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SNOHOMISH COUNTY
EXECUTIVE OFFICE

COUNTY COUNCIL
Snohomish County, Washington

APR 15 1987

ORDINANCE NO. 87-011

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LATECOMERS COST RECOVERY

AN ORDINANCE RELATING TO COUNTY ROADS;
AMENDING SNOHOMISH COUNTY CODE SECTION 13.01.010;
AND ADDING A NEW CHAPTER, 13.95, TO SNOHOMISH
COUNTY CODE TITLE 13, THE COUNTY ROADS ORDINANCE

BE IT ORDAINED:

Section 1. Snohomish County Code Section 13.01.010,
enacted in Ordinance No. 85-051 on July 3, 1985, is amended
to read as follows:

13.01.010 Definitions. Insofar as not inconsistent with
this section, the definitions contained in RCW 47.04.010 and
amendments thereto shall apply to this title. ((As-used
in)) Unless the context clearly requires otherwise, the
definitions in this section apply throughout this title and
accompanying procedures(~~7-the-following-definitions~~
apply)):

((1)) Department: The Department of Public Works.

((2)) Design Standards: The design standards and
specifications of the Department of Public Works.

((3)) Developed Road: A privately maintained road
within county right-of-way which has design
standards greater than a primitive road but which
is not a part of the county primary road system as
designated in RCW 36.86.070.

((4)) Director: The Director of the Department of
Public Works or his designee.

Owner: An "owner" is the owner of property or the
party designated by the owner who is undertaking or
contributing to the cost of the construction or

improvement of a county road or roads incidental to a "development" as defined in SCC 26B.51.020.

- ((+5)) Permit: A document including any license, permit or franchise, authorizing specified use of county right-of-way and granted under the provisions of this title.
- ((+6)) Permittee: The person named in any permit as permittee, and any successor to any rights or interests or a permittee under a permit or in property installed on the right-of-way pursuant to a permit. In the event of any transfer of any permit or any property installed on the right-of-way, all grantors and grantees shall remain permittees.
- ((+7)) Permitted Use: Use of any portion of the right-of-way for the benefit of a particular person, organization, association or corporation, public or private, other than as a thoroughfare for vehicles and pedestrians and uses incidental thereto, under a permit issued under this title.
- ((+8)) Primary Road: An opened, county-maintained right-of-way that meets the requirements of RCW 36.86.070. Such roads are classified according to the federal functional classification system and are designated by the County Council as the county primary road system including such designations as rural minor collector, rural major collector, rural minor arterial, rural principal arterial, urban collector, urban minor arterial and urban principal arterial.
- ((+9)) Primitive Road: An unmaintained or privately maintained county right-of-way that meets the requirements of RCW 36.75.300. A Primitive Road has a gravel or earth driving surface, and has an average annual daily traffic of one hundred or fewer vehicles. A Primitive Road must be established by County Council ordinance.
- ((+10)) Procedures: The internal procedures of the Department of Public Works as adopted by the Director for the implementation of this title.

- ((+11)) Procedures Manual: A manual prepared and published by the Director in which all procedures necessary for the proper administration of this title are detailed.
- ((+12)) Right-of-Way: All property in which the county has any form of ownership or title and which is held for public road purposes, regardless of whether or not any road exists thereon or whether or not it is used, improved, or maintained for public travel.
- ((+13)) Sheriff: The Snohomish County Sheriff or his designee.
- ((+14)) Structure: Any building, booth, stand, sign, pole, posts, pipe, wire, cable, or any other thing constructed on or over or installed within the right-of-way.
- ((+15)) Unmaintained Road: A road within county right-of-way which is accessible to public travel but is not maintained by the county.
- ((+16)) Unopened Right-of-Way: A county right-of-way that exists by dedication or deed, but for which no vehicular roadway has been constructed by the county or other parties.
- ((+17)) Unsafe Condition: Any condition as determined by the Director or the Sheriff which is a hazard to health or endangers the safe use of the right-of-way by the public, does or may interfere with any facility in the right-of-way, or may cause damage thereto.

NEW SECTION. Section 2. Sections 3 through 15 of this ordinance shall constitute a new chapter in Title 13 of the Snohomish County Code and be codified as Chapter 13.95 with the chapter heading of "Latecomers Cost Recovery".

NEW SECTION. Section 3. A new section is added to read as follows:

13.95.010 Cost Recovery Authorized. In accord with Chapter 35.72 RCW and the provisions of this chapter, the Council may form a reimbursement district and contract for

the reimbursement to the County Road Fund and/or the owner the costs of county road improvements required as a prerequisite to further property development.

NEW SECTION. Section 4. A new section is added to read as follows:

13.95.020 Establishment upon Owner Application. Where county ordinance requires public road developments as a prerequisite, an owner may apply, upon forms prescribed by the director, to the Council for the establishment of a reimbursement district. The application shall include:

- (1) A detailed description of the owner's development proposal.
- (2) A detailed description of the county road improvements which will be installed by the owner.
- (3) An estimate of the cost of the improvement.
- (4) A map showing the specific properties the owner believes to be specially benefited by the improvements.
- (5) A list containing the legal description and the names and addresses of each owner of record, contract seller and contract purchaser and mortgagee, if any, of each ownership within the benefited area.
- (6) A statement of the estimated amount of special benefits which will accrue to each ownership, the estimated amount which should be assessed against each ownership based upon such special benefits, and the bases for calculating such benefits and assessments as to each ownership.
- (7) A statement of the period, not to exceed fifteen years, for which partial reimbursement will be required.

