

**CITY OF MONROE
ORDINANCE NO. 032/2022**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING TITLE 23 MMC BY THE ADDITION OF A NEW CHAPTER 23.70 MMC RIGHT-OF-WAY DEDICATIONS AND EASEMENTS THERETO; ESTABLISHING STANDARDS AND PROCEDURES FOR THE REQUIREMENT AND ACCEPTANCE OF RIGHT-OF-WAY DEDICATIONS AND EASEMENTS FOR ACCESS AND UTILITY PURPOSES IN CONJUNCTION WITH THE DEVELOPMENT APPROVAL PROCESS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City regulates the development and use of land within its jurisdiction through the provisions contained in the Monroe Municipal Code (MMC); and

WHEREAS, as an adjunct to such regulation, it is often necessary for the City to require the dedication of right-of-way and easements for access and utility purposes in order to mitigate the impacts of particular developments and to protect the public health, safety and welfare; and

WHEREAS, through the state law and local dedication process for subdivisions, short subdivisions and binding site plans, the relevant City decision makers are empowered to accept dedications on the City's behalf; and

WHEREAS, the City Council desires to amend Title 23 MMC to establish standards and procedures for requiring and accepting dedications and other easements as part of the review and decisional process for other categories of development approvals; and

WHEREAS, the regulations set forth in this ordinance will serve the public interest by streamlining the development review process and obviating the need for the City Council to accept of right-way-dedications and easements;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Amendment of Title 23 MMC—Adoption of New Chapter 23.70 MMC Right-of-Way Dedications and Easements. Title 23 of the Monroe Municipal Code is hereby amended by the addition of a new Chapter 23.70 MMC Right-of-Way Dedications and Easements to provide in its entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this

ordinance be preempted by State or federal law or regulation, such decision or pre-emption shall not affect the validity or enforceability of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 6th day of December, 2022.

First Reading: November 15, 2022
Adoption: December 6, 2022
Published: December 9, 2022
Effective: December 14, 2022

CITY OF MONROE, WASHINGTON:


Geoffrey Thomas (Dec 7, 2022 10:55 PST)

Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:


Jodi Wycoff (Dec 7, 2022 11:14 PST)

Jodi Wycoff, City Clerk


Zach Lell (Dec 7, 2022 08:41 PST)

J. Zachary Lell, City Attorney

Exhibit A
Chapter 23.70
RIGHT-OF-WAY DEDICATIONS AND EASEMENTS

Sections:

23.70.010 Purpose; definitions.

23.70.020 Applicability.

23.70.030 Requirement and extent of right-of-way dedications and easements.

23.70.040 Format and acceptance of right-of-way dedications and easements.

23.70.050 Timing of right-of-way dedications and easements.

23.70.010 Purpose; definitions.

A. The purpose of this chapter is to establish standards and procedures governing the dedication of right-of-way and the granting of easements to the city for utility and access purposes that occurs through the development review and approval process.

B. The following definitions shall apply for purposes of this chapter:

1. The terms “dedication”, “development”, “developer”, and “right-of-way” shall have the same meanings as defined in Chapter 22.12 MMC.

2. “Easement” means an acquired, nonpossessory interest in land owned by another party for the purpose of access, utilities or other public uses.

23.70.020 Applicability.

A. This chapter applies to all developments that are required to dedicate right-of-way and/or grant easements to the city as a condition of development approval, except for subdivisions, short subdivisions, and binding site plans.

B. Where dedication of right-of-way and/or the granting of easements occurs in conjunction with a subdivision, short subdivision, or binding site plan, the standards and procedures required therefore as part of the final plat, final short plat, or final binding site plan process, as applicable, shall be followed.

23.70.030 Requirement and extent of right-of-way dedication and easements.

A. Developers may be required to dedicate right-of-way to the city for road purposes as a condition of development approval when such dedication is found to be reasonably necessary by the applicable city decisionmaker for such development permit or approval, to mitigate an impact which is a direct result of a proposed development, for improvement, use or maintenance, and to accommodate future planned improvement of the road system serving the development.

Without limitation of the foregoing, dedication of public right-of-way may be required in the following cases:

1. To obtain the right-of-way reasonably necessary for the construction of frontage improvements along the frontage of the development site in accordance with applicable city standards, including without limitation the regulations set forth in this title and the city of Monroe public works design, construction, and operations standards adopted thereunder. This may include without limitation, right-of-way as necessary to attain sufficient intersection sight distance.
2. To obtain the right-of-way reasonably necessary for the construction of any other improvements, either along the frontage of the development's parcel or off site, as may be required through the development review process.
3. To obtain the right-of-way reasonably necessary such that an existing offset road shall be located within right-of-way after the right-of-way dedication.
4. To obtain the right-of-way reasonably necessary for maintenance of city road and/or drainage facilities.
5. To obtain the right-of-way reasonably necessary to accommodate future planned improvements as documented within the capital facilities element and/or the transportation element of the comprehensive plan.

B. Developers may be required to grant easements to the city for access and/or utility purposes as a condition of development approval when such easements are found to be reasonably necessary by the city decisionmaker for such development permit or approval, and to mitigate an impact which is a direct result of a proposed development.

Without limitation of the foregoing, granting of easements to the city may be required in the following cases:

1. To accommodate, house, and/or provide access to utility infrastructure necessary to serve the development, including without limitation water, sewer and storm utility facilities, in accordance with applicable city standards, including without limitation the regulations set forth in this title and the city of Monroe public works design, construction, and operations standards adopted thereunder.
2. To provide access for police, fire, ambulance and other emergency vehicles.
3. To obtain trails, pathways and similar facilities for pedestrian and nonmotorized traffic.

C. The size, extent, location and configuration of right-of-way and/or easements that are required for any particular development shall be in accordance with applicable city standards, including without limitation the regulations set forth in this title and the city of Monroe public works design, construction, and operations standards adopted thereunder, and/or otherwise determined on a case-by-case basis in consideration of all relevant circumstances. Provided, no dedication or easement shall be required that violates applicable statutory or constitutional standards.

23.70.040 Format and acceptance of right-of-way dedication and easements.

A. When right-of-way is required to be dedicated as a condition of development approval:

1. The right-of-way shall be conveyed to the city by deed or other instrument of conveyance approved by the city attorney.

2. Unless otherwise approved by the director, all such deeds and other instruments of conveyance shall be accompanied by a title report effective as of the effective date of the dedication.

3. Unless otherwise approved by the director, the city shall only accept right-of-way which has clear title.

4. An environmental risk assessment may be required prior to any right-of-way acceptance by the city.

B. When easements are required to be granted as a condition of development approval:

1. The easement shall be granted to the City by an instrument approved by the city attorney.

2. Unless otherwise approved by the director, the easement shall be accompanied by a title report effective as of the date of the instrument granting the easement.

3. An environmental risk assessment may be required prior to any easement acceptance by the city.

C. The director is authorized accept dedications and easements on behalf of the city consistent with the provisions of this chapter.

E. All city costs associated with the right-of-way dedication and easements shall be born by the developer and remitted to the city prior to final development approval.

23.70.050 Timing of right-of-way dedications and easements.

Right-of-way dedications and easements that are required as a condition of development approval shall be conveyed or otherwise granted, as applicable, and accepted by the city prior to final city approval of such development. For development that involves a final inspection and/or occupancy approval by the city, final city approval of the development shall mean such final inspection and/or occupancy approval, as applicable.

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Final Audit Report

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