

PDS Director's Rule 24-03

Snohomish County

Planning and Development Services



Department: Snohomish County Planning and Development Services	Pages: 6	Supersedes: Departmental Policy Statement on Lots Which Were Created Outside the Plat/County Short Plat Process, April 18, 1980
	Adopted:	Effective:
Subject and Title: Lot Status Determination	Code and Section Reference: SCC 30.91L.120	
	Type of Rule: Code Clarification and Implementation	
	Cite Basis:	
Approved: Mike McCrary, Director		
Date: 		

BACKGROUND:

Under SCC 30.91L.120, a "lot" is defined as "a tract or parcel of land created in its present configuration by subdivision, short subdivision, or large tract segregation (recorded and/or approved by the County), a segregation exempt from subdivision requirements, or transfer of ownership prior to September 12, 1972. To be considered a 'lot,' each tract or parcel must be of sufficient area and dimension to meet minimum zoning requirements that were in effect at the time the tract or parcel was created, and must meet the access requirements of Title 30 of the Snohomish County Code. The term shall not include descriptions, divisions, parcels, easements, exceptions, or reservations created solely to describe access, road, railroad, or utility right of way purposes or drainage courses, resolve an encroachment problem, or describe survey gaps, parcels divided by non-navigable water courses, mortgage deed or other financial contract releases and tax title parcels." Under this definition, a lot (also referred to as a legal lot,

building lot or, a parcel of land) “having lot status,” is a parcel of real property established in conformance with zoning, access, and subdivision laws in place at the time of creation.

Some legal lots in unincorporated Snohomish County were created outside of normal subdivision processes and are smaller than would otherwise be permitted under today’s development regulations. Property owners of legal lots are eligible to apply for building permits or development applications, except when preempted by a standing court order or restricted by specific development regulations. It is important to determine how a parcel of land was created as part of the investigation to determine its legal status. This requires first researching whether the lot was created by a legal instrument of land division, like a subdivision or County-recognized segregation. If not, a parcel of land may still qualify as a legal lot by investigating the date of its origin and method of creation as allowed under this rule.

PURPOSE:

While Snohomish County code provides a detailed definition for “lot,” the sheer number of existing lots and methods by which lots have been created in Snohomish County’s history have led to issues with establishing consistent criteria for determining what constitutes a legal lot. The purpose of this rule is to clearly define the criteria and required documentation for a lot to be acknowledged as a legally created lot.

FINDINGS:

Lot status determination has been a complex topic since the County’s Short Subdivision Ordinance was adopted on September 12, 1972. Between August 9, 1969, the date on which Washington State enacted its State Subdivision Statute, and September 12, 1972, the date on which Snohomish County adopted its subdivision ordinance, a great number of lots were created through land divisions not recorded with Snohomish County. Lots created in this three-year period have previously been documented through the Short Plat for Record process, although this usually resulted in the documentation only of one lot and did not recognize all of the lots created through land segregations completed before the County first adopted regulations related to Short Subdivisions.

After the adoption of the first short subdivision regulations, the County regulated lot status determination through various internal means. On September 22, 1975, the Snohomish County Planning Department (now Planning and Development Services, or PDS) issued a departmental policy statement stating that code compliance would only be investigated for lots which were created by transfer of ownership on or after August 9, 1969. On April 18, 1980, the Snohomish County Planning Department issued another Departmental Policy Statement which revised the 1975 policy and stated that the Department would only investigate subdivision code compliance for lots created by transfer of ownership on after September 12, 1972.

After April 18, 1980, other departmental policies relating to lot status were adopted, however these largely dealt with lot status under specific circumstances, such as a 1995 policy, POL-3510, Lot Status as Effected by Public Road Right of Way Which Biseects the Property, May be Granted upon The Request of The Property Owner. General questions about lot status have been governed primarily by Assistance Bulletin #24, Legal Lots. While this document does contain information consistent with current practices for determining lot status, it does not carry

any authority as it is simply an advisory document for the public.

This rule is necessary to provide clarity and consistency with the application of SCC 30.91L.120. Pursuant to Chapter 30.82 SCC, the public participation process and notification requirements for this rule have been satisfied.

RULE:

Lots established by any of the following land division instruments are recognized as legal lots by the County:

- Long plat or short plat (subdivision) recorded with the County Auditor's Office;
- County-approved short plats created between August 9, 1969 and September 12, 1972, but not recorded with the County Auditor's Office;
- Large Tract Segregation approved by PDS and recorded with the County Auditor's Office between July 30, 1979 and September 9, 1986;
- Five-Acre Segregation where all lots are at least 5 acres and depicted on a map filed with PDS prior to September 16, 1986;
- Twenty-Acre Segregation where all lots are at least 20 acres and depicted on a map filed with PDS prior to May 16, 1991; or
- Eighty-Acre Segregation where all lots are at least 80 acres and depicted a map filed with PDS at any time.

