

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington



CO00000510

ORDINANCE NO. 02-026

AMENDING SNOHOMISH COUNTY CODE  
CHAPTERS 2.01, 2.68, 19A.30, 20.12 and 20.26  
RELATING TO DELEGATION OF AUTHORITY TO  
ACCEPT CONVEYANCES OF REAL PROPERTY

WHEREAS, the county executive and county council have identified regulatory reform of land use regulations as a high priority for county government; and

WHEREAS, right-of-way deed/easement conveyances to and from the county are specifically addressed in SCC 13.70.010(2), requiring approval through council legislative action; and

WHEREAS, short plat dedications to the county are specifically addressed in SCC 20.12.040, requiring approval through council legislative action; and

WHEREAS, the approval /acceptance of non right-of-way (ROW) conveyances to the county are not clearly specified; and

WHEREAS, the department of planning and development services (PDS) has identified a permit application process efficiency that may be accomplished by administrative acceptance of easements, deeds and dedications required as a condition of land development permit approvals rather than by council legislative action;

THEREFORE, BE IT ORDAINED:

**Section 1.** The Snohomish county council adopts the following findings of fact and conclusions:

1. SCC 19.40.010(8) describes the dedication process for a final subdivision, which is handled concurrently at the council's final subdivision approval meeting.
2. When a required conveyance lies outside of the subdivision boundaries, a separate ordinance action by council is necessary. Examples of such off-site conveyances are: drainage easements, sidewalk easements, slope easements, and temporary turnaround easements.
3. Other development permits approved administratively by PDS or by the hearing examiner also need council acceptance for deeds and/or easements required by Snohomish County Code (SCC) or a permit condition. These permit approvals do not normally involve council action. The acceptance process required for real property acquisitions adds up to four weeks time to the review and approval process. This additional process is needed for the examples noted in "2." above and for on-site: ROW deeds or easements, drainage easements, temporary turnarounds, native growth protection areas (NGPAs), and drainage maintenance covenants- required as a condition of an administrative permit approval, such as a short subdivision.
4. When such conveyances are required by SCC as a permit approval condition, and when the appropriate criteria and standards are also established by SCC, the delegation of approval and acceptance authority may be reasonably delegated by the county council to

the PDS or public works (PW) department director or the county engineer, thereby saving time and effort for both the permit applicant and executive departments of Snohomish county government.

5. Such delegation is not unique. SCC 2.68.035 delegates the power to accept for Snohomish county, deed and other conveyances of real property necessary for the implementation of road projects authorized and funded by the Snohomish county council to the director of public works or county engineer.
6. This delegation shall be consistent with Snohomish county executive Instruction 008-A. The executive delegation of authority guidelines, dated May 24, 1994, describes that the purpose of delegating signature authority to department directors is to: 1. Reduce the amount of paperwork transmitted; 2. Shorten the amount of time needed to acquire signatures; 3. Improve the quality of decision-making; and 4. Provide a uniform method for tracking contracts.
7. It is the intent of these amendments to delegate county council authority to both PDS and PW and implement entirely administrative approvals for short subdivisions and other land use or development permits; and eliminate the need for a county council meeting or hearing to accept the conveyance of real property.
8. Based on the foregoing findings of facts and conclusions, the Snohomish county council hereby adopts SCC amendments as follows:

**Section 2.** Snohomish County Code section 2.01.040, adopted by Ordinance No. 82-130 on December 10, 1982, is amended to read:

2.01.040 Director.

- (1) The director shall organize, manage and administer the activities of the department. He or she shall advise the executive and the council with regard to programs managed by or affecting the activities of the department.
- (2) The director may, upon approval by the executive, issue rules as may be necessary to carry out the purposes of this chapter, and upon approval by the executive and/or council, enter into contracts on behalf of the county to carry out the purposes of this chapter.
- (3) The director shall prepare and submit to the executive an annual budget request for the department.
- (4) The director shall appoint all officers and employees of the department in accordance with the rules of the county personnel system and exempt personnel system and shall implement service improvements and cost reductions where possible.
- (5) The director shall have the power to accept on behalf of the county, deeds and other conveyances or covenants of real property when such conveyances or covenants are tendered in compliance with conditions of a land use or development permit, and is consistent with adopted land use, development or engineering standards and regulations.
  - (a) Right-of-Way (ROW) conveyances shall be approved and accepted by the director of the department of public works or county engineer.
  - (b) Road establishments are accepted under separate authority and procedures in accordance with chapters 36.81 RCW and 13.90 SCC.

- (c) Dedications of real property within the boundaries of a final subdivision are accepted under separate procedure in accordance with the provisions of SCC19.40.010 (8).
- (6) The director may delegate functions, powers, and duties to other officers and employees of the department as deemed expedient to further the purposes of this chapter.

**Section 3.** Snohomish County Code section 2.68.035, added by Ordinance No. 92-089 on August 19, 1992, is amended to read:

2.68.035 Delegation of authority concerning real property conveyances for road projects. The director of public works or the county engineer shall have the power to accept on behalf of the county, deeds and other conveyances of real property necessary for the implementation of road projects specifically authorized and funded by the Snohomish county council or tendered in compliance with a condition of land use or development permit approval pursuant to adopted land use, development or engineering standards and regulations.

