

ORDINANCE NO. 588 -2020

AMENDING KITSAP COUNTY CODE TITLE 11

WHEREAS, RCW 36.75.040(4) provides that the Board of County Commissioners has the power and duty to perform all necessary acts necessary and proper for the administration of the county roads as by law provided; and

WHEREAS, RCW 36.86.070 - 080 requires the County to adopt uniform definitions and design standards for county roads; and

WHEREAS, the Board of County Commissioners finds a need to update Title 11 of the County Code and the County Road Standards and that it is in the public welfare so to do; and

WHEREAS, RCW 36.80.030 and RCW 36.75.050 provide that the County Engineer has the authority for preparing standards for construction of roads and bridges; and

WHEREAS, the updated standards have been prepared to comply with applicable standards, guidance and sound engineering practice; and

WHEREAS, Kitsap County citizens, stakeholders and outside agencies have been afforded opportunities to review and comment on the proposed Road Standards and code amendments; and

WHEREAS, the proposed amendments to Kitsap County Code are consistent with Growth Management Act, Kitsap County-wide Planning Polices, the Kitsap County Comprehensive Plan, and other applicable requirements; and

WHEREAS, consistent with the Comprehensive Plan, an Expedited Review of the Title 11 amendments was requested and granted by the Washington State Department of Commerce on March 9, 2020. The 60-day notice period ended on May 4, 2020 and no agencies comments were received; and

WHEREAS, amendments to Title 11 and the Kitsap County Road Standards went through SEPA review and a Determination of Non-significance was published on March 5, 2020. The public comment period ended on March 20, 2020 and no public comments were received; and

WHEREAS, the Kitsap County Planning Commission considered the proposed amendments to Kitsap County Code on May 19, 2020 during a regularly scheduled meeting properly noticed, and recommended approval via approved motions during deliberations; and

WHEREAS, the Kitsap County Board of County Commissioners held a public hearing on June 8, 2020 to consider written and oral testimony on the proposed ordinance

recommended by the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE KITSAP COUNTY BOARD OF COMMISSIONERS:

Section 1. The recitals set forth above are hereby adopted in support of the regulations imposed by this ordinance.

Section 2. Kitsap County Code Chapter 11.08, 'Primary Road System,' adopted by Resolution 149-1971, is repealed.

Section 3. Kitsap County Code Section 11.12.010, 'Designated – Maps,' adopted by Resolution 150-1971, is amended as follows:

All of the roads (with exception of state highways and those within incorporated towns and cities), as indicated on that certain set of maps on file in the office of the county engineer, being the latest, current and revised edition entitled "Kitsap County Road Log", together with the supporting database showing names of roads, mileages and classifications is adopted and made part of this chapter. ~~"General Highway Map—Kitsap County, Washington" prepared by the Department of Highways, Highway Planning Division in cooperation with the U.S. Department of Transportation, Federal Highway Administration, Bureau of Public Roads, consisting of Sheet A of 1 map sheet and 12 supplemental sheets, are established as county roads for the purpose of allocating funds from the Motor Vehicle Fund of the state of Washington as set forth and prescribed under RCW 46.68.120 and the set of maps shall be considered part of this chapter, the same as if set forth in this section at length.~~

NEW SECTION. Section 4. A new section, 'County Road Classifications,' is added to Chapter 11.12 Kitsap County Code as follows:

11.12.020 County Road Classifications

The board reserves the right to revise the classification and designations of county roads as may be determined necessary by a majority vote of the board.

Section 5. Kitsap County Code Section 11.16.020, 'Work for other public agencies with public works department forces,' adopted by Ordinance 378-2007, is amended as follows:

The board of county commissioners will accept requests to perform reimbursable work with public works department forces for, or rent equipment to, other public agencies or other county departments as follows:

(a) Work requested by other public agencies will be governed by an interlocal agreement approved by the board of commissioners.

