

CHAPTER 9.08

PLATTING AND SUBDIVISION

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9.08.010 TITLE. This chapter shall be known as the Benton County Subdivision Code.
[Ord. 102 (1974) § 1]

9.08.010A PURPOSE. The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and schoolgrounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of the citizens of the state; and to require uniform monumenting of land subdivisions and conveyancing by accurate legal description.
[Ord. 474 (2010) § 2]

9.08.011 APPLICABILITY. The provisions of this chapter shall apply to every subdivision of a lot, tract, or parcel of land for the purpose of sale or lease, except as provided in BCC 9.08.012. [Ord. 102 (1974) § 1.01; Ord. 474 (2010) § 3]

9.08.012 EXEMPTIONS. The provisions of this chapter shall not apply to:

(a) A cemetery or burial plot while used for that purpose.

(b) Divisions of land into lots, tracts, or parcels with no dedication of land to a public body; provided, the smallest lot created by the division is twenty (20) acres or more in area or is defined in the instrument of division as one-thirty second (1/32) of a section of land or larger. For the purpose of computing the size of any lot under this subsection, if a lot borders on a street or road the lot size shall include that area which would be bounded by the center line of the road or street.

(c) Any parcel or subdivision filed as a short subdivision in accordance with the provisions of Chapter 9.04 BCC.

(d) 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 if the County has approved a site plan for the use of the land in accordance with local regulations.

(e) Any division of land made by testamentary provision or the laws of descent.

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which (i) does not create any additional lot, tract, parcel, or site; and (ii) does not result in any non-conforming lot, tract, parcel, or site with respect to lot area, lot depth, setbacks or lot coverage requirements set forth in Title 11 of the Benton County Code; and, (iii) complies with the provisions of Ordinance 473.

(g) A division for the purpose of leasing land for facilities providing personal wireless services so long as such land is used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures; and

(h) A division of land into lots or tracts of less than three (3) acres each that is recorded in accordance with Chapter 58.09 RCW and appropriate use restrictions are imposed to limit the uses of such lots or tracts to the establishment of sites for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of Benton County. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed. [Ord. 102 (1974) § 1.02; Ord. 115 (1976) § 2; Ord. 128 (1977) § 2; Ord. 211 (1987) § 2; Ord. 474 (2010) § 4]

9.08.013 ADMINISTRATOR. The Administrator shall be responsible for administering the subdivision regulations within the unincorporated area of Benton County. [Ord. 102 (1974) § 1.03; Ord. 474 (2010) § 5]

9.08.014 PLANNING COMMISSION. No plat shall be presented for filing until it has been reviewed for recommendation for

preliminary and final approval by the Benton County Planning Commission. The Benton County Planning Commission may recommend approval or denial of each plat as deemed appropriate considering the factors identified by state law, including but not necessarily limited to RCW 58.17.100 through RCW 58.17.120.
[Ord. 102 (1974) § 1.05; Ord. 474 (2010) § 6]

9.08.015 CONFORMANCE WITH STANDARDS AND POLICIES. All installation of improvements required in connection with the approval of a plat, including those serving a subdivision but located outside the subdivision, shall be installed in conformance with all applicable ordinances, codes and policies adopted by Benton County.
[Ord. 102 (1974) § 1.06; Ord. 474 (2010) § 7]

9.08.020 DEFINITIONS. Whenever the following words and phrases appear in this chapter 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" means the Benton County Planning Manager or his designated representative who shall be responsible for the administration of the subdivision chapter.

(2) "Alley" means a strip of land no more than sixteen (16) feet in width that abuts a public road, is dedicated to public use, and provides vehicular and pedestrian access to the rear portion of the properties.

(3) "Block" means a piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, park, etc., or a combination thereof.

(4) "Board of County Commissioners" means the Board of County Commissioners of Benton County, Washington.

(5) "Comprehensive Plan" means that plan or plans adopted by the Benton County Planning Commission and the Board of County Commissioners indicating the general locations recommended for major arterials, parks, streets, public buildings, other public improvements, and zoning districts.

(6) "County" means the County of Benton located in the State of Washington.

(7) "Cul-de-sac" means a street closed at one end with such closed end of sufficient size to allow a fire truck to turn around.

(8) "Dedication" means the deliberate appropriation of land by its owner for any general or public uses, reserving unto 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 evidenced by an owner's presentment for filing of a final plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the execution of the final plat by the appropriate governmental unit.

(9) "Department" means the Benton County Planning Department.

(10) "Developer," "Subdivider," or "Platter" means any person, firm, or corporation undertaking the subdivision or resubdivision of any lot, tract, or parcel of land.

(11) "Discrepancy" means a boundary hiatus or gap; an overlapping boundary; or, a physical appurtenance which indicates encroachment, lines of possession, or conflict of title.

(12) "Easement" means a grant by the property owner to the public, a corporation, or persons of the use of a strip of land for a specific purpose and on or over which the owner will not erect any permanent improvements which serve to interfere with the free exercise of that right.

(13) "Final Approval" means that approval given by the County Planning Commission, the County Engineer, or designee, and the

Board of County Commissioners which authorizes the recording of the plat, subdivision, or dedication.

(14) "Final Plat" means the plan of a plat, subdivision or dedication of any portions thereof prepared for filing for record by the County Auditor and containing those elements and requirements as set forth for final plats in these regulations.

(15) "Hazardous Product" means petroleum, petroleum products, anhydrous ammonia, carbon dioxide, natural gas, flammable gas, or gas that is toxic or corrosive.

(16) "Improvements" means street grading or gravelling, permanent street and corner monuments, street pavement, curbs and sidewalks, pedestrian ways, water mains, and storm and sanitary sewers.

(17) "Parcel" means an area of land having fixed boundaries created in accordance with the Benton County Code and/or state law. The term shall include lots or tracts.

(18) "Pedestrian Way" means a right-of-way dedicated to the public use as a footpath which cuts across a block to facilitate pedestrian movement and access to adjacent streets and properties.

(19) "Planning Commission" means the Benton County Planning Commission.

(20) "Preliminary Plat" means a neat and approximate drawing of the proposed subdivision showing the general layout of streets, blocks, lots and other elements of a subdivision consistent with the requirements of this chapter and which shall be the basis for the approval or disapproval of the general layout of the subdivision.

(21) "Private Road" means a road not dedicated to nor maintained by Benton County.

(22) "Public Road" means any improved road maintained by a city, the state, or a county at public expense.

(23) "Registered Engineer" means an individual, licensed by the State of Washington to practice civil engineering.

(24) "Short Plat" means the map or representation of a short subdivision.

(25) "Short Subdivision" means the division or redivision of land into four (4) or fewer lots, tracts, or parcels.

(26) "Street Dead-end" means a street open at one end and not provided with a turn-around at the closed end.

