

**CITY OF SULTAN
SULTAN WASHINGTON
ORDINANCE 1200-14**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON AMENDING VARIOUS PARTS OF ORDINANCE NO. 1144-12 RELATED TO THE DEFINITION OF SHORT PLATS AND SUBDIVISIONS; RAISING THE LIMIT ON SHORT PLATS TO LAND DIVISIONS OF UP TO NINE LOTS, ESTABLISHING A DEFINITION FOR SMALL-SCALE AND LARGE-SCALE BINDING SITE PLANS; CLARIFYING THAT BINDING SITE PLANS ARE SUBJECT TO SMC TITLE 19; PROVIDING FOR SEVERABILITY' AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the city code formerly allowed for short plats up to four lots to coincide with the State Environmental Policy Act (SEPA) categorical exemptions; and

WHEREAS, the SEPA exemption limit on plats was raised to include a SEPA categorical exemption for land division up to 9 lots and to apply the same exemption to binding site plans up to the same number of lots allowed as a short subdivision; and

WHEREAS, the City Council wishes to raise the limits on short plats to up to nine lots to coincide with the raised SEPA categorical exemption threshold; and

WHEREAS, the municipal code describes "small-scale" and "large-scale" binding site plans and does not provide a definition for either; and

WHEREAS, the SEPA Responsible Official issued a threshold decision for this draft ordinance on September 2, 2014, which was not appealed; and

WHEREAS, the Washington State Department of Commerce received this draft amendment meeting the procedural requirement under RCW 36.70A.106 and granted expedited review; and

WHEREAS, on August 19, 2014, the Planning Board held a public hearing on the draft ordinance; and

WHEREAS, the Planning Board recommended approval of the draft ordinance to the City Council; and

WHEREAS, on August 28, 2014, the City Council held a hearing on the draft ordinance, after proper notice, during its regular meeting; and

WHEREAS, the City Council after due consideration believes that certain amendments to the City's Land Division Code

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. SMC Section 19.02 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Chapter 19.02 General Provisions, is hereby amended to read as follows:

Chapter 19.02
GENERAL PROVISIONS

Sections:

19.02.010 Purpose.

19.02.020 Applicability of provisions.

19.02.030 Preapplication conference.

19.02.040 Scope and Exceptions.

19.02.050 Replats.

19.02.060 Correction of platting errors.

19.02.070 Time limitations and expiration of preliminary plat approval.

19.02.080 Placing lots or parcels on assessment rolls.

19.02.090 Administrative authority.

19.02.100 Transaction prior to final plat approval.

19.02.110 Appeal.

Section 2. SMC Section 19.02.040 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.02.040, Exceptions, is hereby amended to read as follows:

19.02.040 Scope and Exceptions.

A. SCOPE:

1. The division of land within the city of Sultan shall comply with Chapter 58.17 RCW.
2. Where this code imposes greater restrictions or higher standards upon the development of land than other laws, ordinance or restrictive covenant, the provisions of the code shall prevail.

B. EXCEPTIONS: This ordinance shall not apply to divisions and activities described as inapplicable in RCW 56.17.040; provided that boundary line adjustments and lot consolidations are subject to the provisions contained in SMC Chapter 19.06; provided further that binding site improvement plans are subject to the provisions contained in SMC Chapter 19.18 and 19.20.

Section 3. SMC Section 19.04.020 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.02.040, Definitions, is hereby amended to read as follows:

19.04.020 Definitions.

A. As used in this code, the following words and phrases shall mean:

1. "Access" means the right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
2. "Adjacent" means having a common boundary and is not to be construed as that which is across a street or alley.
3. "Alley" means a service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

