



CO00002522

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 01-061

AMENDING SNOHOMISH COUNTY CODE CHAPTERS 19.40, 20.26, AND 32.30
RELATING TO REGULATIONS GOVERNING OWNERSHIP OF TRACTS IN
SUBDIVISIONS AND SHORT SUBDIVISIONS

WHEREAS, current Snohomish County Code provisions pertaining to ownership of tracts within subdivisions and short subdivisions allow tract ownership solely by shared and equal undivided interest of all lot owners, and do not allow tract ownership by a homeowners association; and

WHEREAS, the United States Department of Veterans Affairs (VA) has stated that VA home loans will not be guaranteed for home purchase on lots within Snohomish County subdivisions and short subdivisions where common tract ownership is by shared and equal undivided interest by all lot owners; and

WHEREAS, the VA will guarantee home loans in subdivisions and short subdivisions where common tract ownership is by homeowner association; and

WHEREAS, it is in the public interest to make home loans available from the VA in subdivisions and short subdivisions that contain commonly owned tracts; and

WHEREAS, most jurisdictions in the State of Washington permit common tract ownership by a homeowners association in subdivisions and short subdivisions; and

WHEREAS, homeowner association ownership of common tracts can be made an option available to subdivision and short subdivision applicants without compromising the maintenance and use of commonly owned tracts; and

WHEREAS, the proposed amendments are consistent with Snohomish County's adopted GMA comprehensive Plan; and

WHEREAS, the Snohomish county Planning Commission held a public hearing on February 27, 2001 to consider the draft code amendments; and

WHEREAS, the Snohomish County Council held a public hearing on August 22, 2001 continued to September 5, 2001 to consider the Planning Commission's recommendation.

THEREFORE, BE IT ORDAINED:

Section 1. The County Council adopts the following findings and conclusions:

1. Current tract ownership provisions of Titles 19 and 20 SCC, and chapter 32.30 SCC, limit ownership of tracts within subdivisions and short subdivision to a shared and equal undivided interest among all lot owners.

2. The VA has stated that VA home loans will not be guaranteed for home purchase on lots within Snohomish County subdivisions and short subdivisions where tract ownership is by shared and equal undivided interest by all lot owners.

3. The proposed amendments will provide an additional optional method of ownership of tracts within subdivisions and short subdivisions by permitting tract ownership by a homeowners association in lieu of common tract ownership by all lots within a subdivision or short subdivision. An applicant may choose which type of ownership method is to be established for tracts.

4. Homeowner association tract ownership is acceptable to the VA for purposes of guaranteeing home loans.

5. The proposed amendments include provisions requiring that, where an applicant chooses to use a homeowner association for tract ownership and maintenance, the association must be properly established and remain the owner of the tracts unless common tract ownership by all lots within the subdivision or short subdivision is authorized pursuant to a final plat alteration.

6. Ownership of tracts within subdivisions and short subdivisions by a homeowners association is permitted in most cities and counties in the State of Washington.

7. A determination of nonsignificance was issued for the proposed action on February 6, 2001, pursuant to the provisions of the State Environmental Policy Act, chapter 43.21C RCW, as implemented by chapter 97-11 WAC and Title 23 SCC.

8. The proposed amendments are in the best interest of the county and will promote the general public health, safety and welfare.

Section 2. A new section 19.40.075 is added to Snohomish county code to read:

19.40.075 Homeowners association.

A homeowners association established for purposes of tract ownership and maintenance pursuant to this title shall be incorporated as a profit or non-profit corporation and shall remain the owner unless tract ownership by all lots within the subdivision is authorized pursuant to a final plat alteration. In the event that a homeowners association established pursuant to this title should be dissolved, then each lot shall have an equal and undivided ownership interest in the tracts previously owned by the association as well as responsibility for maintaining the tracts. A

covenant that requires maintenance of the tracts consistent with county code, that restricts use of the tracts to that specified in the approved preliminary plat, and that requires compliance with those county regulations and conditions of final subdivision approval specified on the plat, must be approved by the County and recorded with the County Auditor. Said covenant shall be binding upon and inure to the benefit of the homeowners association, the owners of all lots within the subdivision and all others having any interest in the tracts or lots. Prior to the recording of the final plat, the department of planning and development services shall receive evidence that the articles of incorporation for the homeowners association have been filed. In any subdivision containing a homeowners association approved pursuant to this title, membership in the homeowners association and payment of dues or other assessments for maintenance purposes shall be a requirement of lot ownership and shall remain an appurtenance to and inseparable from each lot.

