

ORDINANCE NO. 4895

AN ORDINANCE relating to regulating the use of County rights of way, establishing a permit system for the limited and extended use of right of way, adding a new chapter to the King County Code, and repealing Resolution 6505 and K.C.C. 14.28.010, Resolution 9642 and K.C.C. 14.28.020, Resolution 10803 and K.C.C. 14.28.030 and Resolution 8777, Sections 1, 2, 3, 4 and 5 and K.C.C. 14.28.040, .050, .060, .070, .080 and .090 amending Ordinance No. 3113, Section 13(3) and KCC 19.26.320 and Ordinance No. 4461 Section 2.

PREAMBLE:

Purpose. It is the purpose of this chapter to establish a permit system and standards for private vehicular and pedestrian access and use of County rights of way, to provide for the equitable sharing of private improvement costs, to otherwise protect the public health, safety and welfare, to be compatible with environmental and other state laws and regulations and to be consistent with all goals, objectives and policies of the comprehensive plan, community plan, the sewerage general plan, the zoning code, the subdivision code, and other official laws, objectives and policies of King County.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW SECTION. SECTION 1. Definitions

- (a) "BALD" means the Building & Land Development Division of the Department of Planning and Community Development.
- (b) "Development approval" means the granting of a building permit, mobile home on-site permit, short subdivision or other County land use approval or approvals.
- (c) "Department" means the King County Department of Public Works and Transportation.
- (d) "Right of Way Use Permit"
1. "Right of Way Use Permit: Limited" means a permit authorizing the use of the County right of way for a designated purpose and for a period of time limited to one year or less.
 2. "Right of Way Use Permit: Extended" means a permit authorizing the use of the County right of way for a designated purpose and for a period of time exceeding one year in duration.

NEW SECTION. SECTION 2.

(a) Permits Required. County road right of way shall not be privately improved or used for access or other purposes and no development approval shall be issued which requires use of privately maintained County right of way unless a permit therefor has been issued pursuant to this chapter, except for utility construction work authorized pursuant to KCC Chapter 14.44. This section shall not apply to driveway connections from private property to county road right of way.

(b) Approvals by Affected Agencies

(1) Upon receipt of an application for right of way use permit, limited or extended, BALD shall forward copies of the application to each of the following County agencies for their review:

a. The Division of Real Property, which shall determine whether the proposed activity is within County-owned right of way;

b. The Department of Public Works & Transportation, which shall determine the feasibility of the proposed construction and shall establish the construction standards and appropriate bond amount as required for each permit as prescribed in this ordinance and shall perform inspections necessary to establish compliance with the terms of each permit.

(2) BALD shall be the lead agency for the compliance with the State Environmental Policy Act. In addition, BALD shall review applications for compliance with applicable county ordinances and policies.

1 (3) BALD shall, when feasible, consolidate right of
2 way use permits with other development approvals to prevent
3 duplication and increase efficiency. The fee for a consoli-
4 dated approval shall be reduced to the extent separate fees
5 would be duplicative.

6 NEW SECTION. SECTION 3. Retroactivity. All access approvals,
7 trail permits and right of way use permits issued by King County
8 Division of Real Property prior to the effective date of this
9 chapter shall not be affected by the provisions of this ordinance.

10 NEW SECTION. SECTION 4. Effective Date: This ordinance
11 shall become effective 30 days after signing by the County
12 Executive.

13 NEW SECTION. SECTION 5. Right of Way Use Permit: Limited.

14 (a) Upon filing of a complete application, payment of the fee,
15 and posting of the required Department bond for restoration of
16 the right of way, BALD may issue a permit authorizing the limited
17 use of County road right of way, for use by private parties that
18 have been designated for a specific use which is less than one
19 year in duration.

20 (b) The permit may require construction and restoration of
21 the right of way to standards prescribed by the Department in
22 view of the nature and duration of the designated use, and
23 subject to a Department inspection. In addition, conditions may
24 be set by BALD to assure the compliance of the permit with
25 County policies, ordinances, and other applicable laws and
26 regulations as sited in Section 2(b)2. Such conditions may require
27 performance in excess of Department standards.

28 (c) The permit applicant may be required to post bonds in
29 amounts determined by the Department which:

30 1. Guarantee construction and maintenance of the
31 roadway, drainage, and retention/detention facilities in
32 compliance with standards prescribed by the Department and
33 BALD standards; and

1 2. Guarantee restoration of the right of way to a
 2 condition consistent with the right of way use permit includ-
 3 ing blocking of access to the right of way at the expiration
 4 of the permit period.

5 (d) The permit applicant shall assume sole responsibility
 6 for the safe and adequate operation and maintenance of any
 7 improvements to the County right of way during the period of time
 8 the permit is in effect.

9 (e) The permit applicant may apply for one, one year
 10 extension to the Right of Way Use Permit: Limited, upon written
 11 application for an extension, payment of the fees, and being
 12 found to have fully complied with the conditions and requirements
 13 of the original permit. The application for extension may only be
 14 made after the first six months of the original permit life.

15 NEW SECTION. SECTION 6. Right of Way Use Permits: Extended.

16 (a) Upon filing of a complete application and payment of
 17 fee, BALD may issue a permit authorizing the use of the County
 18 right of way for a designated use for a period exceeding one year
 19 in duration.

20 (b) The applicant may be required by the Department to
 21 construct a road to specific standards which may include full
 22 compliance with adopted King County Road Standards, and may be
 23 required to post bonds for construction and maintenance. Con-
 24 struction work required by the permit shall be completed within
 25 one year of the permits issuance. In addition, BALD may set
 26 conditions to assure compliance of the permit with County policies,
 27 ordinances, and other applicable laws and regulations as cited
 28 in Section 2(b)2.

