

WSR 24-21-010

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed October 3, 2024, 9:51 a.m., effective November 3, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: RCW 39.33.015(3) requires rules for the disposition of property for public benefit purposes.

Citation of Rules Affected by this Order: New WAC 468-30-130.

Statutory Authority for Adoption: RCW 39.33.015(3).

Adopted under notice filed as WSR 24-17-143 on August 21, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 3, 2024.

Sam Wilson, Director
Business Support Services

OTS-5717.3

NEW SECTION

WAC 468-30-130 Transfer, lease, disposal of public property for affordable housing. (1) The department may enter into lease agreements with public, private, and nongovernmental bodies, allowing them to construct and operate affordable housing on land under the jurisdiction of the department, for less than fair economic rent if the following conditions are met:

(a) The leased premises is not presently needed for highway purposes;

(b) The leased premises is used for housing for low-income and very low-income households as defined in RCW 43.63A.510, and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons;

(c) The tenant pays all appraisal costs, debt services, and any other liabilities to the department for the processing and execution of the lease;

(d) The leased premises is subject to the provisions and requirements of zoning ordinances of political subdivisions of government;

(e) The use of the leased premises is consistent with existing locally adopted comprehensive plans as described in RCW 36.70A.070;

(f) The lease terminates if the tenant fails to use the premises for affordable housing;

(g) The lease authorizes the department to terminate the lease if the leased premises is needed for a highway purpose;

(h) The lease provides that prior to termination, the tenant agrees, if so directed by the department, to restore the leased premises to its condition prior to tenant's occupancy, reasonable wear and tear excepted. This work is to be done at tenant's expense to the satisfaction of the department. In the event tenant fails to restore leased premises upon termination, the department may restore the leased premises as it deems appropriate and at tenant's expense.

(2) The department may transfer real property to public, private, and nongovernmental bodies, at less than fair market value for the construction and operation of affordable housing if the following conditions are met:

(a) The property is no longer required for transportation purposes;

(b) The property is used for housing for low-income and very low-income households as defined in RCW 43.63A.510, and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons;

(c) Consideration includes appraisal costs, debt services, all closing costs, and any other liabilities to the department;

(d) The use of the property is consistent with existing locally adopted comprehensive plans as described in RCW 36.70A.070;

(e) The transfer is executed with a quitclaim deed;

(f) The deed contains a covenant or other requirement that the property shall be used for the designated public benefit purpose;

(g) The deed contains remedies that apply if the grantee fails to use the property for the designated purpose or ceases to use it for such purpose. Such remedies shall include clauses reverting title to the department, or the payment of fair market value.

(3) The department must comply with RCW 39.33.020.