

## **Title 16**

### **BUILDINGS AND CONSTRUCTION**

#### **Chapters:**

- 16.05 Building Code**
- 16.08 Manufactured Home/Mobile Home Placement Code**
- 16.10 Gas and Oil Pipelines**
- 16.15 Roads and Other Public Works Construction**
- 16.20 Development in Drainage Courses**
- 16.25 Floodplain Management**
- 16.30 Public and Private Utility Franchises**
- 16.35 Grading**



**Chapter 16.05****BUILDING CODE\***

## Sections:

- 16.05.010 Title.
- 16.05.020 Purpose.
- 16.05.030 Applicability.
- 16.05.040 Definitions.
- 16.05.050 Building code.
- 16.05.060 Residential code.
- 16.05.070 Table A.
- 16.05.080 Fire code.
- 16.05.090 Mechanical code.
- 16.05.100 Plumbing code.
- 16.05.110 Fuel gas code.
- 16.05.120 Abatement of dangerous buildings.
- 16.05.130 Washington State Energy Code.
- 16.05.140 Washington State Ventilation and Indoor Air Quality Code.
- 16.05.150 Permits.
- 16.05.160 Waiver of fees.
- 16.05.170 Administration and enforcement.
- 16.05.180 Board of Appeals.
- 16.05.190 Violation.
- 16.05.200 Penalties.
- 16.05.210 Nuisance.
- 16.05.220 Liability for damages.
- 16.05.230 Severability.
- 16.05.240 Conflict with other regulations.

\*Prior ordinance history: Ords. 86-116, 90-184, 91-112, 92-098, 93-067, 94-140, 95-080, 97-230 and 98-100.

**16.05.010 Title.**

This chapter may be cited as the Cowlitz County Building Code. [Ord. 07-085, § 1, 7-3-07.]

**16.05.020 Purpose.**

It is the purpose and objective of this chapter to adopt, with certain modifications and/or amendments as are desired by the county, those codes mandated by Chapter 19.27 RCW to ensure that the standards of construction and the use of buildings and structures within the unincorporated area of the county are consistent with nationally recognized standards. [Ord. 07-085, § 2, 7-3-07.]

**16.05.030 Applicability.**

The provisions of this chapter, and the codes and regulations adopted herein, shall apply in the unincorporated areas of Cowlitz County. [Ord. 07-085, § 3, 7-3-07.]

**16.05.040 Definitions.**

Unless the context clearly requires otherwise, the following definitions shall apply in this chapter and the codes adopted herein:

A. “Administrator” or “Administrative Authority” means the Director of the Department of Building and Planning or his or her duly authorized representative.

B. “Board” means the Cowlitz County Board of Commissioners.

C. “Board of Appeals” means the Cowlitz County Building Codes Board of Appeals.

D. “Building Official” means the Director of the Department of Building and Planning or his or her duly authorized representative.

E. “Chief,” “Chief of the Fire Department” and “Chief of the Bureau of Fire Prevention” means the Director of the Department of Building and Planning or his or her duly authorized representative.

F. “Chief of Police” and “Police Department” mean the Cowlitz County Sheriff or his or her authorized representative.

G. “Department,” “Fire Department,” and “Bureau of Fire Prevention” mean the Department of Building and Planning of Cowlitz County.

H. “Executive Body” means the Cowlitz County Board of Commissioners.

I. “Fire Marshal” and “Fire Code Official” means the Cowlitz County Building Official or his or her duly authorized representative.

J. “WISHA” means Washington Industrial Safety and Health Act. [Ord. 07-085, § 4, 7-3-07.]

**16.05.050 Building code.**

Cowlitz County hereby adopts by reference the 2006 International Building Code as now or hereafter amended by the Washington State Building Code Council, and with the following additions, deletions, and exceptions:

A. Only the following appendices of the International Building Code are adopted: Appendix C and Appendix E (Sections E101 through E107) as now or hereafter amended by the Washington State Building Code Council.

B. Section 101.4 is amended to read as follows:

Referenced Codes: The other codes listed below shall be considered part of the requirements of this code to the extent that each code is adopted and hereafter amended.

101.4.1 Residential. The provisions of the 2006 International Residential Code.

101.4.2 Mechanical. The provisions of the 2006 International Mechanical Code.

101.4.3 Plumbing. The provisions of the 2006 Uniform Plumbing Code.

101.4.4 Fire. The provisions of the 2006 International Fire Code.

101.4.5 Ventilation. The provisions of the 2006 Ventilation and Indoor Air Quality Code.

101.4.6 Energy. The provisions of the 2006 Washington State Energy Code.

101.4.7 Fuel Gas. The provisions of the 2006 International Fuel Gas Code.

C. Section 102.4 shall be amended to read as follows:

Referenced Codes and Standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the extent that such codes have been adopted by Cowlitz County. Where differences occur between the provisions of this code and the referenced code, the provisions of this code shall apply.

