

SENATE BILL 5066

State of Washington 52nd Legislature 1991 Regular Session

By Senators Rasmussen, Nelson, McCaslin and Thorsness.

Read first time January 17, 1991. Referred to Committee on
Governmental Operations.

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

1 borders on a street or road, the lot size shall be expanded to include
2 that area which would be bounded by the center line of the road or
3 street and the side lot lines of the lot running perpendicular to such
4 center line;

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

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

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

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

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

1 improvements on the land shall be included in one or more condominiums
2 or owned by an association or other legal entity in which the owners of
3 units therein or their owners' associations have a membership or other
4 legal or beneficial interest."

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

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

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

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

28 An offer of dedication may include a waiver of right of direct
29 access to any street from any property, and if the dedication is

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

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

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