Property owners seeking legal lot status on parcels created outside of the bounds of approved land division instruments identified above are required to substantiate this through the Lot Status Certification process with Snohomish County. To do this, property owners must submit a package of documentation to provide evidence of legal lot status, including:

- A Lot Status Application;
- Lot Status Certification for each lot;
- Supporting evidence;
- A project narrative; and
- A map of the existing parcel(s) and configuration of legal lots.

The County uses specific criteria and documentation to identify if real property constitutes a legal lot. These criteria involve investigating the size of the parcel, the zoning regulations in effect at the time of lot creation, and access requirements in effect both at the time of lot creation and currently in effect.

For instance, a 3-acre lot established in 1950 would need to meet access requirements in effect at the time of creation or currently in effect, but it would not need to meet zoning requirements since none had yet been adopted by the County; a recorded deed from 1950, along with proof that access requirements are met, would be sufficient to prove lot status.

The following three criteria are used to determine lot status for lots not created through subdivision:

Criterion 1: Time, Lot Size, and Documentation

Parcels of sizes less than 5 acres.

Evidence must show that the lots were created prior to September 12, 1972 using the following document type:

- Recorded conveyance documents declaring a transfer of ownership (e.g. deed or real estate contract).

Parcels of sizes greater than or equal to 5 acres, but less than 20 acres.

Evidence must show that the lots were created prior to September 16, 1986 using any of the following document types:

- Recorded conveyance documents declaring a transfer of ownership (e.g., deed or real estate contract);
- Record of Survey; or
- Tax Statement.

Parcels of sizes greater than or equal to 20 acres, but less than 80 acres.

Evidence must show that the lots were created prior to May 16, 1991 using any of the following document types:

- Recorded conveyance documents declaring a transfer of ownership (e.g. deed or real estate contract);
- Record of Survey; or
- Tax Statement.

Criterion 2: Zoning Regulations

The County first enacted zoning regulations between July 7, 1952 and April 15, 1957 in specific unincorporated areas, largely in proximity to Lake Goodwin, Lynnwood, and Edmonds. On April 15, 1957, all areas of unincorporated Snohomish County became subject to zoning regulations by the adoption of Zoning Resolution No. 7. This resulted in county-wide

requirements for properties to meet minimum lot size and lot width standards. County zoning regulations have changed since this time and areas of the County have been the subject of rezones. Any parcel must have been established in conformance with zoning regulations in effect at the time of lot creation to meet the second criterion for legal lot status.

Criterion 3: Access Requirements

While the County's access regulations have changed from time to time, the County has always had some measure of access required for lots. The following are key dates and requirements for access for any parcel of land seeking lot status:

- Where access for a lot was created prior to April 15, 1957, access to the lot shall be by direct access to a public road, private road, or access easement of any width;
- Where access for a lot was created on or after April 15, 1957, but prior to August 9, 1969, access to the lot shall be by direct access to a public road, private road, or access easement that is at least 15 feet in width;
- Where access for a lot was created on or after August 9, 1969 and the lot is less than 5 acres in size, access to the lot shall be by direct access to an open, constructed, and maintained public road, private road, or an exclusive, unshared, unobstructed, permanent access easement of at least 20 feet in width;
- Where access for a lot was created on or after August 9, 1969 and the lot is 5 acres in size or greater, access to the lot shall be by direct access to an open, constructed, and maintained public road, private road, or an exclusive, unshared, unobstructed, and permanent access easement of at least 60 feet in width;
- Access may be certified by a title company confirming that access existed prior to April 15, 1957; or
- For access that cannot comply with any of the above, refer to Section 30.24.040 of the Snohomish County Code.

Under SCC 30. 91L.120, legal lots do not include:

- descriptions, divisions, parcels, easements, exceptions, or reservations created solely to describe access, road, railroad, or utility right of way purposes or drainage courses;
- descriptions, divisions, parcels, easements, exceptions, or reservations created solely to resolve an encroachment;
- descriptions, divisions, parcels, easements, exceptions, or reservations created solely to describe survey gaps
- parcels divided by non-navigable water courses;
- mortgage deed or other financial contract releases; and

- tax title parcels.

RULEMAKING PROCESS:

The following provides the procedural process for adoption of this rule:

Rulemaking Process		
Notice of Proposed Rule		
Filed with Council Clerk		
Posted at Counter		
Published		Herald
Comment Period (21 days)		
Notice of Rule Adoption		
Filed with Council Clerk		
Published		Herald
Copies to Commenters		