Section 3. Snohomish county code Section 19.40.080, last amended by Ordinance 97-086, on September 24, 1997 is amended to read:

19.40.080 Acknowledgments and certificates.

Acknowledgments and certificates required by this title shall be in language substantially indicated in the following subsections:

(1) Dedications. The intention of the owner shall be evidenced by his presentation for filing of a final plat clearly showing the dedication thereof and bearing the following certificate signed by all real parties of interest:

Know all men by these presents that _____, the undersigned owner, in fee simple of the land hereby platted, and _____, the mortgagee thereof, hereby declare this plat and dedicate to the use of the public forever all streets, avenues, places and sewer easements or whatever public property there is shown on the plat and the use for any and all public purposes not inconsistent with the use thereof for public highway purposes. Also, the right to make all necessary slopes for cuts and fills upon lots, blocks, tracts, etc. shown on this plat in the reasonable original grading of all the streets, avenues, places, etc. shown hereon. Also, the right to drain all streets over and across any lot or lots where water might take a natural course after the street or streets are graded. Also, all claims for damage against any governmental authority are waived which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of said roads.

Following original reasonable grading of roads and ways hereon, no drainage waters on any lot or lots shall be diverted or blocked from their natural course so as to discharge upon any public road rights-of-way to hamper proper road drainage. The owner of any lot or lots, prior to making any alteration in the drainage system after the recording of the plat, must make application to and receive approval from the director of the department of public works for said alteration. Any enclosing of drainage waters in culverts or drains or rerouting thereof across any lot as may be undertaken by or for the owner of any lot shall be done by and at the expense of such owner.

IN WITNESS WHEREOF we set our hands and seals this _____ day of _____, 19__.

In the event that a waiver of right of direct access is included, then the certificate shall contain substantially the following additional language:

That said dedication to the public shall in no way be construed to permit a right of direct access to _____ street from lots numbered _____, nor shall the county of Snohomish or any other local governmental agency within which the property is or may become located ever be required to grant a permit to build or construct an access of approach to said street from said lots.

In the event the plat contains a tract(s), then the certificate of dedication shall contain substantially the ~~((following))~~ language~~((:))~~ as contained in either (a) or (b), below, or both. When both types of dedication are proposed in the same plat, the plat shall clearly denote the ownership of each tract(s).

(a) Tract(s) _____ through _____ are hereby granted and conveyed together with all ~~((maintenance))~~ obligations to maintain the tracts consistent with county code, to lots _____ through _____ with an equal and undivided interest upon the recording of this plat ~~((together-with))~~ subject to an emergency maintenance easement granted and conveyed to Snohomish county. Use of said tracts is restricted to that specified in the approved final plat. The owners of all lots within the subdivision shall comply with those county regulations and conditions of final subdivision approval specified on the plat. These tracts shall remain an appurtenance to and inseparable from each lot. This covenant shall be binding upon and inure to the benefit of the owners of all lots within the subdivision and all others having any interest in the tracts or lots.

(b) Tract(s) _____ through _____ are hereby granted and conveyed to the _____ Homeowners Association (HOA) upon recording of this plat subject to an emergency maintenance easement granted and conveyed to Snohomish County. Ownership and maintenance of said tracts consistent with county code shall be the responsibility of the HOA unless and until tract ownership by all lots within this subdivision is authorized pursuant to a final plat alteration. Use of said tracts is restricted to that specified in the approved final plat. The HOA and the owners of all lots within the subdivision shall comply with those county regulations and conditions of final subdivision approval specified on the plat. The HOA shall remain in existence unless and until all lots within this subdivision have assumed common ownership of said tracts. In the event that the HOA should be dissolved, then each lot shall have an equal and undivided ownership interest in the tracts previously owned by the HOA as well as responsibility for maintaining the tracts. Membership in the HOA and payment of dues or other assessments for maintenance purposes shall be a requirement of lot ownership, and shall remain an appurtenance to and inseparable from each lot. This covenant shall be binding upon and inure to the benefit of the HOA, the owners of all lots within the subdivision and all others having any interest in the tracts or lots.

(2) Acknowledgment for Individual Capacity.

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH) ss.

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature)

(Seal or stamp)

(Title)

My appointment expires _____.

For an acknowledgment in a representative capacity:

State of Washington
County of _____

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of who instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature)

(Seal or stamp)

(Title)

My appointment expires _____.

(3) Restrictions. The following restrictions shall show on the face of the final plat:

(a) "No further subdivision of any lot without resubmitting for formal plat procedure."

