

**Draft Amendment to Title 15, Unified Development Code,  
Division IV, Land Division**

**Section 1     General Provisions**

**A. Purpose.** The purpose of this division is to:

1. Regulate the subdivision and short subdivision of land and to promote the public health, safety and general welfare in accordance with standards established to prevent the overcrowding of land;
2. Avoid congestion on the city's streets and highway;
3. Provide for adequate light and air;
4. Facilitate adequate provision for water, sewer, stormwater, parks and recreation areas, sites for schools and school grounds and other public requirements;
5. Provide for proper ingress and egress;
6. Require a system of uniform monuments for land subdivisions and conveyance of accurate legal description; and
7. Require the establishment of private or quasi-public organizations responsible for the upkeep and maintenance of certain private infrastructure.

**B. Authority.** The city adopts this division pursuant to Chapter 58.17 of the Revised Code of Washington.

**C. Scope.** No division of land shall hereafter be made within the corporate limits of the city, except in full compliance with the provisions of this title and Chapter [58.17](#) RCW, as it now exists or is hereafter amended.

**D. Compliance.** Every subdivision shall comply with the provisions of the South Bend Municipal Code and Chapter 58.17 of the Revised Code of Washington.

**E. Exemptions.** The provisions of this chapter shall not apply to:

1. Cemeteries and other burial plats while used for that purpose;
2. Divisions made by testamentary provisions, or the laws of descent;
3. Divisions made in connection with acquisition of land by the city, including divisions made by deed for road widening purposes; provided, that such land may be accepted on behalf of the city only by action of the city Council;
4. Assessor's plats made in accordance with RCW 58.17.240, 58.17.250 and 58.18.010;

5. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.
6. A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW, if the city has approved a binding site plan for all such land;
7. A division of land into lots, tracts, parcels, sites or divisions classified for industrial or commercial use if the city has approved a binding site plan for the use of the land;
8. A division for the purposes of leasing land for facilities providing personal wireless services, as defined by RCW 58.17.040(8), and used for that purpose;
9. A division of land into lots or tracts of less than three acres in accordance with Chapter 58.09 RCW and is used or proposed to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities, as defined by RCW 58.17.040(9).

**F. Definitions.** As used in this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases shall have the indicated meanings.

1. "Binding site plan" means a drawing to a scale specified by local ordinance which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the city to approve the site plan; and (c) contains provisions making any development be in conformity with the site plan.
2. "Block" means a group of lots, tracts, or parcels within well-defined and fixed boundaries.
3. "Dedication" means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself 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 evidenced by the owner by the presentment 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 as set forth in SBMC Chapter 15.08.
4. "Final plat" means the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set as forth in SBMC Chapter 15.08.

5. "Lot" means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.
6. "Plat" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.
7. "Preliminary plat" means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.
8. "Short plat" means the map or representation of a short subdivision.
9. "Short subdivision" means the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for sale, lease, or transfer of ownership.
10. "Subdivision" means the division or redivision of land into five or more lots, tracts, parcels, sites, or divisions for sale, lease, or transfer of ownership, except as provided in subsection (6) of this section.

## **Section 2 Preliminary Short Subdivisions and Preliminary Subdivisions.**

**A. Application procedures.** Preliminary short subdivisions and preliminary subdivisions are Type 4 project permit applications as set forth in SBMC Chapter 15.08.

### **B. Application submittal requirements.**

1. SBMC 15.08.050 requires a preapplication meeting with the City Supervisor for all applications for preliminary short subdivision and preliminary subdivision.
2. Applicants for a preliminary short subdivision or a preliminary subdivision shall submit a complete application form provided by the city along with all required fees.

