

Adopted: 07/31/13

Effective: 08/12/13

SNOHOMISH COUNTY COUNCIL

Snohomish County, Washington

AMENDED ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE

WHEREAS, title 13 of the Snohomish County Code (SCC) regulates activities relating to public roads and rights-of-way located in the unincorporated county and is implemented by the Department of Public Works; and

WHEREAS, the county council desires to amend title 13 SCC to authorize joint projects with other public agencies through interlocal agreements, clarify application of Type A, B, and C permits, and to revise the procedures, compensation, and fee requirements relating to vacation of county roads and/or rights-of-way; and

WHEREAS, pursuant to Section 197-11-800(19) of the Washington Administrative Code and SCC 30.61.020, the adoption of the proposed amendments are categorically exempt from review under chapter 43.21C RCW, the State Environmental Policy Act; and

WHEREAS, after proper notice, the county council held a public hearing on July 31, 2013, to solicit comments from the public and to consider whether to adopt the amendments to title 13 SCC contained herein; and

WHEREAS, immediately following the public hearing, the county council deliberated on the proposed code amendments; and

WHEREAS, the county council finds it is in the public interest for the Snohomish County Code to be amended as set forth in this ordinance;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council adopts the foregoing recitals as findings and conclusions as if set forth in full herein.

Section 2. Snohomish County Code Section 13.01.020, last amended by Ordinance No. 05-116 on November 21, 2005, is amended to read:

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 1

1
2 **13.01.020 Powers of the director and the engineer.**
3

4 (1) The director has overall authority for all matters relating to county roads and bridges.

5 (2) The engineer shall have the power to:

6 (a) Administer provisions of this title;

7 (b) Prepare and administer procedures implementing this title;

8 (c) Prepare and publish for public use a procedures manual or manuals covering this title;

9 (d) Close or restrict the usage of county roads and bridges for a definite period of time as
10 provided for in Chapter 47.48 RCW; and

11 (e) Administer any provisions delegated to the engineer under Title 30 SCC.

12 (3) The engineer hereby delegates to the director of planning and development services the
13 authority to act in accordance with the powers of the engineer, as listed under SCC 13.01.020(2),
14 only as they apply to issuance of permits under chapter 13.60 SCC. In delegating such authority
15 the engineer reserves the right of final decision regarding the provisions of SCC 13.01.020(2).

16 (4) With the concurrence of the director of planning and development services or his
17 delegate, the director or the engineer may delegate any portion of the authority vested in the
18 director, the department, or the engineer under this title or Title 30 SCC relating to development
19 permit processing to the department of planning and development services, if the director or
20 engineer determines, in his or her discretion, that the delegation will improve delivery of services
21 in the development permitting process or serve the public health, safety, and welfare. In
22 delegating such authority, the director of public works or engineer may reserve the right of final
23 decision.

24 "(5) The director shall have the authority to negotiate interlocal agreements with
25 other public agencies for services and/or joint and cooperative actions pertaining to
26 administration of this title. Such interlocal agreements shall be approved by motion or
27 ordinance of the county council.

28
29 Section 3. Snohomish County Code Section 13.10.050, last amended by Amended
30 Ordinance No. 12-001 on February 15, 2012, is amended to read:

31
32 **13.10.050 Permit exemptions.**
33

34 Right-of-way use Type B through E permits will not be required for:

35 (1) Activities requiring a license or permit pursuant to the general business license and
36 regulations of title 6, SCC.

37 (2) Utility purveyors with a franchise or a Type C10 permit when responding to emergencies
38 that require work in the right-of-way such as repair of water or sewer main breaks, gas leaks,
39 downed power lines or poles, except for when the new pole placement is substantially different
40 from the original; PROVIDED, That the responding utility purveyor shall notify the department,
41 verbally or in writing, as soon as practicable following onset of an emergency and shall apply for
42 an appropriate right-of-way permit at that time.

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH
INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING
THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN
APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40,
13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 2

(3) The installation of mailboxes or newspaper delivery receptacles, PROVIDED, That the engineer may order such facilities moved or removed if the engineer believes the facilities have been constructed or located so as to constitute an unsafe condition.

(4) ~~((A traffic control (Type B5) permit is not required for activities performed by a utility purveyor in conformance with SCC 13.60.030(10) or 13.60.030(11) when such activities occur on non-arterial roads and impact only a single lane.))~~

~~((5))~~ Road maintenance activities and road construction projects undertaken directly by or under contract with the department of public works, except that the engineer may require right-of-way use permits when the contract is for the construction of improvements proposed by a private land developer. At the discretion of the engineer, relocation of utilities to provide for activities and construction undertaken directly by or under contract with the department may also be exempt when review and inspection will be conducted as part of the department's policies.

~~((6))~~(5) Temporary political signs. As ~~((public))~~ right-of-way is found to be part of a traditional public forum, temporary political signs may be placed within the ~~((county))~~ opened right-of-way; PROVIDED, That each of the following conditions is met:

(a) Persons placing such signs in the ~~((county))~~ opened right-of-way shall comply with all applicable laws, rules and regulations governing political advertising and campaign contributions, including chapter 42.17 RCW, chapter 42.17A RCW, and chapter 390-18 WAC.

(b) Such signs shall not create a traffic safety hazard by obstructing sight distance requirements in accordance with the EDDS adopted under chapter 13.05 SCC, or block access for vehicles or pedestrians.

(c) Such signs shall not be placed on or within the portion of the roadway used for either the passage or parking of vehicles or for pedestrians.

