

HOUSE BILL 1265

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Valle, Heavey and Scott.

Read first time January 25, 1991. Referred to Committee on Local Government.

1            AN ACT Relating to dedications; and amending RCW 58.17.040 and  
2 58.17.165.

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

4            **Sec. 1.** RCW 58.17.040 and 1989 c 43 s 4-123 are each amended to  
5 read as follows:

6            The provisions of this chapter shall not apply to:

7            (1) Cemeteries and other burial plots while used for that purpose;

8            (2) Divisions of land into lots or tracts each of which is one-one  
9 hundred twenty-eighth of a section of land or larger, or five acres or  
10 larger if the land is not capable of description as a fraction of a  
11 section of land, unless the governing authority of the city, town, or  
12 county in which the land is situated shall have adopted a subdivision  
13 ordinance requiring plat approval of such divisions: PROVIDED, That  
14 for purposes of computing the size of any lot under this item which  
15 borders on a street or road, the lot size shall be expanded to include

1 that area which would be bounded by the center line of the road or  
2 street and the side lot lines of the lot running perpendicular to such  
3 center line;

4 (3) Divisions made by testamentary provisions, or the laws of  
5 descent;

6 (4) Divisions of land into lots or tracts classified for industrial  
7 or commercial use when the city, town, or county has approved a binding  
8 site plan for the use of the land in accordance with local regulations;

9 (5) A division for the purpose of lease when no residential  
10 structure other than mobile homes or travel trailers are permitted to  
11 be placed upon the land when the city, town, or county has approved a  
12 binding site plan for the use of the land in accordance with local  
13 regulations;

14 (6) A division made for the purpose of alteration by adjusting  
15 boundary lines, between platted or unplatted lots or both, which does  
16 not create any additional lot, tract, parcel, site, or division nor  
17 create any lot, tract, parcel, site, or division which contains  
18 insufficient area and dimension to meet minimum requirements for width  
19 and area for a building site nor adversely affect any dedication unless  
20 approved pursuant to RCW 58.17.165(2); and

21 (7) Divisions of land into lots or tracts if: (a) The improvements  
22 constructed or to be constructed thereon will be included in one or  
23 more condominiums or owned by an association or other legal entity in  
24 which the owners of units therein or their owners' associations have a  
25 membership or other legal or beneficial interest; (b) a city, town, or  
26 county has approved a binding site plan for all such land; and (c) the  
27 binding site plan contains thereon the following statement: "All  
28 development of the land described herein shall be in accordance with  
29 the binding site plan, as it may be amended. Upon completion, the  
30 improvements on the land shall be included in one or more condominiums

1 or owned by an association or other legal entity in which the owners of  
2 units therein or their owners' associations have a membership or other  
3 legal or beneficial interest."

4 **Sec. 2.** RCW 58.17.165 and 1981 c 293 s 9 are each amended to read  
5 as follows:

6 (1) Every final plat or short plat of a subdivision or short  
7 subdivision filed for record must contain a certificate giving a full  
8 and correct description of the lands divided as they appear on the plat  
9 or short plat, including a statement that the subdivision or short  
10 subdivision has been made with the free consent and in accordance with  
11 the desires of the owner or owners.

12 If the plat or short plat is subject to a dedication, the  
13 certificate or a separate written instrument shall contain the  
14 dedication of all streets and other areas to the public, and individual  
15 or individuals, religious society or societies or to any corporation,  
16 public or private as shown on the plat or short plat and a waiver of  
17 all claims for damages against any governmental authority which may be  
18 occasioned to the adjacent land by the established construction,  
19 drainage and maintenance of said road. Said certificate or instrument  
20 of dedication shall be signed and acknowledged before a notary public  
21 by all parties having any ownership interest in the lands subdivided  
22 and recorded as part of the final plat.

23 Every plat and short plat containing a dedication filed for record  
24 must be accompanied by a title report confirming that the title of the  
25 lands as described and shown on said plat is in the name of the owners  
26 signing the certificate or instrument of dedication.

27 An offer of dedication may include a waiver of right of direct  
28 access to any street from any property, and if the dedication is  
29 accepted, any such waiver is effective. Such waiver may be required by

1 local authorities as a condition of approval. Roads not dedicated to  
2 the public must be clearly marked on the face of the plat. Any  
3 dedication, donation or grant as shown on the face of the plat shall be  
4 considered to all intents and purposes, as a quitclaim deed to the said  
5 donee or donees, grantee or grantees for his, her or their use for the  
6 purpose intended by the donors or grantors as aforesaid.

7 (2) Any redivision, replat, alteration, or other adjustment to a  
8 subdivision, short subdivision, plat, or short plat that in any way  
9 diminishes the size or changes the use of such dedication may not be  
10 approved unless the applicant provides proof of written consent from  
11 seventy-five percent of the owners of parcels benefited by such  
12 dedication. No court of general jurisdiction may as part of any relief  
13 granted in any lawsuit, whether by way of approval of any settlement or  
14 otherwise, enter any judgment which will diminish the size or change  
15 the use of such dedication unless it has received the written consent  
16 from seventy-five percent of the owners of parcels benefited by such  
17 dedication.

18 (3) Any subdivision, short subdivision, plat, or short plat that  
19 contains a dedication and that is duly filed for record in the proper  
20 office cannot be contradicted, impeached, or invalidated by parol or  
21 extrinsic evidence, and such evidence shall be inadmissible for  
22 purposes of determining the size or use of the dedication.