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ENGROSSED HOUSE BILL 2985

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State of Washington                      56th Legislature                      2000 Regular Session

By Representatives Edwards, Fortunato, Scott and Doumit

Read first time 01/25/2000. Referred to Committee on Local Government.

1            AN ACT Relating to authorizing hearing examiners to issue final  
2 decisions regarding final plats of subdivisions; and amending RCW  
3 58.17.060, 58.17.070, 58.17.100, 58.17.110, 58.17.120, 58.17.130,  
4 58.17.140, 58.17.150, 58.17.170, 58.17.190, 58.17.212, 58.17.215,  
5 58.17.225, 58.17.310, and 58.17.330.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            **Sec. 1.** RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each  
8 amended to read as follows:

9            (1) The legislative body of a city, town, or county shall adopt  
10 regulations and procedures, and appoint administrative personnel for  
11 the summary approval of short plats and short subdivisions or  
12 alteration or vacation thereof. When an alteration or vacation  
13 involves a public dedication, the alteration or vacation shall be  
14 processed as provided in RCW 58.17.212 or 58.17.215. Such regulations  
15 shall be adopted by ordinance and shall provide that a short plat and  
16 short subdivision may be approved only if written findings that are  
17 appropriate, as provided in RCW 58.17.110, are made by the  
18 administrative personnel, and may contain wholly different requirements  
19 than those governing the approval of preliminary and final plats of

1 subdivisions and may require surveys and monumentations and shall  
2 require filing of a short plat, or alteration or vacation thereof, for  
3 record in the office of the county auditor: PROVIDED, That such  
4 regulations must contain a requirement that land in short subdivisions  
5 may not be further divided in any manner within a period of five years  
6 without the filing of a final plat, except that when the short plat  
7 contains fewer than four parcels, nothing in this section shall prevent  
8 the owner who filed the short plat from filing an alteration within the  
9 five-year period to create up to a total of four lots within the  
10 original short plat boundaries: PROVIDED FURTHER, That such  
11 regulations are not required to contain a penalty clause as provided in  
12 RCW 36.32.120 and may provide for wholly injunctive relief.

13 An ordinance requiring a survey shall require that the survey be  
14 completed and filed with the application for approval of the short  
15 subdivision.

16 (2) Cities, towns, and counties shall include in their short plat  
17 regulations and procedures pursuant to subsection (1) of this section  
18 provisions for considering sidewalks and other planning features that  
19 assure safe walking conditions for students who walk to and from  
20 school.

21 (3) The legislative body of a city, town, or county may by  
22 ordinance exempt short plats or short subdivisions from the  
23 requirements in subsection (1) of this section in which the division is  
24 for the purpose of establishing a site solely used for an uninhabited  
25 public or private utility or telecommunications facility, provided a  
26 record survey is recorded per chapter 58.09 RCW.

27 **Sec. 2.** RCW 58.17.070 and 1981 c 293 s 4 are each amended to read  
28 as follows:

29 A preliminary plat of proposed subdivisions and dedications of land  
30 shall be submitted for approval to the (~~legislative body of the~~)  
31 city, town, or county within which the plat is situated.

32 Unless an applicant for preliminary plat approval requests  
33 otherwise, a preliminary plat shall be processed simultaneously with  
34 applications for rezones, variances, planned unit developments, site  
35 plan approvals, and similar quasi-judicial or administrative actions to  
36 the extent that procedural requirements applicable to these actions  
37 permit simultaneous processing.

1       **Sec. 3.** RCW 58.17.100 and 1995 c 347 s 428 are each amended to  
2 read as follows:

3       If a city, town, or county has established a planning commission or  
4 planning agency in accordance with state law or local charter, such  
5 commission or agency shall review all preliminary plats and make  
6 recommendations thereon to the city, town, or county legislative body  
7 to assure conformance of the proposed subdivision to the general  
8 purposes of the comprehensive plan and to planning standards and  
9 specifications as adopted by the city, town, or county. Reports of the  
10 planning commission or agency shall be advisory only: PROVIDED, That  
11 the legislative body of the city, town, or county may, by ordinance,  
12 assign to such commission or agency, or any department official or  
13 group of officials, such administrative functions, powers and duties as  
14 may be appropriate, including the holding of hearings, and  
15 recommendations for approval or disapproval of preliminary plats of  
16 proposed subdivisions.

