

COUNTY COUNCIL  
Snohomish County, Washington



CO00030397

ORDINANCE No. 80 - 7  
TEMPORARY EMERGENCY CHAPTER  
SNOHOMISH COUNTY ROAD ORDINANCE, TITLE 26 B  
(An ordinance relating to developments  
and road improvements pursuant thereto in Snohomish County)

Chapter 26B.11

Temporary Procedures Governing Developments  
Where Roads are at Level of Service D

Sections:

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26B.11.010 Purpose. It is declared to be the purpose of this chapter to be temporary in nature to meet an emergency situation present as a result of implementation of the Snohomish County road ordinance, Title 26B. The purpose of this temporary emergency chapter is to allow approval of developments, which, after approval, will be served by roads at level of service D, without execution of a valid written agreement as to the developer's share of the improvements, as provided in SCC 26B.06.020(1)(a), provided the developer either complies with SCC 26B.06.020(1)(b) or the terms of this temporary emergency chapter. The requirement as set forth in SCC 26B.06.020, as it applies to level of service D only, requiring improvements before issuance of building permits, cannot be accomplished in many cases because of the complexity and scope of the project. Further, this chapter is an alternative to complying in full with the provisions

of the road ordinance as set forth in Chapters 1 through 8, 10 of Title 26B, SCC as it applies to level of service D.

26B.11.020 Procedure. Wherever it is determined pursuant to the operation of this ordinance that a particular proposed development will be served by a road system which is at level of service D during the peak hour as defined by the current edition of the Highway Capacity Manual, the developer may exercise the option of proceeding with the alternative procedures as set forth in this temporary emergency chapter

26B.11.030 Negotiated Agreement. Whenever it has been determined that the roads surrounding a particular development proposal are at level of service "D" the developer and the director may enter into negotiations for the purpose of arriving at a determination of the developer's fair share in accordance with SCC 26B.05.030 of this ordinance. This negotiation process should take into consideration such things as the individual locational and developmental circumstances and the immediate impact of the immediate development in question on the specific problems identified in the traffic analysis. The director shall identify the problem areas specifically attributable to the development in question and shall prioritize the need for correction of the problems and shall use this prioritization as a basis for negotiating which projects are done and in what order they are done.

26B.11.040 Failure to Agree. Whenever the developer and the director fail to agree on a negotiated agreement to alleviate the portion of the problem caused by a particular development in a level of service "D" situation, the recommendation of the director and the offer of the developer shall be brought to the hearing examiner, or other relevant approving authority as part of the overall testimony and/or evidence presented at the approval stage. It shall be the responsibility of the hearing examiner and/or the responsible approving authority, during the existence of this temporary emergency chapter, to decide on the reasonable agreement to which the developer must be bound as a condition of his development approval. Such agreement shall be made a specific condition of the granting of approval.

26B.11.050 Successful Agreement. Whenever the director and the developer are able to arrive at a negotiated agreement which alleviates some of the problems caused by the development where the level of service is at "D" as indicated by the traffic analysis submitted pursuant to the development proposal, the agreement shall be reduced to written form and submitted as an exhibit before the hearing examiner or other approving authority. Where the agreement is not arrived at prior to hearing, but is resolved by the hearing examiner or other approving authority, the agreement shall be set forth as a condition of approval, by the hearing examiner or other approving authority, and shall be reduced to writing prior to final approval by the council. Where final approval is not by the council but is by a specific official, the failure to agree can be appealed to the hearing examiner as an administrative appeal and the agreement that is set forth by the hearing examiner shall be a condition to the approval and must be reduced to writing before the issuance of the applicable permit. In this situation wherever a negotiated agreement has been entered into as a condition of approval of the development in question, no building permits or plumbing hookup permits as applicable will be issued for the development until the improvements as agreed to pursuant to the negotiated agreement has all the funding necessary for the work related to the project or the work is under the contract being performed. No use or occupancy of such development may occur until the required improvements as negotiated pursuant to negotiated agreement are completed.

