



TITLE 16 SUBDIVISIONS

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TITLE 16 – SUBDIVISIONS

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CHAPTER 16.04 GENERAL PROVISIONS**16.04.010 APPLICABILITY.**

This title shall apply to the subdivision of land within the city. It shall also apply to vacations of public land and the dedication of land to public purposes. The title will describe three classes or levels of review for land proposed to be subdivided: a waiver for certain types of newly created lots; a short plat procedure for subdivisions involving four or fewer lots where one or more of the lots is less than five acres; and a full procedure (preliminary and final plats) for subdivisions involving five or more lots of any size. (Ord. 87-01 § 1(part), 1987)

16.04.020 PURPOSE.

It is the purpose of this title to:

- A. Provide for the safety, health and welfare of the citizens of Thorne Bay through the regulation of platting, including provisions for streets and trails, utility easements, dedications, vacations, plat review, survey monumentation, variances, appeals and penalties;
- B. Provide for orderly development consistent with community growth;
- C. Establish reasonable procedures for the subdivision of land and assure the proper legal description and monumentation of subdivided land. (Ord. 87-01 § 1(part), 1987)

16.04.030 INTENT.

It is the intent of this title to place certain requirements on the subdivision of land, and to create standards and procedures for regulating the subdivision of land. (Ord. 87-01 § 1(part), 1987)

16.04.040 BASIS FOR PLATTING.

Second class cities outside of boroughs are authorized under AS 29.35.260(c) to provide the planning, platting and land use regulation. The basis of platting is contained in AS 29.40.070 through 29.40.200. (Ord. 87-01 § 1(part), 1987)

16.04.050 ADMINISTRATIVE PROVISIONS.

- A. Unless the City Council opts to administer and enforce this title pursuant to Section 2.48.010, the chief executive officer shall appoint, and the City Council shall confirm a planning Official to administer and enforce this title.
- B. The planning commission shall perform all planning functions pursuant to Alaska Statutes 29.33 and this title, including serving as the platting board pursuant to Alaska Statutes 4.15.
- C. The chief executive officer, Code Enforcement Officer, or other designee shall serve as the City Planning Official until such time as he appoints, and the city council confirms another to perform that function. (Ordinance 19-08-20-04; Prior Ord. 12-04-03-02)

16.04.060 PLATTING BOARD-DESIGNATED.

The planning commission shall serve as the platting board under the direction of the planning Official. (Ordinance 12-04-03-02; Prior Ord. 87-01 § 1(part), 1987)

CHAPTER 16.08 DEFINITIONS**16.08.010 DEDICATION.**

"Dedication" means the deliberate appropriation of land by a landowner, for any public use, where the landowner preserves no other rights in the property to himself than may be enjoyed by the public at large. Any dedication of land to the City must be accompanied by a transaction granting the City all rights and title to the land being dedicated. Dedication of land (Right-of-way, easement, etc.) does not imply the City assumes any responsibility for maintenance and / or construction of any improvements within the dedication. (Ord. 15-12-15-01; Prior Ord. 87-01 § 14(part), 1987)

16.08.020 EASEMENT.

"Easement" means a grant of land by a property owner, to the public or other entity, for specified uses and activities, within specified geometric boundaries. (Ord. 87-01 § 14(part), 1987)

16.08.030 FINAL PLAT.

"Final plat" means the final drawing of the subdivision, containing all of the elements required under this title and any further conditions required by the platting board, for filing with the district recorder. (Ord. 87-01 § 14(part), 1987)

16.08.040 METES AND BOUNDS.

"Metes and bounds" means a description of real property which starts at a known point, and describes the bearings and distances of the line which forms the boundary of the property. (Ord. 87-01 § 14(part), 1987)

16.08.050 MONUMENT.

"Monument" means an object used to permanently mark a surveyed location. (Ord. 87-01 § 14(part), 1987)

16.08.060 PLAT.

"Plat" means a map or other representation of a subdivision showing lots, blocks, rights-of-way, easements, dedications and other information as required under ordinance. (Ord. 87-01 § 14(part), 1987)

16.08.070 PRELIMINARY PLAT.

"Preliminary plat" means the scale drawing of a proposed subdivision showing lots, blocks, easements, rights-of-way and other information required by ordinance, which provides a basis for approval or denial of the general layout of a subdivision. (Ord. 87-01 § 14(part), 1987)