(27) "Street - Marginal" or "Street - Frontal Access" means an access street which is generally parallel to and adjacent to arterial streets, limited access highways, or railroad rights-of-way and which provides direct access to abutting properties and protection to through traffic.

(28) "Street - Local Residential," or "Street - Minor" means a public way of limited continuity which serves or is intended to serve the local traffic needs of the immediate vicinity.

(29) "Subdivision" means every division or redivision of any land within unincorporated Benton County for the purpose of sale, lease, or transfer of ownership that does not fall within the definition of short subdivision.

(30) "Surveyor," "Land Surveyor," or "Registered Land Surveyor" means a professional land surveyor registered in the State of Washington in accordance with Chapter 18.43 RCW, as now in effect or hereafter amended.

(31) "Urban growth area" means an area designated as such by the Board of County Commissioners pursuant to RCW 36.70A.110, as now in effect or hereafter amended.
[Ord. 102 (1974) § 2.01; Ord. 211 (1987) § 3; Ord. 394 (2004) § 1; Ord 474 (2010) § 8]

9.08.025 DISCREPANCY DISCLOSURES. When a survey of a proposed subdivision reveals a discrepancy, the discrepancy shall be noted on the face of the final plat. Any discrepancy shall be disclosed in a title report prepared by the title insurer and issued after the filing of the final plat.
[Ord. 211 (1987) § 1]

[**NOTE:** This chapter is continued on the following page.]

9.08.027 PRELIMINARY SUBDIVISION PRE-APPLICATION. Any person(s) proposing to subdivide a parcel of land pursuant to this chapter may request from the Benton County Planning Department a pre-application meeting. The purpose of the pre-application meeting is to enable the applicant to obtain the input of the affected county departments as to applicable standards and provisions of this chapter and other state and county regulations and how they relate to the proposed subdivision.
[Ord 474 (2010) § 9]

9.08.030 PRELIMINARY PLAT - APPLICATION. Every application for preliminary plat consideration shall include the following:

(a) A complete preliminary plat application in the form provided by the Department.

(b) Forty (40) copies of the preliminary plat map prepared in accordance with the provisions of BCC 9.08.034 and one (1) eleven (11) inch by seventeen (17) inch copy of the preliminary plat map.

(c) A non-refundable fee as established by resolution of the Board of Benton County Commissioners.

(d) A title certificate from a title company that is not over two (2) months old showing the names and addresses of anyone with an interest in the land being subdivided. The title certificate shall show all encumbrances on the property proposed for division.

(e) Written verification from the Benton-Franklin Health Department that the applicant has provided all necessary information to enable the health department to review and make recommendations on the proposed site.

(f) A completed environmental checklist as referenced in WAC 197-10-365, the State Environmental Policy Act (S.E.P.A.).

(g) A preliminary hydrology report with information required by the Benton County Department of Public Works hydrology manual dated July 1979; and,

(h) For properties within one-hundred and fifty (150) feet of a hazardous product transmission pipeline as reflected by the County's Geographic Information Systems, written documentation that the owner/operator of the pipeline has been contacted by the applicant, is aware of the project specifics, and has or does not have concerns that need to be considered in the project review.

(i) All additional materials required in writing by the Department.

The Administrator shall not review any preliminary plat nor establish a hearing before the Planning Commission until all of the above elements are submitted. An application for a preliminary plat containing all of the above shall be deemed a fully completed application for purposes of Title 17 BCC and RCW 58.17.033. [Ord. 102 (1974) § 3.01; Ord. 115 (1976) § 3; Ord. 125 (1977) § 2; Ord. 125 (1977) § 3; Ord. 185 (1985) § 7; Ord. 211 (1987) § 4; Ord. 287 (1996) § 1; Ord. 474 (2010) § 10]

9.08.032 PUBLIC HEARING. Upon receipt of a complete application, the Administrator shall establish a file number for the subdivision. The Planning Commission shall conduct an open record hearing on the preliminary plat proposal for the purpose of taking testimony, hearing evidence, considering the facts relevant to the proposal, and evaluating the proposal for consistency with the Benton County Code and Comprehensive Plan. Notice of the Planning Commission hearing shall be given as follows:

(a) Publication of one or more legal notices at least ten (10) days prior to the hearing in a paper of general circulation in the County.

(b) By sending copies of the notice by U. S. mail not less than ten (10) days prior to the date of the hearing to all owners of parcels within the boundaries of the plat, as identified on the title certificate, and to all owners of properties within three hundred (300) feet of the exterior boundaries of the proposed subdivision, as identified by the records of the County Assessor.

If the owner of the real property that is proposed to be subdivided owns another parcel or parcels adjacent to the parcel(s) at issue, notification shall be mailed to owners of real property located within three hundred (300) feet of any portion of such adjacent parcels as well. If the property proposed for subdivision is located within an Urban Growth Area for a city, that city shall be notified. The notice shall also be given to all cities located within one (1) mile of the proposed subdivision. If the location of a proposed subdivision is adjacent to the right-of-way of a state highway or within two (2) miles of the boundary of a state or municipal airport, the notice shall be given to the Washington State Department of Transportation. All hearing notices shall include a description of the location of the proposed subdivision, which may be in the form of a legal description, a vicinity map or a written description other than a legal description. Failure to send notice to a person specified in this chapter or failure of a person to receive the notice shall not invalidate any proceedings in connection with the application.

(c) By U.S. mail to any other interested party or agency as determined by the Administrator.
[Ord. 102 (1974) § 3.02; Ord. 125 (1977) § 4; Ord. 287 (1996) § 2; Ord. 474 (2010) § 11]

9.08.033 REVIEW BY OTHER AGENCIES. The Administrator shall use his or her best efforts to forward copies of the preliminary plat to other departments, municipalities, utility companies, owners or operators of a hazardous product transmission line located within one hundred and fifty (150) feet of any part of the plat, and public agencies determined by the Administrator to have an interest in the subdivision. All reviewing agencies shall have fifteen (15) days to forward their comments to the Administrator. Failure to report within (15) days from the date of transmittal shall be interpreted to indicate that the proposed subdivision will not adversely affect the agency or utility involved.
[Ord. 102 (1974) § 3.03; Ord. 474 (2010) § 12]

9.08.034 PRELIMINARY PLAT. The preliminary plat shall be drawn on a standard size sheet of paper twenty-four (24) inches x thirty-six (36) inches to a scale not to exceed one hundred (100) feet to the inch (unless specifically approved by the Administrator) and shall include the following information:

(a) General

(1) Proposed name of the subdivision. (Names proposed shall not closely resemble those of existing subdivisions and given names or initials shall not be used with surnames in a plat name.)

(2) A legal description of the property showing location of boundary lines in relation to section, quarter-section, quarter-quarter section lines and any adjacent corporate limits, describing the property clearly and precisely.

