

ORDINANCE NO. 99-207

AN ORDINANCE RELATING TO PRIVATE ROADWAYS ESTABLISHING STANDARDS; AND PROVIDING FOR PENALTIES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF COWLITZ COUNTY, WASHINGTON:

SECTION 1. Title: This ordinance shall be known and may be cited as the Cowlitz County Private Roadway Ordinance.

SECTION. 2. Authority and Purposes:

A. This ordinance is adopted by the Board of County Commissioners under the following specific authorizations:

1. To guide and regulate the physical development of land to ensure appropriate standards of environment for living and the operation of commerce, industry, agriculture and recreation, as provided in Revised Code of Washington, Section 36.70.010, through the adoption of official controls that will further the objectives and goals of the comprehensive plan, pursuant to Revised Code of Washington 36.70.550;
2. To adopt reasonable rules for the construction of approaches to county roads when persons propose to build or construct an approach from any abutting property to a private road, as provided in Revised Code of Washington Section 36.75.130 and 36.75.140;
3. To ensure that appropriate provisions are made for public health, safety, and general welfare, for streets or roads and pedestrian access during the process of subdividing land, pursuant to Revised Code of Washington Section 58.17.110;
4. To ensure the appropriateness of fire department access as authorized pursuant to Part III, Article 9, Section 902 of the Uniform Fire Code of 1997, as now or hereafter adopted by the Board of Commissioners;
5. To provide for implementation of the county's policies to ensure adequate road designs and signing to avoid traffic hazards and the disruption of the regular flow of traffic and to reduce adverse impacts, as more fully specified in Cowlitz County Code 19.11.110.4;
6. To provide for simultaneous, coordinated review of private road development proposals for conformance with the requirements of other county codes.

B. In addition to the purposes inherent in the state statutes identified in this section, it is the purpose and objective of this ordinance to adopt specific standards for the development of private roadways to provide for minimally acceptable safety and accessibility for private, commercial and emergency vehicles and other uses and users of the road. These regulations are designed to ensure that the standards of construction utilized in the unincorporated area of the county are consistent with minimum acceptable standards.

SECTION 3. Applicability: The provisions of this ordinance shall apply in the unincorporated areas of

Cowlitz County. No private roadway shall hereafter be constructed except in conformity with this ordinance. All new Type A, Type B, or Type C roadways shall comply with all construction and development standards of this ordinance. Applications on file with the Department which have been deemed complete shall be subject to the ordinances and regulations in effect at the time of the application.

SECTION 4. Definitions: Unless the context clearly requires otherwise, the following definitions shall apply in this ordinance:

"All Weather Surface" means a graveled or paved surface.

"Comprehensive Plan" means the comprehensive plan of Cowlitz County as it currently exists or as hereafter adopted and/or amended.

"Day" means days that the Department of Building and Planning is open for business.

"Director" means the Director of the Department of Building and Planning or his or her duly authorized representative.

"Board" means the Cowlitz County Board of Commissioners.

"Department" means the Department of Building and Planning of Cowlitz County.

"Nonconforming Private Roadway" means a private roadway, as defined by this ordinance, that fails to meet one or more of the physical requirements or standards specified in this ordinance.

"Private Roadway" means any vehicular access way, designed or intended to serve three or more parcels or dwelling units or any commercial business, which has not been dedicated as a public roadway. Roadways designed and used solely for bona fide logging and agricultural activities shall be exempt from these private roads standards. If the land use changes from bona fide logging or agricultural activities said private road standards shall be applicable.

"Private Roadway, Existing" means a private roadway that existed on or before the effective date of this ordinance, or a new proposed private roadway for which the Department has received a valid application for approval, as determined by the Director, prior to the effective date of this ordinance.

"Private Roadway, New" means any private roadway proposed or established after the effective date of this ordinance.

"Roadway, Type A" means a private or public roadway intended to provide access to twenty (20) or more lots, parcels, or dwelling units, constructed to meet current specifications for county public roadways.

"Roadway, Type B" means a private roadway intended to provide access to at least ten (10) but less than twenty (20) lots, parcels, dwelling units or any commercial use, constructed to meet standards specified by this ordinance.

"Roadway, Type C" means a private roadway intended to provide access to at least three (3) but less than ten (10) lots, parcels or dwelling units, constructed to meet standards specified by this ordinance.

