999 re-adopting Interim Official Controls in Agricultural District protecting agricultural lands from urban development;
31. Ordinance No. 99-45-CC, Resolution No. 99-45-CC, re-adopting Interim Official Controls in Agricultural District protecting agricultural lands from urban development;
32. Ordinance No. 99-154-CC dated September 27, 1999 re-adopting interim residential zoning density regulations; and
33. Ordinance No. 99-155-CC dated September 27, 1999 re-adopting prohibitions commercial, industrial and residential zones within the Agricultural District.

34. Ordinances adopting changes to the Zoning Code, SEPA ordinance, and Shoreline Master Program to conform to changes to the several laws of the state;

**BE IT FURTHER ORDAINED** that if any provision or provisions of this ordinance or its application to any person or circumstance is held to be invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances shall not be effected.

**BE IT FURTHER ORDAINED**, that all prior ordinances, resolutions and/or regulations rescinded and/or repealed by the adoption of this ordinance, are hereby expressly revived in the event that Grant County Unified Development Code and Official Zoning Map are at any time hereafter declared in their entirety to be invalid or of no effect by a reviewing body with jurisdiction, pursuant to RCW 36.70A.302(4).

**BE IT FURTHER ORDAINED** that the effective date of the Grant County Unified Development Code is October 1, 2000.

**BE IT FURTHER ORDAINED** that this Ordinance is applicable to development applications determined by the County to be technically complete on or after the effective date of this Ordinance.

**BE IT FURTHER ORDAINED** that the Board of Grant County Commissioners directs the Director of the Grant County Department of Community Development to provide copies of the Unified Development Code to the Department of Community Development, Trade and Economic Development (DCTED) and to other agencies as may be required by law no later than October 1, 2000, and publish a Notice of Action Taken in newspapers of record and the SEPA Register.

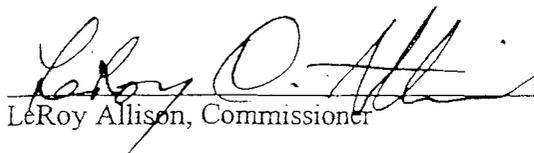
**BE IT FURTHER ORDAINED** that the Board of Grant County Commissioners adopts all recitals herein as findings of fact in support of this action.

**PASSED** by the Board of Grant County Commissioners in regular session at Ephrata, Washington, by the following vote, then signed by its membership and attested by its Clerk in authorization of such passage this 25<sup>th</sup> day of September, 2000.

2 YEA; \_\_\_\_\_ NAY; \_\_\_\_\_ ABSTAIN; and 1 ABSENT.

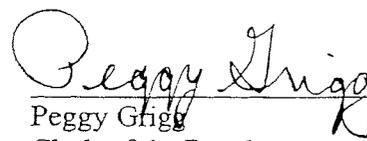
**BOARD OF GRANT COUNTY COMMISSIONERS  
GRANT COUNTY, WASHINGTON**

  
\_\_\_\_\_  
Deborah Moore, Chairperson

  
\_\_\_\_\_  
LeRoy Allison, Commissioner

\_\_\_\_\_  
Tim Snead, Commissioner

**ATTEST:**

  
\_\_\_\_\_  
Peggy Grigg  
Clerk of the Board

**Appendix 6**

1  
2  
3 **Article I. General Provisions**

4  
5 **22.04.010 Purpose and Intent**

6 (a) Purpose: In addition to those purposes set forth in RCW 58.17.010, the following purposes are also  
7 essential to the regulation of division of land within the unincorporated areas of Grant County:

- 8 (1) To promote the effective utilization of land;  
9 (2) To make adequate provision for the housing, commercial, and industrial needs of the County;  
10 (3) To prescribe procedures for the subdivision of land and to effectuate the land division standards  
11 pertaining to the creation of new lots in accordance with the adopted Grant County  
12 Comprehensive Plan;  
13 (4) To promote orderly division and development of lots;  
14 (5) To provide adequate fire access to residences;  
15 (6) To promote establishment of roadways and easements to provide adequate and safe traffic  
16 circulation to serve developable lots and to meet future development and roadway needs;  
17 (7) To ensure that sewage disposal systems are adequate to support future construction;  
18 (8) To provide adequate drainage from roadways and easements; and  
19 (9) To provide for the effective processing of land division applications without undue delay.

20 (b) Intent: This Chapter governs the division and re-division of land into lots for the purpose of sale,  
21 lease or other transfer by utilizing one of the following processes: subdivision, short subdivision,  
22 binding site plan or an exemption under GCC § 22.04.020. This Chapter also governs the minor  
23 adjustment of boundary lines through the Boundary Line Adjustment process. The intent of this  
24 Chapter is to carry out the policies of the Comprehensive Plan and the laws of the State of  
25 Washington relating to land division.

26  
27 (c) General Provisions:

- 28 (1) Only a legal lot, as defined in GCC 25.02, may be divided;  
29 (2) For the purpose of determining the gross acreage of a proposed land division, the acreage shall  
30 include that area which would be bounded by the center line of any existing public road or street  
31 which is adjacent to the land division, and the side lot lines of the lot running perpendicular to  
32 such center line; and  
33 (3) For the purposes of determining whether proposed lots within a proposed land division meet the  
34 minimum lot size of the zone, the proposed lot acreage shall include:  
35 (A) that area which would be bounded by the center line of any existing public road or street  
36 which is adjacent to the lot and the side lot lines of the lot running perpendicular to such  
37 center line; and  
38 (B) that area which would be bounded by the center line of any proposed public or corporate  
39 road or street which is adjacent to the lot and internal to the land division, and the side lot  
40 lines of the lot running perpendicular to such center line.

41  
42 (d) Applications for divisions of land not determined to be exempt from the requirements of this Chapter  
43 shall be reviewed in accordance with the requirements of GCC § 25.04.

44  
45 (e) The Director of the Grant County Department of Community Development (Department) shall be the  
46 Administrative Official vested with the duty of administering the provisions of this Chapter.

47  
48 **22.04.020 Applicability/Exemptions**

49  
50 (a) This Chapter shall apply to all divisions and re-divisions of land for the purposes of sale, lease or

1 other transfer unless the Administrative Official determines that a division of land exclusively  
2 pertains to:

- 3 (1) Cemeteries and other burial plots while used for that purpose;
- 4 (2) Any division of land not containing a dedication in which the smallest lot created by the division  
5 40 acres or greater, including fractional sections having a theoretical area of 40 acres or more,  
6 such as the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ ; unless such divisions would be inconsistent with other provisions  
7 of this Code;
- 8 (3) Divisions made by testamentary provisions, or the laws of descent; provided, that newly created  
9 parcels are subject to all zoning and building code regulations in effect at the time of the  
10 application;
- 11 (4) The actions of governmental agencies, such as acquiring land for the purpose of adding to  
12 existing public road rights-of-way, creation of new public road rights-of-way, or other public  
13 road construction purposes;
- 14 (5) A division of land pursuant to the requirements of RCW 58.17.035 and GCC § 22.04 Article VII  
15 for the purpose of:
  - 16 (A) sale, lease or transfer of ownership of commercially or industrially zoned property;
  - 17 (B) lease or rent when no residential structure other than mobile homes, recreational vehicles or  
18 travel trailers are permitted to be placed upon the land; or
  - 19 (C) creation of condominium units pursuant to RCW 58.17.035, RCW 58.17.040, RCW 64.32,  
20 and RCW 64.34;
- 21 (6) Any division of land used solely for the installation of public roads or facilities, electric power,  
22 telephone, water supply, sewer or other utility facilities of a similar nature; except, however, that  
23 land leases for wireless communication facility sites, as defined in GCC § 23.08.450, are not  
24 exempt from the requirements of this Chapter;
- 25 (7) Any division of land solely for the purpose of transfer to a public or legitimate non-profit  
26 conservation organization for the purposes of conservation of a property in perpetuity with the  
27 presence of species listed by the State as sensitive, threatened or endangered or by the County as  
28 species of local concern for the purpose of preservation or conservation of the habitat for the  
29 species of recognized biological value, or for the preservation of agricultural lands, or for other  
30 open space resources designated in the Grant County Comprehensive Plan; and
- 31 (8) A Boundary Line Adjustment where the purpose of recording instruments of conveyance is  
32 solely for the purpose of rectifying a boundary line error, to rectify defects in legal description,  
33 to allow the enlargement or merging of lots to improve a building site, to achieve increased  
34 setbacks from property lines or critical areas, to correct situations wherein an established use is  
35 located across a lot line, or for other similar purposes; provided that the Administrative Official  
36 determines that:
  - 37 (A) The proposed Boundary Line Adjustment does not:
    - 38 (i) Create any additional lot, tract, parcel, building site, or division;
    - 39 (ii) Result in any lot that contains insufficient area and dimension to meet minimum  
40 requirements for width and area of a building site; and
  - 41 (B) The party seeking a boundary line adjustment submit a final record-of-survey document  
42 prepared by a land surveyor in accordance with WAC Chapter 332-130 and RCW Chapter  
43 58.09.

44  
45 (b) Exemption Limitation: Notwithstanding any exemption listed in GCC § 22.04. 020, a lot which is  
46 created as a result of an exemption shall never contain a dwelling unit unless all requirements of GCC  
47 Titles 23 and 24 and health regulations are met.  
48  
49  
50

1 **22.04.030 Categorization of Land Divisions**

2  
3 (a) The Administrative Official shall categorize every proposed division of land as a:

- 4 (1) Subdivision;  
5 (2) Short Subdivision; or  
6 (3) Binding Site Plan.

7  
8 (b) For the purpose of this Chapter, the term "subdivision" shall be taken to mean Subdivision, Short  
9 Subdivision, or Binding Site Plan, unless otherwise stated in this Chapter as applying exclusively to  
10 one or more categorization of subdivision.

11  
12 **22.04.040 Review for Conformity with Other Codes**

13  
14 (a) Decisions under this Chapter may be to grant or deny any application or to require of the applicant  
15 such conditions, modifications, and restrictions as are found necessary to make the application  
16 compatible with its environment and carry out the objectives and goals of this Chapter, RCW  
17 58.17.110, the Comprehensive Plan, and other codes and ordinances of Grant County, including, but  
18 not limited to GCC Titles 14, 23, 24 and 25.

19  
20 **22.04.050 Phased Development**

21  
22 (a) An applicant who chooses to develop a site in phases or divisions shall submit to the Department a  
23 phasing plan in conjunction with the specific land division application for concurrent review. Site  
24 improvements designed to relate to, benefit, or be used by the entire development (such as stormwater  
25 detention pond or tennis courts in a residential development) should be noted on the phasing plan.  
26 The phasing plan shall relate completion of such improvements to completion of one or more phases  
27 or stages of the entire development. Once a phasing plan has been approved by the Decision Maker,  
28 the information contained therein shall be shown on, or the phasing plan shall be attached to and  
29 made a part of, the specific land division. Approval of a phasing plan shall not constitute approval of  
30 the land division.

31  
32 **22.04.060 Concurrency**

33  
34 (a) Land division, including Subdivisions, Short Subdivisions, Binding Site Plans and Alternative  
35 Divisions of Land, are subject to the concurrency requirements of GCC § 25.20. Concurrency  
36 requirements will be identified at the time of preliminary subdivision application; compliance with  
37 any concurrency requirements is a condition of final subdivision approval.

38  
39 **22.04.065 Public Interest Determination Affecting Development of Land**

40  
41 (a) This section shall apply only to parcels created by segregation by a document of conveyance of title  
42 filed with the Grant County Auditor prior to February 27, 1996 under the following guidelines:

43 (1) Grant County will issue building and development permits for all parcels five (5) acres in size or  
44 greater in all zoning districts subject to the following conditions:

- 45 (A) The parcel owner must demonstrate water availability pursuant to RCW 19.27.097;  
46 (B) The parcel must comply with all Grant County Health District requirements including, but  
47 not limited to, minimum lot size requirements for sanitary septic systems;  
48 (C) All parcels shall require proof of legal access and evidence of the right to legal access to the  
49 applicable road from the appropriate road jurisdiction. Legal access roads shall also comply  
50 to the standards set forth in the UBC and UFC and GCC § 23.12.100 and 23.12.110; and

1 (D) Compliance with all local, state and federal regulations, rulings, and requirements except  
2 the minimum lot size and density requirements set forth in GCC § 23.12.070(d) and GCC §  
3 23.04.