### **C. Noticing requirements.**

1. Preliminary short subdivisions and preliminary subdivisions shall meet all noticing requirements of SBMC 15.08.040.
2. If the location of any portion of a preliminary short subdivision or preliminary subdivision is in a flood control zone as provided in Chapter 86.16 RCW, the city supervisor shall confer with the Washington State Department of Ecology and seek written approval, approval with conditions, or denial.
3. The city supervisor shall give written notice to the Washington State Department of Transportation, including a legal description of the preliminary subdivision and a location map, whenever the location of a subdivision is

adjacent to the right-of-way of a state highway. The department shall, within fourteen days after receiving the notice, submit to the city supervisor a statement with any information that the department deems to be relevant about the effect of the proposed short subdivision upon the legal access to the state highway, the traffic carrying capacity of the state highway, and the safety of the users of the state highway.

**D. Time limitations for application review and decision.** The city shall approve, disapprove, or return to the applicant for modification any proposed preliminary short subdivision or preliminary subdivision within 90 days from date of the Notice of Completion, unless the applicant consents to an extension of such time period. If an environmental impact statement is necessary as provided in RCW 43.21C.030, the 90-day period shall not include the time spent preparing and circulating the environmental impact statement by the city.

**E. Administrative review and report.**

1. Upon receiving a complete preliminary short subdivision or preliminary subdivision application, the city supervisor shall distribute a copy of the subdivision, together with copies of any accompanying documents to the following: the city engineer, the fire department, and any other city official, utility provider, school district, or other public or private entity as the city supervisor deems appropriate.
2. The administrative review will evaluate the preliminary subdivision application for consistency with:
  - a. Chapter 58.17 RCW;
  - b. Applicable provisions of the city of South Bend Comprehensive Plan;
  - c. SBMC Title 12, Streets, Sidewalks and Public Places;
  - d. SBMC Title 13, Water and Sewers;
  - e. SBMC Title 14, Environment;
  - f. SBMC Title 15, Unified Development Code; and
  - g. The public's interest served by the subdivision and dedication.
3. The city supervisor shall prepare and distribute a staff recommendation for the Planning Commission summarizing the findings of the administrative review.

**F. Planning commission recommendation.**

1. The planning commission shall be responsible for holding an open record public hearing pursuant to procedures established in SBMC 15.08.120 to review the proposed preliminary short subdivision or preliminary subdivision application.

2. Based on the comments and testimony established at the public hearing, the planning commission shall make a recommendation on the proposed preliminary short subdivision or preliminary subdivision application to the city council or return the application to the applicant with a request for additional information, provided that the applicant agrees to a time extension in writing.
3. If the planning commission makes a recommendation, such recommendation shall be for approval, disapproval, or approval with conditions.
4. The planning commission recommendation shall propose written findings of fact and conclusions of law to the city council that the proposed preliminary short subdivision or preliminary subdivision application:
  - a. Makes adequate provisions for the public health, safety and general welfare and for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds and schools;
  - b. The platting of the preliminary subdivision and dedication of public use will serve the public interest
  - c. The preliminary subdivision conforms with the Comprehensive Plan, the South Bend Municipal Code, and the general purposes of any other applicable policies or plans adopted by the city council;
  - d. Provides adequate measures to prevent or abate public nuisances; and
  - e. Addresses the potential environmental impacts of the proposed subdivision through mitigation so the subdivision will not have an unacceptable adverse effect upon the quality of the environment.
5. The city supervisor shall forward the planning commission recommendation, findings, and all supporting documents to the city council.

**G. City council action.**

1. The city council shall review the recommendation of the planning commission and supporting documentation during its regular meeting. The city council shall then make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the preliminary short subdivision or preliminary subdivision.
2. The city council may require dedication of land to any public body or the provision of public improvements to serve the subdivision as a condition of preliminary short subdivision or preliminary subdivision approval.
3. The final plat shall clearly show any dedications. There shall be no dedication or provision of public improvements that constitutes an unconstitutional taking

of private property. The city council shall not require a release from damages from other property owners as a condition to the approval of a subdivision.