SECTION 5. Permit, Plans, and Fee Required:

A. It shall be unlawful for any person, firm, or corporation to construct a new private roadway or alter an existing private roadway or to cause the same to be done without first obtaining a permit for

such roadway construction or alteration from the Department. The periodic cleaning and re-surfacing of the roadway shall not be considered an alteration and shall not require a permit as long as the specifications under which the roadway was approved are not compromised. Permits shall be applied for on forms provided by the Department and shall contain such supplemental information as may be required by the Department.

B. No private roadway permit shall be approved unless roadway plans have been submitted to and approved by the Department. Plans for private roadways shall be prepared and stamped by a civil engineer licensed to practice in the state of Washington and according to the "Standard Plans for Road and Bridge Construction", as published by the Washington State Department of Transportation and the American Public Works Association, and shall include appropriate erosion control measures. Two copies of such plans and associated information shall be provided to include a site plan, vicinity map, road plan profile, and road cross-section with catch points at 50 foot intervals along the roadway. In addition to the above information, the plans shall be in sufficient detail to demonstrate compliance with all applicable standards of this ordinance. Plans shall be prepared on standard size "B" paper.

C. A plan review fee shall be paid for the review and approval of private roadways at the time of application and plan submittal. Permit and plan review fees shall be established from time to time by resolution by the Board. The Director may waive fees for permits to repair damage caused by any emergency condition declared by the Board to constitute a state of emergency; such waivers shall apply to permits obtained during the ninety days following the date of declaration of the state of emergency.

D. The Director shall make a decision on the issuance of a private roadway application within thirty (30) days of receiving a complete application, provided; compliance with the State Environmental Policy Act has been achieved. If the application is found to be in accordance with this ordinance and other applicable regulations, the Director shall issue the private roadway permit. The Director may place reasonable conditions on the issuance of a private roadway permit where in his/her judgment such conditions are necessary to implement the provisions of this ordinance. Any decision to deny a private roadway permit shall be in writing from the Director indicating the reasons why said permit is denied. Any decision by the Director relative to the approval or denial of a permit may be appealed by any person with standing in accordance with Section 12 of this ordinance.

SECTION 6. Coordination with Other Permit Requirements: Prior to making application for a private roadway permit, the applicant should consult with the Department regarding how to coordinate the application process with other permits and approvals which may be required. Permits and approvals that may be required and which should be applied for simultaneously or in conjunction with a private roadway permit include but are not limited to the following:

A. Compliance with the State Environmental Policy Act (SEPA) for grading (Cowlitz County Code Chapter 19.11);

B. Fill and grade permit as may be required pursuant to Appendix 33, Uniform Building Code (Cowlitz County Code Chapter 16.05);

C. A critical area permit for the protection of critical areas as may be required pursuant to Cowlitz County Code Chapter 19.15;

D. A shoreline substantial development permit if required pursuant to the county's shorelines management master program and Cowlitz County Code Chapter 19.20;

E. Approvals which may be required for development in other sensitive environmental areas, including but not limited to drainage courses (Cowlitz County Code Chapter 16.20), flood plains (Cowlitz County Code Chapter 16.25) and Toutle River Mudflow Area (Cowlitz County Code Chapter 16.26);

F. Approval pursuant to a land subdivision or specific development ordinance, including but not limited to planned unit development (Cowlitz County Code Chapter 18.30), short subdivision (Cowlitz

County Code Chapter 18.34), large lot subdivision (Cowlitz County Code Chapter 18.38), rural subdivision (Cowlitz County Code Chapter 18.50), commercial and industrial binding site plan code (Cowlitz County Code Chapter 18.64), recreational vehicle park and campground binding site plan code (Ordinance 98-194 as hereafter codified); or mobile home parks (Cowlitz County Code Chapter 18.42).

G. An application for approval of a private roadway may be submitted with and may be reviewed concurrently with one or more of the above referenced permits and approval processes. The Director may, as determined appropriate, forward an application for a private roadway permit to other departments of the county and/or review agencies for review and comment, including but not limited to the Cowlitz County Department of Public Works and the Washington State Department of Transportation.