(d) Such signs shall comply with all applicable laws, rules and regulations governing the size, design, location and placement of signs, including, but not limited to, WAC 468-66-050, SCC 30.27.010, the EDDS and SCC 30.27.070.

(e) If placed within a right-of-way area maintained by the abutting property owner, or organization, permission must be obtained from such owner or organization prior to sign placement.

(f) Such signs shall be freestanding, and not attached to any utility structure or pole; traffic sign, device or guardrail; tree or shrub; or any other structure within the opened right-of-way.

(g) The maintenance, removal, and liability due to placement of such signs shall be the sole responsibility of the person(s) or organizations placing them. The county will assume no responsibility nor liability for such signs, and reserves the right to remove, without notice, signs not complying with this section.

~~((7))~~(6) Litter control or other roadside improvement activities conducted under the department of public works' adopt-a-road program.

~~((8))~~(7) Trimming, pruning, or removal, by an abutting property owner, of weeds, grass, brush, blackberries and other similar vegetation located on the first 10 feet of an unopened deeded right-of-way abutting the property at issue; Provided, that:

(a) Significant trees as that term is defined in title 30 SCC, shall not be removed; and

(b) Any landscaping existing in the unopened right-of-way placed pursuant to a Type C, D3 or D4 permit shall not be disturbed.

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 3

Section 4. Snohomish County Code Section 13.30.010, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.30.010 Permitted uses.

Type A transactions include those parts of an organized parade or run that take place within the ~~((public))~~ opened right-of-way. Such uses are of short duration and may involve disruption to pedestrian or vehicular traffic or access and require approval of specific conditions regarding access, locations, route, time, date and safety.

Section 5. Snohomish County Code Section 13.40.010, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.40.010 General.

Type B permit transactions relate to the movement of vehicles, materials, and structures within the opened right-of-way, and traffic control related thereto. These activities have the potential, if not properly controlled, to disturb the opened right-of-way surface, impact other vehicular and pedestrian traffic, and/or impact access to private property. These activities may also require sheriff assistance, county inspections, restoration and cleanup of the opened right-of-way. Each activity requires county approval for specific routes, weights, locations, dates and operating times, provisions for public safety and traffic control.

Section 6. Snohomish County Code Section 13.50.010, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.010 General.

Type C permits relate to constructing, placing, using or maintaining physical objects or features, including tree cutting and removal, not associated with land development construction or work, within the opened right-of-way, with minor or no disturbing of improvements within the opened right-of-way. These types of activities may involve the disruption of pedestrian and vehicular traffic or access to private property. Sheriff assistance, inspection by county staff, approval for specific locations, special provisions for safety and traffic control measures may also be required.

Section 7. Snohomish County Code Section 13.50.020, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.020 Permitted uses.

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 4

Type C permits are required for the following and similar uses of county rights-of-way, except where exempt under SCC 13.10.050:

- (1) ~~((Public transportation bus))~~ Bus stops/shelters/shelter pads/loading zones (Type C1 permit)--Special uses of opened right-of-way for transportation and traffic purposes.
- (2) Construction site structures (Type C2 permit)--Temporary structures related to construction sites such as scaffolds, barricades, buildings, walls, elevators, etc. that are on, over or impacting opened ~~((public))~~ right-of-way.
- (3) ~~((Decorative landscaping))~~ Landscaping/fences/~~((permanent signs))~~ gates/other special uses (Type C3 permit)--Special uses of the opened right-of-way for private decorative plantings, gardens and fences, gates, ~~((permanent signs,))~~ or other similar features.
- (4) Recycling-~~((waste facilities))~~ structures (Type C4 permit)--Structures placed in the opened right-of-way for collection ~~((and/or sales purposes))~~ for extended time periods.
- (5) Newspaper ~~((sales,))~~ stands~~((;))~~ or drop boxes (Type C5 permit) placed in the opened right-of-way.
- (6) Temporary signs (Type C6 permit)--and other signs placed in the opened right-of-way which can be moved easily.
- (7) Temporary sales (Type C7 permit)--from portable or moveable carts, stands or vehicles placed in the opened right-of-way. Sales of only flowers, food or beverages will be permitted.
- (8) Business patrons or customers (Type C8 permit)--Where a structure is erected, or a business is maintained or established adjoining the opened right-of-way, the nature of which requires or tends to invite patrons or customers to use the opened right-of-way.
- (9) Tree ~~((cutting))~~ trimming/removal/replacement (Type C9 permit) -- ~~((Use of the right-of-way for))~~ For the cutting ~~((of trees))~~, trimming or removal of trees, or other similar vegetation maintenance, within the opened right-of-way, except when exempt in accordance with SCC 13.10.050.
- (10) Utilities (Type C10 permit)--Use of the right-of-way for utilities, whether above or below ground, when such utilities are associated with a single user utility purveyor or with a utility purveyor that does not have and is not required to obtain a franchise pursuant to chapter 13.80 SCC.

Section 8. Snohomish County Code Section 13.50.030, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.030 Conditions--General.

Type C permits are granted pursuant to the following conditions and such additional conditions as the engineer deems appropriate:

- (1) All conditions contained in SCC 13.40.030 except SCC 13.40.030(1).
- (2) Where the permit is issued for the placing or use of physical objects or features within the opened right-of-way that are of a permanent nature, the engineer may require that the permittee enter into an agreement that requires continued maintenance of the objects or features by the permittee, and may require that such agreement be recorded against any real property associated with the objects or features. The engineer may also require that continued protection

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 5

and security be provided to the county in accordance with SCC 13.10.090, SCC 13.10.100 and SCC 13.10.108.

