
ENGROSSED HOUSE BILL 2985

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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