4. If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated the name of the park in honor of a deceased individual of good character, the city council shall adopt the designated name.
5. The city council shall not approve the preliminary short subdivision or preliminary subdivision dedication unless it adopts written findings that:
  - a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
  - b. The platting of the short subdivision or subdivision and the dedication of public use will serve the public interest.
6. The city shall issue a Notice of Decision in accordance with SBMC 15.08.090 regarding the decision of the city council.

**H. Time limitations.**

1. Approvals for preliminary short subdivision or preliminary subdivision shall be valid for a period of seven years following the date of the notice of final decision if the date of the preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the preliminary plat approval is on or after January 1, 2015.
2. The city supervisor may administratively authorize through a Type 1 project permit application an extension of time to preliminary short subdivision or preliminary subdivision approvals. Extensions shall be issued in one-year increments up to a maximum of three years, subject to the following criteria and conditions:
  - a. An applicant for an extension shall make a written request for the extension a minimum of 30 calendar days prior to expiration of the preliminary plat approval.
  - b. The city supervisor shall in consideration of granting an extension find:
    - (i) There have not been any substantial changes in the laws governing the development of the plat, with which lack of

compliance would be contrary to the public health, safety and welfare; or

- (ii) The applicant has pursued final platting diligently, as evidenced by progress on final surveying, engineering, construction or the financial security of improvements; or
- (iii) There have been substantial changes in economic conditions and market forces that have substantively limited the ability of the applicant to pursue final platting.

c. A condition of any extension approval shall be that the preliminary short subdivision or preliminary subdivision shall comply with state or federal mandates required of the city and/or life, health and safety requirements of the city in effect at the time of any extension approval.

3. A preliminary short subdivision or preliminary subdivision granted approval, but not filed for final plat approval within the applicable time period or extended time period, shall be null and void.

**I. Modifications of preliminary subdivisions.**

1. Minor Adjustments. The city supervisor may approve minor adjustments to a preliminary short subdivision or preliminary subdivision through a Type 1 project permit application. Minor adjustments are those that may affect the precise dimensions of the plat, but do not affect the basic character or arrangement of the lots and streets. Such dimensional requirements shall not vary more than 10 percent from the original. The adjustments cannot be inconsistent with the requirements of the preliminary plat approval. The adjustments cannot cause the subdivision to be in violation of this title, Chapter 58.17 RCW, the comprehensive plan, or any other applicable city or state law or regulation. Minor adjustments shall meet the following criteria:
- a. The adjustment maintains the design intent or purpose of the original approval; and
  - b. The adjustment maintains the quality of design or product established by the original approval; and
  - c. The adjustment does not cause a significant environmental or land use impact on or beyond the site; and
  - d. An administrative adjustment is consistent with this title or state law; and

- e. Circumstances render it impractical or detrimental to the public interest to accomplish the subject condition or requirement of preliminary plat or short plat approval.
2. Major Adjustments. Major adjustments are those that, when determined by the city supervisor, change the basic design, layout, open space or other requirements of the plat. When the city supervisor determines a change constitutes a major adjustment, the applicant shall submit a new application for a preliminary plat as a new and separate application.

#### **J. Phasing subdivisions.**

A subdivision may be developed and recorded as final in phases. Any phasing proposal shall be submitted for review at any time prior to final subdivision application. Approval of the phasing plan shall be based on making the following findings:

1. The phasing plan includes all land contained within the approved preliminary subdivision, including areas where off-site improvements are being made;
2. The sequence and timing of development is identified on a phasing map;
3. Each phase shall consist of a contiguous group of lots that meets all pertinent development standards on its own. The phase cannot rely on future phases for meeting any city codes;
4. Each phase provides adequate circulation and utilities;
5. Specific public improvements that are necessary for the entire development may be required to be completed with the first phase, regardless of phase design or completion schedule of future phases, such as but not limited to stormwater facilities which may be designed to be located in a subsequent phase but that are necessary to be developed in the first phase in order to ensure the facility essential to all of the subdivision is developed even if subsequent phases are never completed and looped water mains for purposes of fire flow from city fire hydrants; and
6. Any approved phase of a preliminary subdivision that has not been completed and recorded as final by the city prior to the lapse of the preliminary subdivision approval will be deemed to have lapsed with that preliminary subdivision.