(3) ~~((Aesthetic effects will be considered except with respect to construction site structures.))~~
The engineer may determine what landscaping, if any, is ~~((desirable))~~ necessary to screen any structure, and which landscaping shall be installed and maintained by the permittee.

(4) All ~~((facilities))~~ physical objects or features placed within the opened right-of-way shall be maintained ~~((in good condition and repair and))~~ in a neat and ~~((presentable))~~ orderly manner by the permittee. Upon expiration, suspension or revocation of the permit all ~~((facilities))~~ physical objects or features placed within the opened right-of-way shall be removed and the premises cleaned up and restored to ~~((their))~~ the condition existing prior to the issuance of the permit.

(5) Any construction of containers, movable stands and structures upon the opened right-of-way shall be of an approved design, size, color and construction. All structures shall be painted or stained for aesthetic purposes. The location of such structures or stands shall be determined by the department. Such structures shall be placed and oriented in such fashion as to minimize their exposure to nearby residential areas or public ~~((streets))~~ roads or places.

(6) The permittee using a structure shall be responsible for the cleanup of the area around it. If the area around such structures or the structure itself becomes unsightly or littered with debris, caused either by vandalism or negligent use, the county shall have the privilege, but not the responsibility, of causing the same to be cleaned, and the cost thereof charged to the permittee using the same. It is the responsibility of the permittee to maintain the structure and the area around the location by keeping it clean from debris, litter, glass, and paper, etc.

(7) The use shall not be materially detrimental to the immediate vicinity, to other existing or future uses of the right-of-way, or, obstruct access, light, air, or view of any abutting owner other than the applicant.

(8) The provisions of Subtitles 30.2 and 30.3 SCC as applicable to the zoning of adjacent property will be considered. The engineer may determine that certain provisions such as size or placement of objects or features will apply.

(9) The need for stump removal will be considered in conjunction with tree cutting within the opened right-of-way. The engineer may determine what stumps, if any, are to be removed.

(10) Approval and issuance of a Type C permit does not negate the need to obtain other permits required by this title or by other applicable law.

Section 9. Snohomish County Code Section 13.50.040, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.040 Conditions – ~~((Public transportation bus))~~ Bus stops/shelter stations/pads/associated loading zones (C1).

Type C1 permits authorizing use of the opened right-of-way for ~~((public transportation))~~ bus stops, shelter stations, including associated shelter pads and loading zones, are subject to the following additional conditions:

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 6

1 (1) A Type C1 permit shall not be issued unless the engineer determines that the proposed
2 location will not present a hazard to vehicles or pedestrians utilizing the opened right-of-way.

3 (2) The proposed structure will meet all applicable EDDS requirements.

4 (3) All costs of striping, signing or other traffic control devices required by the engineer,
5 whether or not installed by the county, shall be installed at the sole expense of the permittee.

6 (4) The proposed location for the structure will best serve the need for the proposed station,
7 zone or other transportation-related structure in the area.

8 (5) At the engineer's discretion, a single Type C1 permit may be issued for multiple bus
9 stops/ shelters/ loading zones. Each structure and location must be individually listed on the
10 permit.

11
12 Section 10. Snohomish County Code Section 13.50.050, last amended by Amended
13 Ordinance No. 07-084, on September 5, 2007, is amended to read:

14
15 **13.50.050 Conditions - Construction site structures (C2).**

16
17 Type C2 permits for building construction, demolition, repair or scaffolding, within the opened
18 right-of-way, are subject to the following additional conditions:

19 (1) The use of acids or chemicals or any cleaning material which, if deposited in the
20 ((street)) road would cause injuries to persons or animals, or damage to property, or adversely
21 effect water quality, is prohibited.

22 (2) A substantial canvas tarpaulin or approved equivalent shall be attached to the underside
23 of scaffolding erected in the opened right-of-way in such a manner as to stop any spray, dirt, or
24 other materials from spreading on the roadway below.

25 (3) If building cleaning is done with steam, the steam boiler and all of its appliances,
26 including piping, hose and nozzle, shall comply with the provisions of the law regulating the
27 operations of steam boilers in the county.

28 (4) During operations, a suitable portion of the sidewalk or other public thoroughfare shall
29 be barricaded in an approved manner. Specified hours of operation and additional construction
30 may be required to protect the public's exposure to the work.

31 (5) Contractors shall comply with all requirements of the EDDS, MUTCD and the
32 applicable building code for protection of pedestrian traffic in the ((public)) opened right-of-way
33 during building construction, remodeling, demolition, or repair.

34 (6) No materials, fence or shed related to building construction shall obstruct the approach to
35 a fire hydrant, manhole, fire alarm box, catch basin, inlet, vault, valve chamber, or any other
36 public utility or traffic facility which is within an area being used by a permittee.

37 (7) A substantial protective frame, boarding, sand bags, etc., shall be placed or built around
38 every street light pole, power pole, fire hydrant, and other utility or traffic facility that may be
39 damaged by work being done on the adjacent property.

40 (8) It is unlawful to mix mortar or concrete in any public place unless confined to a tight box
41 or mixing board, and in no case shall mixers or boxes be washed so that the water will run into
42 the ((street)) road unless free of all sand, cement or any similar material.

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH
INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING
THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN
APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40,
13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 7

(9) In using the ((street)) road area or driving over walks and curbs, the contractor shall keep such walk and pavement reasonably clean, properly protected with planks during working hours and safe for public travel.