17       Such recommendation shall be submitted to the legislative body not  
18 later than fourteen days following action by the hearing body. Upon  
19 receipt of the recommendation on any preliminary plat the legislative  
20 body shall at its next public meeting set the date for the public  
21 meeting where it shall consider the recommendations of the hearing body  
22 and may adopt or reject the recommendations of such hearing body based  
23 on the record established at the public hearing. If, after considering  
24 the matter at a public meeting, the legislative body deems a change in  
25 the planning commission's or planning agency's recommendation approving  
26 or disapproving any preliminary plat is necessary, the legislative body  
27 shall adopt its own recommendations and approve or disapprove the  
28 preliminary plat.

29       Every decision or recommendation made under this section shall be  
30 in writing and shall include findings of fact and conclusions to  
31 support the decision or recommendation.

32       A record of all public meetings and public hearings shall be kept  
33 by the appropriate city, town, or county authority and shall be open to  
34 public inspection.

35       ~~((Sole authority to approve final plats, and to adopt or amend  
36 platting ordinances shall reside in the legislative bodies.))~~

37       **Sec. 4.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read  
38 as follows:

1 (1) The city, town, or county (~~legislative body~~) shall inquire  
2 into the public use and interest proposed to be served by the  
3 establishment of the subdivision and dedication. It shall determine:  
4 (a) If appropriate provisions are made for, but not limited to, the  
5 public health, safety, and general welfare, for open spaces, drainage  
6 ways, streets or roads, alleys, other public ways, transit stops,  
7 potable water supplies, sanitary wastes, parks and recreation,  
8 playgrounds, schools and schoolgrounds, and shall consider all other  
9 relevant facts, including sidewalks and other planning features that  
10 assure safe walking conditions for students who only walk to and from  
11 school; and (b) whether the public interest will be served by the  
12 subdivision and dedication.

13 (2) A proposed subdivision and dedication shall not be approved  
14 unless the city, town, or county (~~legislative body~~) makes written  
15 findings that: (a) Appropriate provisions are made for the public  
16 health, safety, and general welfare and for such open spaces, drainage  
17 ways, streets or roads, alleys, other public ways, transit stops,  
18 potable water supplies, sanitary wastes, parks and recreation,  
19 playgrounds, schools and schoolgrounds and all other relevant facts,  
20 including sidewalks and other planning features that assure safe  
21 walking conditions for students who only walk to and from school; and  
22 (b) the public use and interest will be served by the platting of such  
23 subdivision and dedication. If it finds that the proposed subdivision  
24 and dedication make such appropriate provisions and that the public use  
25 and interest will be served, then the (~~legislative body~~) city, town,  
26 or county shall approve the proposed subdivision and dedication.  
27 Dedication of land to any public body, provision of public improvements  
28 to serve the subdivision, and/or impact fees imposed under RCW  
29 82.02.050 through 82.02.090 may be required as a condition of  
30 subdivision approval. Dedications shall be clearly shown on the final  
31 plat. No dedication, provision of public improvements, or impact fees  
32 imposed under RCW 82.02.050 through 82.02.090 shall be allowed that  
33 constitutes an unconstitutional taking of private property. The  
34 (~~legislative body~~) city, town, or county shall not as a condition to  
35 the approval of any subdivision require a release from damages to be  
36 procured from other property owners.

37 (3) If the preliminary plat includes a dedication of a public park  
38 with an area of less than two acres and the donor has designated that  
39 the park be named in honor of a deceased individual of good character,

1 the city, town, or county (~~legislative body~~) must adopt the  
2 designated name.

3 **Sec. 5.** RCW 58.17.120 and 1974 ex.s. c 134 s 6 are each amended to  
4 read as follows:

5 The city, town, or county (~~legislative body~~) shall consider the  
6 physical characteristics of a proposed subdivision site and may  
7 disapprove a proposed plat because of flood, inundation, or swamp  
8 conditions. Construction of protective improvements may be required as  
9 a condition of approval, and such improvements shall be noted on the  
10 final plat.

11 No plat shall be approved by any city, town, or county  
12 (~~legislative authority~~) covering any land situated in a flood control  
13 zone as provided in chapter 86.16 RCW without the prior written  
14 approval of the department of ecology of the state of Washington.