NEW SECTION. Section 5. A new section is added to read as follows:

13.95.030 County Funding. The county may participate in funding improvements specified in this chapter. The director may initiate a request to the Council for establishment of a reimbursement district. The director may also request the Council to include county funding in an owner-initiated reimbursement district. The director will

consider the general benefit, county-wide priority of the proposed road improvements, and the impacts of possible assessments upon benefited properties in considering whether or not to request county participation in funding.

NEW SECTION. Section 6. A new section is added to read as follows:

13.95.040 Council Considerations of Sufficiency. Upon receiving an application for a reimbursement district, the Council shall consider the sufficiency of a reimbursement district proposal using the following criteria:

(1) The level of development existing or immediately proposed in the area specially benefited.

(2) The special benefit to undeveloped properties compared to the projected costs to be assessed to that property, and the impacts of assessments upon such properties.

(3) The existing and projected level of service and/or safety hazard on the county roads involved.

(4) The condition of the roads to be improved.

(5) Whether or not further development can occur without roadway improvements.

Upon review of an application, the council in its discretion and considering any factors it deems appropriate, may reject an application without hearing.

NEW SECTION. Section 7. A new section is added to read as follows:

13.95.050 Formation of Reimbursement District.

(1) If the Council finds the request to be sufficient, it shall instruct the director and prosecuting attorney to draft an ordinance and set a public hearing for consideration of the draft ordinance. The draft ordinance shall:

(a) Define the improvements for which reimbursements are to be made.

- (b) Designate each reimbursement district by a separate number.
- (c) Describe the specific boundary of the specially benefited property area.
- (d) Define the estimated cost of the improvement and the estimated contribution thereto, if any, to be made by the county.
- (e) Define what share of costs will be paid by each property ownership specially benefited.
- (f) Define when and how reimbursements are to be paid.
- (g) Define the conditions of participation by and reimbursement to the county and owner involved in financing the county road improvements.

(2) The director will prepare and submit to the Council prior to the public hearing a diagram indicating the following:

- (a) Lots, tracts, or parcels specially benefited.
- (b) The estimated cost, and the method of calculating such cost, to be reimbursed upon development by each lot, tract, or parcel.

(3) A notice of hearing on the proposed ordinance shall be published no less than ten days before the date of the hearing in the county's official newspaper. In addition, the county may publish in a newspaper of general circulation in the area of the reimbursement district a similar notice.

(4) A notice of hearing shall be given each owner of record or reputed owner of each lot, tract, or parcel of land or other property within the proposed reimbursement district by mailing by certified mail, return receipt requested, said notice to each owner as shown on the tax rolls of the County Treasurer. The notice of hearing shall be mailed not less than twenty (20) days before the date of the hearing.

(5) The notice shall refer to the proposed ordinance and designate the proposed reimbursement district by number and include the following:

- (a) The preliminary determination of the assessment reimbursement area.
- (d) A description of the property owner's rights and the county's options to secure reimbursement for a portion of the costs of county road improvements.
- (b) The nature of the proposed county road improvement.
- (c) The total estimated cost of the county road improvement and the estimated portion, if any, to be made by the county.
- (e) The proportion of the total cost to be borne by reimbursement assessments.
- (f) The estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel and the time period for which reimbursement may be required.
- (g) The time, date, and place of the hearing before the Council.

(6) On the date and at the time specified in the notices the Council will conduct a hearing and listen to testimony as it relates to the desirability and the sufficiency of the proposed reimbursement district and methods of calculating reimbursement assessments and the amounts thereof. The Council may continue the hearing to allow for further information to be provided. When the Council has determined that adequate information has been provided it may close public testimony.

(7) Following the hearing, the Council may introduce an ordinance which establishes the reimbursement district and determines the amount of the reimbursement assessment to be charged to each benefited lot, tract, or parcel, and provide for the payment and collection of such assessments. Such

ordinance shall be advertised and considered in the normal manner for ordinances.

NEW SECTION. Section 8. A new section is added to read as follows:

13.95.060 Costs Eligible for Reimbursement. The Council may provide for the reimbursement of all or part of the costs advanced by the county road fund or the owner or owner's assigns for such a county road improvement project, including:

(1) The cost of all the construction or improvement authorized, including that portion of the construction or improvement within the limits of any existing right of way;

(2) The estimated costs and expenses of all engineering and surveying necessary to be done by the county engineer or under his direction or by such other consultants as may be employed by the county;

(3) All costs of necessary rights of way;

(4) The cost of all advertising, mailing, and publishing of notices;

(5) The cost of legal services and any other expenses incurred by the county in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds;

(6) County costs of administering the fund.