(10) A fence or enclosure shall be erected at any location where a building is to be erected, razed, repaired or altered and a hazard to pedestrian traffic is created (a) within 10 feet of a walk or roadway, (b) in a business district, or (c) in any case determined by the engineer, or stated in conditions imposed by the engineer on the permittee. Compensation of the department for such use of the opened right-of-way may be required.

(11) Earth taken from excavations and rubbish from building shall not be stored on the sidewalk or other ((street)) road area, except as specifically stated in conditions imposed by the engineer on the permittee. Compensation of the department for such use of the opened right-of-way may be required.

(12) Building rubbish accumulating on upper floors and all rubbish, plaster and other loose materials, produced while wrecking, altering or repairing a building must be lowered by elevators in closed receptacles or by closed chutes connecting to vehicles removing the same. When likely to produce dust, the chutes must be provided with means of wetting waste to prevent the wind from blowing it about.

(13) All scaffolding erected in the ((public)) opened right-of-way shall be properly barricaded to protect pedestrian and vehicular traffic from debris, spray and related hazards.

Section 11. Snohomish County Code Section 13.50.055, adopted by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.055 Conditions - Landscaping, fences, gates and other special uses (C3).

Type C3 permits for landscaping, fences, gates or other special uses of the opened right-of-way for private features are subject to the following additional conditions:

(1) All features to be located in the opened right-of-way shall be installed in accordance with plans and specifications approved with the Type C3 permit.

(2) All approved landscaping, fences or other features installed in the opened right-of-way shall be maintained by the permittee and the permittee's successor(s).

(3) The engineer may require that permitted features be modified or removed from the opened right-of-way if they interfere with drainage, obstruct sight distance, create a safety hazard or conflict with plans for improvement of the opened right-of-way. The permittee shall be responsible for modification or removal of the permitted features upon notification by the county. If the permittee does not comply with the county's request, the county may modify or remove the features at the permittee's expense.

(4) All fences and freestanding walls located in a portion of the opened right-of-way adjacent to corner lots must meet the vision clearance requirements of SCC 30.23.100.

(5) Gates shall not be used to control or limit access on a public road except when approved by the county council or the engineer in accordance with chapter 48.47 RCW. Gates approved inside the opened right-of-way shall be located outside the motor vehicle clear zone.

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 8

(6) An applicant for a permit to install a private gate in the opened right-of-way may be required to analyze the need for and provide additional facilities to accommodate the gate, such as a vehicle turnaround and queuing area in front of the gate or turn pockets on the public road, depending on the proposed gate location and expected traffic volume.

(7) All landscaping installed within the opened right-of-way shall comply with the EDDS and SCC 30.25.015 (General Landscaping Requirements).

Section 12. Snohomish County Code Section 13.50.060, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.060 Conditions – ((Reeyele)) Recycling structures (C4).

Type C4 permits for recycle box structures within the opened right-of-way are subject to the following additional conditions:

(1) Structures authorized by a Type C4 permit shall be placed a minimum of 10 feet from the edge of the traveled way and shall not block or hinder the sight distance for driveway or intersections. The area between the traveled way and the structure shall be a gravel or paved shoulder and extend full shoulder width at least 20 feet on each side of the structure with a 10:1 taper back to the edge of the traveled lane. The location must have an adequate stopping sight distance for approaching vehicles.

(2) Structures authorized by a Type C4 permit must be emptied regularly to prevent overflow and possible rodent infestation.

(3) A number will be assigned to each approved application for a Type C4 permit. This number will be attached permanently to the recycling structure and will be used to identify the owner of the structure to authorized departments for contacting them to clean up the area or for other problems.

(4) At the engineer's discretion, a single Type C4 permit may be issued for multiple recycle box structures. Each recycle box location must be listed on the permit. If the permittee desires to move a recycle box to a different location, the permittee must submit a request for approval of the new location to the department at least 48 hours prior to the intended move.

(5) Failure of the permittee to comply with all requirements for such structures may result in the suspension or revocation of the Type C4 permit.

Section 13. Snohomish County Code Section 13.50.070, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.070 Conditions - Newspaper ((sales,)) stands or drop boxes (C5).

Type C5 permits for newspaper stands or drop boxes within the opened right-of-way are subject to the following additional conditions:

(1) At the engineer's discretion, a single Type C5 permit may be issued for multiple stands or drop boxes. Each stand or box location must be listed on the permit.

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 9

(2) If the permittee desires to move a stand or box to a different location, the permittee must submit a request for approval of the new location to the department at least 48 hours prior to the intended move.

(3) Failure of the permittee to comply with all requirements for such structures may result in the suspension or revocation of the Type C5 permit.

Section 14. Snohomish County Code Section 13.50.080, last amended by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

13.50.080 Conditions - Temporary sales (C7).

Type C7 permits for temporary sales from portable or movable carts, stands or vehicles within the opened right-of-way shall be subject to the following additional conditions:

(1) A Type C7 permit shall only be issued when the type of temporary sale proposed is a permissible use in the land use zone of the proposed location for the temporary sale, as determined by the department.

(2) A specific area must be designated in the Type C7 permit as the location for the temporary sales activity. The permittee shall confine the temporary sales activity to that area.

(3) The permittee shall keep the temporary sales area neat and clean at all times and the temporary sales area shall be left in a neat and clean condition following the close of the temporary sale. Where any rubbish, wrappings or other materials may be dropped incidental to the temporary sale, at least one waste receptacle must be provided by the permittee. The department may periodically inspect the temporary sales area for waste materials.