(b) The board of county commissioners shall be the sole authority to approve all interlocal agreements with other public agencies.

(c) Reimbursable work for other public agencies, related to an approved interlocal agreement, is authorized by the board subject to a work request being submitted to and approved by the county-administrator public works director or his/her designee.

(d) Reimbursable work for other county departments is authorized by the board subject to a work request being submitted to and approved by the public works director or his/her designee.

(e) The public works department is responsible for processing interlocal agreements and work requests under this section and for undertaking the approved work.

Section 6. Kitsap County Code Section 11.16.030, 'Use of county road funds and personnel for naming intersection private ways,' adopted by Resolution 33-1977, is repealed.

Section 7. Kitsap County Code Section 11.16.040, 'Designating private ways - Limitation,' adopted by Resolution 33-1997, is repealed.

Section 8. Kitsap County Code Section 11.16.050, 'Designating private ways – Performed when,' adopted by Resolution 33-1997, is repealed.

Section 9. Kitsap County Code Section 11.20.010, 'Designated,' adopted by Resolution 144-1971, is amended as follows:

It is the intention of the board to adopt the latest edition of the state of Washington Standard Specifications for Road, Bridge and Municipal Construction, with subsequent amendments or revisions thereto, as issued by the Washington State Department of Transportation and the Washington Chapter of the American Public Works Association Highway Commission, together with such changes in definitions in same as are necessary to designate Kitsap County and county officials in place of the state of Washington and state officials.

Section 10. Kitsap County Code Section 11.22.020, 'Authority and Intent,' last amended by Ordinance 404-2007, is amended as follows:

Chapter 36.75 RCW requires that county roads be established, laid out, constructed, altered, repaired, improved, and maintained by the county or by private individuals or entities authorized to perform such work under an agreement with the county legislative authority. Such work and improvements shall be done in accordance with adopted county standards ~~under the supervision and direction, or approval of the county engineer~~ (hereafter the "road standards").

This chapter is adopted for use on all public roads, shared access facilities, bridges

and other new construction public roads, including the widening or expansion of existing roadways in Kitsap County and as far as is practical and feasible to the reconstruction, resurfacing, restoration and rehabilitation of existing public roads.

It is the purpose of this chapter to provide for the safety, welfare and convenience of the traveling public within Kitsap County. In adopting this chapter, the county has sought to encourage standardization of road design elements where necessary for consistency and to assure, so far as practical, that motoring, bicycling, and pedestrian public safety needs are met. Considerations include safety, convenience, pleasant appearance, storm water management, and economical maintenance. The road standards also provide requirements for the location and installation of utilities within the ~~right-of-way~~ right of way.

The road standards are not intended to discourage innovative approaches for design and construction of county roads and associated infrastructure. The application of low-impact development methods providing equal levels of safety, workmanship and environmental protection as the adopted standards is encouraged.

Section 11. Kitsap County Code Section 11.22.030, 'County engineer's authority,' adopted by Ordinance 293-2003, is amended as follows:

The county engineer shall have the authority to develop and adopt road standards as the Kitsap County standards for road design and construction. The road standards and any amendments thereto shall be subject to thirty-days public review prior to adoption, and once adopted, shall be filed with the clerk of the board of county commissioners, and copies shall be made available through the Kitsap County department of public works and the Kitsap County department of community development. This chapter and the road standards shall be administered by the county engineer, or a designee. The county engineer shall have the authority to develop and implement procedures to administer and enforce this chapter and the road standards. The county engineer is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

NEW SECTION. Section 12. A new section, 'Kitsap County Road Standards Manual,' is added to Kitsap County Code Chapter 11.22 as follows:

11.22.035 Kitsap County Road Standards Manual

The latest edition of the Kitsap County Road Standards, with subsequent amendments or revisions thereto, is hereby adopted by reference.