(3) Names, addresses and telephone numbers of the developer and engineer or surveyor.

(4) Name, address and telephone of an individual designated by the applicant to act as a contact person for all information and correspondence relating to the preliminary plat.

(5) Date and north arrow.

(6) Contour lines, not to exceed ten (10) foot intervals to adequately 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 County Engineer. Those areas within the land to be subdivided having a slope of fifteen (15) percent or greater shall be indicated on the preliminary plat.

(7) A vicinity sketch, at a legible scale, showing the relation of the proposed plat to existing schools, parks, shopping centers, and so forth shall accompany the preliminary plat application.

(8) Tabular Summary showing the following information:

Land Use Summary

Gross acreage
Net lot acreage
Total number of lots
Average lot size
Minimum lot size
Average density
Present zoning
Type of water service
Type of sewerage
Area of public roads

(9) Indication on face of plat that it is a preliminary plat.

(b) Existing Development

(1) The location of permanent buildings, wells (including wells within one-hundred (100) feet of the proposed subdivision), water courses, bodies of water, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over and under the land proposed to be subdivided.

(2) Names of adjacent subdivisions and the location and names of all adjacent streets, as well as, names of adjacent property owners to the subdivision.

(3) The location, name, right-of-way widths, and type of surfacing of all streets and alleys located within and adjacent to the land to be subdivided.

(4) The location of any existing walks, curbs, gutters, culverts, buried conduits and subsurface drains on or within 100 feet of the parcel(s) to be subdivided.

(5) Approximate width, location and purpose of all existing easements on or within 100 feet of the parcel(s) to be subdivided.

(6) Delineation of the location and approximate boundaries of any natural features such as rivers, streams, drainageways, one hundred (100) year floodplain and floodways as shown on official FEMA maps, slopes in excess of fifteen (15) percent, and wetlands within or adjacent to the land to be subdivided.

(7) Existing uses of parcel(s) to be subdivided, including the location and use of all existing structures and wells and which such structures and wells will remain on the property after platting.

(c) Proposed Development

(1) Location, width and names of proposed streets, alleys, pedestrian ways, and all necessary easements, including but not limited to easements for all utilities, watercourses, drainage ways, channels, or streams that traverse the subdivision with a width determined by the County Engineer for all easements for watercourses, drainage ways, channels or streams.

(2) Indication of any portion or portions of the plat for which successive or separate final plats are to be filed.

(3) Layout, number, and approximate dimensions of lots and blocks, the size of each lot in acres and square feet, and any structural setback requirements identified in Title 15 BCC. Lot sizes shall be in compliance with the size prescribed by the applicable zoning code.

(4) Location and size of all parks, playgrounds, church sites, or other special uses of land considered for dedication, or reservation by deed or covenant, for special use or for the use of all property owners within the subdivision and any conditions of such dedication or reservation.

(5) Indication of any lots of which a use other than residential is proposed by the developer.

(d) Supplemental Information

Two (2) copies of proposed street grades may be required by the County Engineer where, in his or her opinion, conditions warrant them.

[Ord. 102 (1974) § 3.04; Ord. 125 (1977) § 5, Ord. 125 (1977) § 6, Ord. 125 (1977) § 7; Ord. 125 (1977) § 8; Ord. 125 (1977) § 9; Ord. 474 (2010) § 13]

9.08.035 OPEN RECORD HEARING. The open record hearing on the proposed subdivision shall be held before the Planning Commission. The Planning Commission shall consider all relevant information, including but not limited to:

(a) The report of the Planning Department.

(b) Any written comments or concerns expressed by other reviewing agencies.

(c) Oral and written testimony from persons present at the hearing.

If the Planning Commission finds that additional information is needed, the Planning Commission may continue the hearing for up to thirty-five (35) days or such longer period as agreed to by the applicant and direct that the additional information be gathered. [Ord. 102 (1974) § 3.05; Ord. 474 (2010) § 14]

9.08.035A CONSIDERATION OF PRELIMINARY SUBDIVISION. After conducting the open record hearing and considering all information presented, the Planning Commission shall consider a recommendation to the Board of County Commissioners regarding whether the preliminary plat be approved, approved with conditions, or denied as proposed. Prior to making any recommendation for approval, the Planning Commission shall make the following written findings:

(a) That the proposed subdivision conforms with the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;

(b) That the County Engineer, or designee, has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

(c) That the proposed subdivision meets the requirements of this chapter;

(d) That the public interest will be served by the proposed division and dedication;

(e) That appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, schoolgrounds, and sidewalks;

(f) That the Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and,

(g) If any portion of the proposed subdivision is located within an irrigation district, that the applicant has compiled with RCW 58.17.310 as it now exists or is hereafter amended.
[Ord. 474 (2010) § 15]

9.08.035B DISAPPROVAL DUE TO FLOOD, INUNDATION OR WETLAND CONDITIONS. Pursuant to RCW 58.17.120 as it now exists or is hereafter amended, the Planning Commission shall consider the physical characteristics of a proposed subdivision site and may recommend disapproval of the proposed subdivision because of flood, inundation or wetland conditions. If consistent with Title 15 BCC, construction of protective improvements may be required as a

condition of approval and such improvements shall be noted on the final plat. No preliminary plat shall be approved that includes land situated in a flood control zone as provided in Chapter 86.16 RCW, as it now exists or is hereafter amended, without the prior written consent of the Washington State Department of Ecology.
[Ord. 474 (2010) § 16]

9.08.035C PLANNING COMMISSION RECOMMENDATION FOR A PRELIMINARY SUBDIVISION. The Planning Commission's written record, including its findings, conclusions and recommendation, if any, shall be submitted to the Benton County Board of Commissioners no later than fourteen (14) days from the date of the execution of the written recommendation by the Chairman or Chairman Pro Tem of the Planning Commission. The Administrator shall forward the Planning Commission's recommendation to the Board of County Commissioners for the Board to consider the application.
[Ord. 474 (2010) § 17]

9.08.036 PRELIMINARY PLAT APPROVAL. (a) Upon the Board of County Commissioners receipt of the Planning Commission's written record and recommendation, if any, the Administrator shall set a date for a closed record hearing for the Board to consider the application. Following its closed record hearing, the Board of County Commissioners may adopt, modify or reject the recommendation of the Planning Commission. The decision of the Board of County Commissioners to approve, conditionally approve or deny the preliminary plat shall be based on the written record prepared by the Planning Commission. The decision of the Board of County Commissioners shall be in writing and effective upon its adoption.