(4) Where a temporary sale is conducted on a sidewalk, the temporary sale area, including stands, etc. must be located so as to provide at least five feet of clear pedestrian traffic from the curb line or edge of roadway, whichever is further from the roadway; otherwise the temporary sales area must be located to provide at least five feet of clear pedestrian traffic from the sidewalk, curb line, or edge of roadway, whichever is furthest from the roadway.

(5) No mechanical or electrical devices or portable signs may be displayed to attract attention to the temporary sale.

(6) Any structure placed at the location of the temporary sale must be readily moveable and not obstruct vision.

(7) The temporary sale activity shall not create a hazard for vehicular or pedestrian traffic.

(8) The temporary sale activity shall not obstruct access to any users or owners of adjacent abutting property.

(9) The temporary sale activity, including any required parking, shall not obstruct vehicular traffic.

(10) The permittee will comply with all regulations of the Snohomish health district and any other involved public agency.

Section 15. Snohomish County Code Section 13.50.090, adopted by Amended Ordinance No. 12-001 on February 15, 2012, is amended to read:

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 10

1 **13.50.090 Conditions - Tree trimming, removal and replacement (C9).**

2
3 (1) A Type C9 permit shall be obtained before any tree (~~(in)~~) within the opened (~~(county)~~)
4 right-of-way is trimmed, removed or replaced by other than county personnel; except a permit is
5 not required if the removal is associated with construction authorized under another permit.

6 (2) The county engineer may require that a tree be removed from the opened right-of-way
7 under any of the following circumstances:

8 (a) If a tree is dead or dying or is damaged by storm, accident or disease as to be beyond the
9 point of recovery.

10 (b) If a tree has damaged the roadway facilities (including but not limited to the sidewalk,
11 curb, culvert and pavement) and further damage cannot be prevented by reasonable tree
12 maintenance procedures, such as root pruning or sidewalk/curb realignment.

13 (c) If a tree constitutes a hazard to the public welfare.

14 (d) If a tree constitutes an impediment to the approved development of adjacent property.

15 (3) The county engineer may approve the removal of a tree from within the opened
16 (~~(county)~~) right-of-way in conjunction with an approved roadway improvement project.

17 (4) When the county engineer requires removal of a tree pursuant to subsection (2) above,
18 and the tree at issue was planted by a current or previous owner of the property adjacent to the
19 opened right-of-way, removal of the tree shall be the responsibility of the current owner of the
20 property adjacent to the opened right-of-way, who shall bear all costs of the removal and the
21 associated restoration of the opened right-of-way. In the event that a property owner fails to
22 respond to a request for removal or fails to remove the tree, the county engineer shall have the
23 authority to perform such removal at the property owner's expense.

24 (5) When a tree has been removed from the opened (~~(county)~~) right-of-way without a permit,
25 the engineer shall have the authority to require the responsible property owner to replace that tree
26 with another comparable tree at the owner's sole expense. The planting of the replacement tree
27 may require a Type C3 permit and shall comply with SCC 30.25.015 (General Landscaping
28 Requirements) and the EDDS.

29 (6) The need for stump removal will be considered in conjunction with tree cutting within
30 the opened right-of-way. The engineer may determine what stumps, if any, must or may be
31 removed.

32
33 Section 16. Snohomish County Code Section 13.100.020, last amended by Amended
34 Ordinance No. 96-028 on June 12, 1996, is amended to read:

35
36 **13.100.020 Process.**

37
38 When a county road and/or right-of-way or any part thereof as determined by the engineer, is
39 considered useless, and the public will be best served by the vacation and abandonment of such
40 road and/or right-of-way, the engineer shall prepare an ordinance for consideration by the
41 council vacating such road and/or right-of-way, except the engineer shall prepare a motion when
42 the road and/or right-of-way vacation is proposed as part of a development application under

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH
INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING
THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN
APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40,
13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 11

1 SCC 13.100.110. The ordinance or motion shall be accompanied by supporting exhibits
2 consisting of:

- 3 (1) Where applicable, a county road frontage owners' petition as specified in ~~((Section))~~
4 SCC 13.100.030;
5 (2) The engineer's report with contents as specified in ~~((Section))~~ SCC 13.100.040 ~~((SCC))~~;
6 (3) A notice of public hearing as specified in ~~((Section))~~ SCC 13.100.050 ~~((SCC))~~;
7 (4) An itemized list of costs and expenses incurred in the examination, report and
8 ~~((appraisal))~~ determination of appraised value pertaining to the proposed vacation;
9 (5) Any exhibits and other documentation deemed necessary by the engineer to adequately
10 explain the proposed vacation of the county road and/or right-of-way.
11

12 Section 17. Snohomish County Code Section 13.100.030, last amended by Amended
13 Ordinance No. 96-028 on June 12, 1996, is amended to read:
14

15 **13.100.030 County road frontage owners' petition.**
16

17 Owners of the majority of the frontage on any county road and/or right-of-way, or portion
18 thereof may petition the council to vacate and abandon the same or any portion thereof.

19 (1) The petition must show the name, address and land owned ~~((by))~~ for each petitioner and
20 set forth that such county road and/or right-of-way is useless as part of the county road system
21 and that the public will be benefited by its vacation and abandonment.

22 (2) The petition shall be accompanied by ~~((an))~~;

23 (a) An application fee in the amount specified in chapter 13.110 SCC ~~((:))~~; and

24 (b) A legal description, square footage and map, prepared by a surveyor licensed by the
25 State of Washington, for both the county road and/or right-of-way proposed to be vacated and
26 the property adjacent to the proposed vacation owned by each petitioner.

