

## Appendix 3 – Orphaned Roads and Rights of Ways

Orphaned roads are King County road rights-of-way that include half-streets, parts of roads or entire roads completely surrounded by cities, and small segments of road located on or within the Urban Growth Boundary, but which were not transferred from county responsibility to a city as part of past annexation or incorporation.

This appendix responds to elements of King County Comprehensive Plan Workplan Action Item 17 (Ordinance 18810) that called for:

1. Evaluation of requirements regarding annexation of roadways within potential annexation areas;
2. Identification of current orphaned roads; and
3. *[Identification of]* potential methods to transfer ownership to cities.

### **1. Evaluation of requirements regarding annexation of roadways within potential annexation areas**

When a county road is part of an area annexed by a city, the road becomes a city street and the city assumes full responsibility for it. *Evergreen Trailways, Inc. v. Renton*, 38 Wn.2d 82 (1951). If a county road separates a city from territory it proposes to annex, the road must also be annexed or the territory will not be contiguous. Noncontiguous property cannot be legally annexed, except when it is annexed for municipal purposes.

The challenge in years past has been in drawing boundaries and advancing annexations that do not create orphaned roads. The Legislature has since prohibited the use of centerline incorporation boundaries stating that the use of centerlines of public streets, roads and highways as boundaries of incorporated cities and towns had resulted in divided jurisdiction over such public ways causing inefficiencies and waste in their construction, improvement and maintenance and impairing effective traffic law enforcement (RCW 35.02.170/RCW 35.13.290).

Remedies do exist in state law, if the jurisdictions involved are willing partners in eliminating orphaned roads. If the transfer of a ROW from the county into city boundaries does not include transferring property parcels, then the process is simply an administrative boundary revision and is not subject to Boundary Review Board review.

Transfer of orphaned roads attached to a Potential Annexation Area (PAA) would occur as part of an annexation process when the PAA is annexed, unless a boundary revision process precedes the annexation of the PAA. Cities have the authority to propose annexation boundaries and advance annexations, counties do not. Counties can *request* boundary revisions in negotiations with cities or at the Boundary Review Board, but ultimately only cities have the authority to propose and advance annexation area boundaries in a way that eliminates orphaned roads.

## **2. Potential methods to transfer ownership to cities**

There are several RCW's that outline annexation methods and various administrative methods to transfer orphaned roads from a county to a city.

Boundary Line Adjustments: Boundary revisions are an administrative and legislative process that are not subject to review by the Boundary Review Board.

Under RCW 35A.21.210, the governing bodies of a county and any code city may by agreement revise any part of the boundary of the city which coincides with the centerline, edge, or any portion of a public street, road or highway right-of-way by substituting a right-of-way line so as to fully include or exclude that segment of the road within or from, the boundary of the city. The revision of a boundary becomes effective when approved by ordinance of the city council and by ordinance or resolution of the county legislative authority.

RCW 35.13.310 provides a method to adjust the boundary lines between two cities where the two cities share a common boundary within a right-of-way of a public street, road, or highway, or the two cities have a portion of their boundaries separated only by all or part of the right-of-way of a public street, road, or highway.

RCW 35.13.320 provides a method to adjust the boundary lines between two jurisdictions in which an annexation results in boundaries that create orphaned roads, as long as the agreement and action occur within 180 days of the effective date of the annexation, or the county makes the adjustment within 60 days following the one hundred eightieth day.

An agreement or adjustment made by a county under this section shall include only boundary line adjustments between the two cities that are necessary to eliminate the situation described in RCW 35.13.310(1). A boundary line adjustment under this section is not subject to potential review by a boundary review board.

### Adjustments Involving Parcels of Property Located Partially Within and Partially

Without a City's Boundaries: Under RCW 35.13.340, if the parcel involved includes a public right-of-way, the boundary adjustment must be made in a manner to either include all or none of that right-of-way within the boundaries of the city.

Sixty Percent Petition Annexation Method: For all cities, this method requires the signatures of property owners representing 60% of the assessed value of the area proposed for annexation.

Alternative Petition Annexation Method: This method was adopted by the Legislature during the period (2002-04) that the "traditional" method (60% petition method) had been declared unconstitutional by the state Supreme Court; it requires the support of property owners representing a majority of the area proposed for annexation and of a majority of the voters in the area.

