

Department of Permitting and Environmental Review (Permitting)

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Short Subdivisions

Permitting Customer
Information Bulletin #**25****• FREQUENTLY ASKED QUESTIONS •**

*Visit the Permitting Web site at
www.kingcounty.gov/permits
for more information*

King County Permitting has created customer information bulletins to inform the general public about the effect of codes and regulations on their projects. These bulletins are not intended to be complete statements of all laws and rules and should not be used as substitutes for them. If conflicts and questions arise, current codes and regulations are final authority. Because the codes and regulations may be revised or amended at any time, consult King County staff to be sure you understand all requirements before beginning work. It is the applicant's responsibility to ensure that the project meets all requirements of applicable codes and regulations.

For alternate formats, call 206-296-6600.

This bulletin explains the requirements and the process for subdividing property in unincorporated King County and answers questions regarding problems that customers may encounter. It is not intended to replace legal, engineering, or other professional services, but should help applicants decide when such expert assistance is needed. Call the King County Department of Permitting and Environmental Review (Permitting) at 206-296-6600, if questions are not answered by the information in this bulletin.

What is a short subdivision?

When property owners want to sell, trade, or give away a portion of property to someone other than an owner of an abutting property, it must first be subdivided. (Land may be transferred to an abutting property owner through a process known as "Boundary Line Adjustment"). A short subdivision, often called a "Short Plat," is a division of property into four or fewer lots outside the Urban Growth Area and nine or fewer lots in the Urban Growth Area.

Here is an example to help illustrate a short subdivision: If property owners want to sell half of an existing lot, it must first be subdivided into two "Legal Lots," one that the applicant will want to keep, and one lot to sell. Everyone who shares ownership or who has an interest in the property (e.g., spouse, partner, mortgage company, real estate contract holder, etc.) must agree to sign on the face of the final short subdivision document.

For information regarding the laws governing subdivisions, see Chapter 58.17 of the Revised Code of Washington (RCW) and Title 19A and 21A of the King County Code (KCC).

Why are short subdivisions necessary?

State and County Laws require short subdivisions for the following reasons:

- To ensure that the new lots meet minimum zoning requirements for building
- To protect the interests of the seller, buyers, builders, and neighbors

- To prevent or mitigate drainage problems, access and traffic safety problems, and public health hazards
- To plan wisely for community growth and neighborhood traffic circulation
- To maintain accurate public records of land divisions.

When is it unnecessary to short subdivide?

Chapter 19A.08.040 of the King County Code provides the following exemptions when a short subdivision is not required:

- Divisions of land for cemetery and other burial plots
- When creating new lots or tracts that are each 40 acres or larger, provided King County zoning requirements allow for 40-acre parcels
- When selling or deeding five acres or more to a public agency
- When executing a will that legally divides property
- When dividing land into lots or tracts under a recorded residential condominium binding site plan
- When dividing land by adjusting boundary lines, as long as the division does not create any new lot or reduce an existing lot to an area insufficient for a building
- When a division is for the purpose of leasing mobile home space in lots with an approved mobile home park site plan
- When dividing land by binding site plan into lots or tracts classified for industrial or commercial use
- When a public road or freeway is planned and constructed that divides property.

Note: A boundary-line adjustment requires review and approval by King County Permitting. Also see Permitting Public Rules Chapter 19-08, Adjusting Boundary Lines, available via the Permitting Web site at www.kingcounty.gov/permits.

In all cases where property owners may be considering one of the exemptions listed above consultation with Permitting staff before proceeding is recommended. Parcels that fail to meet King County zoning, health, or access requirements will not be granted a building permit.

How many lots can be created?

To meet short subdivision requirements, a property proposed to be subdivided must be considered a Legal Lot, as defined in Chapters 19A.04.210 and 19A.08.070 of the KCC. Property owners may short subdivide a Legal Lot into a maximum of four lots outside the Urban Growth Area and nine lots in the Urban Growth Area. The number of lots created depends on how much land a customer owns and the zoning requirements that apply to the proposed property. If an applicant has an ownership interest in two or more contiguous lots, however, eight lots may be created outside the Urban Growth Area. After the recording of a short plat, a property owner must wait five years before short platting again. However, a property owner may further subdivide a short plat lot within the five-year time frame via the formal plat process. A short subdivision may include any number of tracts (land reserved for special uses such as open space, surface water retention/detention utilities, or access). Tracts are not counted as lots, and they cannot be used as residential building sites.