16.08.080 RIGHT-OF-WAY.

"Right-of-way" means a strip of land dedicated, as defined in Section 16.08.010 Dedication, for transportation and utility purposes, and on a portion of which a street or trail may be built. Dedication of Right-of-way as defined in Section 16.08.010 does not imply the City assumes any responsibility for maintenance and / or construction of any improvements within the dedication. (Ord. 87-01 § 14(part), 1987) (Ord. 15-12-15-01)

16.08.090 SUBDIVISION.

"Subdivision" means a division of land into two or more lots, tracts or parcels. (Ord. 87-01 § 14(part), 1987)

16.08.100 VACATION.

"Vacation" means the transfer or sale of dedicated land, public easement or right-of-way into private ownership. The City may not vacate any dedicated land without all rights and title vested in the City or the landowner who offered the dedication granting all rights and title to the vacated land. (Ord. 15-12-15-01; Prior Ord. 87-01 § 14(part), 1987)

CHAPTER 16.12 PLATTING REQUIREMENTS**16.12.010 ADMINISTRATION.**

The planning commission shall act as the platting board and shall have jurisdiction over platting which includes but is not limited to:

- A. Form, size and other aspects of subdivision, dedications and vacations of land;
- B. Dimensions of lots or tracts;
- C. Public rights-of-way including roads and trails, and easements for sewer lines, water lines, drainage courses and other public facilities and improvements;
- D. Street width and configuration, including provisions for ditching and drainage;
- E. Setbacks along streams used as water supply and along anadromous fish streams;
- F. Establishment of parks and other public open space;
- G. Setbacks along lot lines. (Ord. 87-01 § 2, 1987)

16.12.020 WAIVER PROVISIONS FOR LOTS OVER 5 ACRES.

The Designated Planning Official (DPO) shall, in individual cases, and in accordance with AS 29.40.090, waive the preparation, submission for approval, filing and recording of a plat upon satisfactory evidence that the subdivision meets the following requirements:

- A. The subdivision will result in the creation of four or fewer lots, and each lot created by the subdivision will be at least five acres in size;
- B. Each tract or parcel of land created will have legal and physical access to an existing street or public highway;
- C. No dedication of a street, alley, thoroughfare, easement, right-of-way or other public area is involved or required;
- D. No vacation of a public dedication of land, and no variance from a subdivision regulation is involved or required. (Ord. 17-05-16-03; Prior Ord. 87-01 § 3(part), 1987)

16.12.025 WAIVER PROVISIONS FOR LOTS UNDER 5 ACRES.

The Designated Planning Official (DPO) shall, in individual cases, waive planning commission review and approval upon satisfactory evidence that:

- A. The subdivision or plat modification is to create an easement, adjust a lot line or divide an existing tract or parcel of land into no more than two tracts or parcels that comply with current zoning;
- B. Each tract or parcel of land created will have legal and physical access to an existing street or public highway;
- C. No dedication of a street, alley, thoroughfare, easement, right-of-way or other public area is involved or required;
- D. No vacation of a public dedication of land, and no variance from a subdivision regulation is involved or required. (Ord. 17-05-16-03)

16.12.030 PROCEDURE FOR LOTS UNDER 5 ACRES.

- A. The applicant shall submit a written application and an accurate map (at a scale not to exceed one-inch equals fifty feet) of the area, showing the total property involved, proposed subdivision, existing development within five hundred feet, with dimensional and other information sufficient for a decision by the DPO.
- B. The DPO shall be responsible for reviewing the waiver application to assure that it is complete and meets all of the provisions stated in section 16.12.025. No waiver shall be granted for a parcel that, in the DPO's judgment, is unsuitable for development due to geophysical hazards.
- C. Upon approval of the waiver application by the DPO, a plat map shall be prepared containing all the platting and recording requirements as stated in Title 16.16. The original shall be recorded in the district recording office and a copy placed with the original waiver application and filed with the city clerk. (Ord. 17-05-16-03)
- D. A nonrefundable fee, as set by resolution of the city council, shall be charged for reviewing and recording a waiver. (Ord. 87-01 § 3(part), 1987)(Ord. 15-12-15-01)

CHAPTER 16.16 SHORT PLATS

16.16.010 APPLICATION.

The short plat procedure may be used for the subdivision of a parcel into not more than a total of four lots.