4. "Approving authority" means the hearing examiner, city council of the city of Sultan, director, city administrator, or other entity as used in this code.
5. "Binding site plan" means an improvement plan processed in accordance with Chapters 19.18 and 19.20, which is legally binding on the land owner, his heirs, successors and assigns.
6. "Binding site plan, small-scale" means a binding site plan as defined under SMC 19.04.020 (5) that involves nine or fewer lots, tracts or parcels.
7. "Binding site plan, large-scale" means a binding site plan as defined under SMC 19.04.020 (5) that involves ten or more lots, tracts or parcels.8. "Block" means a group of lots, tracts or parcels within well-defined and fixed boundaries.
9. "Boundary line adjustment" means modification of the size or alignment of adjacent parcels through relocation of their common boundary where an additional parcel is not created and where the existing parcel which is being reduced in size is not reduced below the minimum lot size established by the zone which applies to the property. (Chapter 19.16 SMC.)
10. "Common open space" means an area or areas within a development designed, developed, dedicated and maintained for the use or enjoyment of all residents of the development, or of the public in general as specified on the applicable plat documents.
11. "Comprehensive plan" means the current urban area comprehensive plan of the city of Sultan adopted by the council pursuant to state law.
12. "Condominium" means a building, or group of buildings, in which dwelling units are owned individually and common areas and facilities are owned by all the owners in various ways as provided by state statute.
13. "Contiguous land" means two or more parcels or units of land under a single ownership which are not separated by an intervening parcel of land under different ownership. Intervening ownership includes limited access right-of-way which would deny access between the two parcels under single ownership.
14. "Council" means the legislative authority of the city of Sultan.
15. "Critical areas" means lands with environmentally sensitive characteristics, or lands which present constraints to development as addressed in the city of Sultan critical areas regulations, the city of Sultan shoreline management program, the city of Sultan flood damage prevention code and/or the FEMA Biological Opinion implementation provisions.
16. "Cul-de-sac" means a street closed at one end by a circular area of sufficient size for convenient reversal of traffic movement.

17. "Dedication" means the deliberate appropriation of land by an owner for any general and public uses, reserving for him 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. Acceptance by the public shall be evidenced by council approval of the dedication document for filing.

18. "Developer" means any person, corporation, partnership or other legal entity who creates a "subdivision," or "short subdivision," "binding site plan," "boundary line adjustment," or other procedural or structural improvement of land as defined herein and Chapter 58.17 RCW.

19. "Development authorization" means authorization issued by the director that authorizes the recipient to make use of property in accordance with the requirements of this code.

20. "Development review team" means the director, the public works director, the city administrator (at the administrator's discretion) and such other staff members as the administrator and/or the directors determine to be appropriate to participate in preapplication conferences and other development review processes as provided by this title.

21. "Director" means the person to whom the city administrator assigns the primary responsibility of administering and enforcing this code. The terms "administrator," "zoning administrator," "staff" or "planning staff" are sometimes used interchangeably with the term "director." "Director" includes his/her designee.

22. "Sultan annual fee schedule" means the then-current version of the Sultan fee schedule adopted annually by the city council to establish permit fees, deposits, impact fees and other charges for services and facilities provided by the city.

23. "Grade (ground level)" means the average of the finished ground level on each exterior wall of the building.

24. "Hearing examiner" means the hearing examiner appointed by the city council to hear quasi-judicial applications and render decisions on those applications.

25. "Improvements" means street grading or graveling, permanent street and corner monuments, street pavement, curbs and sidewalks, pedestrian ways, water mains, storm and sanitary sewers and other required or necessary facilities.

26. "Lot" means a designated parcel, tract, or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

27. Lot, Corner. "Corner lot" means a lot with two adjacent sides fronting on public right-of-way. A corner lot has one primary front yard which will be the address assignment

frontage and shall be subject to a full front yard setback as provided for the applicable zone in SMC Title 16. The secondary front yard is on the other frontage side of the property and shall be subject to a secondary setback for corner lots as provided in the applicable zone in SMC Title 16.

28. Lot, Double-Frontage. "Double-frontage lot" means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot. Also known as a through-lot.