4 (2) Grant County will issue building and development permits for all parcels two and one-half (2½)  
5 acres in size or greater in the Rural Residential 2 (RR2) and Rural Residential 3 (RR3) zoning  
6 districts subject to the following conditions:

7 (A) The parcel owner must demonstrate water availability pursuant to RCW 19.27.097;

8 (B) The parcel must comply with all Grant County Health District requirements including, but  
9 not limited to, minimum lot size requirements for sanitary septic systems;

10 (C) All parcels shall require proof of legal access and evidence of the right to legal access to the  
11 applicable road from the appropriate road jurisdiction. Legal access roads shall also comply  
12 to the standards set forth in the UBC and UFC and GCC § 23.12.100 and 23.12.110; and

13 (D) Compliance with all local, state and federal regulations, rulings, and requirements except  
14 the minimum lot size and density requirements set forth in GCC § 23.12.070(d) and GCC §  
15 23.04.

16 (3) Building and/or development permits shall not be issued for any parcel of land located in Grant  
17 County that did not conform to the Grant County Zoning and/or Subdivision Ordinances in  
18 effect at the time of filing a deed partitioning the parcel and that does meet the criteria under  
19 sections (1) or (2), above. These parcels include land less than five (5) acres in size located in the  
20 Agricultural zoning district, or less than two and one-half (2½) acres in size in the Rural  
21 Residential 2 (RR2) and Rural Residential 3 (RR3) zoning districts and still owned by the  
22 individual(s) who partitioned or segregated the parcel.

23 (4) Building and development permits may be issued by the Board of County Commissioners or  
24 designee on a limited case-by-case basis for any parcel in Grant County. The Board of County  
25 Commissioners or designee shall approve or deny building and development permits based upon  
26 review and comment by jurisdictional agencies and shall base the decision upon findings as to  
27 whether the public interest will be adversely affected by granting of the permit.  
28

29 (b) Grant County will issue building and development permits to the new purchaser for all parcels not  
30 meeting the requirements of GCC § 22.04.065(a), and which were purchased prior to February 10,  
31 1998, without regard to parcel size or zoning district, provided that the new purchaser can  
32 demonstrate that he/she is an "innocent purchaser for value without actual notice" pursuant to GCC §  
33 22.04.170. All such determinations are subject to the following conditions:

34 (1) The parcel owner must demonstrate water availability pursuant to RCW 19.27.097;

35 (2) The parcel must comply with all Grant County Health District requirements including, but not  
36 limited to, minimum lot size requirements for sanitary septic systems;

37 (3) All parcels shall require proof of legal access and evidence of the right to legal access to the  
38 applicable road from the appropriate road jurisdiction. Legal access roads shall also comply to  
39 the standards set forth in the UBC and UFC and GCC § 23.12.100 and 23.12.110; and

40 (4) Compliance with all local, state and federal regulations, rulings, and requirements except the  
41 minimum lot size and density requirements set forth in GCC § 23.12.070(d) and GCC § 23.04.  
42

#### 43 **22.04.090 Metes and Bounds Filings – Auditor to Question**

44  
45 (a) The County Auditor shall inquire of every person who tenders for recording a deed or contract for the  
46 sale of land in which appears one or more metes and bounds legal description of land, as to whether  
47 the land so described is a new division of a parcel of land or a boundary line adjustment. In the event  
48 that it is a new division or boundary line adjustment, or if the inquiry is not answered, the Auditor  
49 shall not accept the deed for recording. All requests for the creation and/or adjustment of parcel  
50 boundaries exempt from this ordinance must be processed by completion of a Segregation

1 Application. This Segregation Application process enables the Administrator to determine if the  
2 division or boundary line adjustment is an exempt division as described in GCC § 22.04.020. It also  
3 allows the Administrator to determine if the proposed segregation or Boundary Line Adjustment  
4 complies will all local, state, and federal laws, including, but not limited to, RCW 58.17 and the Grant  
5 County Zoning Ordinance. Upon learning of any recording of a deed in which a new division of a  
6 parcel or a boundary line adjustment is involved without the filing of a Segregation Application, the  
7 Administrator shall investigate the same to determine whether a division of land is in violation of this  
8 Ordinance or any other local, state, or federal law. If a violation of any law has indeed taken place,  
9 the Administrator shall notify the Grant County Prosecuting Attorney's Office of the violation. The  
10 creation of a parcel by means of a metes and bounds description does not guarantee that development  
11 permits will be issued.

12  
13 **22.04.100 New Segregations – Assessor to Notify Administrative Official**

- 14  
15 (a) The Assessor shall promptly notify the Administrator of every new segregation of land made upon the  
16 Assessor's records.

17  
18 **22.04.110 Modifications or Variances**

- 19  
20 (a) Any request for a variance from or modification to any of the requirements of this Chapter other than  
21 to density or land use changes shall be processed as a development code variance, pursuant to the  
22 variance requirements of GCC 25.08. Variances to density and land use would constitute a rezone and  
23 shall follow procedures for a rezone in GCC 25.12. Applications for variances shall be heard  
24 concurrent with the land division proposal. Applications for density or land use changes shall be  
25 heard prior to or concurrent with the land division proposal.

26  
27 **22.04.120 Limitations on Short Subdivisions**

- 28  
29 (a) No lot that is part of a Short Subdivision shall be divided in any manner within a period of five (5)  
30 years from the date the Short Subdivision was granted, unless a subsequent Long Subdivision is  
31 approved. However, when a Short Subdivision contains fewer than nine (9) lots, the person who  
32 created the Short Subdivision may alter the Short Subdivision within the five (5) year period by  
33 creating up to a total of nine (9) lots within the original Short Subdivision boundaries, provided that  
34 there is no violation of density or minimum lot size or dimension requirements contained in GCC §  
35 23.04.

36  
37 **22.04.130 Penalties and Enforcement**

- 38  
39 (a) A person who violates the provisions of this Chapter or who fails to comply with any of its  
40 requirements shall be subject to the procedures and sanctions set forth in GCC § 25.16.  
41  
42 (b) In addition to the civil penalty provisions provided in GCC § 25.16 Article III, any person who  
43 violates any of the provisions of this Chapter is guilty of a misdemeanor, and each day or portion  
44 thereof during which a violation is committed, continued, or not permitted shall constitute a separate  
45 offense. The penalty for each violation shall be as delineated in GCC § 25.16.210(b). The principles  
46 of liability contained in Chapter 9A.08 RCW, including, but not limited to, liability for conduct of  
47 another shall apply to the enforcement of this Chapter, as shall all judicial interpretations thereof.  
48  
49 (c) Any disposition of a violation pursuant to this Chapter and GCC § 25.16 shall not absolve a person  
50 from correcting or abating a violation and shall not prevent the prosecuting authority from pursuing

1 criminal prosecution, other civil action including, but not limited to, injunctive relief, license  
2 revocation, and abatement, or all of the above.  
3

4 (d) The prosecuting authority may accept a written assurance of discontinuance of any act or practice in  
5 violation of this Chapter from any person who has committed or is committing such act or practice to  
6 be filed with and approved by the Superior Court of Grant County. The assurance may include a  
7 promise to file a proposed short plat for approval and to satisfy all reasonable conditions required to  
8 effect its approval. Any willful failure to perform a promise contained in such an assurance shall  
9 constitute a separate misdemeanor, punishable to the same extent as other misdemeanors defined by  
10 this Chapter.  
11

12 (e) A transferee who cannot secure a building permit, septic tank permit or other developmental permit  
13 for the reason that his transferor failed to comply with any provision of this Chapter may recover  
14 damages from his transferor, to include compensation for the loss of his bargain, actual costs of  
15 investigation and suit reasonable attorney's fees and such additional elements as the law allows.  
16

17 (f) The Grant County Auditor shall refuse to accept for recording, any final plat that does not bear the  
18 Administrative Official's certificate of approval. Should a final plat be recorded without such a  
19 certificate, the prosecuting authority shall apply for a writ of mandate on behalf of the Administrative  
20 Official, directing the Auditor to remove the unapproved plat from the Auditor's records.  
21

22 **Article II. Historic Plats**  
23

24 **22.04.140 Definitions**  
25

26 (a) A Historic Plat is a final plat that has been approved under platting laws predating the Washington  
27 State Platting Law (RCW Chapter 58.17) adopted in 1969.  
28

29 (b) A Legal Lot of Record is any separately described parcel or lot that: (1) was created by a subdivision,  
30 short subdivision or boundary line adjustment approved by Grant County pursuant to GCC, (2) was  
31 created in a segregation exempt from subdivision requirements, (3) was created pursuant to any  
32 previous laws governing subdivision or segregation of land, (4) or was otherwise legally established;  
33 and is recorded with the Grant County Auditor.  
34

35 (c) A Partially Developed or Developed Historic Plat is a Historic Plat of which half (50%) or more of all  
36 lots have been developed prior to the effective date of this UDC. An Undeveloped Historic Plat is one  
37 of which less than half (50%) have been developed prior to the effective date of this UDC.  
38

39 **22.04.150 Purpose**  
40  
41

42 (a) It is the intent that the goals and policies of the Grant County Comprehensive Plan require the  
43 establishment of a mechanism to regulate development of the County's historic plats. The purpose of  
44 this section is to ensure that the division and/or development of land complies with state laws and the  
45 GCC affecting land use and to protect the health, safety and welfare of property owners and residents  
46 of Grant County.  
47

48 **22.04.160 Legal Lots of Record—Development Permitted**  
49

50 (a) Development shall only be permitted on legal lots of record.

1 (b) To establish that a lot for which development permit approval is sought is a legally created lot, the  
2 following standards shall apply:

3 (1) Approved Preliminary Plats or Approved Preliminary Short Plats:

4 (A) Where a final plat or final short plat has not been approved and filed with the Grant County  
5 Auditor, an approved application for a preliminary plat or preliminary short plat shall  
6 expire five (5) years from the date the County approved the application, unless an extension  
7 is granted by the Board.

8 (B) Upon expiration of the preliminary plat or preliminary short plat, no development  
9 application for the subject property shall be accepted by Grant County as "counter  
10 complete."

11 (C) Before any development application for the subject property will be accepted by Grant  
12 County as counter complete, the applicant must re-apply for and receive preliminary plat or  
13 preliminary short plat approval pursuant to the requirements of this GCC § 22.04.

14 (2) Approved Final Plats or Approved Final Short Plats:

15 (A) If a final plat or final short plat has been approved by Grant County within five (5) years of  
16 the date the development application is submitted, a development application for the  
17 subject property may be accepted as counter complete, where the requirements for counter  
18 complete status under GCC § 25.04.150 have been satisfied.

19 A development permit application for a final plat or final short plat approved by Grant  
20 County within five (5) years of the date the application is submitted may be approved,  
21 provided the development permit application complies with all applicable requirements of  
22 the GCC at the time of a full and complete application for preliminary plat approval was  
23 filed with Grant County.

24 (B) Where a development application for a final plat or final short plat approved by Grant  
25 County after five (5) years of the date the application is submitted does not comply with all  
26 applicable requirements of the GCC, an applicant may:

27 (i) Apply to consolidate the subject plat with contiguous plats owned by the applicant  
28 pursuant to GCC § 23.04.105 to meet minimum lot size, density or Grant County  
29 Health District requirements for on-site water and septic system installations; and/or

30 (ii) Apply for a reasonable use exception pursuant to GCC § 23.04.170.

31 In the event an applicant successfully consolidates the subject plat with contiguous plats  
32 owned by the applicant pursuant to GCC § 23.04.105, a development permit application for  
33 the resulting plat shall not be approved unless it complies with all applicable requirements of  
34 the GCC, including minimum lot size requirements specified by the Grant County Health  
35 District.

36 (3) Undeveloped Historic Plat:

37 (A) Grant County lacks authority to accept for recordation undeveloped final plats created prior  
38 to January 1, 1969.

39 (B) Before any development permit application for undeveloped final plats created prior to  
40 January 1, 1969, will be accepted by Grant County as counter complete, the applicant must  
41 first re-apply for and receive preliminary plat or preliminary short plat approval pursuant to  
42 GCC § 22.04. No development permit shall be issued, however, until Grant County has  
43 approved the applicant's final plat application.

44 (4) Partially Developed or Developed Land Created Prior to January 1, 1969:

45 (A) Grant County recognizes that for final plats or final short plats created prior to January 1,  
46 1969, on which partial development has occurred, serious hardship may result to plat  
47 owners if such plats are required to comply with state and local platting and subdivision  
48 laws and ordinances.