An owner of an existing non-building lot (as designated through an approved short subdivision or subdivision) may have it recognized by King County as a Legal Lot and a legal building site through a short subdivision or short subdivision alteration.

What are the costs?

Applicable fees for short subdivisions vary significantly and depend on many factors. The fees are subject to change by the King County Council. Refer to the current list of fees, available on the permitting web site for specific amounts.

What are the costs? (continued)

Some or all of the King County fees listed below must be paid, depending on the specific circumstances.

- Pre-Application Meeting review fees (Required for all applications.)
- Short Plat application review fee (Required for all applications.)
- Health Department review fees
- Fire Marshal review fee
- State Environmental Policy Act (SEPA) review fee
- Critical Areas review fee
- Variance review fees
- Engineering review fee
- Inspection fee
- Right-of-Way restoration financial guarantee
- Final Short Plat review fee (Required for all applications.)
- Division of Records and Elections recording fee (Required for all applications.)

Additional costs and expenses include the following:

- Consultant fees for preparing applications and other documents and attending meetings with County staff
- Fees paid to utility districts for the preparation of Certificates of Water and Sewer Availability
- Costs associated with determining the site's suitability for on-site sewage disposal (septic tanks and drainfields)
- Special studies such as a downstream drainage analysis, soils report, wetland study or traffic analysis
- A Short Plat Title Report
- Engineering costs for surface water drainage plans and road plan and profiles
- Costs of constructing and installing roads and drainage systems, water supply lines, sewer lines and other required utilities
- Performance and maintenance bonds
- Fees for the preparation of the final short plat recording documents by a land surveyor.

What procedures must be followed?

Although obtaining approval of a short subdivision can be described as taking place in generally two phases, preliminary approval and final approval/recording, the following seven steps describe the County process in more detail:

- Pre-application meeting
- Application submittal
- County staff review of the application and granting Preliminary Approval
- Engineering Plan review for required infrastructure improvements
- Construction
- Final review and recording
- Maintenance/Defect Warranty

Before beginning the process of short subdividing a parcel of property, review the following information to thoroughly understand the procedures and steps involved. Most applicants find that hiring a consultant with expertise in the short subdivision process is the best approach to handling their application. Note that the services of a licensed civil engineer and a licensed land surveyor will be required to complete certain steps in the short plat application process.

STEP ONE: Mandatory Pre-application Meeting

A *Pre-application Meeting* must be scheduled. At this meeting, the short plat process will be discussed in more detail, as well as site-specific issues. Customers will be informed about zoning requirements such as lot size, lot width and density; whether a proposal will be affected by SEPA; whether a site is in a mapped critical area; and general health, access, drainage, and utility requirements. During this meeting, issues involving difficult site constraints may also be discussed.

To schedule a Pre-application Meeting, applicants will be required to submit a completed meeting request form; a proposed site plan drawn to scale showing geographic features such as adjacent streets, existing buildings, and critical areas if any are known to be present; a list of issues and questions; and a monetary deposit. The applicant must attend this meeting with their professional consultant (e.g., civil engineer), and at the meeting County staff will provide detailed written comments on the proposal.

Application packages with instructions for a *Pre-Application Meeting* can be obtained at the Permitting Service Center, or online from the Permitting Web site at www.kingcounty.gov/permits. The application package for the *Pre-Application Meeting* must be submitted in person by appointment; at the Snoqualmie Permitting Service Center with a project manager. Attendance at this meeting is required prior to proceeding to Step 2 described below and the filing of a short plat application. **Review fees will be charged for this meeting.**

STEP TWO: Application Submittal

After completing Step 1 above, an applicant must schedule an intake appointment to submit the permit application. This intake appointment can be scheduled by calling 206-296-6797. Please have your pre-application number and fee quote amount available when scheduling this intake appointment.