26B.11.060 Fees. When a particular developer does not wish to follow the procedures set forth for arriving at a negotiated agreement in SCC 26B.11.030 through 26B.11.050, the developer has the option of paying a fee as set forth in SCC 26B.11.070. The payment of a fee is an alternative to a negotiated agreement and must be chosen before being heard by the hearing examiner or other approving authority.

26B.11.070 Fee, How Much? When Paid? Whenever the road system is determined to be at level of service D as provided in this ordinance, the developer may agree to pay, prior to final approval of the development or issuance of the required permit, a fee of one hundred fifty dollars (\$150.00) per ADT generated by the proposed development in lieu of entering into a negotiated agreement. This agreement

shall be reduced to written form and submitted prior to the hearing on the proposal where applicable or otherwise prior to issuance of the permit. The agreement to pay a fee shall be indicated on forms developed by the Department of Public Works and submitted to the approving authority prior to its action. The fee must be paid in full prior to the issuance of a use or occupancy permit for the project.

26B.11.080 Fees - How Used. Fees collected pursuant to this temporary emergency chapter shall be placed in a special fund. These monies can be used for expenditures such as, but not limited to, consultant studies to identify the nature of the problem and the scope of the work that needs to be done, the cost of the work that needs to be done and to supplement or help pay for the actual construction cost that is involved in correcting the problems identified. The monies cannot be used for roads or road systems other than those identified pursuant to the development in question. Fees collected pursuant to this chapter must be used within six (6) years from the date the fees are collected. If the road improvement project is not built within six (6) years from the date the fees are collected, then the fees are to be returned to the owners of record at that time plus interest generated while held by the county.

26B.11.090 Effect on Ordinance. The provisions of this temporary emergency chapter shall only apply in those situations where the road systems serving the development will be at level of service D during the peak hour, as defined by the current edition of the Highway Capacity Manual. In all other cases, the provisions as set forth in Chapter 1 -8, 10, of Title 26B shall apply, and not the provisions of this temporary emergency chapter.

26B.11.100 RID Participation . The developer shall also participate in an agreement not to protest formation of a road improvement district. This agreement shall be filed and recorded with the county auditor for each lot, parcel or tract created or involved in the development and shall bind successor's interests in the property developed. An agreement not to protest formation of a road improvement district (RID) may grant the county a power of attorney to exercise a vote as such time as voting is required on the formation of the RID. An agreement not to protest shall

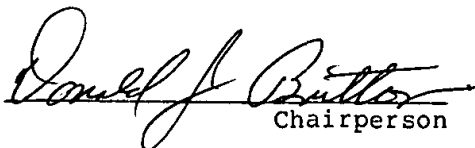
define those portions of the road system to which it applies and the approximate scope of improvements required. Whenever the road improvement district is formed, the developer and/or his successors in interest shall receive credit equal to the value of the improvement constructed pursuant to the negotiated agreement plus credit for the value of the cost of living increase from the time the improvement was constructed until the time the road improvement district is formed or equal to the fees paid pursuant to the fee option plus the value of the cost of living increase from the time the fees were paid until the time the road improvement district is formed.

26B.11.110 Effective Dates. This temporary emergency chapter shall terminate and no longer be effective as of May 1, 1981, except for SCC 26B.11.080 and 26B.11.100, which shall remain in full force and effect as part of the road ordinance, Title 26B, Snohomish County Code.

PASSED this 5th day of May, 1980.

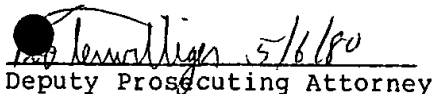
SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

ATTEST:

  
Chairperson

  
Clerk of Council

APPROVED AS TO FORM:

  
Deputy Prosecuting Attorney

(  ) APPROVED

(  ) VETOED

(  ) EMERGENCY

DATE: 10-9-80

Willis D. Tucker  
County Executive

PUBLISHED May 16, 1980 ~~and~~ \_\_\_\_\_

(Returned from the Executive to the Council May 14, 1980)