### **Section 3 Final Short Subdivisions and Subdivisions**

**A. Application procedures.** Final short subdivision and subdivisions are a Type 2 project permit application as set forth in SBMC 15.08.040(B).

**B. Application submittal requirements.**



1. Applicants for a final short subdivision shall submit a complete application form provided by the city along with all required fees;
2. Applicants for a final subdivision shall submit a complete application form provided by the city along with all required fees;

**C. Administrative review.**

Upon receiving a complete application for a final short subdivision or final subdivision approval, the city supervisor shall distribute a copy of the application, together with copies of any accompanying documents to the following the city engineer, the fire department, and any other city official, utility provider, school district, or other public or private entity as the city supervisor deems appropriate to determine if the final short subdivision or final subdivision conforms to all of the preliminary subdivision terms and conditions of approval.

**D. Survey required before filing.**

A licensed professional land surveyor shall complete all lot staking before the recording of the final subdivision as follows:

1. All lot corners, including interior lot corners, shall be marked with a permanent marker that bears the land surveyor's registration number. When the boundary lines follow a meandering line, the corners shall be set as directed by the city of South Bend.
2. When the legal description of the final subdivision utilizes partial or complete section subdivisional breakdown to establish the boundaries, section subdivision survey information shall be shown in accordance with the requirements of WAC 332-130-030.
3. All reference monuments used in the establishment of the final subdivision corners shall be identified, described and noted as set or found. When appropriate, the survey shall reference previous surveys that served as the basis for the survey.
4. When the final subdivision is adjacent to a constructed public right-of-way and the plat corners or its offset represent a quarter corner, section corner or donation land claim that is not of record or has been lost (or obliterated), a standard monument shall be placed.
5. Whenever a final subdivision is adjacent to existing right-of-way, the centerline of the right-of-way shall be located on the plat drawing. If the constructed improvements fall outside of the documented right-of-way, the surveyor shall identify the existing edge of the pavement and limits of the maintained right-of-way section on the drawing and show its relationship to said centerline.

6. All requirements of Chapter 58.09 RCW and Chapter 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed that reads: This survey complies with all the standards and guidelines of the "Survey Recording Act" Chapter 58.09 RCW and Chapter 332-130 WAC.
7. The side lot lines of each lot, which if extended would intersect with the curb, shall be marked on the curb. The offset distance from the curb mark to the property corner shall be noted on the face of the plat. Curb pins shall be marked with a permanent marker bearing the land surveyor's registration number.

**E. Acceptance of improvements and maintenance bond.**

The city engineer shall not accept the improvements for the city until it inspects all improvements and found satisfactory, and the applicant has posted a bond or surety to guarantee against defects of workmanship and materials for two years from the date of acceptance.

**F. Decision criteria.**

The city supervisor shall approve a final short subdivision or final subdivision application if it:

1. Conforms to all preliminary short subdivision or preliminary subdivision terms and conditions of approval; and
2. Meets all other applicable requirements as set forth in Chapter 58.17 RCW, other applicable state laws, and any other applicable requirements of the South Bend Municipal Code which were in effect at the time of preliminary subdivision approval.

**G. Notice of decision.**

The city supervisor shall approve, disapprove, or return to the applicant for modification or correction a proposed final short subdivision or final subdivision within 30 days of the date of filing a complete application unless the applicant agrees, in writing, to a time extension provided under RCW 58.17.140.

**H. Terms of approval**

Any lots in a final short subdivision or final subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final subdivision, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

## **I. Recording**

The final short subdivision or final subdivision, in the form specified in this ordinance, shall be recorded by the city supervisor with the Pacific County auditor within 10 working days after city approval and shall be recorded in the presence of the applicant and with the cost of recording paid by the applicant.