(b) The Board of County Commissioners' decision to approve, conditionally approve or deny the preliminary plat shall be made within ninety (90) days of the County's receipt of the complete preliminary plat application, except as follows:

(1) If an Environmental Impact Statement is required, the ninety (90) day period shall not include the time spent preparing and circulating the statement;

(2) If the plat is located in a flood control zone as provided in Chapter 86.16 RCW, the ninety (90) days shall be extended if necessary until the project receives written approval from the Department of Ecology; or

(3) If the applicant consents in writing to an extension of such ninety (90) day period.

A copy of the resolution, along with the findings and conclusions, indicating the action of the Board of County Commissioners shall promptly be sent to the Planning Department, the County Engineer, the County Assessor, the Benton-Franklin Health District, the applicant, the applicant's surveyor, to any person who submitted substantive comments on the application and to any person who, prior to the rendering of the decision, requested notice of the decision.

(c) The Board of County Commissioners, if it approves the preliminary plat, authorizes the applicant to proceed with the preparation of the final plat in accordance with all the requirements of this chapter and any conditions of preliminary plat approval imposed by the Board of County Commissioners.

(d) Preliminary plats approved prior to April 19, 2004 shall be effective for twelve (12) months from the date of approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the twelve-month period unless:

(1) A final plat has been submitted, reviewed and signed by the Chairman of the Planning Commission and road and utility plans reviewed and approved by the County Engineer, or

(2) A time extension has been applied for and granted by the Planning Commission.

(e) Except as otherwise provided in subsection (f) below, preliminary plats approved on or after April 19, 2004 shall be effective for five (5) years from the date of approval by the Board of County Commissioners. Such preliminary plats shall be null and

void after the five (5) year period unless the final plat has been submitted in accordance with BCC 9.08.040 within the five (5) year period.

(f) Preliminary plats for which complete applications are submitted between April 19, 2004 and December 31, 2014 and which are approved shall be effective for seven (7) years from the date of such approval by the Board of County Commissioners. Such preliminary plats shall be null and void after the seven (7) year period unless the final plat has been submitted in accordance with BCC 9.08.040 within the seven (7) year period.

[Ord. 102 (1974) § 3.06; Ord. 125 (1977) § 10; Ord. 394 (2004) § 2; Ord. 474 (2010) § 18; Ord. 498 (2011) § 1]

9.08.037 LARGE DEVELOPMENTS. (a) Plats Approved On or Before April 19, 2004. For preliminary plats approved as of April 19, 2004, the project may be final platted and developed in a number of units or divisions without submitting a preliminary plat for each unit provided that:

(1) Each unit is final platted in accordance with the approved preliminary plat. Substantial change from the approved plan shall cause a new preliminary plat to be filed.

(2) Each final plat unit is developed to allow for the systematic and logical extension of roads and utilities.

(3) The first unit shall be submitted for final plat within one (1) year of the date of approval of the preliminary plat. Each successive unit shall be submitted for final plat within twenty-four (24) months of the previous unit. If more than twenty-four (24) months elapses between any two final submittals, the Planning Commission shall first review the preliminary plat to determine if the conditions are still valid.

(4) Should the Planning Commission become aware of significant change in conditions which affect the plat, they may cause a new preliminary plat to be submitted.

(b) Plats Approved After April 19, 2004. To implement changes in state law and in order to discourage premature subdivision and the uneconomic improvement of land and streets, the following procedure is adopted to govern the phasing of final plats for preliminary plats approved after April 19, 2004.

When a developer or group of developers have in their control an area of land which they wish to plat, they may prepare a preliminary plat of the entire area of the development. Once the total preliminary plat is approved, the project may be final platted and developed in two or more phases provided that:

(1) Each phase is final platted in accordance with the provisions of BCC 9.08.045 and the provisions of preliminary plat approval; and

(2) Each final plat is developed to allow for the systematic and logical extension of roads and utilities; and

(3) No final plat for any phase may be submitted after the preliminary plat for the entire area of the development has expired pursuant to BCC 9.08.036.

[Ord. 102 (1974) § 3.07; Ord. 394 (2004) § 3; Ord. 474 (2010) § 19; Ord. 498 (2011) § 2]

9.08.038 AMENDMENTS TO PRELIMINARY PLATS. An approved preliminary plat may be amended prior to submission of a final plat in accordance with the following criteria and limitations. Such a request for amendment shall be submitted on a form provided by the Administrator. The Administrator shall determine whether to process a proposed amendment as a minor or major amendment.

(a) **Minor Amendments.** Minor amendments may only address changes to an approved preliminary plat that the Administrator determines fall within the scope of the original approval and do not have the likely potential to increase impacts to governmental agencies or surrounding properties.

(1) **General Requirements.** Any additions or expansions proposed through minor amendments that exceed the requirements

of this section shall be reviewed as a major amendment and shall be subject to current development regulations.

(2) Planning Commission Review. A copy of all applications and any pre-decision Department recommendation that exists shall be routed to the Planning Commission. The Planning Commission may provide comments to the Administrator regarding the preliminary plat amendment proposal.

(3) Required Written Findings and Determinations. The Administrator's written decision on a minor plat amendment shall include findings and conclusions, based on the record, to support the decision. A proposed minor plat amendment shall not be approved unless the Administrator makes written findings that:

- (i) The proposal does not result in a change of use of any proposed lot from what was identified in the original approval;
- (ii) There are no proposed changes to conditions of approval;
- (iii) Proposed changes to the proposal will not modify the intent of the original decision or result in increased storm water, traffic, open space, noise or any other type of impacts to the surrounding property owners;
- (iv) The perimeter boundary of the original site is not being increased;
- (v) The change does not increase the number of residential lots, residential units, or residential density;
- (vi) The proposed change does not increase the number of dwelling units on any lot created by the plat;
- (vii) The proposal does not reduce the designated buffers or open space set forth in the preliminary plat;

- (viii) Access points identified on the preliminary plat are not reduced, increased or significantly altered;
- (ix) The amendment will not negatively impact the future owners of the lots, tracts or parcels created by the subdivision; and,
- (x) The proposal does not reduce required setbacks.

(4) Approvals. After reviewing comments, if any, of the Planning Commission, the Administrator has the authority to approve or deny any proposed minor amendment and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan and other applicable County codes and state laws.

(b) Major Amendments. Any proposed amendment to an approved preliminary plat that is not considered minor by the Administrator shall constitute a major amendment. The following are required for all proposed amendments that are not considered minor amendments by the Administrator or that the Administrator elects to have considered under the criteria and limitations for major amendments.

(1) Open Record Hearing Required. The Department shall set a date for an open record hearing before the Planning Commission after all requests for additional information under BCC 9.08.030(i) have been satisfied and, if applicable, either a determination or a mitigated determination of non-significance, or an environmental impact statement, if required, has been issued pursuant to the State Environmental Policy Act (SEPA). The open record hearing shall follow the procedures set forth in BCC 9.08.032 and BCC 9.08.035.