Every short subdivision application includes the following:

- A completed Short Subdivision Application Form
- A map/site plan prepared in accordance with King County Code 19A.08.150(B), including field survey information developed by a licensed land surveyor
- Preliminary approval by the Seattle-King County Department of Public Health if an on-site septic system or an on-site well are planned, or the submittal of Water and Sewer Certificates from the appropriate utility districts
- A current Title Report
- A receipt filled out by the local Fire District
- Copies of any easements, deed restrictions, or other encumbrances that may restrict the use of the property
- Documentation of lot creation and the date and method of segregation (see Bulletin 2, *Legal Lot*)
- A Certificate of Transportation Concurrency
- A completed Environmental Checklist if the short plat application is subject to the State Environmental Policy Act (see Bulletin 26, *SEPA Process*)

- A Level 1 Drainage Analysis and a conceptual drainage plan for stormwater control
- A copy of completed applications for other permits that are to be processed with the short subdivision application, or copies of related permits that have already been issued

[See King County Codes 19A.08.150 and 20.20.040 for complete application requirements.]

Vesting

Once Permitting determines that an applicant has submitted a complete application, a proposed project is vested and will be subject to the rules in effect on the vesting date. However, for short plat applications that are subject to environmental review under the State Environmental Policy Act (SEPA), the project will be vested to the ordinances in effect at the time of the SEPA threshold determination, if significant adverse impacts will occur without conditions to mitigate the project's impacts. [See Chapter 197-11-660(1)(a) of the Washington Administrative Code (WAC).]

Applications containing material errors will be withdrawn, i.e., canceled by permitting, and any resubmittals by the applicant will be treated as a new application. A material error refers to an error in fact or an omission of substantive information that would affect the outcome of the approval.

Note that if an applicant initiates any changes to a vested application and these changes are not required by County staff but rather by the applicant, and if the changes will result in a substantial change to a project's review requirements, the application will be treated as a new application for the purposes of vesting. Examples of such changes include creating new lots, eliminating open space, or modifying short plat conditions.

Public notice

Once customers have submitted an application, a notice must be posted describing the proposed land use action on or next to the property. Notices are mailed to neighbors and to appropriate jurisdictions and may also be mailed to other interested parties, as well as local and community newspapers. King County Permitting will send applicants instructions regarding notice/posting responsibilities.

STEP THREE: Application Review and Preliminary Approval/Denial

A County land use planner, engineer, and other appropriate staff will review an application for a short subdivision to ensure that it meets King County requirements. Review times will vary depending on the complexity of the application. The review process will include a visit to the site by relevant County staff that has not previously seen the property, and applicants may be required to submit additional information or revise a proposal to comply with County regulations such as Critical Area requirements (e.g., wetlands, streams, floodplain, steep slope and landslide hazard requirements).

Note that under state statutes, SEPA review is required for the following short subdivisions:

- Resubdivision of a recorded short plat
- Short subdivisions of land covered by water.
- Short subdivisions where an applicant is required to get a Construction Stormwater General Permit from the Washington State Department of Ecology, prior to beginning construction activities for the short plat. This state permit is required when there will be a cumulative disturbance of 1 acre or more of land to develop the short plat, including consideration of future residential building sites in the short plat.

[For more information on the Construction Stormwater General Permit, visit www.ecy.wa.gov/programs/wq/stormwater/construction/index.html. For more information on the SEPA process, please refer to Bulletin 26, *SEPA Process*.]

Preliminary decision

Following completion of the review process, applicants will receive either preliminary approval with a list of conditions which must be satisfied to achieve final short plat approval, or a notice of denial with an explanation of why an application was denied.

Preliminary approval is effective for 60 months. If any of the conditions of approval are not satisfied and the final short plat is not recorded within the effective time, the preliminary approval becomes void.

Site construction may not begin until the following requirements are met:

- Preliminary approval has been granted
- Engineering plans, if required as a condition of preliminary approval, are approved
- A financial guarantee for required restoration has been posted and applicable fees paid
- A preconstruction conference has been held with the King County Land Use Inspection Section.