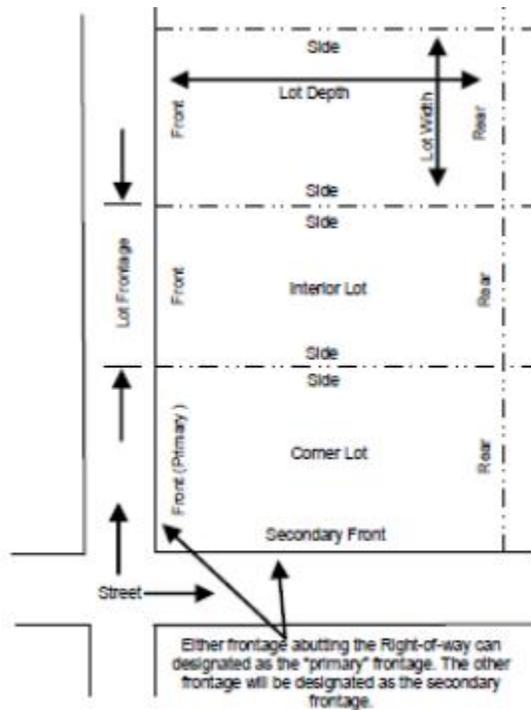


Figure 19.04.020-1 Lot Terminology

29. Lot, Flag. "Flag lot" means a lot only a narrow portion of which fronts on a public/private street and where access to that street is across that narrow portion for the exclusive use of that lot only.

30. "Lot frontage" means that portion of a lot nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to public streets shall be considered frontage.

31. Lot, Interior. "Interior lot" means a lot other than a corner lot.

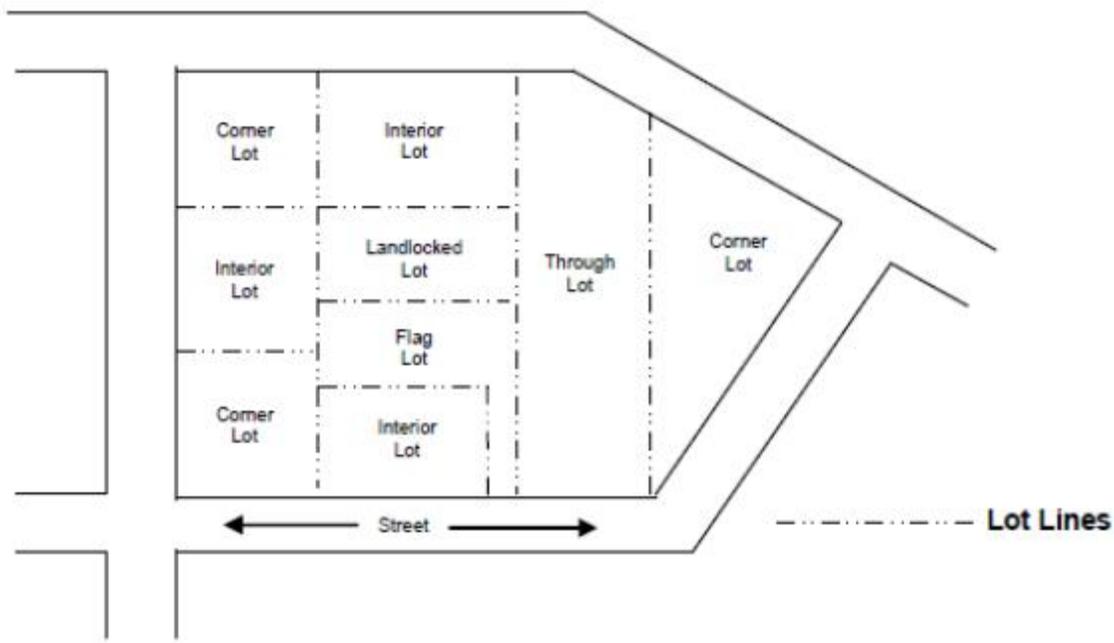


Figure 19.04.020-2 Lot Types Depicted

32. “Monument” means an object used to permanently mark a surveyed location. The size, shape and design of the monument are to be in accordance with standards specified by the Washington State Director of Natural Resources as authorized by Chapter 58.17 RCW.