H. All permits issued by the Department prior to the effective date of this ordinance shall be effective so long as construction begins within one hundred eighty days of the issuance of the permit, and is completed not later than one year from the date of issuance.

SECTION 7. Requirements and Standards for Approval of Private Roadway Permit:

A. No permit for a private roadway shall be issued unless the proposed roadway is in conformance with the standards and requirements of this ordinance. The minimum standards and requirements for private roadways shall be as provided in this section. Unless specifically indicated otherwise, the private roadway standards shall apply to Type A, Type B, and Type C private roadways as defined in Section 4.

B. Compliance with other regulations and requirements. No private roadway permit shall be issued unless and until compliance with other applicable permit requirements and regulations is attained, except as may be permitted by the Director when the sequence of land development activities dictate otherwise.

C. Consistency with comprehensive plan. The proposed private road must provide safe and convenient access, promote orderly development, and meet the access requirements for the comprehensive plan land use classification in which it is located as described in the transportation element's arterial and street plan.

D. Maximum Dwelling Units. No individual private road shall serve more than 50 lots or dwelling units. More than 50 lots or dwelling units shall be directly served by two (2), or more, roads.

E. Easements/ rights-of-ways. For property owned by or under the control of the applicant, all private roads shall have a minimum easement or right-of-way width of sixty (60) feet. For property not owned in fee by the applicant, the desired easement or right-of-way width is sixty (60) feet. However, if a sixty (60) foot easement is not available, the applicant may apply for a modification according to the procedures set out in this ordinance.

In any event, easements or right-of-way widths shall be expanded in width as may be necessary to include all cuts and fill slopes for the roadway and turnouts or turnarounds as may be required by this ordinance. Proof of access rights shall be required prior to the issuance of a permit for a private roadway.

F. Grading. All filling and grading associated with the construction of a private road shall be conducted in accordance with current standards of the Washington State Department of Transportation for roads and bridges. A geotechnical report shall be provided for any grading which will incorporate cutting or filling in excess of five feet, cut slopes in excess of 1 vertical to 1.5 horizontal, or fill slopes in excess of 1 vertical to 2 horizontal. Such report shall identify materials to be used, compaction rates and methods, maximum allowable slopes, and erosion control measures as they apply.

G. Turnarounds. Turnarounds shall be provided at the end of all private roadways in excess of 150 feet long and at 1000 foot intervals along the length of a private roadway where no intersecting

roadway exists. Turnarounds may be arranged as cul-de-sacs having a minimum radius of 50 feet, or a three point turnaround with each leg having a minimum 20 feet wide driving surface. Each leg shall have a length from centerline of the roadway of not less than 60 feet and in no case less than 30 feet beyond the turning radius. All interior corners utilized in the creation of a turnaround shall have a minimum radius of 25 feet.

H. Roadway width and surface. The finished driving surface shall be an all weather surface at all points along the roadway with a minimum width of twenty (20) feet for Type B and Type C roadways. Type A roadways shall meet current specifications for county public roadways.

I. Maximum grade. The maximum permitted gradient for a Type B or Type C road is 12 percent for a gravel surface and 15 percent for a paved surface. Transitions in surface materials shall be made at the least possible grade attainable beyond the area that requires paving.

J. Loading design standard. Type B roadways shall be constructed to a standard of HS-25 loading. Type C roadways shall be constructed to a load design of 70,000 pounds.

K. Drainage. A drainage report shall be provided as part of the plans submitted for Type A and Type B roadways. The drainage report shall include design specifications for any public drainage system affected. All drainage to public roadways shall be identified in the drainage report and shall be designed to standards of the County if a county road is involved or Washington State Department of Transportation standards if a state highway is involved. Drainage of surface water shall be accomplished by a series of ditches and/or culverts as appropriate. Drainage water from any private road shall not be discharged directly to streams. It shall be directed over the forest floor and course toward natural drainages. If water must be discharged to a stream the water quality flowing into the stream must meet or exceed the water quality in the receiving waters. The water quantity flowing into the stream must be evaluated to ensure the stream channel can accommodate the increased flows and not disrupt or degrade the ecology of the water body.

L. Signs. Private roadways shall be designated by a sign stating the name of the road. Signs shall be constructed of not less than .063 gauge aluminum sheets with white reflective background. Information on the sign shall be in black letters as outlined below, and shall be readable from both sides of the sign.