15 **Sec. 6.** RCW 58.17.130 and 1974 ex.s. c 134 s 7 are each amended to  
16 read as follows:

17 Local regulations shall provide that in lieu of the completion of  
18 the actual construction of any required improvements prior to the  
19 approval of a final plat, the city, town, or county (~~legislative  
20 body~~) may accept a bond, in an amount and with surety and conditions  
21 satisfactory to it, or other secure method, providing for and securing  
22 to the municipality the actual construction and installation of such  
23 improvements within a period specified by the city, town, or county  
24 (~~legislative body~~) and expressed in the bonds. In addition, local  
25 regulations may provide for methods of security, including the posting  
26 of a bond securing to the municipality the successful operation of  
27 improvements for an appropriate period of time up to two years after  
28 final approval. The municipality is hereby granted the power to  
29 enforce bonds authorized under this section by all appropriate legal  
30 and equitable remedies. Such local regulations may provide that the  
31 improvements such as structures, sewers, and water systems shall be  
32 designed and certified by or under the supervision of a registered  
33 civil engineer prior to the acceptance of such improvements.

34 **Sec. 7.** RCW 58.17.140 and 1995 c 68 s 1 are each amended to read  
35 as follows:

1 Preliminary plats of any proposed subdivision and dedication shall  
2 be approved, disapproved, or returned to the applicant for modification  
3 or correction within ninety days from date of filing thereof unless the  
4 applicant consents to an extension of such time period or the ninety  
5 day limitation is extended to include up to twenty-one days as  
6 specified under RCW 58.17.095(3): PROVIDED, That if an environmental  
7 impact statement is required as provided in RCW 43.21C.030, the ninety  
8 day period shall not include the time spent preparing and circulating  
9 the environmental impact statement by the local government agency.  
10 Final plats and short plats shall be approved, disapproved, or returned  
11 to the applicant within thirty days from the date of filing thereof,  
12 unless the applicant consents to an extension of such time period. A  
13 final plat meeting all requirements of this chapter shall be submitted  
14 to the (~~legislative body of the~~) city, town, or county for approval  
15 within five years of the date of preliminary plat approval. Nothing  
16 contained in this section shall act to prevent any city, town, or  
17 county from adopting by ordinance procedures which would allow  
18 extensions of time that may or may not contain additional or altered  
19 conditions and requirements.

20 **Sec. 8.** RCW 58.17.150 and 1983 c 121 s 4 are each amended to read  
21 as follows:

22 Each preliminary plat submitted for final approval of the  
23 (~~legislative body~~) city, town, or county shall be accompanied by the  
24 following agencies' recommendations for approval or disapproval:

25 (1) Local health department or other agency furnishing sewage  
26 disposal and supplying water as to the adequacy of the proposed means  
27 of sewage disposal and water supply;

28 (2) Local planning agency or commission, charged with the  
29 responsibility of reviewing plats and subdivisions, as to compliance  
30 with all terms of the preliminary approval of the proposed plat  
31 subdivision or dedication;

32 (3) City, town, or county engineer.

33 Except as provided in RCW 58.17.140, an agency or person issuing a  
34 recommendation for subsequent approval under subsections (1) and (3) of  
35 this section shall not modify the terms of its recommendations without  
36 the consent of the applicant.

1       **Sec. 9.** RCW 58.17.170 and 1981 c 293 s 10 are each amended to read  
2 as follows:

3       When the (~~legislative body of the~~) city, town, or county finds  
4 that the subdivision proposed for final plat approval conforms to all  
5 terms of the preliminary plat approval, and that said subdivision meets  
6 the requirements of this chapter, other applicable state laws, and any  
7 local ordinances adopted under this chapter which were in effect at the  
8 time of preliminary plat approval, it shall suitably inscribe and  
9 execute its written approval on the face of the plat. The original of  
10 said final plat shall be filed for record with the county auditor. One  
11 reproducible copy shall be furnished to the city, town or county  
12 engineer. One paper copy shall be filed with the county assessor.  
13 Paper copies shall be provided to such other agencies as may be  
14 required by ordinance. Any lots in a final plat filed for record shall  
15 be a valid land use notwithstanding any change in zoning laws for a  
16 period of five years from the date of filing. A subdivision shall be  
17 governed by the terms of approval of the final plat, and the statutes,  
18 ordinances, and regulations in effect at the time of approval under RCW  
19 58.17.150 (1) and (3) for a period of five years after final plat  
20 approval unless the (~~legislative body~~) city, town, or county finds  
21 that a change in conditions creates a serious threat to the public  
22 health or safety in the subdivision.

23       **Sec. 10.** RCW 58.17.190 and 1969 ex.s. c 271 s 19 are each amended  
24 to read as follows:

25       The county auditor shall refuse to accept any plat for filing until  
26 approval of the plat has been given by the (~~appropriate legislative~~  
27 ~~body~~) city, town, or county in which the plat is situated. Should a  
28 plat or dedication be filed without such approval, the prosecuting  
29 attorney of the county in which the plat is filed shall apply for a  
30 writ of mandate in the name of and on behalf of the (~~legislative~~  
31 ~~body~~) city, town, or county required to approve same, directing the  
32 auditor and assessor to remove from their files or records the  
33 unapproved plat, or dedication of record.