## **J. Building and occupancy.**

1. No building permit for a structure other than a temporary contractor's office or temporary storage building shall be issued for a lot or parcel within an approved subdivision until:
  - a. The minimum required improvements which will serve the subject lot or parcel have been constructed; and
  - b. All remaining improvements are financially guaranteed.
2. Where a plat is approved subject to conditions, no building permit shall be issued for property subject to the subdivision before the conditions either being fulfilled or guarantees provided to ensure the conditions are met.

## **K. Further division of short subdivisions.**

Property within approved short subdivisions that have been filed for record may not be further divided in any manner for a period of five years without the filing of a new subdivision as defined in Section 1.F.10 of this ordinance, except that when the approved short subdivision contains less than four parcels, nothing in this section shall prevent the owner who filed the short subdivision from filing an alteration within the five-year period to create up to a total of four lots within the original approved short subdivision boundaries. This requirement shall be stated on the face of the recorded short subdivision plat drawing.

## **Section 4 Boundary Line Adjustments**

### **A. Application procedures.**

Adjustments of property boundary lines are a Type I project permit application as set forth in SBMC 15.08.040(A). Applications shall be reviewed by the city Supervisor and certified as meeting the requirements of this section within 30 working days after receiving a complete application.

### **B. Application Submittals.**

A complete boundary line adjustment application shall include the following:

1. A complete boundary line form provided by the city that includes the signatures of all owners of interest in the land involved in the boundary line adjustment;

2. Payment of the application fee in the amount established in the city's adopted fee schedule;
3. Three copies of an accurate preliminary map drawn to scale;
4. A current title report showing ownership and legal description of all parcels involved in the boundary line adjustment;
5. The existing and proposed dimensions and area of the lots involved in the boundary line adjustment is not less than 30 days old; and
6. Legal descriptions of the existing lot lines and the proposed lot lines after the adjustment, as prepared by a professional land surveyor licensed in the state of Washington.

**C. Decision criteria.**

The city supervisor shall approve an application for a boundary line adjustment upon determination that:

1. No additional lot, tract, parcel, site or division will be created by the proposed adjustment;
2. No lot is modified which contains insufficient area and dimensions to meet the minimum requirements of the zone in which the affected lots are situated. Where a lot is located within a zone that does not provide for a minimum area or dimension, no lot or tract is modified which contains insufficient area for a building site.
3. For the purposes of this chapter, a "building site" means the lot or property contains sufficient area and dimension to accommodate a development capable of housing the type of uses established within Division III of this Title for the underlying zoning classification;
4. No lot is modified which does not have adequate drainage, water supply and sanitary sewage disposal, and access for vehicles, utilities and fire protection, and no existing easement or tract in favor of the public is rendered impractical to serve its purpose;
5. The boundary line adjustment is consistent with the applicable provisions of the city's zoning code;
6. No lot is modified which is inconsistent with an applicable requirement or condition of a previous land use action, subdivision, or short subdivision;
7. No lot, use, or structure is made nonconforming or more nonconforming than that which existed at the time of application; and

8. No lot is modified in a manner that circumvents a zoning regulation which would otherwise be applicable to any lot affected by the boundary line adjustment.

**D. Notice of decision.**

1. Upon determination that the applicant has met the above criteria, the city supervisor shall issue a Notice of Decision to the applicant approving of the boundary line adjustment.
2. If the boundary line adjustment fails to meet one or more of the criteria, the city supervisor shall issue a Notice of Decision to the applicant explaining why the boundary line adjustment was not approved.