- A. An applicant for a short plat subdivision shall be required to submit the following to the designated planning Official:
 1. A nonrefundable short plat application fee as set by resolution of the City Council;
 2. Four neatly and accurately composed drawings (plat map) no larger than twenty-four inches wide by thirty-six inches long showing the proposed subdivision.
- B. The plat shall be prepared by a professional land surveyor licensed to practice in the state of Alaska.
- C. The plat maps shall contain the following information:
 1. The signature and seal of a land surveyor licensed to practice in the state of Alaska;
 2. A title block in the lower right-hand corner containing the following information:
 - a) Proposed name of the subdivision,
 - b) Horizontal scale not to exceed fifty to the inch,
 - c) Date of application,
 - d) Name and address of the property owner,
 - e) Location of the subdivision by reference to U.S. survey numbers;
 3. A north arrow;
 4. The area and linear dimensions of each newly created lot;
 5. Topographic lines at twenty-foot intervals;
 6. The location of significant natural features such as, but not limited to, anadromous fish streams, existing material sites, wetlands and eagle trees;
 7. The location and flow of all-natural drainages and the location, type and purpose of all fabricated drainage improvements. (Ord. 87-01 § 4(part), 1987)

16.16.020 PROCEDURE.

- A. Upon receipt of a completed application, the Designated Planning Official shall give appropriate notice that the application has been received and shall state a time by which the plat is to be reviewed. If the plat is not reviewed within sixty days of the date of submittal, it shall be automatically approved. If the application as received is not complete, it shall be rejected within two weeks after its submittal, with written indication of the manner in which it is incomplete; and the sixty-day review period shall not begin to run until a satisfactorily complete application has been received by the DPO.
- B. If the Designated Planning Official determines that the subdivision as proposed is located in a geophysical hazard area or for some other reason may be detrimental to the public health, safety or welfare, or involves unusual factors, the Designated Planning Official shall treat the application as a preliminary plat submission and refer the plat to the platting board unless the applicant withdraws the plat. The applicant shall pay such additional fees as may be required for processing plat's under the preliminary and final plat procedure.
- C. All lots shall front on a dedicated right-of-way.
- D. A new right-of-way dedicated as a part of a short plat shall meet the dimensional and other requirements for rights-of-way set out in this title.
- E. Short plat subdivisions shall meet the design standards set forth in this title.
- F. Short plat subdivisions shall meet the monumentation standards of this title.
- G. If a plat is disapproved, the reasons shall be stated in writing. If a plat is approved, the plat shall be acknowledged and filed in accordance with AS 40.15.010 through 40.15.020. (Ord. 87-01 § 4(part), 1987)

CHAPTER 16.20 PRELIMINARY PLATS**16.20.10 APPLICATION.**

- A. An applicant for the preliminary plat shall be required to submit the following to the designated planning Official:
 - 1. A nonrefundable plat application fee as set by resolution of the City Council;
 - 2. Four neatly and accurately composed drawings (plat maps) no larger than twenty-four inches wide and thirty-six inches long showing the proposed subdivision.
- B. The plat shall be prepared by a professional land surveyor licensed to practice in the state of Alaska.
- C. The plat maps shall contain the following information:
 - 1. The signature and seal of a land surveyor licensed to practice in the state of Alaska;
 - 2. A title block in the lower left-hand corner containing the following information:
 - a. Proposed name of subdivision,
 - b. Horizontal scale not to exceed fifty feet to the inch,
 - c. Date of application,
 - d. Name and address of the property owner,
 - e. Location of the subdivision by reference to U.S. survey numbers;
 - 3. A north arrow;
 - 4. The location of existing and proposed property lines;
 - 5. The size of each parcel created by the subdivision, expressed in square feet;
 - 6. 6. The linear dimensions of each lot created by the subdivision;
 - 7. Topographic lines at twenty-foot intervals;
 - 8. The location of significant natural features such as, but not limited to, anadromous fish streams, existing material sites, wetlands and eagle trees;
 - 9. The location and flow of all-natural drainages and the location, type and purpose of all fabricated drainage improvements;
 - 10. The location and type of all improvements;
 - 11. An inset map at a scale not to exceed one inch to one thousand feet, showing the location of the subdivision within the municipal limits of Thorne Bay;
 - 12. The Designated Planning Official may require that the applicant show the location of all new construction proposed to take place in the subdivision.
- E. If the application and plat maps are not complete, they shall be rejected within two weeks after their submittal to the DPO, with written indication of the manner in which they are incomplete. (Ord. 87-01 § 5(part), 1988)