34       **Sec. 11.** RCW 58.17.212 and 1987 c 354 s 3 are each amended to read  
35 as follows:

36       Whenever any person is interested in the vacation of any  
37 subdivision or portion thereof, or any area designated or dedicated

1 for public use, that person shall file an application for vacation with  
2 the (~~legislative authority of the~~) city, town, or county in which the  
3 subdivision is located. The application shall set forth the reasons  
4 for vacation and shall contain signatures of all parties having an  
5 ownership interest in that portion of the subdivision subject to  
6 vacation. If the subdivision is subject to restrictive covenants which  
7 were filed at the time of the approval of the subdivision, and the  
8 application for vacation would result in the violation of a covenant,  
9 the application shall contain an agreement signed by all parties  
10 subject to the covenants providing that the parties agree to terminate  
11 or alter the relevant covenants to accomplish the purpose of the  
12 vacation of the subdivision or portion thereof.

13 When the vacation application is specifically for a county road or  
14 city or town street, the procedures for road vacation or street  
15 vacation in chapter 36.87 or 35.79 RCW shall be utilized for the road  
16 or street vacation. When the application is for the vacation of the  
17 plat together with the roads and/or streets, the procedure for vacation  
18 in this section shall be used, but vacations of streets may not be made  
19 that are prohibited under RCW 35.79.030, and vacations of roads may not  
20 be made that are prohibited under RCW 36.87.130.

21 The (~~legislative authority of the~~) city, town, or county shall  
22 give notice as provided in RCW 58.17.080 and 58.17.090 and shall  
23 conduct a public hearing on the application for a vacation and may  
24 approve or deny the application for vacation of the subdivision after  
25 determining the public use and interest to be served by the vacation of  
26 the subdivision. If any portion of the land contained in the  
27 subdivision was dedicated to the public for public use or benefit, such  
28 land, if not deeded to the city, town, or county, shall be deeded to  
29 the city, town, or county unless the (~~legislative authority~~) city,  
30 town, or county shall set forth findings that the public use would not  
31 be served in retaining title to those lands.

32 Title to the vacated property shall vest with the rightful owner as  
33 shown in the county records. If the vacated land is land that was  
34 dedicated to the public, for public use other than a road or street,  
35 and the (~~legislative authority~~) city, town, or county has found that  
36 retaining title to the land is not in the public interest, title  
37 thereto shall vest with the person or persons owning the property on  
38 each side thereof, as determined by the (~~legislative authority~~) city,  
39 town, or county. When the road or street that is to be vacated was

1 contained wholly within the subdivision and is part of the boundary of  
2 the subdivision, title to the vacated road or street shall vest with  
3 the owner or owners of property contained within the vacated  
4 subdivision.

5 This section shall not be construed as applying to the vacation of  
6 any plat of state-granted tide or shore lands.

7 **Sec. 12.** RCW 58.17.215 and 1987 c 354 s 4 are each amended to read  
8 as follows:

9 When any person is interested in the alteration of any subdivision  
10 or the altering of any portion thereof, except as provided in RCW  
11 58.17.040(6), that person shall submit an application to request the  
12 alteration to the (~~legislative authority of the~~) city, town, or  
13 county where the subdivision is located. The application shall contain  
14 the signatures of the majority of those persons having an ownership  
15 interest of lots, tracts, parcels, sites, or divisions in the subject  
16 subdivision or portion to be altered. If the subdivision is subject to  
17 restrictive covenants which were filed at the time of the approval of  
18 the subdivision, and the application for alteration would result in the  
19 violation of a covenant, the application shall contain an agreement  
20 signed by all parties subject to the covenants providing that the  
21 parties agree to terminate or alter the relevant covenants to  
22 accomplish the purpose of the alteration of the subdivision or portion  
23 thereof.

24 Upon receipt of an application for alteration, the (~~legislative~~  
25 ~~body~~) city, town, or county shall provide notice of the application to  
26 all owners of property within the subdivision, and as provided for in  
27 RCW 58.17.080 and 58.17.090. The notice shall either establish a date  
28 for a public hearing or provide that a hearing may be requested by a  
29 person receiving notice within fourteen days of receipt of the notice.