Election Annexation Method: The election method requires approval of the voters in the proposed annexation area. Although there are other methods of annexation (municipal purpose annexations, annexations of "islands" of unincorporated territory, and the interlocal agreement method) they are available only in limited circumstances and so not often used.

Unincorporated Islands Annexation Method: This method enables the annexation of territory that is wholly or mostly surrounded by incorporated territory. The 2013 Legislature amended, for code cities, the criteria for territory that can be annexed under this method. Per RCW 35A.14.295, an area may be annexed by a code city under the unincorporated island method of annexation if:

- the area is less than 175 acres and all its boundaries are contiguous to the city (i.e., it is entirely surrounded by the city); *or*
- the area is of any size and has at least 80% of its boundaries contiguous to the city, it contains residential property owners, and it is within the same county and urban growth area as the city, and the code city is *required* to plan under the Growth Management Act (GMA).

Annexations under this method are subject to potential referendum (RCW 35A.14.297-.299).

The authority provided to non-code cities under this method is more limited than for code cities. Per RCW 35.13.182, an area may be annexed by a non-code city under this method if the city was planning under the GMA *as of June 30, 1994*, the area contains residential property owners, the area is within the same county and urban growth area of the city, and:

- the area is less than 100 acres and has at least 80% of its boundaries contiguous to the city; *or*
- the area is of any size, has at least 80% of its boundaries contiguous to the city, and it existed before June 30, 1994.

Unincorporated Island-Interlocal Agreement Annexation Method: This method provides an "alternative" method of annexing islands of unincorporated territory through use of interlocal agreements. However, this "island-interlocal" method of annexation is only available to cities and towns located in counties that are subject to the "buildable lands" review and evaluation program under the Growth Management Act (GMA). These counties are Clark, King, Kitsap, Pierce, Snohomish, and Thurston. This legislation is codified in RCW 35.13.470-.480 for non-code cities and in RCW 35A.14.460-.470 for code cities

### **3. List of Orphaned Roads**

The following table lists all the orphaned roads known by the King County Roads Services Division. Some but not all are affiliated with jurisdictions that have Potential Annexation Areas.

<b>ADJACENT CITY</b>	<b>LOCATION</b>
Algona	West Valley Hwy – between S 360th St. and St and S 372nd St
Auburn	Green River Rd – between SE 280th St and SE 293rd St
Auburn	88th Ave S (D St SE) – between 29th St SE. and approximately 117' south of 32nd St. SE
Auburn	148th Ave SE – between SE 364th St. south to the southern boundary of Auburn
Black Diamond	Lake Sawyer Rd SE – from SE 312th St to approximately 1,800 feet northerly of SE Auburn–Black Diamond Rd
Bothell	130th Pl NE – between NE 197th Pl and NE 190th Pl
Enumclaw	284th Ave SE – between SE 456th St and approximately 698' north of SE 464th St
Enumclaw	SE 456 <sup>th</sup> St – between 276th Ave SE and 284th Ave SE
Enumclaw	244th Ave SE – between McDougall Ave and approximately 727' northerly of SE 468th St and between SE 456th St and McDougall Ave
Enumclaw	SE 440 <sup>th</sup> St – lying westerly of 292 <sup>nd</sup> Ave SE
Enumclaw	SE 440 <sup>th</sup> St – at the 283rd Pl SE intersection
Enumclaw	SE 432nd St (McHugh Ave) – at Florence St intersection
Federal Way	S Peasley Canyon Rd – between S 320th St and Peasley Canyon Way S
Issaquah	Not KC Maintained. This portion is State Hwy SR–900, but within unincorporated KC – Renton–Issaquah Rd – lying northerly of SE 95th St, in SW 32-24-6
Kenmore	NE 205th St – between 60th Ave NE and 61st Ave NE
Kenmore	NE 205th St – between NE 204th St and 73rd Ave NE
Kent	Lake Fenwick Rd S – between S 272nd Way and S 263rd St
Kent	Orillia Rd S – from S 212th St to approximately 1000' northerly
Kent	Orillia Rd S – from approximately 1000' northerly of S 212th St to S 204th St
Kent	Military Rd S – between S 240th St and Kent–Des Moines Rd
Kent	216th Ave SE – between SE 283rd St and SE 288th St
Kent	S 277th St – at the West Valley Highways intersection