(b) "The sale or lease of less than a whole lot in any subdivision platted and filed under Title 19 SCC is expressly prohibited except in compliance with Title 19 SCC."

(c) The following shall be required when the plat contains a private road:

The cost of construction and maintaining all roads not herein dedicated as public roads shall be the obligation of all of the owners and the obligation to maintain shall be concurrently the obligation of any corporation in which title of the roads and streets may be held. In the event that the owners of any lots served by the roads or streets of this plat shall petition the council to include these roads or streets in the public road system, the petitioners shall be obligated to bring the same to county road standards applicable at the time of petition in all respects, including dedication of rights-of-way, prior to acceptance by the county.

(d) "All landscaped areas in public rights-of-way shall be maintained by the developer or his successor(s) and may be reduced or eliminated if deemed necessary for or detrimental to county road purposes."

(e) Any additional conditions as approved by the hearing examiner.

(4) Approvals.

(a) Examined and approved this _____ day of _____, 19____.

Snohomish County Engineer

(b) Examined and approved this _____ day of _____, 19____.

Snohomish County Director,
Department of Planning and
Development Services

(c) Examined, found to be in conformity with applicable zoning and other land use controls, and approved this _____ day of _____, 19____.

Chairman, County Council
Snohomish County,
Washington

(5) Certificates.

(a) I hereby certify that the plat of _____ is based upon an actual survey and subdivision of Section ____, Township, ____ North Range, EWM as required by state statutes; that the distances, courses and angles are shown thereon correctly; that the monuments shall be set and lot and block corners shall be staked correctly on the ground, that I fully complied with the provisions of the state and local statutes and regulations governing platting.

Licensed Land Surveyor

(SEAL)

(b) I hereby certify that all state and county taxes heretofore levied against the property described herein, according to the books and records of my office, have been fully paid and discharged, including _____ taxes.

Treasurer, Snohomish County
by Deputy County Treasurer

(c) Filed for record at the request of _____ this ____ day of _____, 19__, at _____ minutes past ____ m, and recorded in Vol. ____ of Plats, page _____, records of Snohomish County, Washington.

Auditor

By: _____
Deputy County Auditor

Section 4. A new section 20.26.035 is added to Snohomish county code to read:

20.26.035 Homeowners association.

A homeowners association established for purposes of tract ownership and maintenance pursuant to this title shall be incorporated as a profit or non-profit corporation and shall remain the owner unless tract ownership by all lots within the short subdivision is authorized pursuant to the final short plat alteration process. In the event that a homeowners association established pursuant to this title should be dissolved, then each lot shall have an equal and undivided ownership interest in the tracts previously owned by the association as well as responsibility for maintaining the tracts. A covenant that requires maintenance of the tracts consistent with county code, that restricts use of the tracts to that specified in the approved preliminary short plat, and that requires compliance with those county regulations and conditions of final short

subdivision approval specified on the short plat, must be approved by the County and recorded with the County Auditor. Said covenant shall be binding upon and inure to the benefit of the homeowners association, the owners of all lots within the short subdivision and all others having any interest in the tracts or lots. Prior to the recording of the final short plat, the department of planning and development services shall receive evidence that the articles of incorporation for the homeowners association have been filed. In any short subdivision containing a homeowners association approved pursuant to this title, membership in the homeowners association and payment of dues or other assessments for maintenance purposes shall be a requirement of lot ownership, and shall remain an appurtenance to and inseparable from each lot.

Section 5. Snohomish county code Section 20.26.040, last amended by Ordinance 97-086, on September 24, 1997, is amended to read:

20.26.040 Acknowledgments and certificates.

(1) Acknowledgments and certificates required by this title shall be stated in substantially the language indicated in the following subsections:

(a) Declaration of Short Subdivision and of Covenants. The following declaration of short subdivision and of covenants shall appear on the final short plat:

Know all persons by these presents:

That we, the undersigned, having an interest in the real property described by this declaration, do hereby declare the herein described division of land approved as short plat number _____ on this day _____ of _____, 19____, by the Department of Planning and Development Services of Snohomish county, subject to the following covenants and conditions:

(i) The land described by this declaration may not be further subdivided in any manner exceeding a total of four parcels by anyone within five years of the above date of approval without a final plat, having been filed for record with the auditor of Snohomish county, pursuant to the provisions of chapter 58.17 RCW, and the ordinances of Snohomish county, and subject to the penalties attendant thereto;