16.20.020 PROCEDURE.

- A. Upon receipt of a completed application, the Designated Planning Official shall give appropriate notice that the application has been received and shall state a time by which the plat is to be reviewed. If the plat is not reviewed within sixty days of the date of submittal, it shall be automatically approved. If the application as received is not complete, it shall be rejected within two weeks after its submittal, with written indication of the manner in which it is incomplete; and the sixty-day review period shall not begin to run until a satisfactorily complete application has been received by the DPO. The Designated Planning Official shall assure preliminary plat compliance with the following requirements:
1. All lots must front on a dedicated right-of-way, which may not be less than forty feet in width. The platting board shall also require the Landowner of the proposed subdivision to dedicate rights-of-way alongside yard lot lines where it finds such rights-of-way are needed to assure access and provide for public transportation corridors.
 2. Utility easements shall be dedicated by the Landowner along property lines wherein deemed necessary by the platting board. Width of the easements shall be minimum of twenty feet.
 3. All streams and watercourses used to provide domestic water shall be protected by a fifty-foot buffer on each side of the stream or watercourse.
 4. All anadromous fish streams shall be protected by a fifty-foot buffer on each side of the anadromous fish stream.
 5. Written approval from the Alaska Department of Environmental Conservation for domestic water supply and wastewater and sewage disposal systems. The applicant shall be required to submit the preliminary plat to the Department of Environmental Conservation for review. The platting board may approve a preliminary plat only after it has been reviewed and approved by the Department of Environmental Conservation.
 6. The drainage plan for the subdivision shall be designed so that no one lot becomes the destination for run-off waters from adjacent lots. Nor shall any lot be permitted whose surface area is twenty-five percent or more covered by a lake, bog, marsh, estuary, stream or creek.
 7. Elongated lots are discouraged. As a standard, the commission shall not approve lots where the length of the lot exceeds the width of the lot by four or more times.

8. All property under contiguous and common ownership shall be shown on the preliminary plat, even if only a portion of the property is being submitted for plat approval.
 9. Structures subsequently located on approved platted lots shall be set back at least ten feet from the front and rear property lines and at least five feet from the side property lines.
- B. The Designated Planning Official shall issue a notice of public hearing on the preliminary plat at least twenty-one days before the plat is scheduled for public hearing. Notice may be given in a local newspaper of general circulation or may be posted in a conspicuous public location. The notice must contain at a minimum, the location of the proposed subdivision, the number of lots created and the name of applicant. The platting board may add further information to the notice at its discretion. (Ord. 87-01 § 5(part), 1988) (ord. 15-12-15-01)

16.20.030 PLATTING BOARD ACTION ON PRELIMINARY PLAT.

- A. After considering the preliminary plat, the planning commission sitting as the platting board shall take one of the following actions, and shall state the reasons for its action in writing:
1. Approve the preliminary plat as submitted;
 2. Approve the preliminary plat with conditions;
 3. Deny the preliminary plat with cause.
- C. Preliminary plat approval shall become nullified if the applicant has not subdivided the parcel within two calendar years of the date of approval of the preliminary plat. (Ord. 87-01 § 5(part), 1988)

16.20.040 ACTION FOLLOWING APPROVAL.

Upon platting board approval of the preliminary plat, the applicant may undertake certain activities prior to approval of the final plat. These activities are:

- A. Completing required surveying and monumentation;
- B. Complying with plat conditions required by the platting board as conditions of approval, including but not limited to physical improvements to the property such as land clearing, installation of drainage and identification of rights-of-way and easements.
- C. Preparing a reproducible Mylar of the plat as approved by the platting board. (Ord. 87-01 § 5(part), 1988)

CHAPTER 16.24 FINAL PLAT APPROVAL - SECTIONS**16.24.010 GUARANTEE OF REQUIRED IMPROVEMENTS.**

Final plat approval shall be granted if the final plat, as submitted, conforms to the approved preliminary plat, and if the applicant has made or guaranteed to make all required improvements, and has completed all required surveying and monumentation. To assure that required improvements are constructed, the platting board may require the applicant to submit a surety bond or certified check with the final plat, in an amount equal to the cost of the improvements as determined by the platting board. The guarantee shall require completion of all improvements within twenty-four months of final plat approval. If the improvements are completed, the city will return the full amount of the guarantee to the applicant; if the improvements are not completed, the city shall construct (or complete the construction of) the improvements with the guarantee. Any amount of the guarantee in excess of the costs of completing the required improvements will be returned to the applicant; however, the applicant cannot be charged any amount in excess of the original guarantee. (Ord. 87-01 § 6(part), 1988)