Appeals

Decisions relating to short subdivision approval or denial may be appealed to the Hearing Examiner by any aggrieved party, including the applicant and neighborhood residents.

Note: A short subdivision is classified as a Type 2 decision and is appealable to the King County Hearing Examiner. Specific appeal instructions are included with the written decision and the Notice of Decision. Appeals must include a detailed reason for the appeal along with a fee payment.

If an appeal is filed, the Office of the Hearing Examiner will set a date for the appeal hearing. If a proposed project involves other land use appeals, such as those for SEPA, rezones, or Conditional Use Permits, hearings for the short subdivision and other types of appeals will be consolidated into one proceeding. Chapter 20.20 of the King County Code provides for the consolidation of hearings and authorizes the Hearing Examiner to make final decisions on such consolidations.

The Hearing Examiner may convene a *pre-hearing* conference to identify, to the extent possible, the facts in dispute, issues, laws, parties, and witnesses in the case, and to set a timeline for the presentation of the case. Also, any party to the appeal may request that the Examiner convene a pre-hearing conference. The conference will be scheduled at least 14 days before the scheduled appeal hearing, and at least 7 days notice of the date and time of the pre-hearing conference will be given to those who are Parties-of-Record to the hearing.

STEP FOUR: Engineering Plan Review

Typically, a key requirement for preliminary short subdivision approval is the provision of road and/or drainage improvements. Designing and constructing road or drainage improvements will probably be the most costly requirement for a proposed short subdivision.

If the application is conditioned upon construction of road or drainage improvements, whether public or private, the applicant will likely be required to submit a detailed engineering plan that is prepared by a Civil Engineer licensed in the State of Washington. This engineering plan should show the existing property and proposed improvements. Consult the *King County Surface*

Water Design Manual and the *King County Road Standards* for details on plan submittal requirements. King County Permitting reviews engineering plans to ensure that the design complies with the King County standards and specifications for roads and drainage.

To obtain engineering plan approval following short plat preliminary review, customers must address all redline comments, pay review and inspection fees, and post a site and Right-of-Way restoration financial guarantee.

STEP FIVE: Construction

Following approval of the engineering plans, an applicant and/or the applicant's contractor must set up a preconstruction conference with the Permitting staff. Applicants will not be allowed to construct the improvements as part of a subdivision until after this meeting.

Throughout construction, a site will be subject to regular inspections. If construction is not completed within one year from the date of engineering plan approval, applicants may be asked to pay additional inspection fees.

Inspections are required to ensure that construction follows the approved plan and King County specifications. Applicants may have to correct facilities that fail to meet minimum standards or that were not identified on the approved design. Applicants will also have to regularly maintain erosion control facilities or cover disturbed soils until construction activities cease and the site is stabilized.

When improvements are complete, a final inspection will be necessary for King County approval and release of financial guarantee(s).

STEP SIX: Final Review (Recording)

All short subdivisions require final review prior to recording. The final short plat must be prepared by a Professional Land Surveyor licensed in the State of Washington. The final review application packet shall include five copies of the final short plat plans, a current short plat certificate (Title Report), survey calculations, a copy of the approved engineering plans, fees, and any additional information that may be required by Permitting.

Prior to final approval and recording, Permitting engineer/survey staff will review the final submittal to verify that all technical survey information is consistent with state and local regulations and that all conditions of the preliminary approval are satisfied. The final submittal is also reviewed to verify that all title encumbrances have been addressed.

Property owners have an option to complete road and drainage improvements before recording, or post a performance financial guarantee to ensure that improvements will be completed within two years from the date of recording. Refer to the section of this bulletin that discusses financial guarantees, for more information.

Once a proposed short subdivision is ready to be recorded, applicants will be notified of the exact recording fee. All property taxes and application review fees that are owed must be paid prior to recording. Once all review conditions have been satisfied, King County Permitting staff will process the proposed short subdivision with the King County Department of Assessments, and the Department of Records and Elections. After a short subdivision is recorded, the proposed lots will be considered Legal Lots that may then either be sold or transferred, and for which building permit applications may be submitted.