49 (B) Grant County will not require an applicant to re-apply for and receive preliminary plat or  
50 preliminary short plat approval pursuant to GCC § 22.04 for land that has been developed

1 or partially developed. However, Grant County will require an application to demonstrate  
2 compliance with the following:

- 3 (i) That the development conforms with the requirements of GCC Title 23;
- 4 (ii) That the development is in compliance with the Grant County Comprehensive Plan;
- 5 (iii) That the development conforms with the minimum requirements of, and has received  
6 approval from, the Grant County Health District and Washington State Department  
7 of Health for on-site sewage disposal and on-site wells;
- 8 (iv) That the development has legal access and conforms to current road standards, as  
9 determined by the County Engineer;
- 10 (v) That the development has made appropriate provisions for open spaces, drainage  
11 ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks,  
12 playgrounds, sites for schools and school grounds;
- 13 (vi) That the development is not located in a flood control zone unless prior written  
14 approval is received from the Washington State Department of Ecology; and
- 15 (vii) That the development is in conformance with all other applicable local, state, and  
16 federal regulations, including the Grant County Comprehensive Plan and the GCC.

17  
18 **22.04.170 Innocent Purchaser for Value Exception**

19  
20 (a) Innocent Purchaser for Value Exception:

- 21 (1) The prohibition on granting development permits for illegally platted land does not apply to an  
22 "innocent purchaser for value without actual notice."
- 23 (2) The applicability of the "innocent purchaser for value without actual notice" exception shall be  
24 reviewed by the Grant County Prosecuting Attorney on a case by case basis, based on the  
25 following factors:
  - 26 (A) Whether the applicant purchased the lot, tract or parcel for valuable consideration;
  - 27 (B) Whether the applicant knew when purchasing the lot, tract or parcel that it did not meet the  
28 minimum lot size or density requirements under GCC Title 23 or other applicable  
29 requirements;
  - 30 (C) Whether the applicant had actual notice that the lot, tract or parcel had been part of a larger  
31 lot, tract or parcel divided illegally;
  - 32 (D) Whether the applicant had constructive notice that the lot, tract or parcel had been part of a  
33 larger lot, tract or parcel divided illegally, considering the following:
    - 34 (i) Whether the seller of the lot, tract or parcel, or his or her representative, made any  
35 representations to the applicant regarding prior divisions (if any) of the lot, tract or  
36 parcel of which the applicant's lot, tract or parcel had been a part and/or whether a  
37 building permit could be obtained;
    - 38 (ii) Whether any public record of prior divisions of the lot, tract or parcel of which the  
39 applicant's lot, tract or parcel had been a part exists;
    - 40 (iii) Whether the applicant had knowledge regarding Grant County public pronouncements  
41 that prior lot segregations or spin-offs may be "questionable" and that building or  
42 other development permits may be denied for those lots, tracts or parcels; and
  - 43 (E) Whether the applicant was, or should have been, aware of any other circumstances that  
44 indicate the lot, tract or parcel of which the applicant's lot, tract or parcel had been a part  
45 was illegally divided.

- 46
- 47 (b) Evidence of innocent purchase shall be in the form of a notarized affidavit filed with the Department  
48 on forms satisfactory to the Administrative Official. The Grant County Assessor's Office shall  
49 provide information concerning the ownership of the subject property, and the Administrative Official  
50

1 shall make a determination if the property is eligible for the issuance of building or development  
2 permits under RCW 58.17.210.

- 3  
4 (c) Any innocent purchaser may, alternatively, rescind the sale or transfer of the subject property and  
5 recover the costs of investigation, suit, and reasonable attorneys' fees occasioned thereby, from any  
6 person, firm, corporation, or agent that sold or transferred the lot in violation of this Chapter, pursuant  
7 to the provisions of RCW 58.17.210.

8  
9 **Article III. Preliminary Subdivisions and Short Subdivisions**

10  
11 **22.04.200 Preliminary Subdivisions**

- 12  
13 (a) The purpose of this Section is to specify requirements for the segregation of land into Short  
14 Subdivisions (9 or fewer lots) and Subdivisions (10 or more lots) in accordance with applicable state  
15 and county laws, rules and regulations, including local project permit review procedures required by  
16 GCC § 25.04.  
17  
18 (b) Any person desiring to divide land situated within an unincorporated area of Grant County shall  
19 submit an application for Subdivision approval. If said subdivision is of land into four lots or less for  
20 the purpose of lease or sale, a person shall submit an application for Short Subdivision approval.  
21 Subdivision applications shall require preparation and submission of a completed SEPA checklist in  
22 accordance with the requirements of GCC § 24.04. See GCC § 22.04.020 for exemptions. Short  
23 Subdivisions are exempt from the requirements of GCC § 24.04, except upon lands covered by water  
24 in accordance with WAC 197-11-800(6)(a).

25  
26 **22.04.210 Pre-Application Review Conference**

- 27  
28 (a) Prior to submitting a Subdivision or Short Subdivision application, the applicant shall be subject to a  
29 pre-application review conference as specified in GCC § 25.04.130, unless waived by the  
30 Administrative Official with the concurrence of the applicant.

31  
32 **22.04.220 Application Requirements**

- 33  
34 (a) Application materials for preliminary Subdivisions and Short Subdivisions shall include, at a  
35 minimum, the following:  
36 (1) Those documents and accompanying data specified in GCC § 25.04.140, including:  
37 (A) Completed application form signed by the owner(s) of the property;  
38 (B) A statement by the applicant that the property affected by the application is in the exclusive  
39 ownership of the applicant or that the applicant has submitted the application with the  
40 consent of all owners of the affected property;  
41 (C) Identification of a single contact person or entity to receive determinations and notices  
42 required by this chapter;  
43 (D) A property and/or legal description of the site, including Tax ID numbers;  
44 (E) Evidence of availability of adequate water supply (either from a public system or Health  
45 District approval of individual wells) as required by RCW § 19.27.097 and/or regulations  
46 established by the Grant County Health District;  
47 (F) Evidence of sewer availability; or evidence of on-site sewage disposal approval by the  
48 Grant County Health District, or jurisdictional agency including but not limited to the  
49 Washington State Department of Health or Washington State Department of Ecology;  
50 (G) The applicable fee(s).

- 1 (2) The Comprehensive Plan future land use designation(s) that apply to the site and abutting
- 2 properties;
- 3 (3) The existing land uses on the site and abutting properties, and any proposed changes in land use
- 4 designations;
- 5 (4) The area of the site, and the number, area, and dimensions of proposed lots, along with the
- 6 maximum density and minimum area and dimensions required by law. If an adjustment,
- 7 exception, or variance is needed, the applicant may, but is not required to, address the applicable
- 8 criteria;
- 9 (5) A map showing all recorded land divisions abutting the site and between the site and nearest
- 10 public street that provides vehicular access to the site, and the name or other identification of
- 11 those land divisions and associated public and private streets;
- 12 (6) Proposed articles of incorporation, if any;
- 13 (7) Proposed wording of restrictions, if any, proposed to be imposed upon the use of the land,
- 14 including the designation of any lot that never can contain a dwelling unit or that is otherwise
- 15 undevelopable;
- 16 (8) Calculations that show the gross acreage of the proposed land division and the number of
- 17 allowable dwelling units;
- 18 (9) A completed environmental checklist or other SEPA documents, if required by GCC § 24.04
- 19 and/or WAC 197-11;
- 20 (10) A critical areas assessment, if required by GCC § 24.08;
- 21 (11) A description of significant historic, cultural or archaeological resources present at the site, if
- 22 required by GCC § 24.08;
- 23 (12) Proof that the application has also been submitted to the relevant city if the proposed land
- 24 division is within an urban growth area;
- 25 (13) Information that shows on which street a lot has access, if the lot abuts more than one street, and
- 26 any proposed access restrictions;
- 27 (14) A preliminary plan for meeting the requirements of the Shoreline Master Program, if applicable;
- 28 (15) A plan for providing pedestrian facilities that assure safe walking conditions for students
- 29 walking to and from school, if located within one-quarter (¼) mile of an existing public school;
- 30 (16) Written approval from the Washington State Department of Ecology of any subdivision situated in
- 31 a flood control zone as provided in Chapter 86.16 RCW;
- 32 (17) A list of any other permit applications having been filed for the same site;
- 33 (18) Twelve (12) copies of full-size (not larger than 24" by 36") and one (1) copy of reduced size
- 34 (8½" by 11") preliminary subdivision map meeting the requirements of GCC § 22.04.230;
- 35 (19) Any other documentation determined by the Administrative Official to be reasonably necessary
- 36 to serve as a basis for the review for compliance with the requirements of this Chapter.
- 37
- 38 (b) Additional Application Requirements for Preliminary Subdivisions:
- 39 (1) Proposed phasing, if any, of development;
- 40 (2) A traffic study, if required by the Administrative Official, SEPA Official, or County Engineer;
- 41 (3) A drainage report, if required by the County Engineer, which meets the requirements of GCC §
- 42 23.12.080;
- 43 (4) Any provisions for open space, parks and recreational opportunities;
- 44 (5) Any provisions for playgrounds, schools and school grounds;
- 45 (6) Information required under GCC § 25.20.050 and any information required by any non-County
- 46 capital facility providers, and sufficient to enable the County and other service providers to
- 47 determine the concurrency requirements of the development;
- 48
- 49 (c) The Administrative Official may waive specific submittal requirements determined to be unnecessary
- 50 for review of the application.

1 **22.04.230 Preliminary Subdivision and Short Subdivision Map Requirements**

2  
3 (a) A registered land surveyor shall prepare preliminary Subdivision and Short Subdivision maps.  
4 Drafting standards, including drawing scale and final plat media, shall be as specified in GCC §  
5 22.04.340. Survey standards shall be as delineated in GCC § 22.04.330. Maps shall consist of one or  
6 more pages, legibly drawn.  
7

8 (b) The following information is required on all preliminary subdivision maps:

9 (1) The name of the proposed subdivision, which must be other than the name of an existing  
10 subdivision, addition or plat; the applicant shall inquire with the Auditor's Office as to the  
11 acceptability of the name of the final plat;

12 (2) The full legal description of land contained within the subdivision;

13 (3) The name(s), telephone number(s) and address(es) of the owner(s) of record;

14 (4) The name, telephone number, address and seal of the registered land surveyor who made, or  
15 under whose supervision was made, a survey of the proposed subdivision;

16 (5) The complete date of the survey;

17 (6) Scale, including graphic scale and north arrow;

18 (7) The boundary lines of the proposed subdivision;

19 (8) All existing monuments and markers;

20 (9) The boundaries and approximate dimensions of all blocks and lots within the proposed  
21 subdivision, together with the numbers proposed to be assigned each lot and block, and the  
22 dimensions, square footage and acreage of all proposed lots and tracts;

23 (10) The location, width, and nature of existing and proposed:

24 (A) Public and private roads and access thereto;

25 (B) Special setbacks;

26 (C) Private and public easements;

27 (D) Utility easements;

28 (E) Rights-of-way; and

29 (F) Walkways;

30 (11) The location and, where ascertainable, sizes of all permanent buildings, wells, well head  
31 protection areas, sewage disposal systems, water courses, bodies of water, culverts, bridges,  
32 structures, overhead and underground utilities, railroad lines, municipal boundaries, section  
33 lines, township lines, and other important features existing upon, over or under the land  
34 proposed to be subdivided, and identifying any which are to be retained or removed;

35 (12) If a body of water forms the boundary of a subdivision, the ordinary high water mark shall be  
36 located by survey and dimensions on the plat;

37 (13) Existing topography at contour intervals appropriate to the slope of the site and other significant  
38 natural features (5-foot minimum interval), referenced to either the United States Coast and  
39 Geodetic Survey datum, United States Bureau of Reclamation (USBR) datum, county datum, or  
40 other datum acceptable to the County Engineer;

41 (14) A layout of proposed roads, alleys, utility mains, and parcels proposed to be dedicated or reserved  
42 for public use;

43 (15) A layout of proposed water distribution system, sewage disposal system, wells, sanitary control  
44 areas, irrigation and drainage systems (as required) indicating locations;

45 (16) A sketch of the general vicinity at least 800 feet in all directions from which the land proposed  
46 for subdivision lies, upon which are identified owners of the land adjacent to the subdivision and  
47 the names of any adjacent subdivisions;

48 (17) Location of any critical areas and associated buffer areas as required by GCC § 24.08;

49 (18) Section subdivision showing the boundary of the plat in relation to the section. This information  
50 may be done as an insert drawn to a convenient scale or included within the boundary of the

- 1 parcel as approved by the Administrative Official;  
2 (19) Proposed phasing of development, if any is proposed; and  
3 (20) Engineering report regarding hazardous topographical conditions, if any, as delineated in GCC §  
4 22.04.320(b).

