

---

HOUSE BILL 2977

---

State of Washington

55th Legislature

1998 Regular Session

By Representatives Sheahan and Appelwick

Read first time . Referred to Committee on .

1 AN ACT Relating to binding site plans; and amending RCW 58.17.035  
2 and 58.17.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 58.17.035 and 1987 c 354 s 2 are each amended to read  
5 as follows:

6 A city, town, or county may adopt by ordinance procedures for the  
7 divisions of land by use of a binding site plan as an alternative to  
8 the procedures required by this chapter. The ordinance shall be  
9 limited and only apply to one or more of the following: (1) The use of  
10 a binding site plan to divisions for sale or lease of commercially or  
11 industrially zoned property as provided in RCW 58.17.040(4); (2)  
12 divisions of property for lease as provided for in RCW 58.17.040(5);  
13 and (3) divisions of property as provided for in RCW 58.17.040(7).  
14 Such ordinance may apply the same or different requirements and  
15 procedures to each of the three types of divisions and shall provide  
16 for the alteration or vacation of the binding site plan, and may  
17 provide for the administrative approval of the binding site plan.  
18 However, such an ordinance may not impose requirements or procedures  
19 that are inconsistent with the provisions of RCW 58.17.040 (4), (5), or

1 (7). Such an ordinance is not necessary for divisions of property as  
2 provided for in RCW 58.17.040(7)(d) (i) or (ii).

3 The ordinance shall provide that after approval of the general  
4 binding site plan for industrial or commercial divisions subject to a  
5 binding site plan, the approval for improvements and finalization of  
6 specific individual commercial or industrial lots shall be done by  
7 administrative approval.

8 The binding site plan, after approval, and/or when specific lots  
9 are administratively approved, shall be filed with the county auditor  
10 with a record of survey. However, when a binding site plan has been  
11 approved pursuant to RCW 58.17.040(7)(d) (i) or (ii), then no further  
12 administrative approval of these lots and no record of survey is  
13 required other than the survey map and plans required under chapter  
14 64.32 or 64.34 RCW. Lots, parcels, or tracts created through the  
15 binding site plan procedure shall be legal lots of record. Except for  
16 divisions made under RCW 58.17.040(7), the number of lots, tracts,  
17 parcels, sites, or divisions shall not exceed the number of lots  
18 allowed by the local zoning ordinances.

19 All provisions, conditions, and requirements of the binding site  
20 plan shall be legally enforceable on the purchaser or any other person  
21 acquiring a lease or other ownership interest of any lot, parcel, or  
22 tract created pursuant to the binding site plan.

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

29 **Sec. 2.** RCW 58.17.040 and 1992 c 220 s 27 are each amended to read  
30 as follows:

31 The provisions of this chapter shall not apply to:

32 (1) Cemeteries and other burial plots while used for that purpose;

33 (2) Divisions of land into lots or tracts each of which is one-one  
34 hundred twenty-eighth of a section of land or larger, or five acres or  
35 larger if the land is not capable of description as a fraction of a  
36 section of land, unless the governing authority of the city, town, or  
37 county in which the land is situated shall have adopted a subdivision  
38 ordinance requiring plat approval of such divisions: PROVIDED, That

1 for purposes of computing the size of any lot under this item which  
2 borders on a street or road, the lot size shall be expanded to include  
3 that area which would be bounded by the center line of the road or  
4 street and the side lot lines of the lot running perpendicular to such  
5 center line;

6 (3) Divisions made by testamentary provisions, or the laws of  
7 descent;

8 (4) Divisions of land into lots or tracts classified for industrial  
9 or commercial use when the city, town, or county has approved a binding  
10 site plan for the use of the land in accordance with local regulations;

11 (5) A division for the purpose of lease when no residential  
12 structure other than mobile homes or travel trailers are permitted to  
13 be placed upon the land when the city, town, or county has approved a  
14 binding site plan for the use of the land in accordance with local  
15 regulations;

16 (6) A division made for the purpose of alteration by adjusting  
17 boundary lines, between platted or unplatted lots or both, which does  
18 not create any additional lot, tract, parcel, site, or division nor  
19 create any lot, tract, parcel, site, or division which contains  
20 insufficient area and dimension to meet minimum requirements for width  
21 and area for a building site; and