Section 13. Kitsap County Code Section 11.22.040, 'Definitions,' last amended by Ordinance 404-2007, is amended as follows:

Where terms, phrases and words are not defined, they shall have their ordinary accepted meanings within the context in which they are used. Webster's Third International Dictionary of the English Language, unabridged, 1993 edition shall be

considered as providing ordinary accepted meanings.

"Approach" shall mean a connection providing private vehicular access to or from the County road system.

"Bond" means a financial guarantee, in the form of a surety bond or assignment of funds, that shall guarantee compliance with this chapter.

"County" means Kitsap County.

"County engineer" means the Kitsap County road engineer, having the authority specified in this chapter and under RCW 36.75.050 and Chapter 36.80 RCW, or his/her assigned designee.

"Department" means the Kitsap County department of public works.

"Improvements" include, but are not limited to, the design and construction of roads, storm water management facilities (i.e., storm drains, detention/retention ponds, bioswales, ditches, etc.), sidewalks, pedestrian trails, street lighting systems, signals and other traffic control devices, utilities and bridges.

"Reviewing agency" means the Kitsap County department of public works.

"Right of way" means all property in which the county has any form of ownership, interest or title, and which is held for the purpose of public roads and associated features such as, medians, sidewalks, bicycle facilities and public utilities. This definition applies regardless of whether ~~or not~~ any road exists thereon or whether or not it is open for use, used, improved, or maintained for public travel.

Section 14. Kitsap County Code Section 11.22.050, 'Application of standards,' last amended by Ordinance 404-2007, is amended as follows:

The road standards shall apply to all designed and newly constructed or reconstructed public roads within a Kitsap County right of way or on private property to be dedicated to Kitsap County as ~~for~~ right of way by any person, firm, corporation or other entity. Any work performed in the construction or improvement of county roads, ~~whether by or for a private developer,~~ shall be done in accordance with the road standards and plans and specifications approved by the county engineer. This chapter and the road standards are not intended to apply to general maintenance activities performed on roads in existence prior to January 13, 2003, the original date of adoption, as long as the maintenance activities do not significantly alter the dimensions or function of the road.

Land development activity that will impact the level of service, safety, or operational efficiency of existing roads, or that is required by other county code or ordinance to improve such roads, may be required to provide improvements in accordance with

the road standards. The need for off-site improvements to existing county roads shall be based on an assessment of the potential impacts of the land development proposal.

Storm water management requirements associated with road improvements shall comply with the requirements of Kitsap County storm water management standards, codified under Title 12 of the Kitsap County Code, as they now exist or are hereafter amended.

Road improvements required under the road standards shall be designed by a licensed professional engineer registered to practice in the state of Washington.

Section 15. Kitsap County Code Section 11.22.070, 'Permits,' last amended by Ordinance 404-2007, is amended as follows:

(a) No person, firm, partnership, association, joint venture, corporation, or other public or private legal entity shall construct or alter a permanent or temporary vehicular access to a county road without first obtaining a road approach permit from Kitsap County. A copy of the permit shall be available for inspection at the site during construction. Any change in land use or any improvement to an existing site that increases traffic volumes, or impacts site distance, using an existing approach will require a new road approach permit.

(b) No person, firm, partnership, association, joint venture, corporation, or other public or private legal entity shall conduct any construction activity within a county right of way unless the work is in accordance with a valid permit to perform work in county right of way issued by the Kitsap County department of public works. A permit is not required for routine maintenance activities, general maintenance activities performed on roads in existence prior to January 13, 2013, or repairs to aboveground utilities.

(c) Utility relocation work ~~completed in conjunction~~ associated with a county road improvement project ~~does not require~~ a permit, but the fee may be waived.

(d) The applicant for construction work within county right of way is required to be a qualified licensed and insured contractor in the state of Washington.