16.24.020 FINAL PLAT SUBMITTALS.

The applicant must submit a reproducible black-line plat of the subdivision on a sheet of twenty-four inch by thirty-six-inch Mylar. The final plat must meet all the requirements for a preliminary plat map. The city shall keep a copy of the plat on file. The original shall be recorded in the district recording office. The following information shall appear on the final plat:

A. Certification of Ownership.

I (we) hereby certify that I am (we are) owners of the property shown and described hereon and that I (we) hereby adopt this plat of subdivision with my (our) free consent, and dedicate all easements, streets, alleys, walks, parks and other open spaces to public or private use as noted: Date , 20

- i. Witness Owner
- ii. Witness Owner
- iii. Signature and seal of Notary

- B. Certification of Registered Land Surveyor. The certification of registered land surveyor shall be as follows:

I hereby certify that I am a professional Land Surveyor registered in the State of Alaska, and that this plat represents the survey made by me or under my direct supervision, that all dimensional and relative bearings are correct, and the monuments are set in place and noted upon this plat as present. Signature and Stamp;

- C. Certification of Approval and dedication by the Board. The certification of approval by the board shall be as follows:

1. CERTIFICATION OF APPROVAL

I hereby certify that the subdivision plat hereon has been found to comply with the subdivision requirements of the City of Thorne Bay, Alaska, and that said plat has been approved by the City Council, Resolution No. _____, dated _____, and the plat shown here on has been approved for recording at the Appropriate Recording Office in Alaska.

2. CERTIFICATION OF DEDICATION:

The rights-of-ways and easements shown on said plat are here by dedicated to the public for public use. The acceptance of land for public use or public purpose does not obligate the public or any governing body to construct, operate or maintain improvements. The City of Thorne Bay assumes: no responsibility no responsibility to provide any summer or winter maintenance within any right-of-way or easement as shown on said plat. Dated , 20 _____
Chairman, Thorne Bay Planning Commission;

- D. Attest City Clerk, Thorne Bay Planning Commission. (Ord. 87-01 § 6(part), 1988)(Ord. 15-12-15-01)

CHAPTER 16.28 DESIGN STANDARDS AND IMPROVEMENTS**16.28.010 GENERAL PROVISIONS.**

The design standards and other requirements of this section are intended to establish and define minimum standards for water, sewer and streets. (Ord. 87-01 § 7(part), 1987)

16.28.020 WATER SUPPLY.

- A. Each lot within the proposed subdivision shall be connected to the city water system if any portion of the subdivision is within three hundred feet of a city water distribution line. B. If a city water system is not within three hundred feet of any portion of the subdivision, the applicant shall provide a water supply system which shall be reviewed by and meet the approval of the Alaska Department of Environmental Conservation.
- B. Fire hydrants shall be installed in all subdivisions which are serviced by the city water system. (Ord. 87-01 § 7(1), 1987)

16.28.030 SEWER SYSTEM.

- A. Where a city sewer line or sewer force main is within three hundred feet of any portion of the proposed subdivision, the applicant will be required to extend sewer service to the site and to each lot therein.
- B. If a city sewer line or sewer force main is not within three hundred feet of any portion of the subdivision, the applicant shall provide an on-site sewage disposal system design which shall be reviewed by and meet the approval of the Alaska Department of Environmental Conservation. Applicant shall provide the City Planning Official with a copy of the DEC findings from their review and approval. (Ordinance 19-04-16-01)
- C. The planning commission may require the applicant to install oversize water and/or sewer lines in order to accommodate probable and/or desirable future growth in the immediate vicinity. When such oversize lines are required, the applicant will be reimbursed for the excess cost in providing oversize utility lines above the costs of providing standard utility lines, in an amount to be approved by the planning commission and the city council. (Ord. 87-01 § 7(2), 1987)

16.28.040 STREETS.

- A. General. Streets shall be designed and located in relation to existing and planned streets; in relation to topographical conditions and natural features such as streams; in consideration of public convenience and safety; and in a manner appropriate to the proposed uses of the subdivided parcel.
- B. Types of Streets.
1. Major Streets. Major streets are streets which may have traffic signals at important intersections and typically have stop signs on the side streets. A major street, sometimes called an arterial, collects and distributes traffic to and from collector streets.
 2. Collector Streets. Collector streets are streets which collect traffic from minor or local streets and connect with major streets or arterials.
 3. Minor Streets. Minor streets are streets designated to provide access to abutting properties and are not meant or intended for through traffic.
 4. Alleys. Alleys are secondary means of providing access to abutting properties and are not meant or intended for general traffic circulation. (Ord. 87-01 § 7(3), 1987)

