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HOUSE BILL 1499

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State of Washington                      56th Legislature                      1999 Regular Session

By Representative Schoesler

Read first time 01/27/1999. Referred to Committee on Local Government.

1            AN ACT Relating to land division; amending RCW 58.17.010,  
2 58.17.020, 58.17.030, 58.17.033, 58.17.035, 58.17.040, 58.17.060,  
3 58.17.110, 58.17.150, 58.17.195, 58.17.200, and 58.17.900; and adding  
4 a new section to chapter 58.17 RCW.

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

6            **Sec. 1.** RCW 58.17.010 and 1981 c 293 s 1 are each amended to read  
7 as follows:

8            The legislature finds that the process by which land is divided is  
9 a matter of state concern and should be administered in a uniform  
10 manner by cities, towns, and counties throughout the state. The  
11 purpose of this chapter is to regulate the subdivision of land and to  
12 promote the public health(()) and safety ((~~and general welfare~~)) in  
13 accordance with standards established by the state to prevent the  
14 overcrowding of land; to lessen congestion in the streets and highways;  
15 to promote effective use of land; to promote safe and convenient travel  
16 by the public on streets and highways; to provide for adequate light  
17 and air; to facilitate adequate provision for water(()) and  
18 sewerage((~~, parks and recreation areas, sites for schools and~~  
19 ~~schoolgrounds and other public requirements~~)); to provide for proper

1 ingress and egress; to provide for the expeditious review and approval  
2 of proposed subdivisions which conform to zoning standards (~~and local~~  
3 ~~plans and policies~~); to adequately provide for the housing and  
4 commercial needs of the citizens of the state; and to require uniform  
5 monumenting of land subdivisions and conveyancing by accurate legal  
6 description.

7       **Sec. 2.** RCW 58.17.020 and 1995 c 32 s 2 are each amended to read  
8 as follows:

9       As used in this chapter, unless the context or subject matter  
10 clearly requires otherwise, the words or phrases defined in this  
11 section shall have the indicated meanings.

12       (1) "Subdivision" is the division or redivision of land into  
13 (~~five~~) ten or more lots, tracts, parcels, sites or divisions for the  
14 purpose of sale, lease, or transfer of ownership, except as provided in  
15 subsection (6) of this section.

16       (2) "Plat" is a map or representation of a subdivision, showing  
17 thereon the division of a tract or parcel of land into lots, blocks,  
18 streets and alleys or other divisions and dedications.

19       (3) "Dedication" is the deliberate appropriation of land by an  
20 owner for any general and public uses, reserving to himself no other  
21 rights than such as are compatible with the full exercise and enjoyment  
22 of the public uses to which the property has been devoted. The  
23 intention to dedicate shall be evidenced by the owner by the  
24 presentment for filing of a final plat or short plat showing the  
25 dedication thereon; and, the acceptance by the public shall be  
26 evidenced by the approval of such plat for filing by the appropriate  
27 governmental unit.

28       A dedication of an area of less than two acres for use as a public  
29 park may include a designation of a name for the park, in honor of a  
30 deceased individual of good character.

31       (4) "Preliminary plat" is a neat and approximate drawing of a  
32 proposed subdivision showing the general layout of streets and alleys,  
33 lots, blocks, and other elements of a subdivision consistent with the  
34 requirements of this chapter. The preliminary plat shall be the basis  
35 for the approval or disapproval of the general layout of a subdivision.

36       (5) "Final plat" is the final drawing of the subdivision and  
37 dedication prepared for filing for record with the county auditor and

1 containing all elements and requirements set forth in this chapter  
2 (~~and in local regulations adopted under this chapter~~)).

3 (6) "Short subdivision" is the division or redivision of land into  
4 (~~four~~) nine or fewer lots, tracts, parcels, sites or divisions for  
5 the purpose of sale, lease, or transfer of ownership(~~(:—PROVIDED,~~  
6 ~~That)~~). The legislative authority of (any) every county, city, or  
7 town (may) shall by local ordinance increase to nine the number of  
8 lots, tracts, or parcels to be regulated as short subdivisions (~~to a~~  
9 ~~maximum of nine~~)).