(e) Plans, drawings or other details that will enable the county to determine the location, size, length, time period and purpose of the permit being sought shall be furnished by the applicant. All permits that extend or alter existing and new waterline installations require review and approval by the fire marshal prior to application; provided, however,

(1) A permit need not be obtained before performing emergency repairs upon existing underground utilities where the public health, safety and welfare is threatened if immediate repairs are not made; provided further,

(2) That as soon as practicable after the need for the emergency work is discovered or after the emergency repairs have been made, the person, firm, partnership, association, joint venture, corporation, or other public or private legal entity intending to make or having made the emergency repairs shall notify the department of public works regarding the location, extent and nature of the repairs; and provided further,

(3) On the next working day immediately following the date of the emergency repair, the public or private entity having made such repairs shall submit an application for a permit to the department of public works and shall comply with the road standards insofar as possible practical as determined by the department of public works.

NEW SECTION. Section 16. A new section, 'Civil Enforcement,' is added to Chapter 11.22 as follows:

11.22.105 Civil Enforcement

Procedures for the investigation and enforcement of suspected violations of this chapter shall be in accordance with Chapter 2.116, as it exists now or is hereafter amended.

Section 17. Kitsap County Code Section 11.22.110, 'Penalties - Enforcement,' last amended by Ordinance 404-2007, is amended as follows:

(a) General. In addition to all other enforcement actions authorized under the code, the county may withhold or withdraw plan or development permit approval, revoke approval, forfeit the submitted financial guarantee, and/or refuse to accept work performed, if a permittee fails to comply with any requirement set forth in this chapter or the road standards. Further, Kitsap County may bring civil suit to enforce any requirement, enjoin violation or seek any other remedy available at law or equity.

(b) Road Approaches – Failure to Construct Properly. In addition to all other enforcement actions authorized under the code, any person, firm, partnership, association, joint venture, corporation or other legal entity who fails to construct an approach properly may will be required to compensate the county for the improvement or removal of the approach. Compensation shall include administration time as well as equipment and materials to remove or improve the approach. Reimbursement shall be made to the Kitsap County Department of Public Works, Road Fund.

(c) Failure to Notify. In addition to all other enforcement actions authorized under the code, if a permittee fails to notify the county as required by the road standards then the county may require sampling and/or testing post-construction, either by the ~~project engineer~~ permittee or the county. Costs for such testing and/or sampling shall be borne by the permittee. When such testing and/or sampling is required, the county may prohibit or limit further work until all such tests and/or sampling have

been completed and corrections made to the satisfaction of the county. In addition to this provision, the county reserves its right to bring any or all other enforcement action for the failure to notify.

Section 18. Kitsap County Code Section 11.22.120, 'Bonding – Insurance - Indemnification,' last amended by Ordinance 404-2007, is amended as follows:

(a) A permittee shall post a financial guarantee in the form of a surety bond or assignment of funds from a corporation authorized to do the business of surety in the state of Washington. The bond is required to ensure compliance with all permit conditions and shall be kept in full force and effect for a minimum of two years following acceptance of the work as complete by the county. The bond shall be in favor of the department of public works and is required prior to permit approval. The amount of the bond shall be as determined by the county.

(b) If a person, firm, partnership, association, joint venture, corporation, or other public or private entity locates, installs, adjusts, repairs or relocates underground utility lines on a regular basis, the county may allow such entity to post a blanket bond in an amount no less than \$5,000.00. If an entity that has posted a blanket bond thereafter makes application for a permit, on a project of such magnitude that the county determines that the amount of the blanket bond is inadequate, the county may require a separate, additional bond.

(c) Commercial Liability Insurance. Prior to beginning any work, and through the term of the maintenance bond, the permittee shall maintain commercial general liability insurance in the amount of not less than \$1,000,000.00 combined single limit bodily injury and property damage, with a \$2,000,000.00 aggregate. Prior to issuing a permit to work in the right-of-way, a permit applicant must provide the county with a certificate of insurance, signed by the insurance agent and the permit applicant. The policy shall be endorsed and the certificate shall name Kitsap County as an additional insured on the policy with respect to activities performed under this permit and through the term covered by the maintenance bond. The policy shall be endorsed and the certificate shall reflect that the insurance provided shall be primary insurance and any insurance or self-insurance carried by the county shall be excess and not contributory to that provided by the permittee. If, for any reason, a material change occurs in the insurance coverage during the period of time required by this provision, such changes shall not become effective until forty-five days after Kitsap County has received written notice of such changes.