- 5  
6 (c) The Administrative Official may waive specific submittal requirements determined to be unnecessary  
7 for review of the application.  
8

9 **22.04.240 Application Review**

- 10  
11 (a) Authority: Subdivisions and Short Subdivisions shall be reviewed pursuant to the authority provided  
12 in RCW 58.17.  
13  
14 (b) Classification of Application: Applications for preliminary Subdivisions and Short Subdivisions shall  
15 be classified as specified in GCC § 25.04.080 and defined in GCC § 25.04.070.  
16  
17 (c) Review Procedures: When the Administrative Official determines that an application for a  
18 Subdivision or Short Subdivision is technically complete, as defined in GCC § 25.04.160, the  
19 application shall be processed under procedures specified in GCC § 25.04 Article VII.  
20  
21 (d) Referral and Review of Application: Pursuant to GCC § 25.04.200, the Administrative Official shall  
22 transmit a copy of the application, or appropriate parts of the application, to affected agencies and  
23 county departments for review and comment.  
24  
25 (e) Notice of Application and Hearings: Notice of application and hearings shall be made pursuant to GCC  
26 § 25.04 Article VI and VIII, respectively.  
27

28 **22.04.250 Preliminary Approval**

- 29  
30 (a) Approval Criteria: Pursuant to GCC § 25.04.200, the Administrative Official shall solicit input from  
31 and confer with relevant local officials regarding whether the proposed Subdivision or Short  
32 Subdivision:  
33 (1) Meets the applicable requirements of this Chapter;  
34 (2) Serves the public use and interest;  
35 (3) Complies with the Comprehensive Plan, the Shoreline Master Program, the zoning code and  
36 other land use regulations, and SEPA;  
37 (4) Complies with health requirements for sewage disposal and potable water supply;  
38 (5) Contains an accurate legal description of the lots being created, and the roads and easements  
39 therein;  
40 (6) Complies with Grant County and, where applicable, State Department of Transportation  
41 regulations pertaining to roads, utilities, drainage, access for emergency vehicles, and other  
42 infrastructure improvements;  
43 (7) Complies with relevant city regulations pertaining to roads, utilities, drainage, access for  
44 emergency vehicles, and other infrastructure improvements for subdivisions within an urban  
45 growth area when the city has a signed interlocal agreement with the County which addresses  
46 coordination of development standards, except as otherwise specifically provided in GCC §  
47 23.12; and  
48 (8) Complies with requirements of the U.S. Department of the Interior, Department of Reclamation  
49 and/or a recognized Irrigation District when the proposed preliminary subdivision is within the  
50 boundaries of an Irrigation District.

1 (b) The Decision Maker, as delineated in GCC § 25.04, shall approve a preliminary Subdivision or Short  
2 Subdivision if the record contains clear and convincing evidence that the application complies with  
3 the approval criteria listed in GCC § 22.04.250(a) (or that the application can comply with these  
4 criteria through the imposition of special conditions of approval) and serves the public use and  
5 interest. If necessary, the Administrative Official may impose special conditions of approval to ensure  
6 that the criteria listed in GCC § 22.04.250(a) are met.

7  
8 (c) If a phasing plan is proposed, the Decision Maker shall not approve the preliminary Subdivision  
9 unless the requirements of GCC § 22.04.250(b) are met and the record contains clear and convincing  
10 evidence that:

- 11 (1) The phasing plan includes all land within the preliminary subdivision;
- 12 (2) Each phase is an independent planning unit with safe and convenient circulation and with  
13 facilities and utilities coordinated with the requirements established for the entire subdivision;  
14 and
- 15 (3) All road improvement requirements are ensured pursuant to GCC § 22.04.450.

16  
17  
18 **22.04.260 Time Limitations**

19  
20 (a) All preliminary subdivisions must be finalized in accordance with the requirements of GCC § 22.04  
21 Article V.

22  
23 (b) Short Subdivisions: A preliminary Short Subdivision that has been approved must be recorded within  
24 one (1) year from the date of the resolution approving the preliminary Short Subdivision. If any  
25 condition is not satisfied and the final subdivision is not recorded within the one (1) year period, the  
26 preliminary approval of the Short Subdivision shall be null and void. If an applicant submits a written  
27 request within this period that contains good reason(s) for extending the time period, the  
28 Administrative Official may grant the applicant a six (6) month extension to meet the conditions of  
29 approval and prepare and record the final Short Subdivision. All requests for an extension to the time  
30 period must be filed with the Administrative Official at least thirty (30) days prior to the expiration  
31 date of the preliminary approval.

32  
33 (c) Subdivisions: A preliminary Subdivision that has been approved must be recorded within five (5)  
34 years from the date of the resolution approving the preliminary Subdivision. If any condition is not  
35 satisfied and the final subdivision is not recorded within the five (5) year period, the preliminary  
36 approval of the Subdivision shall be null and void. If an applicant submits a written request within  
37 this period that contains good reason(s) for extending the time period, the Administrative Official  
38 may grant the applicant a one (1) year extension to meet the conditions of approval and prepare and  
39 record the final Subdivision. All requests for an extension to the time period must be filed with the  
40 Administrative Official at least thirty (30) days prior to the expiration date of the preliminary  
41 approval.

42  
43 (d) If the final subdivision is being developed in phases, and final plats for all of the phases have not been  
44 recorded within the time limits provided in this Section, preliminary subdivision approval for all  
45 unrecorded divisions shall become void. The preliminary subdivision for any unrecorded phase must  
46 again be submitted to the Department with a new application, subject to the fees and regulations  
47 applicable at the time of the new submittal.

1 **22.04.270 Revisions to Approved Preliminary Subdivisions**

- 2
- 3 (a) Applications to revise subdivisions that have received preliminary approval, but not final approval,
- 4 shall comply with the following:
- 5 (1) Revisions that result in any substantial changes as determined by the Administrative Official,
- 6 shall be treated as a new application for purposes of vesting and shall be reviewed under the
- 7 same process required for the preliminary subdivision, pursuant to GCC § 25.04. For the purpose
- 8 of this Section, substantial change includes:
- 9 (A) The creation of additional lots;
- 10 (B) Significant change in the proposal, including change in access points or alteration of
- 11 conditions of approval and/or removal of notes on the face of the Plat, that leads to
- 12 significant built or natural environmental impacts that were not addressed in the original
- 13 approval; or
- 14 (2) Approval of the following modifications by the Department shall not be considered substantial
- 15 revisions:
- 16 (A) Engineering design, unless the proposed design alters or eliminates features specifically
- 17 required as a condition of preliminary subdivision approval;
- 18 (B) Changes in lot dimensions that are consistent with GCC § 23.12;
- 19 (C) A decrease in the number of lots to be created; and
- 20 (D) Changes in phasing plans that do not significantly impact the plat and are acceptable to the
- 21 County Engineer and non-county service providers.
- 22

23 **Article IV. Design and Development Standards**

24

25 **22.04.300 Purpose**

- 26
- 27 (a) The standards contained in this GCC § 22.04 Article IV and those of GCC § 23.12 shall apply to all
- 28 land division, including Subdivisions, Short Subdivisions Binding Site Plans and Alternative Land
- 29 Divisions.
- 30

31 **22.04.310 General Standards**

- 32
- 33 (a) Proposed subdivision shall conform to the Grant County Comprehensive Plan.
- 34
- 35 (b) Construction of improvements shall, at a minimum, conform to the following:
- 36 (1) Roads, bridges, drains, culverts and related structures and facilities shall be constructed in
- 37 accordance with GCC § 22.04.360 and GCC § 23.12.080;
- 38 (2) Water supply facilities adequate to provide potable water from a public or community water
- 39 supply source to each lot in a subdivision shall be constructed in conformity to standards of the
- 40 jurisdictional governmental authority, unless the Grant County Health Officer approves the use
- 41 of individual, onsite water supply wells;
- 42 (3) Each lot shall be provided with a sanitary sewer system connection approved by the
- 43 jurisdictional governmental authority, unless the Grant County Health Officer approves the use
- 44 of individual, onsite septic systems and drainfields;
- 45 (4) Monuments shall be placed as required by relevant regulations;
- 46 (5) Service mains and fire hydrants shall be installed in conformance with relevant regulations.
- 47
- 48 (c) All construction and site development activities related to land division are prohibited until (1) the
- 49 preliminary subdivision is approved, and (2) engineering plans are approved which are based on the
- 50 approved preliminary subdivision, and (3) a grading and excavation permit is issued by the

1 Department of Community Development.

2  
3 **22.04.320 Subdivision Design Standards**

4  
5 (a) Access to Shorelines. Subdivisions adjacent to water that is subject to the jurisdiction of the GCC §  
6 24.14 Shoreline Master Program shall provide dedication of access to such bodies of water as  
7 required by GCC § 24.14. Dedications to the lot owners for access shall be to the ordinary high water  
8 mark.

9  
10 (b) Natural Features and Topography. To the greatest extent practicable, subdivisions shall be designed to  
11 conform to the natural features of the land.

12  
13 (c) Land on which exist any topographical conditions hazardous to the safety or general welfare of  
14 persons or property in or near a proposed subdivision shall not be subdivided unless the construction  
15 of protective improvements will eliminate the hazards or unless land subject to the hazard is reserved  
16 for uses as will not expose persons or property to the hazard. Protective improvements shall be  
17 constructed prior to final plat approval. Protective improvements and restrictions on use shall be  
18 clearly noted on the final plat. When determined necessary by the County Engineer, the subdivider  
19 shall prepare and submit for review as part of the preliminary subdivision application an engineering  
20 report, prepared and sealed by a registered professional engineer, delineating the hazards, assessing  
21 risk, and describing and designing proposed protective improvements.

22  
23 (d) Usable Construction Area. Proposed lots shall provide a usable area for the construction of a dwelling  
24 unit, approved sewage system, and approved water supply system.

25  
26 (e) Division of Lots by Roads. Individual lots shall not be divided by roads or road rights-of-way. Where  
27 a pre-existing road divides a lot where there is no alternative to such a division, the Administrative  
28 Official may grant a discretionary exception.

29  
30 (f) Agricultural Lands Standards. On all lands in the Agricultural zoning district, the maximum area of  
31 development that is not related to agricultural uses and activities shall be limited to twenty (20)  
32 percent of the parcel area, but not less than one (1) acre, regardless of the assigned density.

33  
34 (g) Buffers and Setbacks. Subdivisions shall meet the setback requirements and other density, dimension,  
35 landscaping, screening and open space requirements of GCC § 23.08 and § 23.12.

36  
37 (h) Blocks and Lots. Blocks and lots shall conform to the most advantageous development of adjoining  
38 areas, and the entire neighborhood, and shall provide for the following:

39 (1) The width of blocks shall normally provide for two (2) tiers of lots, each of a which shall have a  
40 minimum depth of one hundred (100) feet;

41 (2) The length of blocks shall not exceed one thousand three hundred twenty (1,320) feet;

42 (3) Whenever the topography and general characteristics of the area to be platted require blocks of  
43 more than one thousand three hundred twenty (1,320) feet, such reason shall be listed and  
44 supported by the design of the plat, subdivision or dedication;

45 (4) The size, shape and orientation of lots shall be appropriate for the location of the proposed  
46 subdivision and for the type of development contemplated. Every residential lot shall have an  
47 adequate building site;

48 (5) Lots located in rural lands shall have a minimum width of one hundred (100) feet wherever a  
49 building site is contemplated. Lots located in urban growth areas shall have a minimum width of  
50 fifty (50) feet wherever a building site is contemplated, unless a greater minimum width is

1 required by the jurisdictional municipality within the urban growth area. Every lot shall have  
2 access to a street. Minimum width of the access shall be forty (40) feet;

- 3 (6) Lots for residential dwellings shall be at least fifty (50) feet wide at the building line. Lots for  
4 residential dwellings abutting bodies of water shall be at least fifty (50) feet wide at the building  
5 line and at least forty (40) feet wide at the ordinary high water line, unless otherwise specified in  
6 GCC § 24.12 – Shoreline Master Program;
- 7 (7) Minimum road frontage of each lot shall be a minimum of fifty (50) feet except when located on  
8 a cul-de-sac, then 40 feet will be allowed. Individual lots may be accessed by a 20-foot  
9 right-of-way. Panhandled lots will only be allowed if there is no other feasible access, as  
10 determined by the Administrative Official in a pre-application meeting and documentation is  
11 submitted with the development application. Newly constructed contiguous or adjoining  
12 easements for access purposes are not permitted;
- 13 (8) Lots, except corner lots, having frontage on two streets should be avoided, except on lots  
14 backing up to major and secondary arterials, where access thereto is prohibited;
- 15 (9) Side lot lines shall be at right angles to the right-of-way line of the street on which the lot faces,  
16 wherever feasible;
- 17 (10) Corner lots for residential use shall be platted wider than interior lots to provide the front yard  
18 requirements on the side street, as prescribed by GCC § 23.08 and § 23.12;
- 19 (11) In any block exceeding six hundred sixty (660) feet in length, walks or pedestrianways at a  
20 midblock point shall be required, when determined to be essential by the Decision Maker;
- 21 (12) In any block exceeding six hundred sixty (660) feet in length, circulation for utilities, the right-  
22 of-way of which shall be at least ten (10) feet in width, shall be provided; and
- 23 (13) Blocks and lots shall comply with any applicable requirements of GCC § 24.12.