1. The sign copy area shall be nine inches in height and range in width from eighteen to thirty inches. The actual width of the sign will vary due to the length of the road name.

2. The roadway name shall be printed in bold black four- inch block letters.

3. The term "private road" shall be printed in black two inch block letters and centered along the width of the sign below the road name.

4. There shall be one inch spacing at the top, bottom and between lines of text on the sign.

5. The sign shall be installed on a steel post. The vertical distance from the road elevation to the bottom of the sign face shall be seven feet with a minimum bury of three feet. The sign shall be located according to the Manual of Uniform Traffic Control Design

N. Intersections. Intersections with other roadways shall be constructed as follows:

1. Other Private Roadways: Intersections with other private roadways shall be constructed per the most restrictive requirements of the two intersecting roads for a length of at least 50 feet in each direction and shall be made as level as possible. Inside turning radii for these intersections shall be not less than 25 feet.

2. County Roadways: Intersections with County roadways shall be designed and constructed as follows:

- a. The interior approach angle of intersections shall be kept as near to 90 degrees as possible and in no case be less than 75 degrees.
- b. A maximum gradient of +/- 4% shall be maintained for a minimum of 20 feet outside the County road edge of pavement.
- c. The approaching roadway structural section shall consist of the following: 4" of asphalt pavement placed in two lifts, over 3" of crushed surfacing top course, over 9" crushed surface base course, and underlain with construction geotextile fabric for soil stabilization. This section shall be carried a minimum of 50 feet outside the County road edge of pavement. The paved width at this section shall be 24 feet with one-foot gravel shoulders minimum. The minimum roadway width of 26 feet, roadway and shoulders, may be increased on type A roadways.
- d. The minimum radius at edge of pavement shall be 25 feet.
- e. Changes in vertical profile greater than 1% shall be designed and constructed with a vertical curve meeting standard design criteria.
- f. Intersection site distance shall be provided per standard design criteria. This may require improvements to the County road by the developer.

3. State Roadways: Intersections with State roadways shall at a minimum comply with the requirements for County intersections above and shall require approval by the Washington State Department of Transportation prior to construction.

O. Bridges. Any bridge on a Type B roadway shall be constructed to the American Association of State Highway Transportation Officials (AASHTO) standards. The Director shall maintain a copy of such standards and shall make them available to the public for the cost of photocopying. Any bridge on a Type C roadway shall be built to a bridge design standard as specified in the Uniform Building Code (Cowlitz County Code Chapter 16.05 or as hereafter amended) using live loading.

P. Names. All private roadways shall be named as approved by the Department. The approved names of roads shall appear on any subdivision plat approved by the Department for recording in the office of the Cowlitz County Auditor.

Q. Maintenance. The county will not maintain roadways, signs or drainage improvements on private roads. A private maintenance covenant recorded with the County Auditor will be required for any private road. The covenant shall set out the distribution of expenses, remedies for non-compliance with the terms of the agreement, right of use easements and other considerations.

The Covenant shall include the following terms:

1. The Covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments.
2. The Covenant shall include a periodic maintenance schedule.
3. The Covenant for maintenance shall be enforceable by any property owner served by the road.
4. The Covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private road.
5. The Covenant shall run with the land.
6. "Maintenance" shall include, but not be limited to, road surfacing, shoulders, signs, storm drainage facilities and vegetation control.

SECTION 8. Construction - Inspections:

A. No construction shall begin until the plans have been approved and all erosion control measures are in place. The Department shall be notified not less than forty-eight hours prior to the start of any construction.

B. Within one year of issuance of a permit, the developer shall, at his/her expense, provide an engineer licensed in the State of Washington to inspect and certify that all road, grading and drainage facilities conform to the approved engineering plans and specifications. The engineer shall perform inspections as required to assure compliance with approved plans and prepare one set of as-built plans for the road and drainage system prior to final approval.

SECTION 9. Nonconforming Private Roadways: No provision of this chapter shall prohibit the issuance of a building permit for development of an existing lot accessed by an existing private roadway, notwithstanding the fact that such existing roadway may not comply with all applicable standards of this ordinance. Provided, that no existing lot accessed by a nonconforming private roadway shall hereafter be subdivided unless and until such roadway is brought into compliance with the standards and requirements of this ordinance.