33. “Parcel” is synonymous with “lot.”

34. “Person” means every natural person, firm, partnership, association or corporation.

35. “Plat” means a map or graphic representation of a short subdivision, a subdivision, or binding site plan showing thereon the division of a tract or parcel of land into lots, blocks, streets, alleys, easements or other divisions and dedications.

36. “Private lane” means a privately owned and maintained access to property from a public right-of-way.

37. “Right-of-way” means the platted portion of a development for purposes of a street or alley for vehicular and/or pedestrian traffic.

38. “SEPA” means State Environmental Policy Act.

39. “Short subdivision” means the division of land into nine or fewer lots, tracts or parcels for the purpose of sale or lease or transfer of ownership, as defined in Chapter [58.17](#) RCW.

40. "Street" means the entire width between the boundary lines of every way for the purposes of vehicular and pedestrian traffic and including the terms "road," "highway," "lane," "place," "avenue" or other similar designations.

41. Street, Arterial. "Arterial street" means a street primarily for fast through and heavy traffic, minimizing intersecting streets and direct access to abutting properties and primarily for the purpose of accommodating general traffic circulation of the community. Arterial streets are designated in the Sultan comprehensive plan.

42. Street, Collector. "Collector street" means a street which carries traffic from residential streets to one or more arterial streets. Collector streets are designated in the Sultan comprehensive plan.

43. Street, Residential. "Residential street" means a street which primarily provides the principal means of access to abutting property.

44. "Subdivision" means the division of land into ten or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership and shall include all re-subdivision of land.

45. "Turnaround" means the turnaround area of a cul-de-sac having sufficient size and shape for convenient reversal of traffic movement.

46. "Utility" means an agency or business which provides necessary services to the public and includes services such as telephone, gas, electric power, railroad, television cable, water and sewer.

47. "Utility facilities" means any structure operated by a utility for the purpose of distributing services to customers including switching or secondary transmission facilities. Utility facility does not include administrative offices, fleet parking lots or other support services not directly connected with service delivery.

48. "Wetlands" means lands with environmentally sensitive characteristics related to permanent or transient presence of water as addressed in the city of Sultan critical areas regulations and/or the city of Sultan shoreline management program.

Section 4. SMC Section 19.06.020 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.06.020, Applicability of Provisions, is hereby amended to read as follows:

19.06.020 Applicability of provisions.

Unless excepted by SMC 19.02.040, every division of land for the purpose of sale, lease or transfer into ten or more parcels or tracts within the city shall proceed in compliance with Chapters 19.08 and 19.10 SMC except if the land division proposal is applied for and qualifies for review as a large-scale binding site plan under provisions of Chapters 19.18 and 19.20 SMC.

Section 5. SMC Section 19.08.020 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.08.020, Application, submittal and contents, is hereby amended to read as follows:

19.08.020 Application, submittal and contents.

A. Preapplication Conference.

1. Prior to the filing of a preliminary subdivision application, the developer shall apply for a preapplication conference as provided in SMC 19.02.030.
2. The development review team shall advise the developer as to procedure, conformity to applicable ordinances and comprehensive plan policies.
3. Attendance and participation in a preapplication conference shall not vest an application. Vesting of an application shall only occur when a complete application has been submitted and accepted for review along with the applicable fee as provided by the city of Sultan annual fee schedule.

B. Development Authorization Required.

1. Preliminary subdivision applications require a Level III review and decision process as provided by Chapter 19.26 SMC.
2. As provided in Chapter 197-11 WAC, State Environmental Policy Act checklist shall be submitted along with supporting materials as required to fully analyze the environmental impacts of the proposed subdivision.