24  
25 **22.04.330 Survey Standards**

- 26  
27 (a) All surveys shall comply with standards set forth by state statutes, drafting standards of this title, and  
28 WAC 332-130, except that linear closures after azimuth adjustment shall be at least a ration of one to  
29 ten thousand (1:10,000) for WAC 332-130(1)(c)(d)(e). Where conflicts are identified, the most  
30 restrictive standard shall apply. Where required, any elevations or vertical data shall have an accuracy  
31 of third-order specifications as published by the U.S. Department of Commerce in a bulletin entitled,  
32 Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys.  
33 Benchmarks with the datum used shall be shown on the plat.

34  
35 **22.04.340 Drawing Standards**

- 36  
37 (a) The preferred scale proportion ratios for final plats are: (1) one to twelve hundred (1:1,200) (1" = 100  
38 feet), and one to two thousand four hundred (1:2,400) (1" = 200 feet). In no case shall the proportion  
39 exceed one to two thousand four hundred (1:2,400).
- 40  
41 (b) The final plat shall either (a) be drawn with permanent ink upon 3-mil mylar film, or equivalent, and  
42 suitable for archiving, as determined by the Administrative Official, or (b) consist of a photo mylar  
43 with a fixed silver halide base; said sheets shall be twenty-four (24) inches by eighteen (18) inches.
- 44  
45 (c) A margin or border line shall be drawn completely around each sheet, leaving an entirely blank margin  
46 of two (2) inches on the left side and one-half (½) inch margin along the remaining sides.
- 47  
48 (d) Lettering shall be at least eight one-hundredths (0.08) inch high, in uppercase letters with line weight  
49 and lettering style legible and suitable for reproduction and microfilming. The perimeter of the final  
50 plat shall be depicted with heavier lines than the remaining portion of the plat.

1 (e) Signatures affixed to a final plat shall be original signatures written in permanent black ink.

2  
3 (f) Data necessary for the location in the field of all points within the plat shall be shown. Straight lines  
4 shall be designated with bearing and distance; curves shall be designated by arc length, central angle  
5 and radius. Dimensions shall be in feet or meters, and decimals thereof to the nearest one-hundredth  
6 (0.01) of a foot, or five-thousandths (0.005) of a meter; except that angles shall be in degrees to the  
7 nearest second.

8  
9 **22.04.350 Monumentation**

10  
11 (a) All monuments set in subdivisions shall be steel reinforcing bar with durable cap imprinted with the  
12 license number of the land surveyor setting the monument. Reinforcing bar shall be at least five-  
13 eighths (5/8) inch in diameter by thirty (30) inches long. Monuments shall be driven into the ground.  
14 Permanent control monuments shall be encased in six (6) inches of concrete.

15  
16 (b) Monuments in streets shall meet the standards of the County Engineer. In the event a final plat is  
17 approved before roads are graded, the surety deposited to secure grading shall be sufficient to pay the  
18 costs estimated by the County Engineer of setting such monuments and repairing the roadway.  
19 Monuments shall be installed with monument cases in roads surfaced with asphalt concrete pavement  
20 (paved) or bituminous surfacing (oiled); monument cases may be omitted in unsurfaced or graveled  
21 roads.

22  
23 (c) Permanent control monuments shall be set at:

- 24 (1) All controlling corners on the boundaries of the subdivision;  
25 (2) Intersections of center lines of roads within the subdivision;  
26 (3) Points of intersection of curves if placement falls within the paved area; otherwise, monuments  
27 shall be placed at the beginning and ends of curves; and  
28 (4) Block corners.

29  
30 (d) Offsets on lot corners may be used where physical obstructions prevent actual corner location, and  
31 where approved by the County Engineer.

32  
33 (e) All lot corners, and beginnings and endings of curves shall be set with monuments. In cases where  
34 street curbs are concentric and/or parallel with front right-of-way lines, front property line  
35 monumentation may be provided by brass screws or concrete nails set at the intersections of curb  
36 lines and the projections of side property lines. If curb monumentation is used, it shall be noted on the  
37 plat, and also noted that such monumentation is valid for projection of line only and not for distance.

38  
39 **22.04.360 Road Standards**

40  
41 (a) Roads shall conform with the Grant County Comprehensive Plan, GCC § 24.12, GCC § 23.12.100,  
42 and shall provide for the following:

- 43 (1) Subdivisions shall be served by one or more public roads providing ingress and egress to and  
44 from the subdivision at not less than two points, unless a variance is approved by the review  
45 authority;  
46 (2) Roads shall be dedicated to the County in accordance with GCC § 22.04.370;  
47 (3) Dedicated roads shall intersect a county or state road at a minimum of one point;  
48 (4) Road continuity of major streets and arterials that serve property contiguous to the subdivision;  
49 (5) Road continuity to boundaries of tract;  
50 (6) Road jogs with centerline offsets of less than one hundred fifty (150) feet shall be avoided in

1 order to operate properly as separate tee intersections;

- 2 (7) Road intersections shall be as nearly right angles as is possible, and in no event shall be less than  
3 seventy-five (75) degrees;
- 4 (8) Roads shall comply with County Road Standards established by the County Engineer;
- 5 (9) Dead-end streets may have a maximum length of one thousand (1,000) feet, and shall terminate  
6 in an appropriate turnaround design having a minimum right-of-way diameter of one hundred  
7 (100) feet unless the County Engineer approves a tee or wye, which shall not be less than fifty  
8 (50) feet and shall be paved not less than forty (40) feet in width, for the full length of the  
9 turnaround;
- 10 (10) Direct lot access onto County-designated arterials may be restricted;
- 11 (11) Adequacy of access: Each lot within a subdivision shall have approved access to a street  
12 conforming to County Road Standards, unless a lower level of improvement has been approved  
13 by the County Engineer in a pre-application meeting and documentation is submitted with the  
14 preliminary subdivision application. To assure safe and adequate access, the Administrative  
15 Official:
- 16 (A) May approve private streets, provided the street requirements of the Uniform Fire Code are  
17 met and the minimum County road right-of-way is set aside;
- 18 (B) May limit direct access to certain streets and require on-site public or private streets in lieu  
19 of individual driveways;
- 20 (C) Shall require off-site improvements to public streets needed to provide access from the  
21 subdivision to a road acceptable to the County Engineer; and
- 22 (D) Shall assure that the number of lots to be served by the road system complies with the  
23 County Road Standards;
- 24 (12) Safe walking conditions for schoolchildren: In cases where a school is located within a quarter  
25 mile of a land division, where it is likely that children will walk to school, safe walkways  
26 between the subdivision and the school may be required; and
- 27 (13) If access is proposed off of a state highway, a state access permit shall be obtained by the  
28 applicant. Such permit shall be submitted with the preliminary subdivision application.

29  
30 (b) Road names shall be approved by the Grant County Emergency Services Department and shall be  
31 established using the addressing and grid system delineated in GCC § 10.36 (Ordinance No. 85-143-  
32 CC).

33  
34 (c) The subdivider bears the responsibility for road improvements necessary to meet the County Road  
35 Standards. Any plat approved with private roads shall include the following statement on the face of  
36 the plat: "The County shall not be responsible for maintenance of private roads, including snow  
37 removal, nor shall such roads be accepted as County roads until such improvements as are necessary  
38 are made to bring them to current Grant County standards."

39  
40 **22.04.370 Grading and Drainage Standards**

41  
42 (a) Clearing and grading activities for subdivisions shall be conducted so as to minimize potential  
43 adverse effects on offsite property, surface water quality, and critical areas as delineated in GCC §  
44 24.08. Clearing and grading, including drainage and erosion control measures, shall conform to the  
45 requirements of GCC § 23.12.080.

46  
47 (b) Stormwater runoff from subdivisions shall not adversely affect offsite property or critical areas as  
48 delineated in GCC § 24.08. Provisions shall be made to control the release of surface water runoff from  
49 the subdivision both during and following construction. Storm drainage standards shall be as  
50 delineated in GCC § 23.12.080. If required by the County Engineer, the subdivider shall prepare and

1 submit for review as part of the preliminary subdivision application a drainage report, that meets the  
2 general requirements of GCC § 23.12.080.

- 3  
4 (c) Public roads, curbs, gutters, and storm sewer shall be constructed and/or installed to County and/or  
5 APWA standards.  
6

7 **22.04.380 Health and Safety Standards**  
8

- 9 (a) Subdivisions shall comply with the requirements of the GCC § 13.32 regarding water availability.  
10  
11 (b) On-site sewage disposal in subdivisions shall comply with the requirements of the Rules and  
12 Regulations of the Grant County Board of Health Regarding On-site Sewage Disposal.  
13  
14 (c) Water sources and facilities adequate for fire protection purposes shall be provided in all  
15 subdivisions. Fire protection requirements shall be as delineated in GCC § 14.04. Fire flow shall be  
16 determined in accordance with a nationally recognized standard such as the National Fire Protection  
17 Association (NFPA) or the Uniform Fire Code.  
18

19 **22.04.390 Dedications and Reserved Lands**  
20

- 21 (a) No subdivision shall be approved unless adequate provision is made in the subdivision for such  
22 drainage ways, roads, alleys, easements, parks, playgrounds, sites for schools, school grounds,  
23 irrigation facilities where applicable and other general purposes as may be required to protect the  
24 public health, safety, and welfare.  
25  
26 (b) Public Street Rights-of-Way: Dedication or deeding to the County of right-of-way or a portion thereof  
27 for public streets shall be required within or along the boundaries of all subdivisions or of any lot(s)  
28 within them where facts support that such dedication is reasonably necessary as a result of the impact  
29 created by the proposed development and where one or more of the following circumstances are met:  
30 (1) The Transportation Element of the Grant County Comprehensive Plan indicates the necessity of  
31 a new or additional right-of-way or portion thereof for street purposes;  
32 (2) The dedication is necessary to extend or to complete the existing or future neighborhood street  
33 pattern to provide a public transportation system that supports future development of abutting  
34 property consistent with the Grant County Comprehensive Plan or GCC Chapter 23.04; or  
35 (3) Where necessary to provide additions of right-of-way to existing County right-of-way to meet  
36 County Road Standards.  
37  
38 (c) Road easements and rights-of-way shall not be considered in determining lot size and/or calculating  
39 density under GCC § 23.04.  
40  
41 (d) The following dedications shall be provided on all plats:  
42 (1) A statement granting to the lot owners a non-exclusive easement for purposes of ingress and  
43 egress over and across the areas designated on the plat as private road rights-of-way, providing a  
44 right of entry for the installation and maintenance of utilities within the easement and providing  
45 for the right to cut and fill on and drain surface runoff over lots within the subdivision;  
46 (2) A statement declaring the existence of an easement for utilities to all lots in the subdivision; the  
47 statement shall provide for the relocation of any easement at the request of the lot owner and  
48 with the concurrence of the affected utilities;  
49 (3) A statement declaring that all road rights-of-way (except those dedicated to the public) and all  
50 easements are privately owned; that the County is not responsible for the construction and

1 maintenance of any roads or easements within the subdivision; and that all persons acquiring  
2 property in the subdivision agree to hold the County harmless for all costs of construction and/or  
3 maintenance of all roads or easements within the subdivision;

4 (4) Where protective improvements are required or proposed, they and an easement necessary to  
5 maintain said improvements, shall be dedicated;

6 (5) Where additional public right-of-way is required, a statement dedicating the additional right-of-  
7 way to the public, including the right to cut and fill on and drain surface runoff, along natural  
8 drainage ways, over lots adjacent to the County road; and

9 (6) Where common areas are proposed, they shall be dedicated to all lot owners within the  
10 subdivision.

11  
12 (e) Open Space Corridors: Open space easements shall be provided by any subdivision when such  
13 divisions are located within any community or regional open space corridor identified by the Grant  
14 County Comprehensive Plan or Grant County Open Space Plan. The residents or lot owners of the  
15 subdivision shall be provided access to the open space easement. The area of the open space easement  
16 shall be counted as part of the site for purposes of density calculations.

