



VACATION OR DEDICATION OF STREET OR RIGHT-OF-WAY **PROCESS**

“**Vacation**” is whenever the Town “vacates” or “removes public interest in” a Town owned street, right-of-way, alley or common open space and is relinquished to the abutting property. This action is taken by Town ordinance.

Vacated property always returns to its historical origin. If there are two adjoining property owners (one of each side of the road, for example) each property owner usually receives half of the vacated right-of-way. This distribution occurs automatically by law, no matter who petitions for a vacation or who pays the vacation costs. A vacation simply terminates the Town’s authority over a piece of property; it does not distribute property.

When necessary the Town may reserve an easement in the right-of-way for existing or planned utilities.

17.06.370 "Dedication" means the deliberate appropriation of land by an owner for the general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.
(Ord. 541 § 1 (part), 1999)

16.04.100 "Right-of-way" means a city-owned strip of land to be used for public roads, bikeways, sidewalks, landscape strips, mass transit, utilities, or similar related public uses.

"Alley" means a public thoroughfare or way having a width of not more than twenty feet, which affords only a secondary means of access to abutting property.

17.06.645 "Common open space" means an area within or related to a development, not in individually owned lots or dedicated for public use, but that is designed and intended for the common use and enjoyment of the residents of a development.
(Ord. 541 § 1 (part), 1999)

16.20.030 - General standards.

Right-of-way widths for public roads shall be based on the table below. The minimum right-of-way width shall be used unless the town engineer demonstrates a wider width is needed due to site circumstances, including but not limited to topography, traffic volume, street patterns, on-street parking, lot patterns, land use and bike and transit facilities, that justify an increase in width.

Type of Street

Right-of-way

| | |
|---------------------|------------------|
| Principle Arterial | 80—100 feet |
| Minor Arterial | 60—80 feet |
| Collector | 60—80 feet |
| Local Street | 50—60 feet |
| Cul-de-sac: | |
| Roadway | 50 feet |
| Turnaround | 80-foot diameter |
| Alley | 20 feet |
| Private Access Road | |
| Residential | 20 feet |
| Commercial | 40 feet |

Procedure

Property owners adjoining Town-owned street, right-of ways or alley may initiate a Vacation by filing an application with Town Hall. The request must include:

- 1) A description of the street, right-of-way, or alley to be vacated;
- 2) The reason(s) for the request; and
- 3) An application fee of **\$ 120.00 (non-refundable)**

17.88.010 – Application fees.

Any applicant shall pay the following fees for a land use permit at the same time that said application is filed with the town:

Applicant shall pay all engineering and inspection fees associated with the project. Applicant may further be required to pay all fees associated with the review of this project not covered by the fees described above. This may include the retention of an interim town planner if the complexity of the project requires it. (Ord. 554 § 4, 2000: Ord. 541 § 1 (part), 1999)

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be subsequently undertaken. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

Within twenty-eight (28) days of receiving your application, Town staff shall determine if it is complete. If additional information and/or materials is needed to meet the approval criteria for a particular application, the Town will contact you and outline what is needed to complete the application. If the application is incomplete and the applicant submits the additional information requested by the department, the department shall mail or provide in person written notice to the applicant, within fourteen (14) days following the receipt of the additional information.

The department shall cancel an incomplete application if the applicant fails to submit the additional information required by DMC Sections 17.104.070(A) or (C) within ninety (90) days following notification from the department that the application is incomplete. The department may extend this cancellation date up to one hundred twenty (120) additional days if the applicant submits a written request for an extension prior to cancellation. The request must clearly demonstrate that the delay is due to circumstances beyond the applicant's control (such as the need for seasonal wetland data) or unusual circumstances not typically faced by other applicants, and that a good faith effort has been made to provide the requested materials.

After the determination of a completed application, a decision from Town staff on a permit application is required within one hundred and twenty days (120).

The fact that an application is deemed complete pursuant to this section shall not, under any circumstances, prevent the town from subsequently requesting additional information or studies regarding any aspect of a proposed project, which is deemed necessary to a complete review of the proposed project.

The time limits established in this section would not apply if a project permit application requires an amendment to the comprehensive plan or a development regulation.

Classification of Project Permit Applications

Vacations are a Type 3 Approval Process. 17.108.030

A. Type 3 decisions shall be made by the board of adjustment following an open record public hearing. Such public hearing shall be conducted in accordance with the procedures for open record public hearings specified in DMC Chapter 17.112.

B. Following a public hearing on a Type 3 decision, the hearing body shall render a written decision, including findings of fact and conclusions, and the department shall promptly issue a notice of decision pursuant to DMC Section 17.104.170.