27 (3) Subsequent to receipt of ~~((the))~~ a complete petition and application fee and upon being
28 satisfied that the petition has been signed by petitioners actually owning frontage along the
29 adjacent county road and/or right-of-way or portion thereof, the engineer shall proceed with the
30 vacation process as specified in ~~((Section))~~ SCC 13.100.020 ~~((SCC))~~.
31

32 Section 18. Snohomish County Code Section 13.100.040, last amended by Amended
33 Ordinance No. 96-028 on June 12, 1996, is amended to read:
34

35 **13.100.040 Engineer's report.**
36

37 The engineer shall examine any county road and/or right-of-way or portion thereof proposed to
38 be vacated and abandoned and shall report to the council on the following:

- 39 (1) Whether the county road and/or right-of-way should be vacated and abandoned;
40 (2) Whether the same is in use or has been in use;
41 (3) The condition of the road and/or right-of-way;
42 (4) Whether it will be advisable to preserve all or a portion of the road and/or right-of-way
43 for the county transportation system of the future;

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH
INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING
THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN
APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40,
13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 12

- (5) Whether the public will be benefitted by its vacation and abandonment;
- (6) Whether compensation is required under SCC 13.100.080 and, if so, ((A determination by appraisal of the fair market)) the appraised value of the area sought to be vacated as determined under SCC 13.100.085;
- (7) The classification of the road and/or right-of-way area according to ((the type and amount of)) whether expenditures were made in the acquisition, improvement or maintenance of the right-of-way, and the nature of the county's property interest therein, according to the following ((classification)) classifications:
- (a) Class A-- road and/or right-of-way in which the county has a fee simple interest and public expenditures were made ((-));
- (b) Class B-- road and/or right-of-way in which the county has a fee simple interest and no public expenditures were made;
- (c) Class C-- road and/or right-of-way in which the county has an easement interest and public expenditures were made; or
- (d) Class D-- road and/or right-of-way in which the county has an easement interest and no public expenditures were made.
- (8) Whether the proposed area to be vacated contains utilities;
- (9) All other matters which will be of interest to the council including an itemized list of costs and expenses incurred in the examination, report, ((appraisal)) determination of appraised value and all proceedings pertaining to such petition to vacate and abandon;
- (10) Whether the proposed area to be vacated abuts a body of salt or fresh water in accordance with ((Section)) SCC 13.100.090 ((SCE)).

Section 19. Snohomish County Code Section 13.100.070, last amended by Amended Ordinance No. 96-028 on June 12, 1996, is amended to read:

13.100.070 Expense of proceeding.

Regardless of the council's decision to vacate or not to vacate the road and/or right-of-way, the petitioners, or other proponent seeking the vacation shall pay to the county road fund, upon request, the itemized costs and expenses detailed in SCC 13.100.020(4), also identified as the permit fee under SCC 13.110.010(2)(b). Payment shall be made prior to recording of the ordinance or motion for vacation. Upon payment of these costs and the meeting of any other terms and conditions included in the ordinance or motion granting vacation and entered into its minutes, the road or portion thereof shall be considered vacated.

Section 20. Snohomish County Code Section 13.100.080, last amended by Ordinance No. 85-051 on July 3, 1985, is amended to read:

13.100.080 Compensation to county as condition to vacation.

- (1) The council in its ordinance of vacation or motion of vacation under SCC 13.100.110(1) ((may)) shall require persons benefitting from the vacation of county roads to pay

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 13

1 ~~((Snohomish))~~ the county for the ~~((appraised fair market))~~ value of the property vacated as
2 established under SCC 13.100.080(2) and 13.100.085 within one year of the date the ordinance
3 or motion is adopted by council. ~~((Such))~~ Timely payment of that compensation shall be one of
4 the conditions precedent to the actual vacation of the county road right-of-way, unless the
5 council waives some or all of the compensation requirement under SCC 13.100.080(3).

6 (2) Compensation, except when waived pursuant to SCC 13.100.080(3), shall be required
7 according to the following schedule:

8 (a) Class A. 100% of the appraised value as determined under SCC 13.100.085;

9 (b) Class B and C. 50% of the appraised value as determined under SCC 13.100.085; or

10 (c) Class D. 0% of the appraised value as determined under SCC 13.100.085.

11 (3) The engineer may recommend, and the council shall have the authority, to waive some or
12 all of the compensation required under SCC 13.100.080(1) and (2) in the following
13 circumstances:

14 (a) The vacation request is independently initiated by the engineer or in response to a
15 council request;

16 (b) The petitioners are the original grantors of the county road and/or right-of-way and no
17 public expenditures were made;

18 (c) Environmental or topographical conditions exist that make the opening and/or
19 improvement of the county road and/or right-of-way impractical; or

20 (d) A new county road and/or right-of-way of equal or greater utility to public
21 transportation purposes is provided to replace the road and/or right-of-way subject to
22 vacation.

23 (4) Failure to make payment of the compensation required under SCC 13.100.080 within one
24 year of the date the ordinance or motion is adopted by council means the ordinance or motion
25 shall not be recorded and the road and/or right-of-way shall not be considered vacated.

26
27
28 Section 21. A new section is added to Chapter 13.100 of the Snohomish County Code to
29 read:

30
31 **13.100.085 Appraised value.**

32
33 (1) The appraised value of the county's interest in the county road and/or right-of-way
34 subject to the vacation request will be calculated by determining the sum of the assessed land
35 value of each petitioner's parcel based on the records of the county assessor, then dividing that
36 sum by the total square footage of each parcel, and multiplying the resulting value by the total
37 square footage of the portion of the county road and/or right-of-way adjacent to each parcel that
38 is subject to the road and/or right-of-way vacation request.