16.28.050 RIGHTS-OF-WAY-PAVEMENT WIDTHS.

- A. Street's rights-of-way shall be sufficiently wide to provide for existing pavement widths, future street expansion, sidewalks and access for installation and maintenance of street drainage facilities or other utilities. Rights-of-way shall not have structures built upon them.
- B. Right-of-way width and surface width, unless otherwise specified by the planning commission, are:
1. Right-of-way Surface
 2. Major streets 60 40
 3. Collectors 50 35
 4. Minor streets 40 24-36
 5. Alleys 20 16-20

- C. Grade. Street grade shall not exceed twelve percent. The minimum grade of all streets shall not be less than two percent to provide for proper drainage.
- D. Sight Distances. A minimum sight distance, with visibility measured along the centerline of the street, shall be provided for both vertical and horizontal curves as follows:
 - 1. Minor Streets* All Others
 - 2. Horizontal 200 300
 - 3. Vertical 200 300 including cul-de-sacs
- E. Tangents. A straight section of street at least one hundred feet in length shall be built between reverse curves on major and collector streets.
- F. Cul-de-sacs. Cul-de-sacs shall have a maximum length of six hundred feet and a minimum width of forty feet with a turnaround diameter of eighty feet.
- G. Intersections.
 - 1. Streets shall intersect as nearly as possible at right angles and not more than two streets shall intersect at one point.
 - 2. Offset intersections shall have a minimum distance of one hundred twenty-five feet between the centerlines of the intersecting streets. (Ord. 87-01 § 7(part), 1987)

CHAPTER 16.32 MONUMENTATION-VACATIONS-DEDICATIONS**16.32.010 MONUMENTATION.**

The exterior corners of the subdivision, and all corners of each lot within the subdivision, shall be monumented with a 5/8" x 24" pipe or bar capped and marked. If a plat corner or a lot corner is identical with a United States Survey, a United States Mineral Survey or an Alaska Tidelands Survey, the primary monument shall be shown on the plat, or reestablished and shown if not found. (Ord. 87-01 § 8, 1987)

16.32.020 VACATIONS.

- A. The city may vacate public property and turn it over to private ownership when it finds that the property is no longer needed for a public purpose or to promote the public welfare. The City may not vacate any dedicated land without all rights and title vested in the City or the landowner who offered the dedication granting all rights and title to the vacated land. The planning commission shall make a recommendation to the city council on property vacations, and the council shall decide whether or not a vacation is to be permitted.
- B. All vacations of city-owned property shall be governed by the provisions of state law given in AS 29.40.140 through 29.40.160.
- C. The planning commission shall hold a public hearing on the proposed vacation. Property owners adjacent to the property proposed for vacation shall be notified of the public hearing at least thirty days in advance of the hearing. Notice of the hearing shall also be posted in a conspicuous place in the community thirty days in advance of the hearing. (Ord. 88-35 § 4, 1988: Ord. 87-01 § 9, 1987)(Ord. 15-12-15-01)

16.32.030 DEDICATIONS OUTSIDE SUBDIVISION PROCESS.

- A. Streets, utility easements and other forms of interests in land are routinely dedicated to public use by sub dividers as part of the subdivision process. In addition, the city may accept other property for dedication to public use and advancement of the public welfare, outside the process of approving a subdivision.
- B. The planning commission shall hold a public hearing on the proposed dedication. Property owners adjacent to the property proposed for dedication shall be notified

of the public hearing at least thirty days in advance of the hearing. Notice of the hearing shall also be posted in a conspicuous place in the community thirty days in advance of the hearing.