STEP SEVEN: Maintenance/Defect Warranty

If a short subdivision requires Public Street improvements valued at more than \$1,000, applicants will be required to post a maintenance financial guarantee for the roads. This

financial guarantee is required to warranty that the workmanship, materials, and design of the roads will be free from defects for at least two years.

If a drainage retention/detention facility is required for a proposed short subdivision, property owners must post a two-year maintenance and defect financial guarantee. This financial guarantee is required to ensure maintenance of the drainage facilities and repairs of any failures in design, workmanship, or materials for at least two years. King County will monitor drainage systems and may notify property owners of needed maintenance or repair during the two-year period.

Release of the financial guarantee will require re-inspection by the King County Department of Transportation and Department of Natural Resources and Parks.

What road and drainage improvements are required?

Road improvements typically are required to ensure that a proposed property has adequate access. Aspects of neighborhood circulation and road patterns will also be evaluated. Applicants may have to construct or improve roads, both on and off site, to provide adequate access. The following may apply to a proposed short subdivision:

Public streets

Applicants may have to dedicate (deed) some land to widen an existing public street right-of-way, to obtain off-site dedications to extend an existing neighborhood street to serve the proposed property, or to ensure that access for future development is adequate. Property owners may also be required to improve a public street if existing construction does not meet current codes.

Private roads

Private roads may be permitted when public right-of-way is not required, no public safety hazards will result, and only a limited number of lots are being served.

Right-of-way and improvement requirements for private roads vary greatly, depending on lot size, the potential and actual number of lots served, and the existing street network. To satisfy road improvement conditions, property owners must first obtain approval of the road design plans; then the road construction must be inspected and approved. Under certain conditions, applicants may complete final recording of the short plat before the road improvements are constructed, by posting financial guarantees or other acceptable securities to guarantee completion of the required improvements within one year of final short plat approval.

Drainage

Drainage facilities are required to ensure that a short subdivision does not cause an increase in peak surface water runoff to downstream properties. A review for drainage impacts is required for any proposed short plat if any of the following conditions apply:

- More than 2,000 square feet of new impervious surface is created
- The property contains or abuts a floodplain, stream, lake, wetland, closed depression, or a critical area
- Typical drainage requirements include on-site water retention/detention facilities, water quality systems, stream bank stabilization, and the creation of drainage easements and setbacks.

What additional items may be required for short subdivisions?

In addition to road and drainage requirements, the following approvals are typically required:

Public Health

The Seattle-King County Department of Public Health must approve the water supply and means of sewage disposal.

If a proposed project will be on a septic system, preliminary Health Department approval must be obtained *before* filing a short plat application. Final Health Department approval is required before short plat recording. In some cases, preliminary approval from the Health Department requires hiring a consultant to conduct an on-site sewage disposal design. Health Department approvals sometimes are delayed for worst case design conditions (winter percolation tests). The design and delays in obtaining approvals can be very costly if new regulations are implemented, or if zoning is revised before a proposed short subdivision application is submitted to King County Permitting. A proposed short subdivision is not vested until a short subdivision application is complete and accepted for processing.

Critical Areas Designation

If the lots in a short plat application are proposed to be served by either an on-site septic system for sewage disposal, or by a well for the potable water supply, as noted above an applicant must first obtain preliminary Health Department approval. Before the Health Department will accept an application for this purpose, the applicant must determine the location of any critical areas on the site, such as wetlands, streams, ponds, steep slopes and landslide hazard areas. This *Critical Areas Designation* is performed by Permitting technical staff. If an applicant suspects Critical Area features are present on the short plat parcel, it may be advisable to first hire a professional consultant (e.g., a wetlands biologist or geologist) to evaluate and delineate the Critical Area feature before coming to permitting for a *Critical Areas Designation*. Permitting has a preferred consultants list for this purpose, which an applicant may wish to use. This list can be found on the Permitting Web site at www.kingcounty.gov/permits.