10 (7) "Binding site plan" means a drawing to a scale specified by  
11 local ordinance which: (a) Identifies and shows the areas and  
12 locations of all streets, roads, improvements, utilities, open spaces,  
13 and any other matters specified by local regulations; (b) contains  
14 inscriptions or attachments setting forth such appropriate limitations  
15 and conditions for the use of the land as are established by the local  
16 government body having authority to approve the site plan; and (c)  
17 contains provisions making any development be in conformity with the  
18 site plan.

19 (8) "Short plat" is the map or representation of a short  
20 subdivision.

21 (9) "Lot" is a fractional part of divided lands having fixed  
22 boundaries, being of sufficient area and dimension to meet minimum  
23 zoning requirements for width and area. The term shall include tracts  
24 or parcels.

25 (10) "Block" is a group of lots, tracts, or parcels within well  
26 defined and fixed boundaries.

27 (11) "County treasurer" shall be as defined in chapter 36.29 RCW or  
28 the office or person assigned such duties under a county charter.

29 (12) "County auditor" shall be as defined in chapter 36.22 RCW or  
30 the office or person assigned such duties under a county charter.

31 (13) "County road engineer" shall be as defined in chapter 36.40  
32 RCW or the office or person assigned such duties under a county  
33 charter.

34 (14) "Planning commission" means that body as defined in chapters  
35 36.70, 35.63, or 35A.63 RCW as designated by the legislative body to  
36 perform a planning function or that body assigned such duties and  
37 responsibilities under a city or county charter.

38 (15) "County commissioner" shall be as defined in chapter 36.32 RCW  
39 or the body assigned such duties under a county charter.

1       **Sec. 3.** RCW 58.17.030 and 1974 ex.s. c 134 s 1 are each amended to  
2 read as follows:

3       Every subdivision shall comply with the provisions of this chapter.  
4 Every short subdivision as defined in this chapter shall comply with  
5 ~~((the provisions of any local regulation adopted pursuant to))~~ RCW  
6 58.17.060.

7       **Sec. 4.** RCW 58.17.033 and 1987 c 104 s 2 are each amended to read  
8 as follows:

9       (1) A proposed division of land, as defined in RCW 58.17.020, shall  
10 be considered under the subdivision or short subdivision ~~((ordinance,))~~  
11 and zoning ~~((or other land use control))~~ ordinances~~((,))~~ in effect on  
12 the land at the time a fully completed application for preliminary plat  
13 approval of the subdivision, or short plat approval of the short  
14 subdivision, has been submitted to the appropriate county, city, or  
15 town official.

16       (2) The requirements for a fully completed application ~~((shall be  
17 defined))~~ adopted by local ordinance are limited to submission  
18 procedures.

19       (3) The limitations imposed by this section shall not restrict  
20 conditions imposed under chapter 43.21C RCW.

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

23       A city, town, or county may adopt by ordinance procedures for the  
24 divisions of land by use of a binding site plan as an alternative to  
25 the procedures required by this chapter. The ordinance shall be  
26 limited and only apply to one or more of the following: (1) The use of  
27 a binding site plan to divisions for sale or lease of commercially or  
28 industrially zoned property as provided in RCW 58.17.040(4); (2)  
29 divisions of property for lease as provided for in RCW 58.17.040(5);  
30 and (3) divisions of property as provided for in RCW 58.17.040(7).  
31 Such ordinance may apply the same or different requirements and  
32 procedures to each of the three types of divisions and shall provide  
33 for the alteration or vacation of the binding site plan, and may  
34 provide for the administrative approval of the binding site plan.  
35 However, such an ordinance may not impose requirements or procedures  
36 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. 6.** 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 cannot 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 NEW SECTION. Sec. 7. A new section is added to chapter 58.17 RCW  
26 to read as follows:

27 This chapter does not apply to the creation of a condominium  
28 pursuant to either chapter 64.32 or 64.34 RCW unless a division of land  
29 will result from subjecting a portion of a parcel or tract of land to  
30 chapter 64.32 or 64.34 RCW, in which event this chapter only applies to  
31 the division of land into the portions being made and not being made a  
32 part of the condominium, and shall not apply to the creation of a  
33 condominium within any such portion. In the event of any conflict  
34 between the provisions of this chapter and chapter 64.32 or 64.34 RCW,  
35 then chapter 64.32 or 64.34 RCW controls. "Subjecting a portion of a  
36 parcel or tract of land to chapter 64.32 or 64.34 RCW" means:  
37 Recording pursuant to either chapter 64.32 or 64.34 RCW a condominium  
38 declaration and survey map and plans in which the land being made a