29 (c) The Department shall place and maintain permanent sign(s)
 30 denoting the end of the County maintained road.

31 (d) The applicant shall have sole responsibility for the
 32 safe construction, operation and maintenance of any improvements
 33 to the County right of way pursuant to the permit, until such

1 time as the road is officially accepted for maintenance by King
2 County.

3 (e) The permit applicant may be required to record a
4 covenant running with the land and for the benefit of King
5 County, which contains:

6 1. A legal description of the lot or parcel to be
7 served by the right of way use permits, limited or extended;

8 2. A statement indicating that access to such parcel
9 is across an unmaintained County right of way, that the
10 County is not responsible for maintenance of the right of
11 way and that responsibility for maintenance of the road
12 rests jointly and equitably upon all permit holders.

13 3. A statement that the owner(s) of the parcel will
14 not oppose participation in a County road improvement
15 district, if formation of such a district is deemed necessary
16 by King County;

17 4. A prohibition against subdividing such parcel
18 without obtaining either plat or short plat approval there-
19 for, or if exempt from platting, a right of way use permit
20 for the additional lots being created;

21 5. A statement that the right of way use permit cov-
22 enant is binding on the successors and assigns of the
23 owner(s); and

24 6. The acknowledged signature(s) of the owner(s) of
25 such parcel.

26 NEW SECTION. SECTION 7. Right of Way Use Permits -- Additional
27 Requirements.

28 (a) Plans. Detailed engineering and restoration plans
29 and/or a drainage plan pursuant to K.C.C. 20.50 and Ordinance No.
30 4463, K.C.C. 19.20, may be required when considered necessary by
31 the Department. Costs for the development of such plan and
32 conduct of required studies shall be borne by the permit applicant.
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1 (b) Survey. When considered necessary by the Department to
 2 adequately define the limits of right of way, the permit applicant
 3 shall cause the right of way to be surveyed by a licensed land
 4 surveyor. Such survey shall be recorded in accordance with the
 5 Survey Recording Act.

6 (c) Dedication. A permit applicant may be required to deed
 7 additional right of way across property under his authority when
 8 necessary to fulfill the minimum road right of way width pre-
 9 scribed in RCW 36.85.010.

10 (d) Illegal Subdivision. A permit shall not be issued to
 11 provide access to a lot or parcel created in violation of state
 12 and county subdivision regulations.

13 NEW SECTION. SECTION 8. Fee. A fee to recover the full
 14 cost of the application as determined by the Department and BALD
 15 shall be paid to BALD. Such fee is non-refundable. This fee shall
 16 be in addition to that required for any other development approval,
 17 except as provided in Section 2(b)3.

18 An initial fee determined by BALD shall be paid at the time
 19 of permit application unless the application is combined with
 20 another development approval pursuant to Section 2(b)3. The
 21 balance of the fee shall be paid at the time of permit issuance.

22 NEW SECTION. SECTION 9. Driveway Connections to Public Roads.
 23 No driveway connection or other access from private property to a
 24 county road right of way shall be built or maintained which does
 25 not comply with the King County Road Standards adopted by
 26 Ordinance No. 4463, K.C.C. 19.20.

27 NEW SECTION. SECTION 10. Interpretation. Permits issued
 28 pursuant to this ordinance shall not be construed to convey any
 29 vested right or ownership interest in any County right of way.
 30 Every right of way use permit shall state on its face that any
 31 County right of way opened pursuant to this ordinance shall be
 32 open to use by the general public except in those cases where
 33 specific conditions in a Right of Way Use Permit: Limited restrict

1 the use of the right of way for safety reasons.

2 NEW SECTION. SECTION 11. Enforcement. The Director of the
3 Department of Public Works & Transportation and the Director of
4 the Department of Planning and Community Development are author-
5 ized to enforce the provisions of this ordinance, and any rules
6 and regulations promulgated thereunder pursuant to the enforce-
7 ment and penalty provisions of Title 23.

8 SECTION 12. The following ordinances, resolutions and
9 sections of the King County Code are hereby repealed:

- 10 (a) Resolution 6505 and K.C.C. 14.28.010;
- 11 (b) Resolution 9642 and K.C.C. 14.28.020;
- 12 (c) Resolution 10803 and K.C.C. 14.28.030;
- 13 (d) Resolution 8777, Sections 1, 2, 3, 4 and 5 and K.C.C.
14 14.28.040, .050, .060, .070, .080 and .090.

15 SECTION 13. Ordinance 3113, Section 13(3) and
16 K.C.C. 19.26.320 are each amended to read as follows:

17 Public Street Right of Way -- Improvements -- Required When.
18 Public Street improvements, consistent with adopted County
19 standards and specifications for public streets, may be required
20 under the following circumstances:

- 21 (1) When new public right of way is deeded or dedicated
22 pursuant to Section 19.26.310;
- 23 (2) When necessary to develop an existing undeveloped or
24 unmaintained County right of way to County standard for public
25 streets, when such right of way abuts or provides access to the
26 land for which short plat approval is sought.

SECTION 14. Severability: Should any section, subsection, paragraph, sentence, clause or phase of this ordinance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

INTRODUCED AND READ for the first time this 7th day of April, 1980.

PASSED this 19th day of May, 1980.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Bill Reams
Chairman

ATTEST:

Janet M. Rennie
DEPUTY Clerk of the Council

APPROVED this 21st day of May, 1980.

[Signature]
King County Executive

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