(ii) All subsequent deeds will contain provisions for private roads in the manner described herein;

(iii) All maintenance of any private road described by this declaration shall be by the owner(s) of the parcels having legal access therefrom or their successor(s), unless and until such road, or portions thereof, are improved to Snohomish county public road standards and accepted by Snohomish county. At a minimum, provisions for the following shall be described on or recorded with this final short plat: (A) The method of maintenance of the private road; (B) The transfer of responsibility to successors and assigns, and (C) The placement of liens against persons not fulfilling their maintenance obligations;

(iv) Any private road will be subject to a utilities easement in favor of the grantor(s) or the successor(s) and of any electric, telephone, television cable, gas, water, or sewer company, public or private, or the successor(s) to install, construct, operate, maintain, alter, and repair their respective utilities, together with the right of ingress and egress for said purposes; PROVIDED, That if the road should become a public road at some time in the future, all easements within the road shall become null and void, and any utility facilities which physically exist shall become subject to the franchise requirements of the county;

(v) With respect to any private road described by this declaration, whether it remains private or becomes a public road, there is the additional right to make all necessary slopes for cuts and fills; and the right to continue to drain said roads and ways over and across any lot or lots where the water might take a natural course upon reasonable grading pursuant to improvement for dedication of the roads and ways shown herein. Following reasonable grading pursuant to improvements for dedication of the roads and ways shown herein, no drainage waters on any lot or lots shall be diverted or blocked from their natural course so as to discharge upon any public road rights-of-way or hamper proper road drainage, without the approval of Snohomish county;

(vi) All landscaped areas in public rights-of-way shall be maintained by the owner(s) and their successor(s) and must be reduced or eliminated at the request of the county if deemed necessary for county road purposes;

(vii) Drainage easements designated on the short plat are hereby reserved for and granted to Snohomish county, except those designated on the short plat as private easements, for the right of ingress and egress and the right to excavate, construct, operate, maintain, repair and/or rebuild an enclosed or open channel stormwater conveyance system and/or other drainage facilities, under, upon or through the drainage easement; and

(viii) Additional covenants, easements, and restrictions, if any, solely for the benefit of the grantor, and the successor(s), enforceable only by such persons are attached hereto as exhibits _____ and incorporated by reference as though fully set out herein.

But for the exception contained in paragraph (viii) above, these covenants are for the mutual benefit of the grantor and his heirs, successors and assigns and are for the further purpose of compliance with the ordinances and regulations of Snohomish county, and the county and such persons are specifically given the right to enforce these restrictions and reservations by injunction or other lawful procedure and to recover any damages resulting from such violation.

DATED this _____ day of _____, 19____.

(Grantor)

(Grantor)

(Grantor)

(Grantor)

(b) Dedications. The intention of the owner shall be evidenced by his or her presentation for filing of a final short plat clearly showing the dedication thereof and bearing the following certificate signed by all real parties of interest:

Know all persons by these presents that _____, the undersigned owner, in fee simple of the land hereby short subdivided, of short plat file number _____, and _____, the mortgagee thereof, hereby declare this short plat and dedicate to the use of the public forever all streets, avenues, places and sewer easements or whatever public property there is shown on the short plat, and the use for any and all public purposes not inconsistent with the use thereof for public highway purposes. Also, the right to make all necessary slopes for cuts and fills upon lots, blocks, tracts, etc., shown on this short plat in the reasonable original grading of all the streets, avenues, places, etc., shown hereon. Also, the right to drain all streets over and across any lot or lots where water might take a natural course after the street or streets are graded. Also, all claims for damage against any governmental authority are waived which may be occasioned to the adjacent land by the establishment, construction, drainage, and maintenance of said roads.

Following original reasonable grading of roads and ways hereon, no drainage waters on any lot or lots shall be diverted or blocked from their natural course so as to discharge upon any public road rights-of-way to hamper proper road drainage. The owner of any lot or lots, prior to making an alteration in the drainage system after the recording of the short plat, must make application to and receive approval from the director of the department of public works for said alteration. Any enclosing of drainage waters in culverts or drains or rerouting thereof across any lot as may be undertaken by or for the owner of any lot shall be done by and at the expense of such owner, after acquiring a culvert permit from the department of planning and development services, if required, and subject to any other existing permitting requirements therefor.

IN WITNESS WHEREOF, we set our hands and seals this _____ day of _____, 19____.

In the event that a waiver of right of direct access is included, then the certificate shall contain substantially the following additional language.