22 (7) Divisions of land into lots or tracts if: (a) Such division is  
23 the result of subjecting a portion of a parcel or tract of land to  
24 either chapter 64.32 or 64.34 RCW subsequent to the recording of a  
25 binding site plan for all such land; (b) ~~((the improvements constructed  
26 or to be constructed thereon are required by the provisions of the  
27 binding site plan to be included in one or more condominiums or owned  
28 by an association or other legal entity in which the owners of units  
29 therein or their owners' associations have a membership or other legal  
30 or beneficial interest; (e)))~~ a city, town, or county has approved the  
31 binding site plan for all such land; ~~((d))~~ (c) such approved binding  
32 site plan is recorded in the county or counties in which such land is  
33 located; and ~~((e))~~ (d) the binding site plan contains thereon the  
34 following statement: "All development and use of the land described  
35 herein shall be in accordance with this binding site plan, as it may be  
36 amended with the approval of the city, town, or county having  
37 jurisdiction over the development of such land, and in accordance with  
38 such other governmental permits, approvals, regulations, requirements,  
39 and restrictions that may be imposed upon such land and the development

1 and use thereof. (~~Upon completion, the improvements on the land shall~~  
2 ~~be included in one or more condominiums or owned by an association or~~  
3 ~~other legal entity in which the owners of units therein or their~~  
4 ~~owners' associations have a membership or other legal or beneficial~~  
5 ~~interest.)) This binding site plan shall be binding upon all now or  
6 hereafter having any interest in the land described herein." The  
7 (~~binding site plan may, but need not,~~) owner of the land against  
8 which a binding site plan will be recorded may elect, but can not be  
9 required by a city, town, or county, to depict or describe on the  
10 binding site plan the boundaries of the lots or tracts resulting from  
11 subjecting a portion of ((the)) a parcel or tract of land to either  
12 chapter 64.32 or 64.34 RCW. A site plan shall be deemed to have been  
13 approved as a binding site plan for purposes of this subsection, and  
14 shall not be subject to further review or approval, if the site plan  
15 was approved by a city, town, or county: (i) In connection with the  
16 final approval of a subdivision plat ((or)), planned unit development,  
17 rezone, or other land use approval process with respect to all of such  
18 land; or (ii) in connection with the issuance of building permits or  
19 final certificates of occupancy with respect to all of such land; or  
20 (iii) if not approved pursuant to (i) ((and)) or (ii) of this  
21 subsection (7)((+e)) (d), then pursuant to such other procedures as  
22 such city, town, or county may have established for the approval of a  
23 binding site plan pursuant to this subsection, which procedures may  
24 include the review and approval of the site plan before recording.  
25 This chapter does not apply to the creation of a condominium pursuant  
26 to either chapter 64.32 or 64.34 RCW unless a division of land will  
27 result from subjecting a portion of a parcel or tract of land in  
28 chapter 64.32 or 64.34 RCW, in which event this chapter only applies to  
29 the division of land into the portions being made and not being made a  
30 part of the condominium, and shall not apply to the creation of a  
31 condominium within any such portion. In the event of any conflict  
32 between the provisions of this chapter and chapter 64.32 or 64.34 RCW,  
33 then chapter 64.32 or 64.34 RCW controls. "Subjecting a portion of a  
34 parcel or tract of land to chapter 64.32 or 64.34 RCW" means:  
35 Recording pursuant to either chapter 64.32 or 64.34 RCW a condominium  
36 declaration and survey map and plans in which the land being made a  
37 part of the condominium upon such recording is a portion of such parcel  
38 or tract and the remaining portion of such parcel or tract is not being  
39 made a part of the condominium upon such recording; as a result of such~~

1 recording, such a parcel or tract is divided into a portion being made,  
2 and a portion not being made a part of the condominium; such portions  
3 of the parcel or tract could not each legally be sold, transferred, or  
4 leased to two different transferees without such division first having  
5 satisfied the requirements of this chapter.

--- END ---