(2) Other Land Use Actions. Any amendment that requires a discretionary permit other than those granted in conjunction with the original preliminary plat approval shall require the approval of such permit before or with the decision on the proposed major plat amendment.

(3) Written Findings and Determinations. The Planning Commission shall consider making a written recommendation and the Board of County Commissioners shall make the final decision on a proposed major amendment following the same procedure and the same criteria as for the initial decision to approve, conditionally approve or deny the preliminary plat. Additionally, the proposed preliminary plat, as amended by the proposed major change, shall not be approved unless the Board of Commissioners can and does make the written findings required for the approval of all preliminary plats.

(4) Approvals. The Board of County Commissioners has the authority to approve or deny any proposed major amendment and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan and other applicable County codes and state laws.

[Ord. 474 (2010) § 20]

9.08.040 FINAL PLAT - GENERAL REQUIREMENTS. (a) Developers shall submit to the Administrator all final plats prepared in accordance with the provisions of BCC 9.08.045 and the provisions of the preliminary plat approval.

(b) The following information shall be submitted to the Department in order to seek final plat approval:

(1) A completed final plat application form provided by the Department.

(2) One (1) Mylar and eight (8) copies of the final plat as specified in BCC 9.08.045, one eleven (11) inches by seventeen (17) inches reproducible copy of the Mylar and any required supplementary materials.

(3) Proof that road and utility plans prepared in accordance with the provisions of BCC 9.08.050 through BCC 9.08.054 have been prepared and submitted to the County Engineer.

(4) A title certificate dated no more than two (2) months from the date of submission, showing the names and addresses of all persons, firms or corporations who have ownership interest in any of the property being divided, the names of all persons, firms or corporations whose consent is necessary to dedicate land for public usage, and any easements or other encumbrances.

(5) Written verification from the Benton-Franklin Health District that it has reviewed the final plat and that the applicant has included all necessary information and notes on the final plat as directed by said District.

(6) Complete field and computation notes showing original or re-established corners with descriptions of them and actual traverse showing error of closure and method of balancing, and a sketch showing all distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) foot in ten thousand (10,000) feet.

(7) A digital format of the final plat that is compatible with the County's geographic information system.
[Ord. 102 (1974) § 4.01; Ord. 125 (1977) § 11; Ord. 287 (1996) § 3; Ord. 394 (2004) § 4; Ord. 474 (2010) § 21]

9.08.040A COMPLETE FINAL PLAT APPLICATION. After receiving an application for final plat approval, the Department shall review the application in accordance with BCC 17.10.090 to determine if the application is complete and contains all the information as required in BCC 9.08.040.
[Ord. 474 (2010) § 22]

9.08.040B FINAL PLAT REVIEW BY AGENCIES. (a) The Administrator shall forward copies of the final plat map to other County departments, the relevant municipality if the plat is located in an Urban Growth Area, and utility companies or public agencies determined to have an interest in the subdivision.

(b) All reviewing agencies shall have fourteen (14) days from the date of mailing to forward their comments to the Administrator.
[Ord. 474 (2010) § 23]

9.08.040C FINAL PLAT REVIEW BY ADMINISTRATOR. (a) The Administrator shall review the file and the final plat map to determine if:

(1) The final plat complies with the requirements of this title;

(2) The final plat is consistent with the approved preliminary plat;

(3) All changes and conditions imposed in connection with the approved preliminary plat approval have been made and complied with; and,

(4) The County Engineer has approved the road and utility plans.

(b) If the Administrator makes the affirmative determinations required above by subsection (a), he or she shall so inform the Chairman of the Planning Commission who, in turn, shall sign the final plat and authorize that it be forwarded to the Board of County Commissioners.

(c) Prior to scheduling the final plat before the Board of County Commissioners for approval at a public meeting, the signatures of the County Engineer, Planning Commission Chairman, County Assessor, County Treasurer and any applicable irrigation district must be on the final plat as required by BCC 9.08.046.
[Ord. 474 (2010) § 24]

9.08.043 BOARD OF COUNTY COMMISSIONERS' APPROVAL. (a) The Board of County Commissioners shall consider each final plat at a public meeting. The Administrator shall, in coordination with

Board of County Commissioners' staff, set the time, date and place for the meeting to review the following information:

(1) The original Mylar of the final plat complete with all signatures EXCEPT those of the Chairman of the Board and the County Auditor.

(2) An updated title certificate dated no more than two (2) months from the date the final plat was submitted to the Benton County Board of Commissioners, showing all persons and parties having an interest in the land being platted.

(3) The developers' provision for bond for improvements.

(4) Any other necessary certificates, bonds or endorsements.

(b) The Board of County Commissioners shall review the Administrator's recommendation and approve the final plat for recording if the following standards are met:

(1) The final plat is consistent with the preliminary plat;

(2) The final plat includes all of the information required by BCC 9.08.045;

(3) All changes and conditions imposed on the preliminary plat approved by the Board have been made and complied with; and

(4) All applicable requirements of the state law and this title have been satisfied.

(c) If the Board of County Commissioners determines that the above standards are met, the Chairman of the Board shall sign on the appropriate signature block on the face of the plat. If the Board of County Commissioners finds these standards have not been met, the Board shall deny the final plat and return it to the applicant

for correction. The Board's approval of the final plat shall constitute County acceptance of all dedications.
[Ord. 102 (1974) § 4.03; Ord. 125 (1977) § 13; Ord. 287 (1996) § 4; Ord. 394 (2004) § 5; Ord. 474 (2010) § 25]

9.08.044 RECORDING. The final plat shall be recorded with the Benton County Auditor after receiving final approval from the Board of County Commissioners.
[Ord. 102 (1974) § 4.04; Ord. 125 (1977) § 14]

9.08.045 FINAL PLAT REQUIREMENTS.

(a) Scale and sheet size - The final plat shall be drawn in permanent black ink on good quality Mylar with a scale of not more than one hundred (100) feet to the inch unless otherwise specifically approved by the Administrator. All plats shall be drawn on a standard sheet twenty-four (24) inches by thirty-six (36) inches. If the entire plat cannot be contained on one standard sheet, two (2) or more sheets shall be used. Each sheet shall have a title block in the lower right hand corner showing the name of the plat, the sheet number and the total number of sheets. Each sheet shall have a two (2) inch margin on the left side and a one-half (1/2) inch margin on all other sides.

(b) Map Information - Each final plat shall include an accurate map of the subdivided land, based upon a complete survey thereof and shall include the following information:

(1) Primary control points approved by the County Engineer and descriptions and ties to such control points, to which all angles, bearings, dimensions, and similar data on the plat shall be referred.

(2) The final plat shall be accompanied by complete field and computation notes showing original or re-established corners with descriptions of them and actual traverses showing error of closure and method of balancing, with sketch showing all

distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) foot in ten-thousand (10,000) feet.