39 (2) If a petitioner disagrees with the appraised value determined pursuant to SCC
40 13.100.085(1), a petitioner may obtain and submit to the engineer an independent appraisal of
41 the county road and/or right-of-way subject to the vacation request. The independent appraisal
42 shall be conducted by an appraiser appearing on the current Washington State Department of
43 Transportation Approved Appraiser List and have experience in road and/or right-of-way

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH
INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING
THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN
APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40,
13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 14

vacations. The costs of obtaining the independent appraisal shall be the sole financial responsibility of the petitioner. The engineer may, but is under no obligation to, modify the appraised value determined under SCC 13.100.085(1) based on the independent appraisal. The costs associated with the engineer's review of the independent appraisal shall be considered a cost and expense incurred in the determination of appraised value under SCC 13.100.020(4) and included in the permit fee under SCC 13.110.010(2)(c).

Section 22. Snohomish County Code Section 13.100.100, last amended by Amended Ordinance No. 96-028 on June 12, 1996, is amended to read:

13.100.100 Retention of easement for utilities and services.

Whenever a county road and/or right-of-way or any portion thereof is vacated, the council may include in the ordinance or motion authorizing the vacation, a provision that the county retain an easement in respect to the vacated land for the construction, repair, and maintenance of utilities and services which at the time the ordinance or motion is adopted are authorized or are physically located in a portion of the land being vacated: PROVIDED, That the council shall not convey such easement to any utility purveyor or other entity or person but may convey a permit or franchise to a utility purveyor to effectuate the intent of this section.

Section 23. Snohomish County Code Section 13.110.020, last amended by Amended Ordinance No. 12-001 on February 26, 2012, is amended to read:

13.110.020 Fee schedule.

| Permit Type | Description | Application Fee ⁽¹⁾ | Permit Fee ⁽¹⁾ | Total ⁽¹⁾ |
|-------------|---|--------------------------------|---------------------------|-------------------------|
| A | Parade / Run | | | |
| | Application filed more than 60 days prior to the event: | \$ 75.00 | \$90.00 | \$165.00 |
| | Application filed between 30 to 59 days prior to the event: | \$125.00 | \$90.00 | \$215.00 |
| | Application filed less than 30 days prior to the event: | \$160.00 | \$90.00 | \$250.00 |
| B1 | Log tolerances | \$5.00 | \$ -- | \$5.00 |
| B2 | Overweight | \$50.00 | Costs per SCC | \$50.00 plus permit fee |

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 15

| Permit Type | Description | Application Fee ⁽¹⁾ | Permit Fee ⁽¹⁾ | Total ⁽¹⁾ |
|-------------|--|--|-----------------------------|---|
| | | | 13.110.010 | |
| | Add an Overweight/Oversized load charge as required when county staff are required to assist the permittee | Actual hourly costs of labor, required for the department to determine the extent of county staff needed to assist the permittee, with a 3-hour minimum charge at \$50.00 per hour | | Actual hourly costs of labor, and equipment if required, for county staff to assist the permittee, with a 3-hour minimum charge at \$50.00 per hour |
| B3 | Oversize | \$50.00 | Costs per SCC 13.110.010 | \$50.00 plus permit fee |
| | Add an Overweight/Oversized load charge as required when county staff are required to assist the permittee | Actual hourly costs of labor, required for the department to determine the extent of county staff needed to assist the permittee, with a 3-hour minimum charge at \$50.00 per hour | | Actual hourly costs of labor, and equipment if required, for county staff to assist the permittee, with a 3-hour minimum charge at \$50.00 per hour |
| B4 | Haul Route | \$50.00 | Costs per | \$50.00 plus permit fee |

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH INTERLOCAL AGREEMENTS; CLARIFYING APPLICATION OF TYPE A, B, AND C PERMITS; REVISING THE PROCESS FOR VACATION OF COUNTY ROADS AND/OR RIGHTS-OF-WAY; REVISING CERTAIN APPLICATION FEES; ADDING AND AMENDING SECTIONS IN CHAPTERS 13.01, 13.10, 13.30, 13.40, 13.50, 13.100 AND 13.110 OF THE SNOHOMISH COUNTY CODE - 16

| Permit Type | Description | Application Fee ⁽¹⁾ | Permit Fee ⁽¹⁾ | Total ⁽¹⁾ |
|-------------|--|--------------------------------|---------------------------|----------------------|
| | | | SCC 13.110.010 | |
| B5 | Road closure | \$50.00 | \$120.00 | \$170.00 |
| C1 | Bus stops/shelters/pads loading zones | \$50.00 | \$90.00 | \$140.00 |
| C2 | Construction site structures | \$50.00 | \$90.00 | \$140.00 |
| C3 | ((Decorative landscaping fences)) <u>Landscaping/fences/gates</u> <u>/other special uses</u> | \$50.00 | \$90.00 | \$140.00 |
| C4 | Recycling—((waste facilities)) <u>structures</u> | \$50.00 | \$90.00 | \$140.00 |
| C5 | Newspaper ((sales;)) stands((;)) <u>or drop boxes</u> | \$50.00 | \$90.00 | \$140.00 |
| C6 | Temporary signs | \$50.00 | \$90.00 | \$140.00 |
| C7 | Temporary sales | \$50.00 | \$90.00 | \$140.00 |
| C8 | Business patrons or customers | \$50.00 | \$90.00 | \$140.00 |
| C9 | Tree ((cutting)) trimming/removal /replacement | \$50.00 | \$90.00 | \$140.00 |
| C10 | Non-franchised or Single User Utility Purveyor | \$50.00 | \$90.00 | \$140.00 |
| D1 | Driveway access/Culvert/curb cut | \$25.00 | \$55.00 | \$80.00 |
| D2 | Subdivision driveway access | \$25.00 | -- | \$25.00 |
| D3 | Temporary trail access | \$125.00 | \$420.00 | \$545.00 |
| D4 | Trail access | \$125.00 | \$540.00 | \$665.00 |