SECTION 10. Administration, Violations, and Enforcement: The Department shall administer this ordinance. Any violation of this ordinance shall be considered a civil infraction and a public nuisance. Each day a violation exists is a separate violation. A finding of commission of an infraction and/or payment of monetary penalty does not relieve the violator from compliance with the provisions of this ordinance. This ordinance shall be enforceable in the same manner as a violation of a county land use ordinance and shall be enforced according to Cowlitz County Code Chapter 2.06, civil enforcement code.

SECTION 11. Modifications:

A. Modifications to the standards and requirements contained within this chapter may be granted by the Director in accordance with the procedures set out herein. In making that determination, the Director may consider the following non-exclusive list of factors:

1. The topography, geology and other physical conditions of the proposed private road;
2. Strict application of the standards of this chapter to the development would be grossly disproportional to the impacts created;
3. The potential risks to public health, safety or welfare;
4. Unique geographic, regulatory or legal circumstances, and;
5. The modification is not otherwise contrary to the intent of this ordinance.

B. In reviewing a modification request, consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors. Any modification shall be the minimum necessary to alleviate the hardship or disproportional impact. Self imposed hardships shall not be used as a basis to grant a modification request.

C. The modification application shall:

1. Include a written request stating the reasons for the request and the factors which would make approval of the request reasonable;
 1. Be accompanied by a map showing the applicable existing conditions and proposed construction such as contours, wetlands, significant trees, water features, utilities, property lines, easements, existing and proposed roads and driveways, and any unusual or unique conditions not generally found in other developments;
 2. In the case of modification requests based upon alleged disproportionality, include an engineering analysis of the standard sought to be modified which contrasts relevant traffic impacts for the development with the cost of complying with the standard, and;

4. Include the appropriate fee.

SECTION 12. Appeals: An appeal of a decision of the director in the administration of this ordinance shall be made to the Cowlitz County Hearing Examiner. Each appeal must be made in writing and filed with the Department within twenty (20) working days from the date on which the decision was issued as follows:

- A. The written appeal shall include a detailed explanation stating the reasons for the appeal.
- B. Standing to appeal is limited to:
 1. The applicant or owner of the property on which the private roadway is or is proposed to be located; and
 2. Any property owner who deems him/herself aggrieved and will thereby suffer a direct and substantial impact from the proposed private roadway.
- C. The director shall provide the hearing examiner with findings and documentation relating to the application or other administrative action. The director may prepare a separate staff report and recommendation for presentation to the hearing examiner.
- D. Such appeal shall be considered de novo and be heard at a public hearing. The director shall cause notices, containing information about the appeal, the location of the property, and the date, time, and place of the public hearing, to be published in a newspaper of general circulation, to be posted on or near the project site one or more signs, and written notice containing such information to be mailed to owners of property located within three-hundred (300) feet of the perimeter property boundaries of the property on which the private roadway is proposed, as shown by records of the Cowlitz County Assessor, at least ten (10) days prior to the hearing.
- E. Following the public hearing, the hearing examiner shall determine if the appeal should be upheld or denied, based on a record of findings to support that decision. All findings shall be available to the public upon request no more than ten (10) calendar days following the decision. The decision of the hearing examiner on an appeal, once received by the Department shall be mailed to the applicant within five (5) working days, and such decision is final unless appealed to Superior Court in accordance RCW Chapter 36.70C, the Land Use Petition Act.

SECTION 13. Liability for Damages: This ordinance shall not be construed to hold the County of Cowlitz, or any officer or employee thereof, responsible for any damages to persons or property by reason of the certification, inspection or non-inspection of any roadway or property as herein authorized.

SECTION 14. Severability: Should any section, clause or provision of this ordinance or any code adopted hereby be declared by a court to be invalid, the same shall not affect the validity of the remainder, either in whole or in part.

SECTION 15. Conflict with Other Regulations: Where other Cowlitz County ordinances, resolutions, or regulations are in conflict with this ordinance the more restrictive regulation shall apply and such application shall extend to those specific provisions which are more restrictive.

SECTION 16. Effective Date: This ordinance shall take effect immediately upon its adoption, the public welfare demanding it.