(3) Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines or residential lots and other sites with accurate bearings, dimensions, deflection angles, complete curve data for street centerlines and property lines and other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curves to lot lines.

(4) Name and right-of-way width of each street and other rights-of-way or easements.

(5) Locations, dimensions, and purposes of each easement.

(6) Purpose for which sites, other than residential lots, are dedicated or reserved.

(7) Number to identify each parcel or lot.

(8) Location and description of all monuments.

(9) Reference to recorded plats of adjoining land by record name, date and number.

(10) Located on the bottom or right edge of each sheet of the final plat:

- (i) A title block identifying the business name of the firm and/or land surveyor that performed the survey;
- (ii) On every sheet of multiple sheets, an identification number, i.e., "sheet 1 of 5";

(iii) A County Auditor's Certificate that states:

"Filed for record at the request of _____ at _____ minutes past _____, this _____ day of _____, and recorded in Volume _____ of plats at page _____, records of Benton County, Washington.

Benton County Auditor

Fee Number

The Auditor's Certificate shall be on the first sheet of multiple sheets; however, space on each sheet of a multiple page final plat shall be provided for the Auditor's fee number, volume, and page numbers.

(iv) The surveyor's certificate on the first sheet of multiple sheets stating:

"I _____, Professional Land Surveyor, do hereby certify that the plat of _____ is based upon an actual survey of the above described property; that the distances, courses and angles are shown thereon correctly and that the monuments and lot corners have been set on the ground as shown on the plat."

Surveyor's Signature and seal

On each additional sheet, the seal and signature of the land surveyor and the date signed.

(c) General Information - In addition to the map or maps, every final plat shall contain the following written data:

- (1) Name of the subdivision.
- (2) The legal description of land contained within the subdivision.

(3) The date, north point and scale. In general, all plats shall be oriented on the paper with the north towards the upper edge of the sheet.

(4) The area of each lot within the subdivision shall be placed on the face of the plat or a separate sheet accompanying the plat showing lot acreage or square footage.

(5) A vicinity map showing the location of the plat.

[Ord. 102 (1974) § 4.05; Ord. 125 (1977) § 15; Ord. 474 (2010) § 26]

9.08.046 CERTIFICATES REQUIRED--FINAL PLAT. The following certificates shall be shown and all signatures affixed to a final plat shall be original signatures written in permanent black ink by the landowner's, the official involved or their designated representative:

- (a) County Engineer
- County Assessor
- County Treasurer
- Chairman of County Planning Commission
- Chairman of the Board of County Commissioners
- Public Utility District
- Owners certificate in the form set forth below in subsection (d).

Certificates, if any, required by subsection (e) below.

(b) The final plat shall be accompanied by complete field and computation notes showing original or re-established corners with descriptions of them and actual traverses showing error of closure and method of balancing, with sketch showing all distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) foot in ten-thousand (10,000) feet.

(c) Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines or

residential lots and other sites with accurate bearings, dimensions, deflection angles, complete curve data for street centerlines and property lines and other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curves to lot lines.

(d) A certificate in the following form shall be executed by all parties having legal interest in the lands subdivided and acknowledged before a Notary Public:

Know all persons by these present that _____ are all parties having ownership interest in the land hereon described; have with their free consent and in accordance with their desires caused the same to be surveyed and subdivided as shown hereon; do hereby dedicate those roads and/or rights-of-way shown as public dedications hereon to the use of the public; do hereby waive on behalf of themselves and their successors in interest all claims for damages against Benton County and any other governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said dedicated roads and/or rights-of-way; and do hereby grant and reserve the easements as shown hereon for the uses indicated.

(Name)

(Name)

(e) When the subdivision lies wholly or in part within an irrigation district, a certificate of approval of the irrigation district and/or the manager or administrator of the project for the bureau of reclamation, if required by RCW 58.17.310 as now existing or hereafter amended.

[Ord. 102 (1974) § 4.06; Ord. 125 (1977) § 16; Ord. 474 (2010) § 27]

9.08.047 RECORDING REQUIREMENTS. (a) The original Mylar shall be submitted to the County Auditor who may accept it for recording only if all certifications and requirements of this title have been complied with.

(b) Paper copies shall be provided by the County Engineer to all parties who request them. Reimbursement rates for copies of recorded plats shall be determined by the County Engineer.

(c) When restrictive covenants or other deed restrictions are to be placed upon the lots created by the subdivision, such covenants shall be recorded with the final plat.

[Ord. 102 (1974) § 4.07; Ord. 125 (1977) § 17; Ord. 474 (2010) § 28]

9.08.050 DESIGN AND CONSTRUCTION STANDARDS - GENERAL LAYOUT DESIGN STANDARDS.

(a) Location and alignment of all proposed streets within a plat shall conform to any corresponding provisions in the County Comprehensive Plan and shall be compatible with existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such streets.

(b) Where future alignment of roads is not shown in the County Comprehensive Plan, the alignment of roads in a subdivision shall:

(1) Be designed with appropriate consideration, as determined by the County Engineer, for existing and projected roads, anticipated traffic volumes and patterns, topographic and drainage conditions, public convenience, public safety, and the proposed uses of the land served; and

(2) Conform to all other standards set by the County Engineer.

(c) Proposed streets shall continue as extensions of existing streets unless good site planning dictates a different solution. Street patterns shall take into consideration access needed to

develop adjacent properties presently unsubdivided. Sketches of a proposed street system for adjoining properties may be required if owned by the subdivider or if the arrangement of the large tracts makes it necessary to provide future access through the property under consideration.

(d) Access streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto primary and secondary arterials.

(e) When a tract is subdivided into larger than normal lots or parcels, such parcels shall be so arranged as to permit the logical resubdivision and opening of future streets with provision for adequate utility connections for such resubdivisions.

(f) When dead-end streets are created by the development of a portion of a larger plat or because of the desirability of continuing a street into a presently unplatted parcel, not presently owned by the applicant, a temporary turnaround shall be provided unless the County Engineer's office recommends against provision of such a turnaround. If such a turnaround includes some private property, such turnaround right-of-way shall be protected by an easement until such time as the street is extended and the need for turnaround has ceased to exist.

(g) Cul-de-sacs will be permitted where topography or other conditions justify their use. Cul-de-sacs exceeding six hundred (600) feet in length may be permitted only if approved by the County Engineer. Every cul-de-sac shall have a turnaround at its closed end with a minimum outside diameter of the right-of-way of one-hundred twenty (120) feet.

(h) Street names shall be assigned to conform with existing streets on the same or similar alignment. New street names shall not be so similar to existing street names as may cause confusion and must be approved by the County Engineer.

(i) Streets shall be laid out so as to intersect as nearly as possible to right angles, EXCEPT where topography or other conditions justify variations. The minimum angles of intersection

of streets shall be seventy-five (75) degrees, unless specifically waived by the County Engineer.