**E. Required actions for final approval of boundary line adjustment.**

Upon approval of a boundary line adjustment, the applicant shall:

1. Submit to the city a final boundary map at a scale of 100 feet per inch, prepared by a land surveyor licensed in the state of Washington, and containing the following information:
  - a. Company name, address, and phone number of the land surveyor;
  - b. Date prepared;
  - c. Sheet number and number of sheets;
  - d. Certification by the licensed land surveyor with stamp and signature;
  - e. Lot numbers;
  - f. Monuments at all new lot corners, angle points, and intersections with old lines;
  - g. North arrow;
  - h. Legend of symbols used;
  - i. Basis of bearings;
  - j. All dimensions to hundredths of a foot;
  - k. All existing easements and tracts shown;
  - l. Existing lot lines to be adjusted, shown as dashed lines; and
  - m. The final legal descriptions as prepared by the licensed surveyor, together with lot closures for each lot.
2. Record the boundary line adjustment with the Pacific County auditor's office;
3. Submit copies of all recording documents to the city supervisor within 10 calendar days of such recording.

## **Section 5     Binding Site Plans**

### **A. Purpose.**

The purpose of the binding site plan process is to provide an alternative to the standard subdivision process for specific types of development. The binding site plan shall only be applied for:

1. Divisions of land into lots or tracts classified for industrial or commercial use as provided in RCW 58.17.040(4);
2. Condominiums as provided in either Chapter 64.32 or 64.34 RCW, consistent with RCW 58.17.040(7); and
3. Divisions of land for lease when no residential structure other than manufactures homes or recreational vehicles are permitted as provided in RCW 58.17.040(5).

### **B. Application procedures.**

Binding site plans are a Type 4 project permit application as set forth in SBMC 15.08.040(D).

### **C. Pre-application meeting.**

SBMC 15.08.050 requires a preapplication meeting with the City Supervisor for all applications for binding site plans.

### **D. Application submittal requirements.**

Applicants for a binding site plan shall submit a complete application form provided by the city along with all required fees.

### **E. Time limitations for application review and decision.**

The city shall approve, disapprove, or return to the applicant for modification any proposed binding site plan within 90 days from date of the Notice of Completion, unless the applicant consents to an extension of such time period. If an environmental impact statement is required as provided in RCW 43.21C.030, the 90-day period shall not include the time spent preparing and circulating the environmental impact statement by the city.

### **F. Administrative review and report.**

1. Upon receiving a complete application for binding site plan approval, the city supervisor shall distribute a copy of the binding site plan, together with copies of any accompanying documents to the following: the city engineer, the fire department, and any other city official, utility provider, school district, or other public or private entity as the city supervisor deems appropriate.

2. The administrative review will evaluate the binding site plan for consistency with:
  - a. Chapter 58.17 RCW;
  - b. Applicable provisions of the city of South Bend Comprehensive Plan;
  - c. SBMC Title 12, Streets, Sidewalks and Public Places;
  - d. SBMC Title 13, Water and Sewers;
  - e. SBMC Title 14, Environment;
  - f. SBMC Title 15, Unified Development Code; and
  - g. The public's interest served by the subdivision and dedication.
3. If the location of any portion of a proposed binding site plan is in a flood control zone as provided in Chapter 86.16 RCW, the city supervisor shall confer with the Washington Department of Ecology and seek written approval, approval with conditions, or denial.
4. The city supervisor shall give written notice to the Washington State Department of Transportation, including a legal description of the proposed binding site plan and a location map, whenever the location of a binding site plan is adjacent to the right-of-way of a state highway. The department shall, within fourteen days after receiving the notice, submit to the city supervisor a statement with any information that the department deems to be relevant about the effect of the proposed binding site plan upon the legal access to the state highway, the traffic carrying capacity of the state highway, and the safety of the users of the state highway.
5. The city supervisor shall prepare and distribute a staff recommendation for the Planning Commission summarizing the findings of the administrative review.

**G. Planning Commission recommendation.**

1. The planning commission shall be responsible for holding an open record public hearing pursuant to procedures established in SBMC 15.08.120 to review the proposed binding site plan application.
2. Based on the comments and testimony established at the public hearing, the planning commission shall make a recommendation on the binding site plan application to the city council or return the binding site plan application to the applicant with a request for additional information, provided that the applicant agrees to a time extension in writing.
3. If the planning commission makes a recommendation, such recommendation shall be for approval, disapproval, or approval with conditions.