**Section 4.** Snohomish County Code section 19A.30.060, adopted by Ordinance No. 95-062 on August 9, 1995, is amended to read:

19A.30.060 Road and right-of-way establishment and right-of-way dedication.

- (1) Where road and/or right-of-way establishment is required by the department for a binding site plan application or proposed by the applicant, establishment shall be in accordance with chapter 13.90 SCC and shall occur prior to recording the binding site plan with record of survey. The establishment shall be effective upon recording of the binding site plan with record of survey.
- (2) Where dedication of new right-of-way is required for binding site plan approval, the dedication shall be made in accordance with chapter 26B.55 SCC and pursuant to ~~((chapter 13.90))~~ SCC 2.01.040, prior to or at the time of recording the binding site plan with record of survey. The dedication shall be effective upon recording of the binding site plan with record of survey.
- (3) Road and right-of-way establishment and right-of-way dedications stated as approval conditions for a previously approved site plan requiring implementation prior to issuance of any subsequent building or development permit, shall be implemented at the time of binding site plan with record of survey recording.
- (4) Where right-of-way is established by recording a binding site plan with record of survey but not required or built upon at the time of site development, a revised binding site plan with record of survey may be prepared, approved, and recorded showing the elimination of said right-of-way.
- (5) This section shall not apply where the establishment or dedication has already been approved or is being considered for approval with another concurrent land development application which includes a site plan approval.

**Section 5.** Snohomish County Code section 20.12.040, last amended by Ordinance No. 87-030 on May 13, 1987, is amended to read:

20.12.040 ~~((Public dedications))~~ Conveyances to the public.

~~((Where a public dedication is to be made such dedication shall be made in conformance to the existing plans of the accepting body. All public dedications shall be subject to the approval of the Council.))~~

Where real property interests are to be conveyed to the public, such real property, conveyances shall be made in conformance with adopted engineering standards or land use and development standards, and subject to approval and acceptance of the director of public works, the county engineer or the director of PDS pursuant to SCC 2.68.035 or 2.01.040 respectively.

**Section 6.** Snohomish County Code section 20.26.040, last amended by Ordinance No. 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 \_\_\_\_\_, 20\_\_\_\_, 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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(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 \_\_\_\_\_, 20\_\_\_\_.

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 declaration of covenants shall contain substantially the following language:

Tract(s) \_\_\_\_\_ through \_\_\_\_\_ are hereby granted and conveyed together with all maintenance obligations to lots \_\_\_\_\_ through \_\_\_\_\_ with an equal and undivided interest upon the recording of this short plat. These tracts shall remain an appurtenance to and inseparable from each lot.

(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))~~ department  
of public works director/county engineer:

~~\_\_\_\_\_~~  
County ((Executive))DPW director/county engineer

(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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Registered Professional  
Land Surveyor

\_\_\_\_\_  
Registration No.

\_\_\_\_\_  
Date



(Seal)

(b) Auditor's Certificate.

Filed for record at the request of \_\_\_\_\_, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_ minutes past \_\_.m., and recorded in Vol. \_\_\_ of Short Plats, page \_\_\_\_\_, records of Snohomish County, Washington.

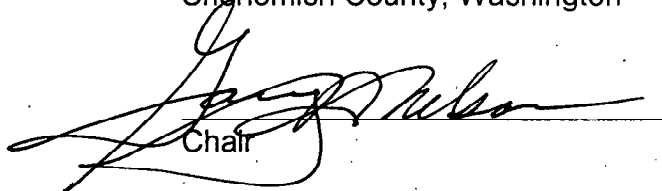
Auditor

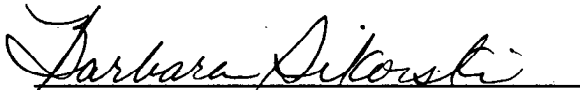
By: \_\_\_\_\_  
Deputy County Auditor

PASSED this 24<sup>th</sup> day of July, 2002.

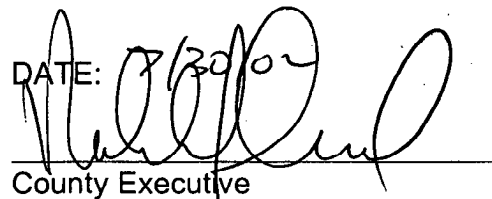
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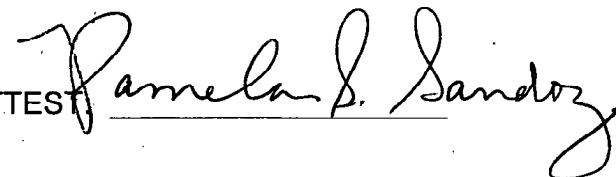
ATTEST:

  
Chair

  
Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 7/30/02  
  
County Executive

ATTEST 

Approved as to form only:

\_\_\_\_\_  
Deputy Prosecuting Attorney

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