ORDINANCE NO. 13-051

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| Permit Type | Description | Application Fee ⁽¹⁾ | Permit Fee ⁽¹⁾ | Total ⁽¹⁾ |
|-------------|--|--------------------------------|---------------------------|----------------------|
| D5 | Major construction - Other: | \$125.00 | \$340.00 | varies |
| | Add per road front foot: | \$1.00 per foot | | |
| D5P | Major construction - Plat | \$125.00 | \$540.00 | varies |
| | Add per road front foot: | \$1.00 per foot | | |
| D5C | Major construction - Commercial | \$125.00 | \$540.00 | varies |
| | Add per road front foot: | \$1.00 per foot | | |
| D5S | Major construction - Short plat | \$125.00 | \$540.00 | varies |
| | Add per road front foot: | \$1.00 per foot | | |
| D6 | Minor construction-Other | \$35.00 | \$60.00 | \$95.00 |
| D6P | Minor construction-Plat | \$90.00 | \$130.00 | \$220.00 |
| D6C | Minor construction-Commercial | \$90.00 | \$130.00 | \$220.00 |
| D6S | Minor construction- Short Plat | \$90.00 | \$130.00 | \$220.00 |
| D7 | Blanket utility construction per each construction activity | None | \$80.00 | \$80.00 |
| D8 | Major utility construction: | \$130.00 | \$390.00 | varies |
| | Open trench in road: Add per foot if road shoulder cut or | \$0.35 | | |
| | Add per foot if road asphalt/concrete cut: | \$1.00 per foot | \$390.00 | varies |
| | Plowed cable road: | \$130.00 | \$390.00 | varies |

ORDINANCE NO. 13-051

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| Permit Type | Description | Application Fee ⁽¹⁾ | Permit Fee ⁽¹⁾ | Total ⁽¹⁾ |
|-------------|--|---|-----------------------------|--|
| | add per foot: 0' to 2,000' 2,001' to 7,000' 7,001' and more | \$0.15 per foot \$0.10 per foot \$0.05 per foot | | |
| E1 | Private leases/right of way | \$100.00 | -- | \$100.00 |
| E2 | Road establishment | \$500.00 | Costs per SCC 13.110.010 | \$500.00 plus permit fee |
| E3C | Franchises--CATV | \$500.00 | Costs per SCC 13.110.010 | \$500.00 plus permit fee |
| E3U | Franchises--Utility | \$500.00 | Costs per SCC 13.110.010 | \$500.00 plus permit fee |
| E4 | Road/right-of-way vacations | \$500.00 <u>per</u> <u>Petitioner</u> | Costs per SCC 13.110.010 | \$500.00 <u>per Petitioner</u> plus permit fee |
| E5 | Latecomers cost recovery | \$500.00 | Costs per SCC 13.110.010 | \$500.00 plus permit fee |
| E6 | Road improvement district | \$500.00 | Costs per SCC 13.110.010 | \$500.00 plus permit fee |

Note: All costs, including in excess of the above, associated with road establishments, right-of-way vacations, utility franchises, CATV franchises, road improvement district formation, or latecomers cost recovery programs will be itemized and presented as part of the associated ordinance for county council approval.

⁽¹⁾ Pursuant to SCC 30.86.030, a three percent technology surcharge will be imposed in addition to the fees listed in SCC 13.110.020 for each Type A, B, C and D application or permit.

Section 24. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or

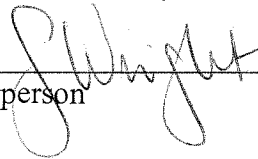
ORDINANCE NO. 13-051

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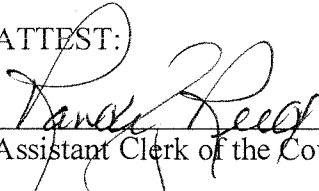
1 unconstitutional shall not affect the validity or constitutionality of any other section, sentence,
2 clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or
3 phrase of this ordinance is held to be invalid by the court of competent jurisdiction, then the
4 section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in
5 full force and effect for that individual section, sentence, clause or phrase as if this ordinance had
6 never been adopted.

7
8
9 PASSED this 31st day of July, 2013.

10
11 SNOHOMISH COUNTY COUNCIL
12 Snohomish County, Washington

13
14
15 
16 Chairperson

17 ATTEST:


18 
19
20 Assistant Clerk of the Council

21
22 ☒ APPROVED
23 ☐ EMERGENCY
24 ☐ VETOED

25 DATE: 08-02-2013

26
27 
28 County Executive

29 ATTEST:

30
31 
32 Approved as to form only:

33
34
35
36 Deputy Prosecuting Attorney
37

MARK ERICKS
County Executive, Acting

D-7

ORDINANCE NO. 13-051

RELATING TO COUNTY ROADS AND RIGHTS-OF-WAY; AUTHORIZING JOINT PROJECTS THROUGH
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