C. Application for Preliminary Subdivision. Application for preliminary subdivision approval shall consist of the following:

1. Two completed preliminary subdivision applications forms signed by the property owner(s) or authorized agent;
2. Five copies and one reproducible copy each of the preliminary subdivision map, utility and/or road plan, profile and cross-section drawings in accordance with currently adopted engineering standards;
3. The appropriate filing fee as provided by the city of Sultan annual fee schedule; any city engineering or inspection time incurred as part of the review and approval of the subdivision shall be paid for prior to final approval according to the city of Sultan annual fee schedule;
4. Two copies of the plat certificate in accordance with currently adopted subdivision specifications; and
5. A SEPA environmental checklist application and accompanying fee if the project is not exempt from SEPA.

6. A mailing list of property owners within 300 feet of the subject property shall be provided based on documented current title company records along with the mailing list review fee as provided by the city of Sultan annual fee schedule.

7. Surveyor/Engineer Required. The preliminary subdivision plat shall be prepared by a professional engineer or professional land surveyor registered or licensed by the state of Washington. The preparer shall, by placing his or her signature and stamp upon the face of the plat, certify that all information is portrayed accurately and that the preparer believes the proposed subdivision complies with the standards and requirements of this title, the Sultan zoning ordinance and any other applicable land use and development controls.

Section 6. SMC Section 19.12.010 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.12.010, Applicability of Provisions, is hereby amended to read as follows:

19.12.010 Applicability of provisions.

Every division of land for the purpose of sale, lease or transfer into nine or fewer lots, parcels or tracts within the city shall proceed in compliance with this chapter and Chapter 19.14 SMC.

Section 7. SMC Section 19.12.030 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.12.030, Redivision of platted lots, is hereby amended to read as follows:

19.12.030 Redivision of platted lots.

A. Redivision of Short Plat Prohibited. As provided in RCW 58.17.060, a parcel of land in a short subdivision shall not be further divided by short subdivision procedures for a period of five years, except as provided in subsection (B) or (C) of this section.

B. Original Short Plat to Be Increased to Nine Lots. When the original short subdivision contains fewer than nine lots, filing of an additional short subdivision application within a five-year period to create up to a total of nine lots within the original short subdivision boundaries is permitted when consistent in all respects with the then-current regulations of the city.

C. Original Short Subdivision to Be Increased to Ten Lots or More. Land within an approved short subdivision shall not be further divided into more than ten lots for a period of five years from the date of approval of the short subdivision without the submission and approval of a final long subdivision pursuant to all provisions of this title concerning the subdivision of land into ten or more lots, tracts, or parcels as required by the then-current Chapters 19.08 and 19.10 SMC.

Section 8. SMC Section 19.14.020 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.14.020, Application requirements, is hereby amended to read as follows:

19.14.020 Application requirements.

A. Preapplication Conference.

1. Prior to the filing of a short subdivision application, the developer shall apply for a preapplication conference as provided in SMC 19.02.030.

2. The development review team shall advise the developer as to procedure, conformity to applicable ordinances and comprehensive plan policies.

3. Attendance and participation in a preapplication conference shall not vest an application. Vesting of an application shall only occur when a complete short subdivision application has been submitted and accepted for review along with the applicable fee as provided by the city of Sultan annual fee schedule.

B. Development Authorization Required.

1. Short plats require a Level II review and decision process as provided by Chapter 19.24 SMC.

2. As provided in WAC 197-11-800(6), short subdivisions dividing land into fewer than ten lots, tracts, parcels, sites or division for the purpose of sale, lease, or transfer of ownership shall be categorically exempt from SEPA threshold determination requirements, except as otherwise provided in WAC 197-11-305 and 197-11-800 as determined by the director.