C. The decision of the board of adjustment shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.
(Ord. 541 § 1 (part), 1999)

A public "Notice of Application" must be posted on-site, within 14 days of completed application having been received. If the property contains wetlands, streams, or their buffers, then a SEPA Environmental review may apply. These additional approvals may increase review time. The Department of Ecology website contains SEPA information, forms and checklists needed. www.ecy.wa.gov/programs/sea/sepa/forms.htm

A. A single notice board shall be posted for a project. This notice board shall also be used for the posting of the notice of decision and any notice of hearing, and shall be placed by the applicant as follows:

1. The notice board shall be located at the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility.
2. The notice board shall be five feet inside the property line except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the department.

3. Notice boards shall be at least four feet by four feet in size and shall be designed, constructed and installed in accordance with specifications promulgated by the department.

4. The top of the notice board shall be between seven to nine feet above grade.

5. The notice board shall be placed so that it is completely visible to pedestrians.

B. A mailed notice shall be issued to all owners/residents within five hundred (500) feet of any portion of the project boundary by first class mail by the department within fourteen (14) days following the department's determination of completeness and at least ten (10) days prior to the public hearing. Applicant will provide to the Town of Darrington staff, a complete mailing list and envelopes that must be size #10 (regular business size) **with** first class postage and with a Town of Darrington return address.

An approved vacation or dedication must be recorded with Snohomish County Records and Elections within six (6) months or the approval will become null and void. The Subdivision Committee's decision shall be final unless appealed to the Board of Adjustment.

17.08.040 - Rules of interpretation.

When uncertainty exists as to the boundaries of any use district shown on the official zoning map, the following rules of interpretation shall apply:

- A. Where district boundaries are indicated as approximately following the centerline of streets, alleys, highways, structure or railroad tracts, the actual centerline shall be construed to be the boundary;
- B. Where district boundaries are indicated as running approximately parallel to the centerline of a street, the boundary line shall be constructed to be parallel to the centerline of the street;
- C. Where district boundaries are indicated on such map as approximately following the lot or tract lines, the actual lot or tract lines shall be construed to be the boundary of such use district;
- D. Where a district boundary on the official zoning map divides a tract in unsubdivided property, the location of the use district boundary, unless the same as indicated by the dimensions thereon, shall be determined by use of the scale appearing on the official zoning map;
- E. Unmapped shorelines shall be considered to be within the same land use district as the adjacent upland as shown on the official zoning map;
- F. Where a public street or alley is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion reverts shall apply to such vacated or abandoned street or alley;
- G. Where a district boundary line divides a lot which was in single ownership at the time of passage of this title, the board of adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty feet beyond the district line into the remaining portion of the lot;

In case uncertainty exists, which cannot be determined by application of the foregoing rules, the board of adjustment shall determine the location of such use district boundaries. Applications for such special exceptions shall be a Type 3 decision processed pursuant to DMC [Section 17.108.030](#).

(Ord. 541 § 1 (part), 1999)

Chapter 17.116 - APPEAL PROCESSES

17.116.010 - Time for filing appeal.

Except for shoreline permits which are appealable to the state shorelines hearings board, all notices of appeal of Type 2 land use decisions and Type 4 decisions made by the board of architectural review or planning commission shall be filed within fourteen calendar days from the date of issuance of the notice of decision; provided that the appeal period shall be extended for an additional seven calendar days if the project involves any one or more of the following situations:

- A. There is another agency with jurisdiction as defined in WAC 197-11-714(3);
- B. The project involves the demolition of any structure or facility that is not categorically exempt under WAC 197-11-800(2)(F) OR 197-11-880;
- C. The project involves a clearing and grading permit not categorically exempt under WAC 197-11-800 through 197-11-880;
- D. A mitigated declaration of non-significance was issued for the project pursuant to WAC 197-11-350;
- E. A declaration of significance for the project has been withdrawn pursuant to WAC 197-11-360(4) and replaced by a declaration of non-significance.
- F. The town planner shall file any appeal from a code interpretation issued by the town planner within fourteen days of the date of issuance of a final code interpretation.

Except as specifically provided in this chapter, no administrative appeals are permitted or required for Type 1, 2, 3, 4, or 5 land use decisions.

(Ord. 541 § 1 (part), 1999)

- **17.116.020 - Dismissal of untimely appeals.**

On its own motion or on the motion of party, the department or any hearing body shall dismiss an appeal for untimeliness or lack of jurisdiction.