Note that regardless whether the lots in a proposed short plat will be served by a public sewer and water system, or by a private septic system, or by a private or community well, if an applicant suspects that a Critical Area may exist on the short plat parcel, it is advisable to complete a *Critical Areas Designation* before submitting a short plat application, since the presence of a Critical Area can *significantly* limit the land area of a site which can be developed.

Fire safety

Fire hydrants and water mains may be required if the lots in a proposed short subdivision are smaller than 35,000 feet. Actual requirements will depend on the number of lots served, existing water pressure and capacity, fire hydrant location, and accessibility for fire-fighting equipment. A Fire District Receipt must be obtained and approved before recording. This permit will require verification of access, hydrant location, actual water pressure, and flow capacity for fire-fighting equipment.

Taxes

All past-due taxes must be paid before the short subdivision may be recorded.

What financial guarantees are required for improvements?

If property owners are required to construct road or drainage improvements as a condition of approval, a financial guarantee must be posted before construction begins, to ensure that conditions are met or the site is restored and stabilized.

The types of financial guarantees and amounts vary according to the types of improvements. The financial guarantees typically required for a short subdivision include the following:

- Right-of-Way and/or Site Restoration Performance
- Maintenance and/or Defect
- A financial guarantee may be in the form of a cash deposit with King County, an assignment of funds with a bank or lending institution, or a bond. Each form also requires a signed agreement from an applicant or a legal representative
- Copies of the financial guarantee forms are available at Permitting (see Bulletin 40, *Financial Guarantees*).

How soon can a short subdivided property be divided again?

Property owners must wait five years from the date of recording to subdivide again. However, the five-year waiting period does not apply if the formal subdivision process is used. The formal subdivision process requires a public hearing before the Hearing Examiner and approval by the King County Council.

Within the five year waiting period, a short plat alteration may also be filed to increase the number of lots within the original short plat, if the total number of lots does not exceed nine within in the Urban Growth Area, does not exceed four outside the Urban Growth Area, and the short plat alteration is consistent with current zoning. The following requirements also apply to all short subdivision alterations:

- Everyone with an ownership or security interest in the original lots to be altered must sign the final altered short subdivision forms.
- If subsequent land development or County planning decisions rely on any features of the original short subdivision, those features must be kept in the altered short subdivision.
- Short subdivision alterations or vacations are generally approved or denied in the same way that the original subdivision was approved, and they must be recorded by Permitting with the Division of Records and Elections.

What if land parcels are bought without first being subdivided?

If a parcel of land is bought without first being subdivided, civil suit and/or criminal prosecution against both the seller and agent may result. A person who knowingly buys a lot that was not legally created will not be able to get building and other permits for the property.

Property owners may offer lots for sale before short subdivision approval. Lots may be advertised, and earnest money may even be paid, but it is against State Law to transfer Title until the short subdivision is recorded. Sale offers should be worded carefully to comply with State Law.

If the purchaser of an illegally created lot is an innocent purchaser, the lot generally will be treated in the same way as a legally subdivided lot. An innocent purchaser is someone who purchases real property for value, has received no notice that the lot was illegally created, and has not previously been granted Innocent Purchaser Status by King County.

To apply for Innocent Purchaser Status, the buyer must file a notarized affidavit with King County Permitting attesting to the above. Please contact Permitting at 206-296-6600 for more information.

If an innocent purchaser buys an illegally created lot, it will be treated in one of the following ways:

- If it meets current zoning requirements for access, lot area, and lot width, it will be treated as if it were a legally subdivided lot.
- If it does not meet current zoning requirements, but did meet the zoning requirements in effect when it was created, the lot will be treated as if it were a legally created substandard lot.
- If it meets neither current zoning requirements nor those in effect when it was created, the innocent purchaser, who cannot be issued a building permit, may sell the lot, but the lot is not eligible for a building permit.

Additional information

If applicants still need more information after reviewing this bulletin, forms and additional information are available via the Permitting Web site at www.kingcounty.gov/permits, by contacting the Permitting Services Center at 206-296-6600, or by visiting the Permitting Services Center in Snoqualmie, WA.