1 part of the condominium upon such recording is a portion of such parcel  
2 or tract and the remaining portion of such parcel or tract is not being  
3 made a part of the condominium upon such recording; as a result of such  
4 recording, such a parcel or tract is divided into a portion being made,  
5 and a portion not being made a part of the condominium; such portions  
6 of the parcel or tract could not each legally be sold, transferred, or  
7 leased to two different transferees without such division first having  
8 satisfied the requirements of this chapter. This section applies to  
9 all condominiums created under either chapter 64.32 or 64.34 RCW  
10 regardless of the date on which the condominium was created.

11 **Sec. 8.** RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each  
12 amended to read as follows:

13 (1) The legislative body of a city, town, or county shall adopt  
14 (~~regulations and~~) procedures(~~(7)~~) and appoint administrative  
15 personnel for the summary approval of short plats and short  
16 subdivisions or alteration or vacation thereof. When an alteration or  
17 vacation involves a public dedication, the alteration or vacation shall  
18 be processed as provided in RCW 58.17.212 or 58.17.215. Such  
19 (~~regulations~~) procedures shall be adopted by ordinance and shall  
20 provide that a short plat and short subdivision may be approved only if  
21 written findings that are appropriate, as provided in RCW 58.17.110,  
22 are made (~~by the administrative personnel, and may contain wholly~~  
23 ~~different requirements than those governing the approval of preliminary~~  
24 ~~and final plats of subdivisions~~), and may require surveys and  
25 monumentations and shall require filing of a short plat, or alteration  
26 or vacation thereof, for record in the office of the county auditor:  
27 PROVIDED, That (~~such regulations must contain a requirement that~~)  
28 land in short subdivisions may not be further divided in any manner  
29 within a period of five years without the filing of a final plat,  
30 except that when the short plat contains fewer than (~~four~~) nine  
31 parcels, nothing in this section shall prevent the owner who filed the  
32 short plat from filing an alteration within the five-year period to  
33 create up to a total of (~~four~~) nine lots within the original short  
34 plat boundaries: PROVIDED FURTHER, That such (~~regulations~~)  
35 procedures are not required to contain a penalty clause as provided in  
36 RCW 36.32.120 and may provide for wholly injunctive relief.



1 An ordinance requiring a survey shall require that the survey be  
2 completed and filed with the application for approval of the short  
3 subdivision.

4 (2) Cities, towns, and counties shall include in their short plat  
5 ~~((regulations and))~~ procedures pursuant to subsection (1) of this  
6 section provisions for considering sidewalks and other planning  
7 features that assure safe walking conditions for students who walk to  
8 and from school.

9 **Sec. 9.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read  
10 as follows:

11 (1) The city, town, or county legislative body shall inquire into  
12 the public use and interest proposed to be served by the establishment  
13 of the subdivision ~~((and dedication))~~. It shall determine: (a) If  
14 appropriate provisions are made for ~~((, but not limited to,))~~ the public  
15 health ~~((,))~~ and safety, ~~((and general welfare,))~~ for ~~((open spaces,))~~  
16 drainage ways, streets or roads, alleys, other public ways, transit  
17 stops, potable water supplies, and sanitary wastes, ~~((parks and  
18 recreation, playgrounds, schools and schoolgrounds,))~~ and shall  
19 consider ~~((all other relevant facts, including))~~ sidewalks and other  
20 planning features that assure safe walking conditions for students who  
21 only walk to and from school; and (b) whether the public interest will  
22 be served by the subdivision ~~((and dedication))~~.