(j) Street jogs with centerline offsets of less than one-hundred twenty-five (125) feet shall not be permitted unless specifically approved by the County Engineer.

(k) Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way or the right-of-way of a limited access highway, freeway,, or primary arterial, provision may be required for a marginal or frontal access street at a distance appropriate to the proposed use of land between the right-of-way and the marginal access street. Such distance shall be determined with due consideration to future grade separations and for required lot depths.

(l) Corner lots in residential areas shall be ten (10) per cent wider than minimum lot widths to allow for adequate setback of a building from both streets.

(m) Side lines of lots shall be approximately at right angles to the street in front or radial to curved street lines.

(n) Lots with double frontage shall be avoided wherever possible.

(o) All lots shall front on a dedicated street other than an alley.

(p) In developments where individual sewage disposal systems are to be used, the size of the lots shall be subject to the approval of the Benton-Franklin County Health Officer.

(q) Drainage easements for storm sewers or open channel ditches may be required where it is not feasible to carry storm drainage under the streets or rights-of-way. Open channel easements may be required where there is evidence of a present or future natural drainage pattern which may carry water at such time as the general water table of the area is raised, or increased runoff will result from altered land use.

(r) Connection to an approved public water supply and/or an approved public sewer system may be required if deemed to be in the best interest of the public and/or the future residents of the subdivision.

(s) Irrigation distribution facilities shall be provided as required under RCW 58.17.310 as directed by the applicable irrigation district.

(t) Street grades shall comply with minimum County standards for the topographic conditions and the roadway designation, major county road, secondary county road, collector county road or access county road.

(u) All plats with any lot less than one (1) gross acre in size and more than sixteen (16) proposed dwelling units must include a second public road for access if otherwise served by a single public road over six hundred (600) feet in length.

(v) All plats containing more than fifty (50) lots shall have a second access via a public road.
 {Ord. 102 (1974) § 5.01; Ord. 125 (1977) § 18; Ord. 474 (2010) § 29]

9.08.051 ROAD DESIGN AND CONSTRUCTION. (a) Required Improvements - Before the final plat is recorded, all streets and other public rights-of-way shall be improved in accordance with minimum road requirements as set forth hereinafter, or if improvements are greater than the minimum requirements herein set forth, then as approved by the County Engineer; or in lieu thereof, a bond must be provided for the full amount of the cost of such work as estimated and/or approved by the County Engineer, including construction inspection costs, but in no case less than one thousand (1,000) dollars. Said bond shall be for a period of not less than three (3) years and shall guarantee that all construction inspection costs be paid and all streets and other public rights-of-way shall be improved within a period of two (2) years in accordance with the approved plans. If, after two (2) years all

costs are not paid and/or all streets are not so improved, Benton County may cause such streets to be improved in accordance with the approved plans, and the cost thereof, including inspection costs shall be paid by the bonding company. The bond shall be approved by the County Engineer.

(b) All design and/or construction of plat streets shall be performed in accordance with the following standards:

(1) Office of the Benton County Engineer - Guidelines for Road and Utility Planning and Construction for Subdivisions, December 3, 1972, as amended.

(2) Benton County Plat Road Minimum Design Standards, December 3, 1973, as amended.

(3) Other standards as set by the County Engineer and adopted by the Board of County Commissioners.

[Ord. 102 (1974) § 5.02; Ord. 125 (1977) § 18; Ord. 474 (2010) § 30]

9.08.052 UTILITY DESIGN AND CONSTRUCTION. (a) Required Improvements - Before the final plat is recorded, all proposed utilities shall be installed in accordance with the minimum utility requirements as set forth hereinafter, or if improvements are greater than the minimum requirements herein set forth, then as approved by the County Engineer and utility provider; or in lieu thereof, a bond must be provided for the full amount of the cost of such work as estimated and/or approved by the County Engineer, including construction inspection costs, but in no case less than one thousand (\$1,000) dollars. Said bond shall be for a period of not less than three (3) years and shall guarantee that all construction inspection costs be paid and all proposed utilities shall be improved within a period of two (2) years in accordance with the approved plans. If, after two (2) years, all costs are not paid and/or all utilities are not so improved, Benton County may cause such utilities to be improved in accordance with the approved plans, and the cost thereof, including inspection costs, shall be paid by the bonding company. The bond shall be approved by the County Engineer.

(b) All utility design and construction pertaining to subdivisions shall be performed in accordance with the following standards:

(a) Office of the Benton County Engineer - Guidelines for Road and Utility Planning and Construction for Subdivisions, December 3, 1973, as amended.

(b) Other standards as set by the County Engineer and adopted by the Board of County Commissioners.

(3) Utility easements shall be provided for all utilities to serve the lots. Where watercourses, drainage ways, channel or stream traverses a subdivision, there shall be provided a drainage easement conforming with the natural width of such watercourse and any additional width required by the County.

[Ord. 102 (1974) § 5.03; Ord. 474 (2010) § 31]

9.08.053 MONUMENTS. (a) Concrete or iron pipe monuments approved by the County Engineer shall be set at the intersection of the centerlines of all streets; all angle points of street centerlines; all points of curvature and points of tangents in street centerlines at the radial point on cul-de-sacs; and all external corners of the subdivisions.

(b) The corners of all lots within the subdivision shall be marked by a steel rod or iron pin firmly driven into the ground to a depth of at least twelve (12) inches.

[Ord. 102 (1974) § 5.04]

9.08.055 ALTERATION. (a) When any person wishes to alter any portion of an approved final plat, except as provided in this chapter, that person shall submit to the Administrator an application to request the alteration with a preliminary plat map and a non-refundable application fee as established by resolution of the Board of County Commissioners. Plat alterations may consist of a change in designation on a plat or a change in location or size of a parcel or easement or other feature of a plat. The elimination of land from a plat, the elimination of an easement

granted by the plat, or the elimination of an area dedicated for public use from the plat, shall require a vacation and must be processed under BCC 9.08.056.

(b) Application for plat alteration shall contain the signatures of those persons having an ownership interest in the majority of lots, tracts, parcels or sites in the subject subdivision or phases thereof to be altered. If a parcel is owned by more than one person, all persons with an interest in said parcel shall sign the application in order to count said parcel when determining if owners of a majority of lots, parcels, tracts, or sites have signed the application. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision and the application for alteration 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 relative covenants to accomplish the purpose of the subdivision or portion thereof.