17 (f) In no case shall the County accept a dedication or any obligation as to any public road, street, and/or  
18 alley until the same and all public roads, streets, and/or alleys connecting the same have been brought  
19 to full, current County Road Standards and a right-of-way deed has been transferred to and accepted  
20 by the County.

21  
22 (g) All dedications shall be clearly and precisely indicated on the face of the plat.

23  
24 (h) Easements and rights-of-way shall conform to the requirements delineated in GCC § 23.12.100.

25  
26 **Article V. Final Subdivisions and Short Subdivisions**

27  
28 **22.04.400 Purpose**

29  
30 (a) The purpose of this Section is to specify provisions that must be satisfied prior to the final approval  
31 and recording of final subdivision maps, for those preliminarily approved long and short subdivisions.  
32 Issuance of building permits or sale or lease of lots within a subdivision is not permitted until the final  
33 subdivision is recorded.

34  
35 **22.04.410 Final Subdivisions Requirements**

36  
37 (a) When an applicant believes that he or she has complied with all of the requirements of preliminary  
38 subdivision approval, the applicant shall submit to the Administrative Official a letter delineating how  
39 all of the preliminary subdivision requirements have been met.

40  
41 (b) The applicant shall submit to the Administrative Official the following:

42 (1) Subdivision name or number;

43 (2) Name, mailing address and telephone number of owner and surveyor of the subdivision;

44 (3) Date;

45 (4) Acreage of each lot created and total acreage of the subdivision;

46 (5) Number of total lots and number of buildable lots;

47 (6) Appropriate references to the Grant County GMA Comprehensive Plan land use designations;

48 (7) Final Plat: Original and four (4) copies of final plat map meeting the requirements of GCC §  
49 22.04.420;

50 (8) A plat certificate conforming to the requirements of RCW § 58.17.165 which shall include any

1 dedications;

- 2 (9) A certificate of title and report showing true ownership of platted property from a Title company  
3 licensed to do business in the State of Washington;
- 4 (10) Restrictions, notes, covenants and/or binding agreements as required by this Chapter, SEPA,  
5 conditions of preliminary subdivision approval, or other regulations;
- 6 (11) A Grant County Treasurer's certificate indicating that all taxes and delinquent assessments for  
7 which the property(ies) within the subdivision may be liable have been duly paid, satisfied or  
8 discharged plus any advance tax that may be owing in accordance with RCW 58.08.040;
- 9 (12) If required by the Administrative Official, certification from a licensed engineer in the State of  
10 Washington of the appropriateness of all culvert sizes, bridge designs, structures, and/or other  
11 improvements;
- 12 (13) An affidavit or declaration bearing the typed or printed names of all persons having a legal or  
13 equitable interest in the subdivided land, signed by the said persons and acknowledged by them  
14 before a Notary Public, consenting to the subdivision of said land and reciting a dedication by  
15 them of all land shown on the plat to be dedicated for public uses and a waiver by them and their  
16 successors of all claims for damages against any governmental authority arising from the  
17 construction and maintenance of public facilities and public property within the subdivision;

18  
19 (c) If the Administrative Official placed conditions on preliminary subdivision approval, any  
20 improvement plans that respond to the required conditions shall be submitted to the Administrative  
21 Official. Improvements shall be designed by or under the direct supervision of a licensed engineer in  
22 the State of Washington. The licensed engineer shall certify the appropriateness of the improvement  
23 plans. All improvement plans shall comply with all other regulations and shall contain the following:

- 24 (1) Subdivision name;
- 25 (2) Name, mailing address, and telephone number of the engineer preparing the plan; and
- 26 (3) Date.
- 27

28 **22.04.420 Final Plat Map Requirements**

29

30 (a) A registered land surveyor shall prepare preliminary Subdivision and Short Subdivision maps.  
31 Drafting standards, including drawing scale and final plat media, shall be as specified in GCC §  
32 22.04.340. Survey standards shall be as delineated in GCC § 22.04.330. Maps shall consist of one or  
33 more sheets, provided that when more than one sheet is required, an index sheet of the same size shall  
34 be filed showing the entire subdivision on one sheet with block and lot numbers. Each sheet shall  
35 include the Subdivision name, scale and north arrow. Plats submitted with any information taped or  
36 attached by staples or similar means will not be accepted for recording.

37  
38 (b) Final Plat Map shall include the following:

- 39 (1) Subdivision name;
- 40 (2) Legend;
- 41 (3) Location of subdivision;
- 42 (4) Full legal description of land contained within the subdivision;
- 43 (5) Scale, including graphic scale, north arrow, point of beginning and basis of bearings;
- 44 (6) The boundary lines, including bearings and distances, of the proposed subdivision and each lot  
45 contained therein drawn to scale;
- 46 (7) The location, right-of-way width, centerline and name of all streets within and adjoining the  
47 subdivision and showing right-of-way and centerline dimensions;
- 48 (8) Identification of areas to be dedicated;
- 49 (9) Vicinity map of the full section containing the subdivision and showing the boundary of the plat  
50 in relation to the section;

- 1 (10) All section, township, range and county lines lying within or adjacent to the subdivision;
- 2 (11) The location of all monuments, markers and other evidence used to establish the subdivision
- 3 boundaries together with statement of datum relied upon;
- 4 (12) The location of all permanent control monuments found and established within the subdivision;
- 5 (13) The boundaries of the subdivision, including bearings and distances, and including a legend
- 6 denoting the source of all bearings used;
- 7 (14) The bearings, distances, curve data and other data necessary for the location of any block or lot
- 8 line;
- 9 (15) All blocks and lots within the proposed subdivision, together with the numbers assigned each lot
- 10 and block, and the dimensions, square footage and acreage of all proposed lots and tracts;
- 11 (16) The location, width, and description of existing and proposed:
- 12 (A) Public and private roads and access thereto;
- 13 (B) Special setbacks;
- 14 (C) Private and public easements;
- 15 (D) Utility easements;
- 16 (E) Other rights-of-way; and
- 17 (F) Walkways;
- 18 (17) Names of any adjacent subdivisions;
- 19 (18) A designation of any lot that never can contain a dwelling or building unit or that is otherwise
- 20 undevelopable;
- 21 (19) A certificate, seal, date and signature of the registered land surveyor who made, or under whose
- 22 supervision was made, the survey of the subdivision, in substantially the following language:
- 23 "I, \_\_\_\_\_, registered as a
- 24 land surveyor by the State of Washington, certify that this plat is based on an
- 25 actual survey of the land described herein, conducted by me or under my
- 26 supervision, during the period of \_\_\_\_\_, 20\_\_\_\_, through
- 27 \_\_\_\_\_, 20\_\_\_\_; that the distances, bearings and angles are shown
- 28 thereon correctly, and that monuments other than those monuments approved
- 29 for setting at a later date, have been set and lot corners staked on the ground as
- 30 depicted on the plat."
- 31 (20) A plat certificate conforming to the requirements of RCW 58.17.165;
- 32 (21) Signature blocks for the following entities:
- 33 (A) County Engineer;
- 34 (B) County Auditor;
- 35 (C) County Assessor;
- 36 (D) County Treasurer;
- 37 (E) County Planning Director;
- 38 (F) County Fire Marshall/Building Official;
- 39 (G) County Sanitarian; and
- 40 (H) Administrative Official;
- 41 (I) U.S. Department of the Interior, Bureau of Reclamation and Irrigation District when
- 42 subdivision is located within the boundaries of the Columbia Basin Irrigation Project;
- 43 (J) Clerk of the Board of County Commissioners; and
- 44 (K) Chairperson, Grant County Board of Commissioners;
- 45 The signature blocks for each of the signatories shall be in a form and contain language specified
- 46 by the signatory.
- 47 (22) All requirements listed in Chapter 58.09 RCW and Chapter 332-130 WAC;
- 48 (23) A listing of any other conditions delineated in the preliminary subdivision approval; and
- 49
- 50

1 (c) A digital version of the plat map on electronic media in AutoCAD (.dwg) format. The digital data will  
2 be used by the County for mapping and Geographical Information System (GIS) purposes, and may  
3 be released to the public consistent with Grant County's public information access policy.  
4

5 (d) Additional Final Plat Map Requirements for Short Subdivisions: The following additional final plat  
6 map requirements shall apply to Short Subdivisions:

7 (1) A disclaimer which states that:

8 (A) "Land within this Short Subdivision shall not be further divided for a period of five (5)  
9 years from the date of approval unless a new subdivision is approved;"

10 (B) "The approval of this Short Subdivision does not guarantee the issuance of any other  
11 permit;" and

12 (C) "Grant County has no responsibility to construct, improve, maintain, or otherwise service  
13 any private roads contained within this Short Subdivision."

14 (2) A declaration of covenant for all final Short Subdivisions with private rights-of-way, roads, or  
15 easements that requires construction and maintenance of private roads, with a provision to  
16 dedicate the rights-of-way and roads to Grant County when required by local regulations.  
17

#### 18 **22.04.430 Review Process**

19  
20 (a) Classification: Final subdivisions shall be classified as specified in GCC § 25.04.080 and defined in  
21 GCC § 25.04.070.  
22

23 (b) Review Procedures: When the Administrative Official determines that a final subdivision complies  
24 with all preliminary subdivision conditions and all applicable regulations, the final subdivision shall  
25 be processed under procedures specified in GCC § 25.04 Article VII.  
26

27 (c) Notice of Application: Notice of application shall be made pursuant to GCC § 25.04 Article VI.  
28

#### 29 **22.04.440 Final Plat Approval**

30  
31 (a) Approval Criteria: Prior to approval of the final subdivision, the Administrative Official shall  
32 determine if:

33 (1) The final subdivision complies with the conditions in the preliminary subdivision approval;

34 (2) The final subdivision complies with the requirements of this Chapter;

35 (3) The final subdivision serves the public use and interest;

36 (4) The final subdivision complies with the design and development standards delineated in GCC §  
37 22.04 Article IV;

38 (5) The final subdivision meets all standards established by state law and local ordinance and  
39 regulation, including but not limited to, the Grant County Comprehensive Plan, the Grant  
40 County Shoreline Master Program, and GCC Titles 23, 24 and 25;

41 (6) The final subdivision bears the certificates and statements of approval required by this  
42 ordinance;

43 (7) A title insurance statement furnished by the applicant confirms the title of the land in the proposed  
44 final subdivision is vested in the name of the owners whose signatures appear on the plat's  
45 certificate; and

46 (8) The facilities and improvements required to be provided by the applicant have been completed or,  
47 alternatively, that the applicant has provided a Performance Bond or other acceptable security  
48 acceptable to the Prosecuting Attorney and in an amount and with sureties commensurate with  
49 improvements remaining to be completed, securing to the county the construction and installation  
50 of the improvements within a fixed time, not to exceed two (2) years.

1 (b) Short Subdivisions: If the Administrative Official determines that the Short Subdivision meets the  
2 final plat approval criteria, the Administrative Official shall sign the final plat. If the final plat  
3 contains a dedication, the Grant County Board of Commissioners must approve of the dedication  
4 before the final plat may be filed. If the Administrative Official determines that the subdivision does  
5 not meet the final plat approval criteria, the Administrative Official, within fourteen (14) days, shall  
6 return the plat to the applicant with a list of deficiencies.  
7

8 (c) Subdivisions: If the Administrative Official determines that the final plat is complete and meets the  
9 final plat approval criteria, the Administrative Official shall sign and forward the final plat, together  
10 with accompanying documentation and recommendations, to the Grant County Board of  
11 Commissioners. If the Administrative Official determines that the subdivision does not meet the final  
12 plat approval criteria, the Administrative Official, within fourteen (14) days, shall return the plat to  
13 the applicant with a list of deficiencies. The Board of County Commissioners shall approve the final  
14 plat if the record contains clear and convincing evidence that the application complies with the  
15 approval criteria listed in GCC § 22.04.440(a) and serves the public use and interest.  
16

17 (d) Upon approval of a Short Subdivision or Subdivision, the final plat shall be submitted to the Grant  
18 County Auditor for filing in accordance with GCC § 22.04.460.  
19

20 **22.04.450 Completion of Required Public Improvements**  
21

22 (a) In lieu of completing all of the required public improvements prior to the approval of a final plat, the  
23 applicant may petition to have specific requirements delayed. If such a request is made, the  
24 Administrative Official shall require a performance bond or refundable cash payment to ensure that  
25 the necessary actions are completed in a timely fashion. The amount of the bond or cash payment  
26 shall not exceed one hundred fifty percent (150%) of the estimated cost of the uncompleted actions as  
27 determined by the Administrative Official. If the applicant completes the required public  
28 improvements in a timely fashion, the cash payment shall be refunded to the applicant or the bond  
29 cancelled. Otherwise, Grant County shall be entitled to complete the required public improvements  
30 itself (or under separate outside contract) and to keep whatever portion of the cash payment is  
31 necessary to design, administer, and construct the outstanding improvements or seek foreclosure on  
32 the bond.  
33

34 (b) Construction of required public improvements shall not begin until the Administrative Official has  
35 approved the construction plans and the final plat survey computations.  
36

37 **22.04.460 Filing of the Final Plat**  
38

39 (a) The act of approving a subdivision shall become effective when the final plat and supporting  
40 documents are filed with the Grant County Auditor by the Administrative Official. All final plats  
41 shall be recorded in the County Auditor's Office only after approval by the Decision Maker as  
42 defined in GCC § 25.04.080. The Administrative Official shall be responsible for recording of the  
43 final plat within 30 days of approval.  
44

45 (b) No final plat shall be accepted for recording by the Grant County Auditor that does not bear the  
46 Administrative Official's signature or certificate of approval.  
47

48 (c) No final plat shall be accepted for filing unless all required fees and property taxes have been paid in  
49 full.  
50

1 (d) After the final plat map has been filed for record with the County Auditor, it shall become the  
2 property of Grant County.