(d) Waiver of Requirements. The bonding and insurance requirements described in subsections (a) through (c) of this section may be waived at the discretion of the county engineer.

~~(e) Indemnification. The holder of any right of way permit shall have no recourse whatsoever against Kitsap County or its officials, boards, commissions, agents, or employees for any loss, costs, expenses, or damages arising out of any provision or~~

~~requirement of the permit or road standards, or because of Kitsap County enforcement activities. Granting of a franchise or permit shall not imply or be construed to mean the county shall be responsible for the design, construction, or operation of the facility or for public safety during the facility's installation, operation, or maintenance.~~

Section 19. Kitsap County Code Chapter 11.32, 'Accommodation of Utilities on Road Right-of-Way,' adopted by Resolution 170-1971, is repealed.

Section 20. Kitsap County Code Chapter 11.36, 'Permit and Standards for Use and Improvements to County Right of Way,' last amended by Ordinance 322-2004, is repealed in its entirety.

Section 21. Kitsap County Code Section 11.40.010, 'Consideration,' adopted by Resolution 496-1988, is amended as follows:

Right of way illumination may be conditioned during the land use process to address roadway safety in accordance to the adopted road standards.

~~Street lighting shall be considered in all commercial, light manufacturing, industrial development approvals and be coordinated by the department of community development through the appropriate power provider in order to provide required street lighting as set forth in the Comprehensive Plan.~~

Section 22. Kitsap County Code Section 11.40.020, 'Costs – Responsibility of landowner' adopted by Resolution 496-1988, is amended as follows:

Street lighting ~~utilities as for other utilities~~ shall be at the expense of a developer of property who shall be required to provide for street lighting as a condition of development including installation of underground wiring and poles which may be by the developer, with acceptance of the design by the power utility and the county engineer; or by the power utility with the developer billed for the installation, as well as the light fixture and head when installed; provided further, that cost of electrical services shall be billed to the landowner in a manner acceptable to the power utility and that Kitsap County shall not be responsible for any lighting poles, wiring, installation, fixtures, light, head, electricity or other lighting utility services or facilities.

Section 23. Kitsap County Code Section 11.40.030, 'Street lighting plan map,' adopted by Resolution 496-1998 is repealed.

Section 24. Severability. If any section, sentence, clause, or phrase of this ordinance should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance.

Section 25. Clerical/Typographical Error. Should this ordinance, upon being enacted

by the Kitsap County Board of Commissioners during its deliberations on June 8, 2020, inadvertently leave out or add in error upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

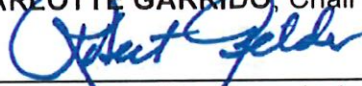
Section 26. Effective Date. This Ordinance shall be in full force and effect 30 days following adoption by the Board of County Commissioners

ADOPTED this 8 day of JUNE, 2020.


BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON



CHARLOTTE GARRIDO, Chair



ROBERT GELDER, Commissioner

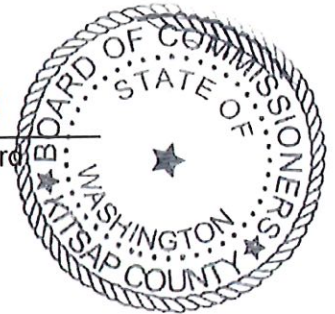


EDWARD E. WOLFE, Commissioner

ATTEST:



Dana Daniels, Clerk of the Board



Approved as to form:

Prosecuting Attorney