- C. The planning commission shall forward its recommendation to the city council, which shall decide whether or not to accept the dedication.
- D. A plat of the dedication shall contain a short narrative explaining the purpose of the dedication and shall contain the donor's certificate of dedication to public use and contain the City's certificate of acceptance for public use and shall be submitted for recording at the district recorder's office. If the City is to assume responsibility for use and / or maintenance of the dedicated lands, all rights and title to the land being dedicated must be granted to the city. (Ord. 87-01 § 10, 1987)(Ord. 15-12-15-01)

CHAPTER 16.36 VARIANCES-APPEALS**16.36.010 VARIANCE REQUIREMENTS.**

A variance from the requirements for this title may be granted only if the following conditions are met:

- A. The granting of a platting variance will not be detrimental to the public health, safety or welfare, or injurious to adjacent property.
- B. The conditions upon which the platting variance is based do not apply generally to the properties other than the property for which the variance is sought.
- C. The tract to be subdivided is of such unusual size and shape or topographical configuration that strict application of the requirements of this title will result in undue and substantial hardship to the owner of the property.
- D. Implementation of the variance will not cause a violation of a state fire regulation adopted pursuant to AS 18.70.080. (Ord. 87-01 § 11(part), 1987)

16.36.020 VARIANCE PROCEDURE.

- A. An application for a platting variance shall include:
 - 1. A drawing of the plat or photocopy of the existing survey;
 - 2. Proof of title of the applicant;
 - 3. A written application in narrative form explaining the conditions, facts and reasons why a variance should be granted and why such facts and reasons constitute compliance with each of the requirements for variance as stated herein. Application shall be made to the city clerk, who shall forward the application to the platting board.
 - 4. The platting board shall have the authority to grant or deny platting variances after holding a public hearing upon thirty days' notice. In granting or denying any platting variance, the platting board shall provide a full and complete disclosure, in writing, of its reasons for the decision.
- B. The public hearing on the variance may be a part of the hearing on the preliminary plat itself. (Ord. 87-01 § 11(part), 1987)

16.36.030 APPEALS.

- A. Any decision of the Designated Planning Official may be appealed to the platting board, any decision of the platting board may be appealed to the city council sitting as the board of adjustment, and any decision of the board of adjustment may be appealed to the superior court, provided a written notice of appeal is filed within thirty days after the decision being appealed is announced in writing.
- B. Any concerned person aggrieved by a decision has a right to appeal that decision.
1. An appeal to a body within the city hierarchy shall be filed with the city clerk together with an application fee of fifty dollars. The appeal shall contain a written narrative explaining the basis of any reasons for the appeal. The narrative shall be specific and concise.
 2. The body hearing the appeal shall first consider the record developed below and shall make its decision based on that record if the record is adequate. If the record below is not adequate, the body hearing the appeal shall hold a hearing (after public notice) to receive additional evidence from the appellant and other interested parties and shall reach its decision based upon the record below as supplemented by the additional evidence.
- C. Any party who participated in the proceedings before the board of adjustment and is aggrieved by the resulting decision of the board of adjustment may appeal that decision to the superior court, provided:
1. Notice of appeal is filed with the superior court no later than thirty days following the board of adjustment's issuance of its written decision; this time limit is jurisdictional; and
 2. The appellant pays the city, by depositing with the city clerk, the city's cost of preparing the entire record (including a transcript of hearings held below) no later than sixty days following the decision being appealed from. Transcripts of hearings shall be prepared by a certified court reporter, and preparation of the entire record is at the appellant's expense.
 3. All other procedures, on appeal to the superior court, are set forth in the Alaska Rules of Appellate Procedure. The appeal is an administrative appeal, heard solely on the record established in this title, pursuant to AS 29.40.060(b). (Ord. 87-01 § 12, 1987)

CHAPTER 16.40 VIOLATIONS-PENALTIES

16.40.010 PENALTIES AND REMEDIES

- A. The owner or agent of the owner of land who publicly offers by any means to sell, transfer, or who sells or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and filed in accordance with this title is guilty of an infraction, and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel offered for sale, transferred, sold, or included in a contract to be sold.
- B. No person may file or seek to have a plat filed unless it has been approved in accordance with this title. A person who knowingly violates this subsection is punishable upon conviction by a fine of not more than \$500.
- C. Each act or condition in violation of this title, or any term or condition of any plat or other entitlement under this title, and every day during which the act or condition occurs shall constitute a separate violation of this title.

16.40.020 CIVIL REMEDIES-PURSUANT TO AS 29.40.190.

- A. The city or an aggrieved person may institute a civil action against a person who commits a violation under Section 16.40.010, or who violates a subdivision regulation contained in this title, or a term, condition, or limitation imposed by a platting authority. In addition to other relief, a civil penalty not to exceed one thousand dollars may be imposed for each violation.
- B. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction.

16.40.030 SUBDIVISIONS-VIOLATIONS/ ENFORCEMENT/ PENALTIES

Any person violating any provision of this chapter shall be deemed guilty of an infraction and shall be punished by the fine established in [1.16.035](#) if the offense is listed in that fine schedule or if not listed in 1.16.035 then by the fine provided in 1.16.030

If a violation continues, each day's violation shall be deemed as a separate violation.