3  
4 (e) Prior to signature and final approval of a subdivision, the Administrative Official shall return the  
5 original plat tracing to the engineer or land surveyor of record, and no other party, for necessary  
6 corrections.

7  
8 **22.04.480 Alterations of Final Subdivisions**

9  
10 (a) An application to alter any subdivision or portion thereof shall be processed according to the  
11 requirements of RCW 58.17.060, RCW 58.17.215 and RCW 58.17.218.

12  
13 (b) Any final decision of the Board regarding a subdivision alteration may be appealed to Superior Court  
14 according to the requirements of RCW 36.32.330.

15  
16  
17 **22.04.490 Vacations of a Final Subdivision**

18  
19 (a) An application to vacate any subdivision or portion thereof shall be processed according to the  
20 requirements of RCW 58.17.060 and RCW 58.17.212.

21  
22 (b) Any final decision of the Decision Maker regarding a subdivision vacation may be appealed to  
23 Superior Court according to the requirements of RCW 36.32.330.

24  
25 **Article VII. Binding Site Plans**

26  
27 **22.04.500 Purpose**

28  
29 (a) The purpose of this Section is to provide an alternative administrative method for division of land for  
30 commercial and industrial zoned property, mobile/manufactured home parks, or condominiums, in  
31 accordance with the requirements of RCW 58.17.035 and this Chapter.

32  
33 **22.04.510 General Provisions**

34  
35 (a) Any person seeking the use of a binding site plan to divide his or her property for the purpose of sale,  
36 lease or transfer of ownership of commercially or industrially zoned property, for the purpose of lease  
37 of lots that contain no residential structure other than mobile/manufactured homes or travel trailers, or  
38 creation of condominium units, is required to apply for, complete and have approved a binding site  
39 plan, as provided in RCW 58.17 and as required by this Chapter.

40  
41 (b) The site that is subject to the binding site plan shall consist of one or more contiguous legal lots of  
42 record.

43  
44 **22.04.520 Pre-Application Review Conference**

45  
46 (a) Prior to submitting a binding site plan application, the applicant shall be subject to a pre-application  
47 review conference as specified in GCC § 25.04.130, unless waived by the Administrative Official  
48 with the concurrence of the applicant.

1 **22.04.530 Application Requirements**

- 2
- 3 (a) An applicant shall submit ten (10) copies of all application materials, which at a minimum shall
- 4 include the following:
- 5 (1) Those documents and accompanying data specified in GCC § 25.04.140, including:
- 6 (A) Completed application form signed by the owner(s) of the property;
- 7 (B) A statement by the applicant that the property affected by the application is in the exclusive
- 8 ownership of the applicant or that the applicant has submitted the application with the
- 9 consent of all owners of the affected property;
- 10 (C) Identification of a single contact person or entity to receive determinations and notices
- 11 required by this chapter;
- 12 (D) A property and/or legal description of the site;
- 13 (E) A list of the names and addresses of all persons owning real property located within three
- 14 hundred (300) feet from and parallel to the boundaries of the proposed activities and such
- 15 contiguous area under the legal control of the applicant;
- 16 (F) Evidence of adequate water supply as required by RCW § 19.27.097; and/or regulations
- 17 established by the Grant County Health District;
- 18 (G) Evidence of sewer availability; or evidence of on-site sewage disposal approval by the
- 19 Grant County Health District, or jurisdictional agency including but not limited to the
- 20 Washington State Department of Health or Washington State Department of Ecology;
- 21 (H) Any SEPA documents, as applicable; and
- 22 (I) The applicable fee(s);
- 23 (2) The Comprehensive Plan future land use designation(s) that apply to the site and abutting
- 24 properties;
- 25 (3) A site plan in a form prescribed by the Administrative Official. At a minimum, the site plan shall
- 26 include:
- 27 (A) Date;
- 28 (B) Graphic and numeric scale;
- 29 (C) A vicinity map;
- 30 (D) North arrow;
- 31 (E) Total acreage;
- 32 (F) The location and size of all proposed lots;
- 33 (G) Proposed and existing structures including building envelopes and building setback lines;
- 34 (H) All proposed or existing uses;
- 35 (I) The location of proposed or existing open space including any required landscaped areas;
- 36 (J) The location and identification of critical areas;
- 37 (K) The layout of an internal vehicular and pedestrian circulation system, including proposed
- 38 ingress and egress for vehicles and roadway widths, and additional right-of-way if required
- 39 on substandard roads;
- 40 (L) Proposed road names;
- 41 (M) Designated floodways and floodplains;
- 42 (N) The number and location of proposed or existing parking spaces on and off the site;
- 43 (O) The location and size of utility trunk lines serving the site;
- 44 (P) The location and size of water bodies and drainage features, both natural and man made;
- 45 (Q) A layout of sewers; and
- 46 (R) Existing and proposed easements and existing access;
- 47 (4) A digital version of the plat map on electronic media in AutoCAD (.dwg) format. The digital
- 48 data will be used by the County for mapping and Geographical Information System (GIS)
- 49 purposes, and may be released to the public consistent with Grant County's public information
- 50 access policy;

- 1 (5) A survey prepared by a professional land surveyor, licensed in the State of Washington;
- 2 (6) A drainage report, prepared and sealed by a registered professional engineer, unless otherwise
- 3 exempted under GCC § 23.12.080;
- 4 (7) A completed environmental checklist, if required by GCC § 24.04 and WAC 197-11;
- 5 (8) All existing or proposed covenants, easements, maintenance agreements or other documents
- 6 applicable to use or maintenance of the site;
- 7 (9) For new construction, a grading plan showing proposed clearing and the existing and proposed
- 8 topography, detailed to 5-foot contours, unless smaller contour intervals are otherwise required
- 9 by the Grant County Code or rules and regulations promulgated thereunder;
- 10 (10) A phasing plan, acreage of phases, and time schedule, if the site is intended to be developed in
- 11 phases;
- 12 (11) Copy of any restrictive covenants;
- 13 (12) Documentation of the date and method of segregation for the subject property verifying that the
- 14 lot or lots were not created in violation of the short subdivision or subdivision laws in effect at
- 15 the time of creation; and
- 16 (13) A list of any other permit applications having been filed for the same site.

17  
18 (b) The Administrative Official may waive specific submittal requirements determined to be unnecessary  
19 for review of the application.

20  
21 **22.04.540 Application Review**

- 22
- 23 (a) Classification of Application: Applications for binding site plans shall be classified as specified in
- 24 GCC § 25.04.080 and defined in GCC § 25.04.070.
- 25
- 26 (b) Review Procedures: When the Administrative Official determines that an application for a binding
- 27 site plan is technically complete, as defined in GCC § 25.04.160, the application shall be processed
- 28 under procedures specified in GCC § 25.04 Article VII.
- 29
- 30 (c) Referral and Review of Application: Pursuant to GCC § 25.04.200, the Administrative Official shall
- 31 transmit a copy of the application, or appropriate parts of the application, to affected agencies and
- 32 county departments for review and comment.
- 33
- 34 (d) Notice of Application and Hearings: Notice of application and hearings shall be made pursuant to GCC
- 35 § 25.04 Article VI and VIII, respectively.
- 36

37 **22.04.550 Approval Criteria**

- 38
- 39 (a) Pursuant to GCC § 25.04.200, the Administrative Official shall solicit input from and confer with
- 40 relevant local officials regarding whether the proposed binding site plan:
  - 41 (1) Meets the applicable requirements of this Chapter;
  - 42 (2) Complies with the Comprehensive Plan, the Shoreline Master Program, the zoning code and
  - 43 other land use regulations, and SEPA;
  - 44 (3) Complies with health requirements for sewage disposal and potable water supply;
  - 45 (4) Contains an accurate legal description of the lots being created, and the roads and easements
  - 46 therein;
  - 47 (5) Complies with Grant County and, if appropriate, State Department of Transportation regulations
  - 48 pertaining to roads, utilities, drainage, access for emergency vehicles, and other infrastructure
  - 49 improvements;
  - 50 (6) Complies with relevant city regulations pertaining to roads, utilities, fire protection, drainage,

- 1 access for emergency vehicles, and other infrastructure improvements for subdivisions within an  
2 urban growth area;
- 3 (7) Complies with requirements of the U.S. Department of the Interior, Department of Reclamation  
4 and/or a recognized Irrigation District when the proposed binding site plan is within the  
5 boundaries of an Irrigation District; and
- 6 (8) Functions as a single site with respect to, but not limited to, lot access, interior circulation, open  
7 space, landscaping, drainage facilities, facility maintenance and parking.
- 8
- 9 (b) The Decision Maker, as delineated in GCC § 25.04, shall approve a binding site plan if the record  
10 contains clear and convincing evidence that the application complies with the approval criteria listed  
11 in GCC § 22.04.550(a) (or that the application can comply with these criteria through the imposition  
12 of special conditions of approval) and serves the public use and interest. If necessary, the  
13 Administrative Official may impose special conditions of approval to ensure that the criteria listed in  
14 GCC § 22.04.550(a) are met.
- 15
- 16 (c) If a previously approved site plan is submitted for binding site plan approval, the conditions and  
17 limitations imposed by the Administrative Official may, where appropriate, include any conditions  
18 and limitations contained in the previously approved site plan. Subsequent development permits for  
19 the land will still be subject to compliance with the zoning, building, and other applicable land use  
20 codes and regulations existing at the time of submittal of the binding site plan review and expressly  
21 depicted on the binding site plan.
- 22
- 23 (d) When a binding site plan is being considered concurrently with another land development application,  
24 the Administrative Official will incorporate all conditions and limitations imposed on the concurrent  
25 application into the binding site plan. Subsequent site development permits for the land will still be  
26 subject to compliance with the zoning, building, and other applicable land use codes and regulations  
27 existing at the time of vesting of the application, unless addressed as part of the binding site plan  
28 review and expressly depicted on the binding site plan.
- 29
- 30 (e) The binding site plan shall contain applicable inscriptions or attachments setting forth limitations and  
31 conditions to which the plan is subject, including any applicable irrevocable dedications of property  
32 and containing a provision requiring that any development of the site shall be in conformity with the  
33 approved site plan.
- 34
- 35 (f) Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking,  
36 access and other improvements shall be identified on the binding site plan and enforced by covenants,  
37 easements or other similar mechanisms.
- 38

39 **22.04.560 Recording and Binding Effect**

40

- 41 (a) After approval of a binding site plan for land, all or a portion of which will be subjected to the  
42 provisions of Chapter 64.32 or 64.34 RCW, the applicant shall record the approved binding site plan  
43 with a record of survey as one recording document complying with the requirements of this Section  
44 labeled as "Binding Site Plan." Before recording, the applicant shall complete the required  
45 improvements. In lieu of completion, all improvements may be bonded.
- 46
- 47 (b) Prior to recording, the approved binding site plan shall be surveyed and the final recording forms  
48 shall be prepared by a professional land surveyor, licensed in the state of Washington. Surveys shall  
49 include those items prescribed by RCW § 58.09.060, records of survey, contents - record of corner,  
50 information.