NEW SECTION. Section 9. A new section is added to read as follows:

13.95.070 Reimbursement Assessments

(1) Any reimbursement assessment shall be a pro rata share of costs of the improvement. The reimbursement share shall be determined by using a method of cost apportionment which is based upon the special benefit of the property from the project.

(2) A separate account shall be established for each reimbursement district.

(3) No assessment shall be payable until the property assessed is subject to development as defined in SCC 26B.51.020; and the ordinance forming the district may provide that payment of the assessment by the ordinance is a condition of the issuance of any permit or approval of development of the property assessed. Assessments shall not bind other than owners of record within the assessment area and shall not bind owners or their property who contributed to the original cost of the project. The Treasurer is hereby designated to collect and reimburse assessments under this chapter.

(4) If the actual costs of the project are less than the cost base utilized in determining assessments, assessments shall be adjusted downward to reflect actual costs. If the costs of the project are more than the cost utilized in determining assessments, the owner shall be responsible for payment of such excess with no reimbursement to be provided for the excess.

NEW SECTION. Section 10. A new section is added to read as follows:

13.95.080 Owner-County Contract

(1) Subsequent to the adoption of an ordinance forming a reimbursement district the owner or owners contributing funds for the project shall agree in a signed contract for contribution of funds, construction, improvement, costs, assessment, reimbursement, administration costs, and other conditions, in form approved by the county. The contract shall provide that the owner or owners agree to the reimbursement assessments and the assessment area determined by the Council as provided in the contract. Owner-county contracts provided for in a reimbursement district ordinance shall be approved and executed on behalf of the county by the County Executive.

(2) The final contract, including the assessment area and assessment roll, shall be recorded in the county auditor's office within thirty days of the effective date of the ordinance forming the district. If the contract is so recorded, it shall then be binding on owners of record within the assessment area who are not parties to the contract for a period not to exceed fifteen years after the contract is recorded.

(3) The Director shall mail, by certified mail, return receipt requested, a copy of the contract to each owner of record of property within the district.

NEW SECTION. Section 11. A new section is added to read as follows:

13.95.090 Construction of Improvements

The improvements for which reimbursement is sought must be constructed after July 1, 1987, and, with written permission of the director, may be constructed before or after the effective date of the ordinance forming the district. If the county is to be a participant, no construction shall be undertaken by the county until the county receives guarantees, security or assurances acceptable to the Director that the owner will contribute costs, and contract for or otherwise provide or pay for improvements as required in the reimbursement contract. The owner and his property shall be responsible for performance of all his obligations under the contract and completion of construction of the project except where undertaken by the county. All records supporting expenditures and payment therefor shall be submitted to the Director for review and filing. The Director may verify costs and payments as necessary to assure their accuracy. Any work done by the county shall be done by competitive bidding as provided in Chapter 3.04 SCC. All work shall comply with Title 13 SCC, and all other applicable laws. No extensions of time to complete the owner's obligations under the owner-county contract will be granted, except as provided in said contract. If an owner fails to complete construction, contribute its share of costs, or otherwise fails to perform any of its other obligations as provided by its owner-county contract, the director shall, after giving the owner thirty days notice to cure such breach, declare the owner-county contract terminated. All obligations to pay assessments for any owner costs shall thereupon cease, and the director shall file with the county auditor a notice that the owner-county contract has been terminated and that all assessments to reimburse the owner are abated.

NEW SECTION. Section 12. A new section is added to read as follows:

13.95.100 Reimbursement to Owners and the County.
Owners who have followed all of the procedures of this

chapter and entered into a contract may be reimbursed a share of the costs which they incurred in constructing the road facilities. Such reimbursement shall be made as provided in the contract entered into pursuant to Section 13.95.080. Reimbursement for costs advanced by the county shall be provided for in said contract and returned to the county road fund.

NEW SECTION. Section 13. A new section is added to read as follows:

13.95.110 Effect of Annexation. Annexation to a city or town of all or a portion of an assessment area shall not affect liability for assessment charge of properties so annexed nor responsibilities of an owner under his contract. If any property of the owner is annexed by a city or town prior to completion of construction, all responsibility of the county with respect to portions of the property not constructed shall cease unless a supplemental agreement is made with the annexing city or town assuring reimbursement of county funds expended on the project.

NEW SECTION. Section 14. A new section is added to read as follows:

13.95.900 Severability. If any portion of this chapter or its applicability to any person or circumstances is held invalid, the remainder of the act and the application of the provisions to other persons or circumstances is not affected.

NEW SECTION. Section 15. A new section is added to read as follows:

13.95.910 Effective Date. This ordinance shall take effect on July 1, 1987. The director may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

PASSED this 15th day of April, 1987.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

Approved as to Form:

Mary P. [Signature]
Deputy Prosecuting Attorney

ATTEST:

asst. Sheila McAllester
Clerk of Council

-) APPROVED
-) VETOED
-) EMERGENCY

DATE: April 21, 1987
[Signature]
JOHN MARTINIS
Deputy Executive
County Executive

PUBLISHED _____ and _____