30 The (~~legislative body~~) city, town, or county shall determine the  
31 public use and interest in the proposed alteration and may deny or  
32 approve the application for alteration. If any land within the  
33 alteration is part of an assessment district, any outstanding  
34 assessments shall be equitably divided and levied against the remaining  
35 lots, parcels, or tracts, or be levied equitably on the lots resulting  
36 from the alteration. If any land within the alteration contains a  
37 dedication to the general use of persons residing within the

1 subdivision, such land may be altered and divided equitably between the  
2 adjacent properties.

3 After approval of the alteration, the (~~legislative body~~) city,  
4 town, or county shall order the applicant to produce a revised drawing  
5 of the approved alteration of the final plat or short plat, which after  
6 signature of the (~~legislative authority~~) city, town, or county, shall  
7 be filed with the county auditor to become the lawful plat of the  
8 property.

9 This section shall not be construed as applying to the alteration  
10 or replatting of any plat of state-granted tide or shore lands.

11 **Sec. 13.** RCW 58.17.225 and 1995 c 32 s 1 are each amended to read  
12 as follows:

13 The granting of an easement for ingress and egress or utilities  
14 over public property that is held as open space pursuant to a  
15 subdivision or plat, where the open space is already used as a utility  
16 right of way or corridor, where other access is not feasible, and where  
17 the granting of the easement will not impair public access or authorize  
18 construction of physical barriers of any type, may be authorized and  
19 exempted from the requirements of RCW 58.17.215 by the county, city, or  
20 town (~~legislative authority~~) following a public hearing with notice  
21 to the property owners in the affected plat.

22 **Sec. 14.** RCW 58.17.310 and 1990 c 194 s 1 are each amended to read  
23 as follows:

24 In addition to any other requirements imposed by the provisions of  
25 this chapter, (~~the legislative authority of any~~) a city, town, or  
26 county shall not approve a short plat or final plat, as defined in RCW  
27 58.17.020, for any subdivision, short subdivision, lot, tract, parcel,  
28 or site which lies in whole or in part in an irrigation district  
29 organized pursuant to chapter 87.03 RCW unless there has been provided  
30 an irrigation water right of way for each parcel of land in such  
31 district. In addition, if the subdivision, short subdivision, lot,  
32 tract, parcel, or site lies within land within the district classified  
33 as irrigable, completed irrigation water distribution facilities for  
34 such land may be required by the irrigation district by resolution,  
35 bylaw, or rule of general applicability as a condition for approval of  
36 the short plat or final plat by the (~~legislative authority of the~~)  
37 city, town, or county. Rights of way shall be evidenced by the

1 respective plats submitted for final approval to the ((appropriate  
2 legislative authority)) city, town, or county. In addition, if the  
3 subdivision, short subdivision, lot, tract, parcel, or site to be  
4 platted is wholly or partially within an irrigation district of two  
5 hundred thousand acres or more and has been previously platted by the  
6 United States bureau of reclamation as a farm unit in the district, the  
7 ((legislative authority)) city, town, or county shall not approve for  
8 such land a short plat or final plat as defined in RCW 58.17.020  
9 without the approval of the irrigation district and the administrator  
10 or manager of the project of the bureau of reclamation, or its  
11 successor agency, within which that district lies. Compliance with the  
12 requirements of this section together with all other applicable  
13 provisions of this chapter shall be a prerequisite, within the  
14 expressed purpose of this chapter, to any sale, lease, or development  
15 of land in this state.

16 **Sec. 15.** RCW 58.17.330 and 1995 c 347 s 429 are each amended to  
17 read as follows:

18 (1) As an alternative to those provisions of this chapter requiring  
19 a planning commission to hear and issue recommendations for plat  
20 approval, the county or city legislative ((body)) authority may adopt  
21 a hearing examiner system and shall specify by ordinance the legal  
22 effect of the decisions made by the examiner. The legal effect of such  
23 decisions shall include one of the following:

24 (a) The decision may be given the effect of a recommendation to the  
25 legislative ((body)) authority;

26 (b) The decision may be given the effect of an administrative  
27 decision appealable within a specified time limit to the legislative  
28 ((body)) authority; or

29 (c) The decision may be given the effect of a final decision of the  
30 legislative ((body)) authority.

31 The legislative authority shall prescribe procedures to be followed  
32 by a hearing examiner.

33 (2) Each final decision of a hearing examiner shall be in writing  
34 and shall include findings and conclusions, based on the record, to  
35 support the decision. Each final decision of a hearing examiner,  
36 unless a longer period is mutually agreed to by the applicant and the

1 hearing examiner, shall be rendered within ten working days following  
2 conclusion of all testimony and hearings.

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