

1 **Addendum to the fall biannual code amendments**
2 **Council work session October 4, 2018**

3
4
5 **11. 40.520.010.E.1.b(5) and 40.540.020.B.4.d - Clarify circumstances under**
6 **which the County will recognize court orders as exemptions to platting**

7
8 **40.520.010 Legal Lot Determination**
9

10 E. Approval Criteria.

11 1. Basic Criteria. Parcels which meet both of the following basic criteria are lots of
12 record:

13 a. Zoning. The parcel meets minimum zoning requirements, including lot size,
14 dimensions and frontage width, in effect currently or at the time the parcel
15 was created.

16 b. Platting.

17 (1) The parcel was created through a subdivision or short plat recorded
18 with Clark County; or

19 (2) The parcel is five (5) acres or more in size and was created through
20 any of the following:

21 (a) An exempt division which occurred prior to April 19, 1993,

22 (b) A tax segregation requested prior to April 19, 1993,

23 (c) A survey completed as to boundaries prior to April 19, 1993, and
24 recorded prior to July 19, 1993; or

25 (3) The parcel was created through a division or segregation of four (4)
26 or fewer lots requested prior to July 1, 1976; or

27 (4) The parcel was created through division or segregation and was in
28 existence prior to August 21, 1969; or

29 ~~(5) The parcel was created through court order will and testament, or~~
30 ~~other process listed as exempt from platting requirements by RCW~~
31 ~~58.17.035, 58.17.040, or Section 40.540.010(A), or through an~~
32 ~~exemption from platting regulations provided by law at the time of~~
33 ~~creation of the parcel;~~

34 The parcel was created by a court order that divided commonly
35 owned property and did not create more parcels than common owners.

1 or an court order that resolved a boundary line dispute or foreclosure;
2 provided that the parcel meets all other provisions of the UDC, including
3 but not limited to, applicable zoning and dimensional requirements; or

4 (6) The parcel was created through another process listed as exempt from
5 platting requirements by RCW 58.17.035, 58.17.040, or Section
6 40.540.010(A), or through an exemption from platting regulations provided by
7 law at the time the parcel was created; provided that the parcel meets all other
8 provisions of the UDC, including but not limited to, applicable zoning and
9 dimensional requirements; or

10 (6) (7) The parcel was segregated at any time and is twenty (20) acres or
11 more in size.

12 **40.540.020 Land Division**

13 B. Applicability.

14 4. Exemptions. The provisions of this chapter shall not apply to the following:

- 15 a. Cemeteries and burial plots while used for that purpose.
- 16 b. Divisions of land into lots or tracts, each of which is one thirty-second (1/32) of
17 a section of land or larger, or twenty (20) acres or larger, if the land is not
18 capable of description as a fraction of a section of land. For purposes of
19 computing the size of any lot under this item which borders on a street or
20 road, excluding limited-access streets or roads, the lot size shall be
21 expanded to include that area which would be bounded by the centerline of
22 the road or street, and the side lot lines of the lot running perpendicular to
23 such centerline.
- 24 c. Divisions of land which are the result of the actions of governmental agencies,
25 such as condemnation for road construction purposes.
- 26 d. Divisions of land made by testamentary provisions, or the laws of descent.
- 27 e. Divisions of land into lots or tracts classified for industrial or commercial use,
28 when the responsible official has approved a "binding site plan" for use of
29 the land in accordance with Section 40.520.040(C).
- 30 f. Divisions of land made for the purpose of lease when no residential structure
31 other than mobile homes or travel trailers are permitted to be placed upon
32 the land, when the responsible official has approved a "binding site plan" for
33 the use of land in accordance with Section 40.520.040.
- 34 g. Divisions of land made by subjecting a portion of a parcel or tract of land to
35 Chapter 64.32 RCW.

- 1 h. Divisions of land made by a court order that divided commonly owned
2 property that did not create more parcels than common owners, or a court
3 order that resolved a boundary line dispute or foreclosure; provided that the
4 parcel meets all other provisions of the UDC, including, but not limited to,
5 applicable zoning and dimensional requirements. ~~provided, the divisions~~
6 ~~shall comply with all other provisions of the UDC.~~

- 7 i. A boundary line adjustment pursuant to Section 40.540.010.

- 8 j. A division for the purpose of leasing land for facilities providing personal
9 wireless services while used for that purpose. “Personal wireless services”
10 means any federally licensed personal wireless service. “Facilities” means
11 unstaffed facilities that are used for the transmission or reception, or both, of
12 wireless communication services including, but not necessarily limited to,
13 antenna arrays, transmission cables, equipment shelters, and support
14 structures.

15
16 **Rationale:** A potential loophole was recently discovered in these two sections of code
17 which could be interpreted to mean that court orders to divide land may not need to be
18 consistent with exemptions from platting found in the RCWs. The presence of a comma
19 between “court order” and “will and testament” in 40.520.010.E.1.b.(5) may lend
20 argument to the idea that a court order is not tied to the rest of the sentence and thus
21 may not need to meet the intent of the RCWs.

22
23 Section 40.520.020.B.4.h is one of the listed exemptions from platting and does not
24 mention any limitations on court orders, and thus needs to be amended in conjunction
25 with the amendment to 40.520.010.E.
26