4. The planning commission recommendation shall propose written findings of fact and conclusions of law to the city council that the proposed binding site plan:
  - a. Achieves the general purposes of this chapter;
  - b. Conforms with the comprehensive plan, the South Bend Municipal Code, and the general purposes of any other applicable policies or plans adopted by the city council;
  - c. The binding site plan and dedication of public use will serve the public interest;
  - d. Provides adequate measures to prevent or abate public nuisances; and
  - e. Addresses the potential environmental impacts of the proposed binding site plan through mitigation so it will not have an unacceptable adverse effect upon the quality of the environment.

#### **H. City council action.**

1. The city supervisor shall forward the planning commission recommendation, findings, and all supporting documents to the city council.
2. The city council shall review the recommendation of the planning commission and supporting documentation during its regular meeting. The city council shall then make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the binding site plan application.
3. Dedication of land to any public body or the provision of public improvements to serve the subdivision may be required as a condition of the binding site plan approval. The binding site plan shall clearly show any dedications. No dedication or provision of public improvements is allowed that constitutes an unconstitutional taking of private property. The city council shall not require a release from damages from other property owners as a condition to the approval of a subdivision.
4. The city council shall not approve the binding site plan and dedication unless it adopts written findings that:
  - a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and



other planning features that assure safe walking conditions for students who only walk to and from school; and

b. The binding site plan and dedication of public use will serve the public interest.

5. The city shall issue a Notice of Decision in accordance with SBMC 15.08.090 regarding the decision of the city council.

**I. Recording.**

The final binding site plan shall not be officially complete until the signed original final binding site plan has been recorded with the county auditor. Said documents shall be recorded by the auditor within 10 calendar days after city council approval, in the presence of the applicant, and with the cost of recording paid by the applicant. Filing of the final binding site plan shall not relieve the property owner of the obligation to complete the minimum public improvements.

**J. Modification.**

The modification of a binding site plan shall be accomplished by following and satisfying the same procedures required for a new binding site plan application.

**Section 6 Cluster Subdivisions**

**A. Purpose.**

The purpose of this chapter is to provide for the optional clustering of lots within a subdivision onto a portion of the site, while maintaining the underlying allowable density. Clustering allows development to occur at an appropriate density for infrastructure services. It also protects environmentally sensitive areas by clustering lots away from these areas.

**B. Scope.**

The requirements of this chapter are available for subdivisions and short subdivisions located in the Neighborhood District as delineated in the City of South Bend Comprehensive Zoning Map.

**C. Procedures.**

The cluster development review process is integrated within the subdivision or short subdivision process as outlined in this ordinance.

**D. Maximum number of lots.**

The maximum number of lots created through using this procedure is determined by dividing the total property size by the specified density for the Neighborhood District.

## **E. Minimum standards.**

Subdivisions and short subdivisions may use optional cluster subdivision development if consistent with the following standards:

1. The proposed design addresses any special conditions, prerequisite considerations or significant environmental elements identified in the relevant neighborhood plan.
2. The proposed design is compatible with the existing topography and preserves natural resources such as mature trees or wooded areas, significant wetlands, streams, and wildlife habitat.
3. Connecting links between existing parks and open spaces are provided along streams, ridgelines, ravines, shorelines, hillsides, and wooded areas whenever possible.
4. Fifteen percent of the total site area shall be set aside as open space.
5. Minimum lot sizes and setbacks:
  - a. Minimum lot area: 4,000 square feet
  - b. Minimum lot width: 40 feet for detached structures and 30 feet for attached structures
  - c. Minimum lot depth: 60 feet
  - d. Minimum front yard setback: 15 feet
  - e. Minimum side yard setback: 5 feet for detached structures and 0 feet for attached structures on common property lines
  - f. Minimum rear yard setback: 15 feet
6. Access and parking requirements.
  - a. Shared driveways are allowed; and
  - b. Additional public parking areas may be a condition of approval within subdivisions having residential lots smaller than 6,000 square feet.