C. Application for Short Subdivision. Application for short subdivision approval shall consist of the following:

1. Two completed short subdivision application forms signed by the property owner(s) or authorized agent;

2. Five copies and one reproducible copy each of the short subdivision map, supplementary map, utility and/or road plan, profile and cross-section drawings in accordance with currently adopted engineering standards;

3. The appropriate filing fee as provided by the city of Sultan annual fee schedule; any city engineering or inspection time incurred after tentative approval has been granted as part of the review and approval of the short subdivision shall be paid for prior to final approval according to the city of Sultan annual fee schedule;

4. Two copies of the short plat certificate in accordance with currently adopted short subdivision specifications; and

5. A SEPA environmental checklist and accompanying fee, as provided by the city of Sultan annual fee schedule, is required for short subdivision applications in cases where the director determines that the short subdivision is not categorically exempt from SEPA review. A determination of SEPA applicability to a short subdivision application by the director shall be made in writing with findings indicating the basis for requirement of a SEPA environmental checklist.

Section 9. SMC Section 19.18.100 Amended. Ordinance No. 1144 12 § 2 (part), as codified at SMC Section 19.18.100, Application Submittal, is hereby amended to read as follows:

19.18.100 Application submittal.

Each application for binding site plan approval shall contain five copies of all complete application forms, plans and reports. A complete application must include:

- A. Application form and declaration of ownership.
- B. A draft “development agreement” incorporating the conditions of approval, the timeline for development, limitation for the use of the land and improvement guarantees to ensure compliance of all conditions of approval for the binding site plan.
- C. Fees as set forth in the city of Sultan annual fee schedule.
- D. Title report (dated within the last 30 days).
- E. Vicinity map of the area where the site is located.
- F. A SEPA environmental checklist application and accompanying fee if the project is not exempt from SEPA.
- G. Landscape plan.
- H. Parks and open space plan.
- I. Binding site plan design constructed in conformance with SMC 19.18.110.
- J. A preliminary site plan to a scale of 30 feet to one inch, or appropriate multiple, stamped and signed by a registered engineer, architect or land surveyor illustrating the proposed development of the property and including, but not limited to, the following:
 - 1. Name or title of the proposed binding site plan;
 - 2. Date, scale and north arrow;
 - 3. Boundary lines and dimensions including any platted lot lines within the property;
 - 4. Total acreage;
 - 5. Property legal description;
 - 6. Existing zoning;
 - 7. Location and dimensions of all existing and proposed:
 - a. Buildings, including height in stories and feet and including total square feet of ground area coverage;
 - b. Parking stalls, access aisles and total area of lot coverage of all parking areas;

- c. Off-street loading area(s);
- d. Driveways and entrances;
- e. Density of residential uses;

8. Proposed building setbacks in feet;

9. Location of any regulated sensitive areas such as wetlands, steep slopes, wildlife habitat or floodplain and required buffers;

10. Location and height of fences, walls (including retaining walls) and the type or kind of building materials or planting proposed to be used;

11. Location of any proposed signs;

12. Location, dimension and basic layout of parking lots and access ways including landscaping;

13. Proposed surface stormwater management system;

14. Location of all rights-of-way and easements and uses indicated;

15. Location of existing and proposed utility service;

16. Existing and proposed grades shown in five-foot interval topographic contour lines;

17. Fire hydrant locations.

K. Any other information as required by the director to determine that the application is in compliance with the Sultan Municipal Code, including but not limited to:

- 1. Traffic studies;
- 2. Wetland reports;
- 3. Critical areas analysis;
- 4. Elevations;
- 5. Profiles and perspectives of buildings and site layout.

Section 10. Adoption of Findings of Fact. The City Council adopts as its preliminary findings the recitals set forth above. The City Council may adopt additional finding in the event that additional evidence is presented to the City Council.

Section 11: Corrections by the City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections o this ordinance, including the correction of clerical errors, reference to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 12. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 13. Effective Date. The ordinance or a summary thereof shall be published in the office newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED by the City Council and APPROVED by the Mayor this 28th day of August, 2014.

Carolyn Eslick, Mayor

ATTEST:

Laura J. Koenig, City Clerk

Approved as to form:

Danielle Evans, City Attorney

Published: 10/08/2014

Effective: 10/13/2014