That said dedication to the public shall in no way be construed to permit a right of direct access to _____ street from lots numbered _____, nor shall the county of Snohomish or any other local governmental agency within which the property is or may become located ever be required to grant a permit to build or construct an access of approach to said street from said lots.

In the event the plat contains a tract(s), then the certificate of dedication shall contain substantially the ((following)) language((:)) as contained in either (a) or (b), below, or both. When both types of dedication are proposed in the same plat, the plat shall clearly denote the ownership of each tract(s).

(a) Tract(s) _____ through _____ are hereby granted and conveyed together with all ((maintenance)) obligations to maintain the tracts consistent with county code, to lots _____ through _____ with an equal and undivided interest upon the recording of this short plat subject to an emergency maintenance easement granted and conveyed to Snohomish County. These tracts shall remain an appurtenance to and inseparable from each lot.

(b) Tract(s) _____ through _____ are hereby granted and conveyed to the _____ Homeowners Association (HOA) upon recording of this short plat subject to an emergency maintenance easement granted and conveyed to Snohomish County. Ownership and maintenance of said tracts consistent with county code shall be the responsibility of the HOA unless and until tract ownership by all lots within this short subdivision is authorized pursuant to a short plat alteration. Use of said tracts is restricted to that specified in the approved final short plat. The HOA and owners of all lots within the short subdivision shall comply with those county regulations and conditions of final short subdivision approval specified on the short plat. The HOA shall remain in existence unless and until all lots within this short subdivision have assumed common ownership of said tracts. In the event that the HOA should be dissolved, then each lot shall have an equal and undivided ownership interest in the tracts previously owned by the HOA as well as responsibility for maintaining the tracts. Membership in the HOA and payment of dues or other assessments for maintenance purposes shall be a requirement of lot ownership, and shall remain an appurtenance to and inseparable from each lot. This covenant shall be binding upon and inure to the benefit of the HOA, the owners of all lots within the short subdivision and all others having any interest in the tracts or lots.

(2) This approval must be used on all short plats where right-of-way dedications occur:

Dedication of right-of-way approved in regular session by the county council.

County Council Chairperson

Approved by the Snohomish county executive:

County Executive

(3) For an acknowledgment in an individual capacity:

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

Signature)

(Seal or stamp)

start here (Title)

My appointment expires _____.

For an acknowledgment in a representative capacity:

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of who instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature)

(Seal or stamp)

(Title)

My appointment expires _____.

(4) Approvals.

(a) I hereby approve this short subdivision and find from the file that the short plat meets all applicable zoning and land use controls, and makes appropriate provisions for the public health, safety and general welfare. Approved this _____ day of _____, 19____.

Snohomish County Planning
and Development Services
Director

(5) Certificates.

(a) Land Surveyor's Certificate.

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of _____ in _____, 19____.

Registered Professional
Land Surveyor

Registration No.

Date

(Seal)

(b) Auditor's Certificate.

Filed for record at the request of _____, this ___ day of _____, 19___, at _____ minutes past __.m., and recorded in Vol. ___ of Short Plats, page _____, records of Snohomish County, Washington.

Auditor

By: _____
Deputy County Auditor

Section 6. Snohomish county code Section 32.30.050, last amended by Ordinance 96-076, on November 27, 1996, is amended to read:

32.30.050 Requirements for restricted open space area and bulk regulations.

(1) Table 1 establishes the bulk regulations for all proposed rural cluster subdivisions including the minimum percentage of the original gross development area which shall be retained in restricted open space tracts for rural cluster subdivisions located outside of designated rural/urban transition areas. No more than 65 percent of the total restricted open space area may consist of unbuildable land.

(2) To qualify as a restricted open space, an area must meet the following standards:

(a) It must be used for buffering, environmentally sensitive area protection, resource production and/or conservation, other recreational or community utility purposes, or general preservation;

(b) Subject to the requirements of Title 18 SCC, the following recreational and community utility uses are permitted in restricted open space tracts:

(i) beaches, docks, swimming areas, picnic areas, trails/pedestrian walkways, equestrian trails, playgrounds, equestrian centers or any non-motorized passive recreational facilities;

(ii) community wells, well houses, water lines, drainfields, retention and detention ponds, water recharge and infiltration facilities, water system appurtenances and biofiltration swales;

(c) At least 25 percent of the restricted open space tract shall be accessible by all residents of the rural cluster subdivision for passive recreation;

(d) At the time of application or consideration, the area shall not be subject to any pending enforcement actions for violations of state or county land development requirements or land use regulations;