(Ord. 541 § 1 (part), 1999)

- **17.116.030 - Notice of appeal—Contents.**

Every notice of appeal shall contain the following information:

- A. The name of the appealing party;
- B. The address and phone number of the appealing party; and if the appealing party is a corporation, association or other group, the address and phone number of a contact person authorized to receive notices on the appealing party's behalf;
- C. A statement identifying the decision being appealed and the alleged errors in that decision. The notice of appeal shall state specific errors of fact or errors in application of the law in the decision being appealed the harm suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall be limited to matters or issues raised in the notice of appeal.

The notice of appeal shall be distributed by the department to the body designated to hear the appeal and to parties of record pursuant to DMC Section 17.112.020A.

(Ord. 541 § 1 (part), 1999)

16.10.050 & 16.12.040 - Preliminary Review Procedures

- A. Referral to Other Departments. Upon receipt of a complete and satisfactory application for a boundary line adjustment, the planning department shall transmit one copy of the application to each member of the short subdivision committee, and one copy to any department or agency deemed necessary.
- B. Planning Division Action. The Planning Department may determine that a meeting be conducted to resolve major issues identified as a result of departmental recommendations. Such a meeting shall be attended by those offices or agencies responsible for the recommendations, and must include the applicant. The proceedings and results of the meeting shall be documented.
- C. The proposed subdivision is in conformance with the Darrington Comprehensive Plan and any other adopted plans

D. The subdivision complies with the relevant requirements of the Darrington subdivision and zoning ordinances, and all other relevant state and local regulations

D. Appropriate provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the subdivision, which are consistent with current standards and plans

E. Appropriate provisions have been made for dedications, easements and reservations

F. The design, shape and orientation of the proposed lots are appropriate to the proposed use for which the lots are intended and are compatible with the area in which they are located

G. Short Subdivision Committee. The short subdivision committee shall consist of the Town Planner who shall be chairman, the Public Works Director, Town Clerk, Town Council member and a planning commission member or their designated representatives.

H. Subdivision Committee Decision. The Short Subdivision Committee may approve, approve with modifications, or deny the application for a Boundary Line Adjustment pursuant to Type 1 permit procedures. No formal meeting of the committee is required so long as the Planning Department obtains the recommendations and consent of the other members of the committee before issuing a decision. (Ord. 542 § 1 (part), 1999)

16.08.040 - Final Approval and Recording

After preliminary approval has been granted, an application for final approval shall be submitted to the planning department for final review.

A. Application. A complete final application shall consist of the documents required for recording including:

1. Drawing or survey of the boundary line adjustment;
2. Before and after legal description of the affected lots;
3. Affidavit of ownership;
4. Application on a form provided by the planning department;

5. Other documentation necessary to demonstrate the conditions of the approval have been met.

B. Recording. Upon receiving approval from the Town, the applicant will be responsible for picking up the documents from the department and recording them with the Snohomish County office of records. A copy of the recorded documents must be returned to the Planning Department to finalize the approval process. The adjustment shall not be deemed complete until the Town receives these documents. (Ord. 542 § 1 (part), 1999)

16.08.050 - Expiration

The Boundary Line Adjustment application shall expire if it has not been recorded within one year from the date of approval. Upon written request from the applicant prior to the expiration date, the Planning/Short Plat/Subdivision Committee is authorized to grant one extension, not to exceed six months. (Ord. 542 § 1 (part), 1999)

17.70.130 - Sidewalk dedication.

No building setback or landscape area on the subject lot at the time of donation or easement to the town for sidewalk purposes shall become nonconforming by reasons of such donation or easement.

(Ord. 541 § 1 (part), 1999)

16.04.070 - Dedications.

A. Act of Dedication. The intention to dedicate real property to the public shall be evidenced by showing the dedication on the plat prepared for approval. All dedications, including easements, rights-of-way and real property shall be clearly and precisely indicated on the face of the plat. Unless specifically noted otherwise on the plat, approval of the plat for recording shall constitute acceptance of the dedication.

B. Public Streets. All streets and parcels of land shown on the final plat and intended for public use shall be offered for dedication for public use, except the approving entity may allow the conveyance of certain public improvements to a homeowner's association or similar nonprofit corporation.

C. Certificates. If the subdivision includes a dedication, the final plat shall include a certificate of dedication of reference to a separate written instrument which dedicates all required streets and other areas to the public. The certificate or instrument of dedication shall be signed and acknowledged before a notary public by every person having ownership interest in the lands divided and recorded as part of the final plat.

D. Title Report. Every proposed final plat containing a dedication must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the certificate of dedication.

(Ord. 542 § 1 (part), 1999)