## **Section 7 Subdivision Vacation**

### **A. Purpose.**

This chapter provides procedures and requirements for vacating a subdivision or portion of a subdivision, or any land dedicated for public use, except rights-of-way associated with public streets, as provided under RCW 58.17.212.

### **B. Application procedures.**

Subdivision vacations are a Type 4 project permit application as set forth in SBMC 15.08.040(D).

**C. Streets, roads, and alleys.**

1. When the vacation application is specifically for a road, street or alley, the procedures for street vacation in Chapter 12.10 SBMC and Chapter 35.79 RCW shall apply.
2. When the application is for the vacation of the plat, together with the roads, streets, and/or alleys, the procedure for vacation in this chapter shall apply.

**D. Application to state-granted tide or shorelands.**

This Chapter shall not apply to the vacation of any plat of state-granted tide or shore lands.

**E. Pre-application meeting.**

SBMC 15.08.050 requires a preapplication meeting with the City Supervisor for all applications for subdivision vacations.

**F. Application submittal requirements.**

Complete applications for subdivision vacations submitted to the city supervisor shall contain the following:

1. A complete subdivision vacation application form;
2. The signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation; and,
3. A reproducible preliminary plat prepared by a professional engineer or professional land surveyor registered or licensed by the state of Washington meeting the requirements of SBMC 15.61.030.B.
4. A title report of the subdivision to be vacated;
5. A recorded copy of the deed for the subdivision to be vacated; and
6. If the subdivision is subject to restrictive covenants filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

**G. Administrative review and report.**

1. Upon receiving a complete subdivision vacation application, the city supervisor shall distribute a copy of the application, together with any accompanying documents, to the following: the city engineer, the fire department, and any other city official, utility provider, school district, or other public or private entity the city supervisor deems appropriate.

2. The administrative review will evaluate the subdivision vacation application for consistency with:
  - a. Chapter 58.17 RCW;
  - b. Applicable provisions of the city of South Bend Comprehensive Plan;
  - c. SBMC Title 12, Streets, Sidewalks and Public Places;
  - d. SBMC Title 13, Water and Sewers;
  - e. SBMC Title 14, Environment;
  - f. SBMC Title 15, Unified Development Code; and
  - g. The public's interest served by the subdivision and dedication.
3. The city supervisor shall prepare and distribute a staff recommendation for the Planning Commission summarizing the findings of the administrative review.

#### **H. Planning commission recommendation.**

1. The planning commission shall be responsible for holding an open record public hearing pursuant to procedures established in SBMC 15.08.120 to review the proposed subdivision vacation application.
2. Based on the comments and testimony established at the public hearing, the planning commission shall make a recommendation on the subdivision vacation application to the city council or return the application to the applicant with a request for additional information, provided that the applicant agrees to a time extension in writing.
3. If the planning commission makes a recommendation, such recommendation shall be for approval, disapproval, or approval with conditions.
4. The planning commission recommendation shall propose written findings of fact and conclusions of law to the city council determining if the proposed subdivision vacation will serve the public use and interest and, if any portion of the land contained in the subdivision vacation dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the city sets forth findings that the public use would not be served in retaining title to those lands.

#### **I. City council action.**

1. The city supervisor shall forward the planning commission recommendation, findings, and all supporting documents to the city council.
2. The city council shall review the recommendation of the planning commission and supporting documentation during its regular meeting. The city council shall then make its own decision supported by written findings of fact and

conclusions of law and approve, approve with conditions, or disapprove the subdivision vacation application.

**J. Title.**

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

**K. Recording.**

The final subdivision vacation shall be recorded by the city supervisor with the Pacific County auditor within 10 working days after city approval and shall be recorded in the presence of the applicant and with the cost of recording paid by the applicant.