(e) Vegetation removal within the restricted open space tract shall be in accordance with an approved open space management plan. Permanent vegetation removal within the restricted open space shall not be permitted, except that the following activities shall be allowed where vegetation removal is the minimum necessary to conduct the activity:

(i) construction of pedestrian or equestrian trails;

playfields;

- (ii) construction and maintenance of equestrian centers or
- (iii) maintenance of existing pastures;
- (iv) forestry or agricultural activities;
- (v) removal of dead, diseased or hazardous vegetation, consistent with best wildlife management practices;
- (vi) selective thinning and enhancement of vegetation; and
- (vii) fire breaks provided in accordance with fire district requirements;

(f) Forest practices within restricted open space shall occur as provided for in the applicable forest practices permit and/or in an approved open space management plan and shall consist of selective timber harvesting that retains trees representative of all size classes, of sufficient quality with good crown cover, deep root system, and in a healthy condition to survive once the timber harvest has been completed. Trees shall be retained in stands or clusters where feasible.

(3) In that portion of the open space of a rural cluster subdivision which is not restricted open space, all recreational uses as listed in SCC 18.32.040(A) are allowed when otherwise allowed by the applicable zone and when in compliance with applicable provisions of Title 18 SCC.

(4) All restricted open space, including any proposed recreation uses, in the rural cluster subdivision shall be shown as separate, commonly owned tracts, tracts owned by a homeowners association established pursuant to Titles 19 or 20 SCC, or development restricted tracts under single ownership on the plat or short plat. The restricted open space areas must be protected in perpetuity by covenants, approved by the county, which restrict their use to those uses specified in the approved rural cluster subdivision and provide for the maintenance of the area in a manner which assures its continuing use for the intended purpose.

(5) Land may be established as restricted open space through one of the following methods:

(a) The landowner may convey, without cost, the fee simple, or any lesser interest, development rights or easement that will protect and preserve the restricted open space area for its designated purpose(s), to a public agency or county approved non-profit, private organization which agrees in writing to accept the conveyance and maintain and manage the restricted open space area, including resource lands, critical areas, and any buildings, structures, or improvements thereon, for its designated purpose(s) and in accordance with the requirements of all applicable state laws and county codes. The property may thereafter be conveyed or leased back to the original owner or other person(s) under such covenants or contractual arrangements as will limit the future use of the property and assure its maintenance for its designated purpose(s);

(b) the landowner may retain the property in a single tract and record conditions, covenants and restrictions, as required by the county approving body, which run with the land and benefit the county, and which limit the future use of the property to those allowed in (2) and (3) of this section and provide for the maintenance of the property for its designated purpose(s) and the owner provides documentation

acceptable to the county to demonstrate the feasibility of managing the tract for beneficial resource production purposes;


(c) When no maintenance of the restricted open space area is required, the owner may convey the property to all lot owners in a tenancy in common; or

(d) If maintenance of the restricted open space area is required and the applicant does not propose to use options (a) or (b) in this subsection (4) to provide for maintenance, a homeowners' association or similar organization shall be established to maintain the area for its designated purpose(s). Membership in the association or organization, and dues or other assessment for maintenance purposes, shall be a requirement of lot ownership.

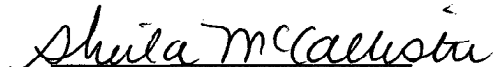
(6) All lands classified as a natural resource area which are included in restricted open space areas shall be placed under a unified system of property management for the purpose of maximizing their continued or potential, future management for beneficial resource production/conservation purposes.

PASSED this 5th day of September, 2001.

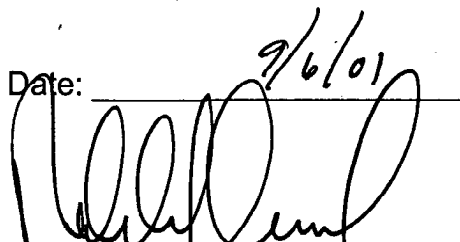
SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

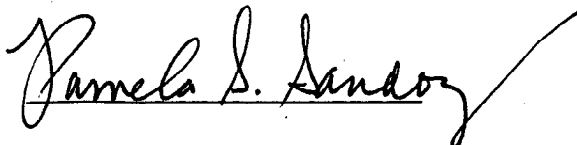
ATTEST:


Asst. Clerk of the Council

- APPROVED
 EMERGENCY
 VETOED

Date: 9/6/01

County Executive

ATTEST:



Approved as to form only:

Deputy Prosecuting Attorney