23 (2) A proposed subdivision ~~((and dedication))~~ shall not be approved  
24 unless the city, town, or county legislative body makes written  
25 findings that: (a) Appropriate provisions are made for the public  
26 health ~~((,))~~ and safety ~~((, and general welfare))~~ and for such ~~((open  
27 spaces,))~~ drainage ways, streets or roads, alleys, other public ways,  
28 transit stops, potable water supplies, sanitary wastes, ~~((parks and  
29 recreation, playgrounds, schools and schoolgrounds))~~ and ~~((all other  
30 relevant facts, including))~~ sidewalks and other planning features that  
31 assure safe walking conditions for students who only walk to and from  
32 school; and (b) the public use and interest will be served by the  
33 platting of such subdivision ~~((and dedication))~~. If it finds that the  
34 proposed subdivision ~~((and dedication))~~ makes such appropriate  
35 provisions and that the public use and interest will be served, then  
36 the legislative body shall approve the proposed subdivision ~~((and  
37 dedication))~~. ~~((Dedication of land to any public body,))~~ Provision of  
38 public improvements to serve the subdivision ~~((, and/or impact fees~~

1 ~~imposed under RCW 82.02.050 through 82.02.090~~) may be required as a  
2 condition of subdivision approval. Dedications shall be clearly shown  
3 on the final plat. No dedication(~~(τ)~~) or provision of public  
4 improvements(~~(τ, or impact fees imposed under RCW 82.02.050 through~~  
5 ~~82.02.090)~~) shall be allowed that constitutes an unconstitutional  
6 taking of private property. The legislative body shall not as a  
7 condition to the approval of any subdivision require a release from  
8 damages to be procured from other property owners.

9 (3) If the preliminary plat includes a dedication of a public park  
10 with an area of less than two acres and the donor has designated that  
11 the park be named in honor of a deceased individual of good character,  
12 the city, town, or county legislative body must adopt the designated  
13 name.

14 **Sec. 10.** RCW 58.17.150 and 1983 c 121 s 4 are each amended to read  
15 as follows:

16 Each preliminary plat submitted for final approval of the  
17 legislative body shall be accompanied by the following agencies'  
18 recommendations for approval or disapproval:

19 (1) Local health department or other agency furnishing sewage  
20 disposal and supplying water as to the adequacy of the proposed means  
21 of sewage disposal and water supply;

22 (2) Local planning agency or commission, charged with the  
23 responsibility of reviewing plats and subdivisions, as to compliance  
24 with all terms of the preliminary approval of the proposed plat  
25 subdivision (~~(or dedication)~~);

26 (3) City, town or county engineer.

27 Except as provided in RCW 58.17.140, an agency or person issuing a  
28 recommendation for subsequent approval under subsections (1) and (3) of  
29 this section shall not modify the terms of its recommendations without  
30 the consent of the applicant.

31 **Sec. 11.** RCW 58.17.195 and 1981 c 293 s 14 are each amended to  
32 read as follows:

33 No plat or short plat may be approved unless the city, town, or  
34 county makes a formal written finding of fact that the proposed  
35 subdivision or proposed short subdivision is in conformity with any  
36 applicable zoning ordinance (~~(or other land use controls which may~~  
37 ~~exist)~~).

1       **Sec. 12.** RCW 58.17.200 and 1969 ex.s. c 271 s 20 are each amended  
2 to read as follows:

3       Whenever any parcel of land is divided into five or more lots,  
4 tracts, or parcels of land and any person, firm, or corporation or any  
5 agent of any of them sells or transfers, or offers or advertises for  
6 sale or transfer, any such lot, tract, or parcel without having a final  
7 plat of such subdivision or a short plat or short subdivision filed for  
8 record, the prosecuting attorney shall commence an action to restrain  
9 and enjoin further subdivisions or sales, or transfers, or offers of  
10 sale or transfer and compel compliance with all provisions of this  
11 chapter. The costs of such action shall be taxed against the person,  
12 firm, corporation, or agent selling or transferring the property.

13       **Sec. 13.** RCW 58.17.900 and 1969 ex.s. c 271 s 33 are each amended  
14 to read as follows:

15       All ordinances and resolutions enacted at a time prior to the  
16 passage of this chapter by the legislative bodies of cities, towns, and  
17 counties and which are in substantial compliance with the provisions of  
18 this chapter, shall be construed as valid and (~~may~~) shall be further  
19 amended to include new provisions and standards as are authorized in  
20 general law.

--- END ---