1 (c) The approved binding site plan record of survey recording forms shall include the following, in the  
2 format prescribed by the Administrative Official:

- 3 (1) Lots designated by number on the binding site plan within the area of the lot. Tracts shall be  
4 similarly designated and each tract shall be clearly identified with the ownership and purpose;
- 5 (2) Signature and stamp of the land surveyor who prepared the binding site plan;
- 6 (3) Reference to the recording number of the completed survey as required by this Section if the  
7 boundaries have been previously surveyed;
- 8 (4) Reference to all agreements or covenants required as a condition of approval;
- 9 (5) Notarized signatures of all persons having an ownership or security interest in the land being  
10 divided;
- 11 (6) Approval of the County Engineer;
- 12 (7) Approval of the County Treasurer;
- 13 (8) Approval of the Administrative Official; and
- 14 (9) Approval of the Health Official.

15  
16 (d) The Administrative Official shall examine and sign the approved binding site plan and record of  
17 survey if it conforms with the commercial site development permit or the approved site plan and all  
18 conditions of approval. Binding site plans with the record of survey shall be recorded with the Grant  
19 County Auditor's Office. A copy of the documents stamped with the recording number shall be sent  
20 to the Grant County Assessor's office, Treasurer's office, Public Works and to the applicant.

21  
22 (e) Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. All  
23 provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the  
24 purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract  
25 created pursuant to the binding site plan.

26  
27 (f) Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, that  
28 does not conform to the requirements of the binding site plan or without binding site plan approval,  
29 shall be considered a violation of Chapter 58.17 RCW and shall be restrained by injunctive action and  
30 be illegal as provided in Chapter 58.17 RCW.

31  
32 **22.04.570 Site Improvements Required Prior to Approval of Building Permit:**

33  
34 (a) All public and private site improvements required by the approved binding site plan must be  
35 completed and accepted by the County or subjected to a performance security approved by the  
36 Administrative Official prior to issuing the first building permit for the site. Alternatively, the  
37 Administrative Official may condition the completion of such improvements pursuant to an approved  
38 phasing plan.

39  
40 **22.04.580 Alterations of Approved Binding Site Plans**

41  
42 (a) Applications to alter binding site plans that have received approval shall comply with the following:  
43 (1) Revisions that result in any substantial changes as determined by the Administrative Official,  
44 shall be treated as a new application for purposes of vesting and shall be reviewed under the  
45 same process required for the original binding site plan, pursuant to GCC § 25.04. All other  
46 alterations shall be processed as a Type II permit application in accordance with GCC § 25.04.  
47 For the purpose of this Section, substantial change includes:  
48 (A) The creation of additional lots;  
49 (B) Significant changes in access points; or  
50

1 (C) Change in the proposal that leads to built or natural environmental impacts that were not  
2 addressed in the original approval;

3 (2) The proposed alteration must be clearly shown on a new site plan and be accompanied by a letter  
4 of explanation; and

5 (3) Conditions of approval beyond those originally applied to the project may be applied to the  
6 altered binding site plan. If an alteration to a previously recorded binding site plan or record of  
7 survey is approved, the applicant must record the revised binding site plan or record of survey.  
8

9 **22.04.590 Vacations of Recorded Binding Site Plans**

10  
11 (a) Vacation of a binding site plan shall be accomplished by following the same procedure and satisfying  
12 the same laws, rules and conditions as required for a new binding site plan application, as set forth in  
13 this Chapter. A binding site plan shall be vacated as a whole only.  
14

15 (b) If a building permit or commercial site development permit which accompanies a binding site plan  
16 expires without construction, then the binding site plan shall be considered vacated.  
17

18 **22.04.600 Condominiums**

19  
20 (a) Purpose: The purpose of this Section is to provide for review of a condominium proposal for  
21 conformance with zoning density requirements and street addressing, and for the precision and  
22 accuracy of the exterior boundary and legal description of the subject property, as shown on the final  
23 map.  
24

25 (b) Final Submittal Requirements: Condominiums shall be consistent with recorded binding site plans.  
26 The following shall be submitted for approval of a condominium proposal:

27 (1) Two sets of prints of the final recording maps prepared in accordance with RCW § 64.34.232;

28 (2) Legal Description from title report dated within 30 days prior to recording;

29 (3) Boundary closure calculations and supporting surveys; and

30 (4) Notes. The following notes shall be placed on the final condominium map page:

31 (A) Approval of the Department

32 "This condominium meets the density standards of GCC § 23.04.

33 1. The exterior boundary and legal description of this condominium meets  
34 or exceeds the review standards of the Department.

35 2. The Department review does not constitute binding site plan approval as  
36 contemplated under RCW § 58.17.040(7)."

37 (B) A signature line for the Administrative Official shall appear following the notes required by  
38 this Section.  
39

40 **Article VIII. Not Used**

41  
42 **Article IX. Dedications and Reserved Lands**

43  
44 **22.04.900 Conveyance to Private Corporation in Lieu of Dedication**

45  
46 (a) If the Board of County Commissioners concludes that the public interest will be served thereby, the  
47 Board may, in lieu of requiring the dedication of land to the public in a subdivision for protective  
48 improvements, drainage ways, roads, alleys, sidewalks, parks, playgrounds, recreational, community  
49 or other general purposes, allow the said land to be conveyed to a home owner's association or similar  
50 nonprofit corporation. Subdivider who wishes to make such a conveyance shall, at or prior to the time

1 of filing a final plat for approval, supply the Board with copies of the grantee's Articles of Incorporation  
2 and Bylaws, and with evidence of the conveyance or a binding commitment to convey. The Articles of  
3 Incorporation shall provide that membership in the organization shall be appurtenant to ownership of  
4 land in the subdivision; that the corporation is empowered to assess the said land for cost of construction  
5 and maintenance of the improvements and property owned by the corporation, and that such  
6 assessments shall be a lien upon the land. The Board may impose such other conditions as it deems  
7 appropriate to assure that property and improvements owned by the corporation will be adequately  
8 constructed and maintained.  
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**Appendix 7**

# RECORD OF SURVEY

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 19 NORTH, RANGE 27 EAST, W.M., GRANT COUNTY WASHINGTON

3.57 Acres to be Subdivided

## PROPERTY DESCRIPTION

THAT PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 19 NORTH, RANGE 27 EAST, W.M., GRANT COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING FROM A UNITED STATES BUREAU OF RECLAMATION BRASS CAP, ACCEPTED AS THE SOUTHEAST CORNER OF SAID SECTION 25;

THENCE NORTH 00°22'50" EAST, ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 25, A DISTANCE OF 213.84 FEET TO THE NORTHERLY RIGHT-OF-WAY OF THE COUNTY ROAD KNOWN AS THE FRONTAGE ROAD;

THENCE CONTINUING ALONG SAID EAST LINE, NORTH 00°22'50" EAST, A DISTANCE OF 281.74 FEET TO THE TRUE POINT TO BE BOUNDING;

THENCE NORTH 80°58'30" WEST, A DISTANCE OF 368.00 FEET, TO THE WEST BOUNDARY LINE OF THE PARCEL DESCRIBED IN BOOK 32 OF DEEDS, PAGES 261 AND 263, RECORDS OF GRANT COUNTY, AS FOUND UNDER THE GRANT COUNTY AUDITOR'S FILE NUMBER 770472;

THENCE ALONG SAID WEST BOUNDARY, NORTH 00°22'50" EAST, A DISTANCE OF 112.11 FEET;

THENCE SOUTH 80°58'30" EAST, A DISTANCE OF 368.00 FEET, TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 25;

THENCE SOUTH 00°22'50" WEST, ALONG SAID EAST LINE, A DISTANCE OF 112.21 FEET, TO THE TRUE POINT OF BEGINNING,

CONTAINING 1.18 ACRES MORE OR LESS.

SUBJECT TO ALL EASEMENTS, EXCEPTIONS, RESTRICTIONS, RESERVATIONS, AND COVENANTS OF RECORD OR APPARENT.

## DATE OF SURVEY

JULY 13, 1995

## METHOD OF SURVEY

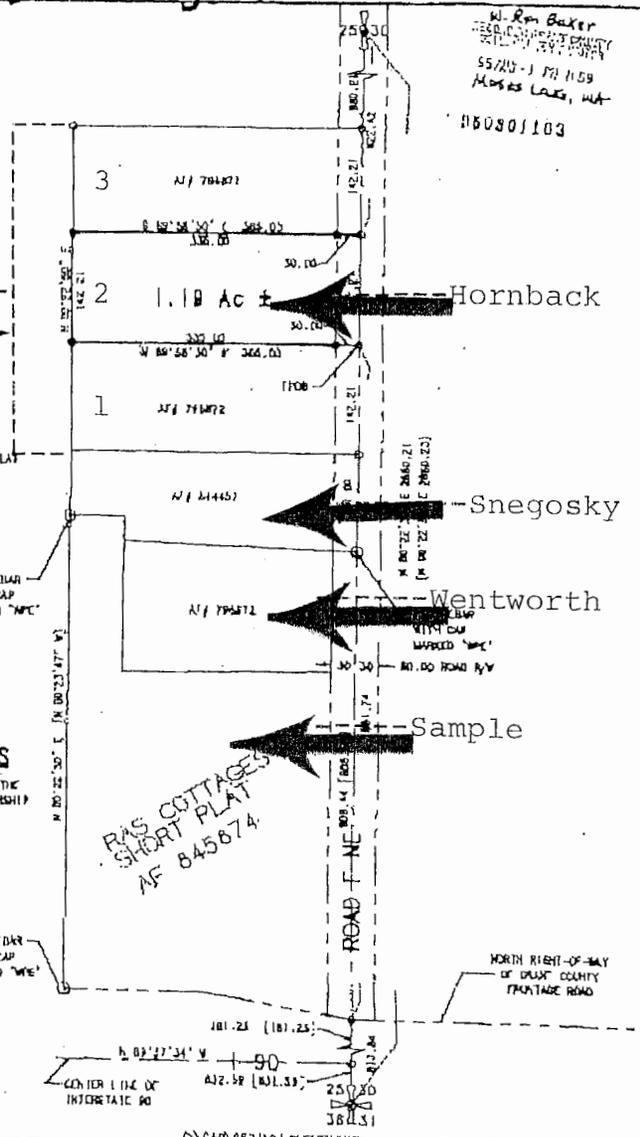
FIELD SURVEYS WERE ACCOMPLISHED UTILIZING CONVENTIONAL TRAVELER AND TOTAL STATION METHODS. MEASUREMENTS WERE PERFORMED USING A LIEDT 3, (1) ONE SECOND ELECTRONIC DIGITAL TACHYMETER NO. 0200018, ANGULAR CLOSURE OF TRAVELER MEETS STANDARDS AS SET FORTH IN WAC 312-130-020, PARAGRAPH 2(a). LINEAR CLOSURE AFTER ADJUSTMENT IS GREATER THAN 1:10000 ACCURACY.

## LEGEND

- SET 5/8" PEGS WITH CAP MARKED "R 15110"
  - ⊙ TOTAL STATION PIVOT AS NOTED
  - CALCULATED POINT ONLY
  - ( ) PREVIOUSLY RECORDED LEGAL RECORD DATA
  - [ ] PREVIOUSLY RECORDED EASEMENT HAS COVETAGES SHORT PLAT
  - ⊕ TOTAL 1/2" LEGAL IMAGE CAP IN MOUNTAIN CASE
- RIGHT-OF-WAY  
 - - - - - CENTERLINE  
 ———— PROPERTY LINE

## BASIS OF BEARINGS

1950 RECORD DATA, THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 25, (TOWNSHIP 19 NORTH, RANGE 27 EAST, N.W., GRANT COUNTY, WASHINGTON, BEING NORTH 00°22'50" EAST



W. Rm Baker  
 RES. ENGINEER  
 55725-1 PO BOX  
 MOSES LAKE, WA  
 980801103

**AUDITORS CERTIFICATE**

FILED FOR RECORD THIS 15 DAY OF August 1995 AT THE CLERK'S OFFICE IN BOOK 32 OF SURVEYS PAGE 77 AT THE REQUEST OF BOUNDARY ENGINEERING INC.

William L. Varney  
 AUDITOR

Maxine Johnson  
 DEPUTY AUDITOR

**SURVEYORS CERTIFICATE**

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF BOUNDARY ENGINEERING INC.

1995

W. Rm Baker  
 SURVEYOR



**BOUNDARY ENGINEERING**

101 W. BROADWAY  
 MOSES LAKE, WA 98837  
 (509) 765-0287 FAX 765-1355

**RECORD OF SURVEY FOR KEN WENTWORTH**

JOB NO: 95-2350  
 DATE: 7/13/95

DRAWN BY: WRB  
 DATE: 7/13/95

CHECKED BY: JUT  
 DATE: 7/13/95

SCALE: 1" = 100'