1.16.030 VIOLATIONS-SEPARATE OFFENSE.

Every act prohibited by Thorne Bay ordinances is unlawful. Failure to comply with any mandatory requirement of any ordinance is also unlawful. Unless another penalty is expressly provided by a Thorne Bay ordinance for any particular provision or section, each violation of this code is an infraction, punishable by a fine up to three hundred dollars (\$300) per violation. Each act or violation and every day upon which a violation occurs or continues constitutes a separate offense unless stated otherwise in any ordinance. (Ordinance 18-01-02-01; Prior Ord. 88-23 § 5(part), 1988)

1.16.031 SURCHARGE.

In addition to any penalty prescribed by law, a defendant convicted of violating a city ordinance shall pay the surcharge required under as [12.55.039](#) and [29.25.074](#). All such surcharges collected shall be remitted to the state of Alaska as required by as 29.25.074.

1.16.035 MINOR OFFENSE FINE SCHEDULE.

In accordance with as [29.25.070\(a\)](#), citations for the following offenses may be disposed of as provided in as 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by as 12.55.039 and as 29.25.074.

FINES MUST BE PAID TO THE COURT.

If an offense is not listed on a fine schedule, the defendant must appear in court to answer the charges. The Alaska court system's rules of minor offense procedure apply to all offenses listed below. Citations charging these offenses must meet the requirements of [Minor Offense Rule 3](#). If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below.

VIOLATIONS-PENALTIES				
MC 16.40.010	SUBDIVISIONS-ILLEGAL SALES	OPTION	\$500.00	
MC 16.40.010 (b)	SUBDIVISIONS-ILLEGAL FILING	OPTION	\$500.00	
MC 16.40.030	SUBDIVISIONS- <u>UNLAWFULLY</u> SUBDIVIDED-VIOLATION OF TERMS	OPTION	\$500.00	

Ordinance List & Disposition Table

Ordinance No.	Ordinance Description
83-03-08-02	Platting (Repealed By 88-31) (16.04)
83-05-18-01	Platting (Providing for the Assumption of Platting Authority within the boundaries of the City of Thorne Bay) (Repealed By 88-31) (16.04)
87-01	Subdivisions - Providing for the Subdivision of land within the City of Thorne Bay. Adding Sections: .01-General Provisions; .02-Requirements for Platting; .03-Waivers; .04-Short Plats; .05-Preliminary Plats; .06-Final Plat Approvals; .07-Subdivision Design Standards & Improvements; .08-Monumentation; .09-Vacations; .10-Dedications outside the subdivision Process; .11-Variances; .12-Appeals, .13-Penalties; .14-Definitions. (16.04)
88-35	Amends Ord. 87-01, Subdivisions (An Ordinance Correcting A Statutory Citation in Ordinance 87-01, Adopted 2-19-87.) (16.32)
95-11	Public Access/Utility Easement on West and South Side of Lot 4, Block 4, Alaska State Land Survey 82-139 (Special) (16.04)
08-09-16-02	Amending Title 16-Subdivisions, Chapter 16.32-Monumentation-Vacations-Dedications, Section 16.32.010-Monumentation (Changing from Three Quarter Inch by Thirty Inch to 5/8" X 24") (16.32)
08-10-21-03	Amending Title 16-Subdivisions, Chapter 16.16-Short Plats, Section 16.16.010-Application (Changing the Title Block on Plats from the Left Hand to the Right-Hand Side of the Plat) (16.16)
12-04-03-02	Amending Title 16-Subdivisions, Chapter 16.04-General Provisions, Sections 16.04.050 and 16.04.060,
15-03-17-04	Amending Title 16-Subdivisions, Chapter 16.08-Definitions, Section 16.08.090-Subdivision,
15-12-15-01	An Ordinance of the City Council Amending Title 16-Subdivisions,
17-05-16-03	Amending Title 16-Subdivisions, Chapter 16.12-Platting Requirements, Sections 16.12.020-Waiver Provisions for Lots Over 5 Acres; 16.12.025-Waiver Provisions for Lots Under 5 Acres, and 16.12.030-Procedure for Lots Under 5 Acres. (16.12)
19-04-16-01	Amending Title 16-Subdivisions, of the Thorne Bay Municipal Code, Allowing for the Enforcement of Fines for Code Violations. (Title 16)