(c) Upon issuance of a letter of completeness of such application pursuant to BCC 17.10.090, the Administrator shall place the item on the Benton County Planning Commission's agenda for the appropriate regular meeting. The Planning Commission shall review and consider recommending either approval, approval with conditions, or disapproval of the proposed application for alteration. Any Planning Commission recommendation shall be submitted to the Board of County Commissioners, who shall conduct a open record hearing on the application for alteration, and, as provided for in RCW 58.17.080 and RCW 58.17.090, provide notice for such open record hearing and describe the plat to be altered. The notice shall establish a place, date and time for an open record hearing. If the subdivision is located within a city's Urban Growth Area boundary, such notice shall also be sent to that city. The notice shall also be given to cities located within one mile of the subdivision. If the subdivision is located adjacent to a state highway or within two (2) miles of a state or municipal airport, the notice shall be given to the Washington State Department of Transportation.

(d) The Board of County Commissioners shall determine the public use and interest in the proposed alteration, and may approve or deny the application for alteration. If any land within the alteration is part of an assessment district, all outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration. If an alteration results in a reduction in size, but not elimination of a parcel or area dedicated to the general use of persons residing within the subdivision, the area no longer dedicated as a result of the alteration may be divided equitably among the adjacent properties.

(e) After approval of an alteration, the applicant shall produce a survey containing a revised drawing of the approved alteration of the final plat. The survey shall contain information as required in BCC 9.08.045 and BCC 9.08.046. The information to be provided by the applicant, prior to obtaining permission to record an altered plat, shall include:

(1) One Mylar and eight (8) copies of the altered plat as specified in BCC 9.08.045, one eleven (11) inches by seventeen (17) inches paper copy of the Mylar and any required supplementary materials.

(2) A title certificate no older than two (2) months, showing the names and addresses of all persons, firms or corporations who have ownership interest in the subdivision or phase thereof being altered, the names of all persons, firms or corporations whose consent is necessary to dedicate one or more easements for public usage.

(3) Written verification from the Benton-Franklin Health District that it has reviewed the altered subdivision and that the applicant has provided all necessary information and notes on the final plat.

(4) Complete field and computation notes showing original or reestablished corners with descriptions, actual traverse showing error of closure and method of balancing, and a sketch

showing all distances, angles, and calculations required to determine distances and corners of the plat. The allowable error shall not exceed one (1) in ten thousand (10,000) feet.

(f) After obtaining the signature of the Board of County Commissioners, the final plat as altered shall be filed with the County Auditor and become the plat of the property. This section shall not be construed as applying to the alteration or replatting of any plat of state granted tide or shore lands, and the alteration shall be disclosed in a title report prepared by a title insurer and issued after the filing of the final plat.

[Ord. 211 (1987) § 7; Ord. 287 (1996) § 5; Ord. 474 (2010) § 32]

9.08.056 VACATION. (a) When any person wishes to vacate any or all of the land from a subdivision, an easement granted by the subdivision or an entire area designated or dedicated for public use, that person shall file an application for vacation, as provided by the Administrator, with the Board of County Commissioners and pay a non-refundable application fee as established by resolution of the Board of County Commissioners. The application shall set forth the reasons for vacation and shall contain signatures indicating approval of all parties having an ownership interest in the land to be vacated from the subdivision and if an easement or area dedicated for public use is to be vacated, then the signature of all owners of land within the subdivision or phase thereof. If the subdivision is subject to restrictive covenants filed at the time of approval of the subdivision, and the application for vacation would result in a violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants agreeing to terminate or alter the relevant covenants to accomplish the purpose of the vacation.

When the vacation application is specifically for a county road or city or town street, the procedure for road vacation or street vacation in Chapter 36.87 RCW or Chapter 35.78 RCW shall be used and shall take precedence over any inconsistencies within this chapter. When the application is for vacation of the entire plat

together with the roads and/or streets, the procedure for vacation in this section shall be followed. Vacation of streets prohibited under RCW 35.79.030 or RCW 35.79.035, and vacation of roads prohibited under RCW 36.87.130 shall not be approved.

(b) The Board of County Commissioners shall give notice as provided in RCW 58.17.080 and RCW 58.17.090 and shall conduct an open record hearing on the application for vacation. If the subdivision is located within a city's Urban Growth Area boundary, such notice shall also be sent to that city. The notice shall also be given to cities located within one mile of the subdivision. If the subdivision is located adjacent to a state highway or within two (2) miles of a state or municipal airport, the notice shall be given to the Washington State Department of Transportation.

(c) The Board of County Commissioners shall determine whether the public use or benefit is served by the vacation of the subdivision. Those portions of the land contained in the subdivision that were dedicated to the public for public use or benefit but are approved for vacation shall be deeded to the county unless the Board of County Commissioners determines that the public use or benefit would not be served in retaining title to those lands.

(d) Title to vacated property shall vest with the rightful owners, as shown in 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 Board of County Commissioners has found that retaining title to the land is not in the public interest, title thereto shall vest with the rightful owners of the property on each side thereof, as determined by the Board of County Commissioners. When the road or street that is to be vacated is contained wholly within the subdivision and/or 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.

(e) This section shall not be construed as applying to the vacation of any plat of state granted tide or shore lands.
[Ord. 211 (1987) § 6; Ord. 474 (2010) § 33]

9.08.062 FEES. (a) At the time of filing a preliminary plat application, the applicant shall pay a non-refundable fee as established by resolution of the Board of Benton County Commissioners.

(b) At the time of the recording of a final plat, the subdivider shall pay to the County Auditor the statutory recording fees.

(c) Before final plat approval may be given, all fees and charges for engineering plan review and construction inspection shall be paid.

[Ord. 102 (1974) § 6.02; Ord. 185 (1985) § 8; Ord. 474 (2010) § 34]

[**NOTE:** This chapter is continued on the following page.]

9.08.063 VIOLATIONS AND PENALTIES. (a) It shall be unlawful to sell, lease, trade, or otherwise convey or offer to sell, lease, trade or otherwise convey any lot or parcel of land as part of, or in conformity with any plan, plat, or replat, of any subdivision unless and until said plat, replat, or plan shall have been first recorded in the office of the County Auditor.

(b) It shall be unlawful to receive or record in any public office any plan, plat, or replat of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto and located within the County until said plan, plat or replat has complied with the provisions of this chapter.

(c) It shall be unlawful for any person, firm or corporation owning a plat or subdivision of land within the County to represent that any improvement upon any of the streets, alleys or other public ways of said plat or subdivision has been constructed according to the plans and specifications approved by the County Engineer or has been supervised or inspected by him when such improvement has not been so constructed, supervised or inspected.

(d) The violation of any of the provisions of this chapter shall constitute an infraction, subject to a maximum penalty of five hundred (500) dollars, plus costs and assessments. Each such violation shall constitute a separate infraction for each and every day or portion thereof during which such violation is committed, continued or permitted.

[Ord. 102 (1974) § 6.03; Ord. 211 (1987) § 5; Ord. 214 (1987) § 23; Ord. 474 (2010) § 35]