<b>ADJACENT CITY</b>	<b>LOCATION</b>
Kent	S 277th St – lying westerly of SR 167
Kent	Old Kent–Des Moines Rd – between Military Rd S and SR–516
Kent	37th Pl S/ 40th Pl S – lying westerly of 42nd Ave S
Kent	S 272nd St – between 42nd Ave S and Lake Fenwick Rd S
Lake Forest Park	NE 205th St – between 39th Pl NE and 45th Ave NE
Lake Forest Park	40th Pl NE/ 37th Ave NE – between NE 205th St and NE 202nd St
Maple Valley	SE 288th St – between 236th Ave SE and 241st Ave SE
Maple Valley	SE 281st Way – between Maple Ridge Way SE and 253rd Pl SE
Pacific	S 372nd St – between 51st Ave S and 56th Ave S
Redmond	154th Pl NE – between NE 116th St and NE 120th Way
Redmond	NE 116th St – lying easterly of Avondale Rd NE
Redmond	NE Union Hill Rd – lying westerly of 196th Ave NE
Redmond	NE 124th St – at the 162nd Pl NE intersection
Renton	S 125th St – between approx. 86th Ave S and Stevens Ave NW
Renton	Ripley Lane – between SE 64th St and NE 51st St
Renton	148th Ave SE – between SE Renton–Issaquah Rd and SE 105th St
Renton	148th Ave SE – between SE 112th St and SE Renton–Issaquah Rd
Renton	S 104th St (Ryan St) – between Cornell Ave S and 76th Ave S
Renton	59th Ave S – between S 120th St (Juniper St) and S Avon St
Renton	S 120th St (Juniper St) – between 59th Ave S and SR–900 (Martin Luther King JR Way S)
Seattle	SW 98th St – between 21st Ave SW and 19th Ave SW
Seattle	SW Roxbury St. – between 2nd Ave SW and 4th Ave SW
Seattle	12th Ave S – between Dallas Ave S and alley between S Rose St and S Southern St
Seattle	Dallas Ave S – between 12th Ave S and 16th Ave S

ADJACENT CITY	LOCATION
Seattle	21st Ave SW – between SW Roxbury St and SW 98th St
Seattle	51st Ave S – between S Ryan St and S Avon St
Seattle	N 145th St – between Lake City Way NE and 40th Ave NE (Lake Washington shoreline)
Seattle	SW Roxbury St – between 30th Ave SW and 21st Ave SW
Seattle	SW Roxbury St – between 19th Ave SW and 4th Ave SW
Seattle	N 145th St – between Greenwood Ave N and Aurora Ave N
Seattle	Not KC Maintained, ROW is under WSDOT jurisdiction as SR523 – N 145th St – between Aurora Ave N and Lake City Way NE
Shoreline	NW 205th St – between 3rd Ave NW and Aurora Ave N
Shoreline	NW 205th St – between 15th Ave NW and 12th Ave NW
Shoreline	Not KC Maintained. This portion is State Hwy SR–104, but ROW under KC jurisdiction – NE 205th St – between Aurora Ave N and I–5
Snoqualmie	SE 96 <sup>th</sup> St – between Snoqualmie Pkwy and 356 <sup>th</sup> Ave SE
Snoqualmie	SE 99 <sup>th</sup> St – portion lying westerly of Snoqualmie Pkwy
Snoqualmie	Meadowbrook Way SE – portion lying northerly SE North Bend Way
Snoqualmie	SE 80th St – at 382nd Ave SE intersection
Snoqualmie	384th Ave SE – between SE 84th St and SE River St
Snoqualmie	396th Dr. SE – between north city limit to 396th Ave SE
Tukwila	Airport Way S – in the SE ¼ of 33-24-4
Woodinville	140th Ave NE – between NE 171st St and NE 168th St

<sup>1</sup> This document contains information from the MRSC Report “Annexation by Washington Cities and Towns”, June 2014

<sup>2</sup> *Evergreen Trailways, Inc. v. Renton*, 38 Wn.2d 82 (1951): “Any portion of a county not theretofore incorporated as a city or town lying contiguous to a city or town may become annexed to such city or town and, when so annexed, shall become a part thereof. Rem. Supp. 1945, § 8908-10. When territory is annexed to a city, the authority of the city ipso facto extends over the new territory, and it becomes subject to the control and supervision of the municipal authority. *Ettor v. Tacoma*, 77 Wash. 267, 137 Pac. 820; *Western Gas Co. v. Bremerton*, [21 Wn. \(2d\) 907](#), 153 P. (2d) 846; 37 Am. Jur. 651, *Municipal Corporations*, § 34.”