D. Section 103 is not adopted.

E. Sections 105.1.1 and 105.1.2 are not adopted.

F. Section 105.2 is revised as follows:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet (18.58m<sup>2</sup>).

G. Section 105.2 is further amended as follows:

Building:

14. Construction as described below when undertaken by a firm or industry that, as determined by the building official, employs both a permanent, full time, on-site, engineering staff with at least one engineer registered in the state of Washington, and a permanent, full time, on-site, maintenance staff that is trained at least to the

journeyman level or equivalent for the type of work performed, and the work will be performed by that maintenance staff.

a. Repairs, maintenance, re-roofing, or minor alterations to existing buildings that do not affect structural supports, egress, fire rated construction, or fire protection.

b. Installation of tanks; process equipment; wire mesh fences up to eight feet high; small (less than 50 square feet) slab on grade for equipment bases less than four feet high; and pressure vessels registered with Washington State Department of Labor and Industries, subject to the limitations described below. Process ventilation equipment is also exempt provided it meets the requirements of the International Fire Code. Access stairs, platforms, or walkways that are an integral part of or provide access to equipment are also exempt, provided they meet WISHA standards. Conveyors that are nominally at ground or floor level are exempt.

1. Tanks, whether site-constructed or prefabricated, will require permits for the foundation and any support not an integral part of the tank design. Fees will be based on the foundation only; however, satisfactory documentation shall be provided to the building official verifying that seismic, wind, dead, live and snow loads are designed per I.B.C. Chapter 16 for this area. Special inspections as required by I.B.C. Chapter 17 shall be performed on these tanks and provided to the building official.

2. Process equipment, whether site-constructed or prefabricated, will require permits for the foundation and any support not an integral part of the equipment. Fees will be based on the foundation only. Seismic, wind, dead, and live loads of the process equipment shall be considered in the design. Applicable standards for this geographical area shall be utilized.

Electrical: this subsection is not adopted.

H. Section 108.1 is amended to include the following:

**Plan Review Fees.** When submittal documents are required by Section 106, a plan review fee shall be paid. Payment of the plan review fee is not contingent upon the issuance of a permit but is due upon submittal of an application for plan review. Plan review fees are separate fees from the permit fees specified above, and are in addition to the permit fees. Where submittal documents are incomplete or changed so as to require additional plan review or when a project involves deferred submittal items as defined in Section 106.3.4.2, an additional plan review fee shall be charged.

Permit and Plan review fees shall be an amount as established from time to time by resolution by the Board.

I. Section 108.3 is amended to read as follows:

**Building Permits and Valuations.** The applicant for a building permit shall provide an estimated permit value at the time of application. Permit valuations shall include the total value of work, including materials and labor, for which a permit is being issued, such as electrical, mechanical, plumbing equipment and permanent systems. The Building Official may use building cost and valuation data published in public or private publications as a guide to determine valuation.

J. Section 108.4 is amended to read as follows:

Work commencing before permit issuance. Any person who commences work on a building, structure, gas, mechanical or plumbing system before obtaining necessary permit shall be subject to an investigation fee, in addition to a permit fee, whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The payment of such investigation fee shall not exempt any person from compliance with all the provisions of this code nor from any penalty prescribed by law.

K. Section 112 is not adopted.

L. Section 113 is not adopted.

M. Section 1009.1 is amended to include:

**EXCEPTION:**

#5. Stairs or ladders used only to attend equipment are exempt from the requirements of Section 1009 if the equipment does not have an operator's station that is staffed on a full time basis. The exempt stairs or ladders shall conform to WISHA standards in effect at the time of installation.

N. Section 1608.2 is amended to read as follows:

**Ground Snow Loads.** The ground snow loads to be used in determining the design snow loads for roofs are given in CCC 16.05.070, TABLE A.

[Ord. 07-085, § 5, 7-3-07.]

### **16.05.060 Residential code.**

Cowlitz County hereby adopts by reference the 2006 Edition of the International Residential Code, as published by the International Code Council and as now or hereafter amended by the Washington State Building Code Council, and with the following additions, deletions, and exceptions:

A. Only the following appendices of the International Residential Code are adopted: Appendices G, H and M.

B. Section R102.7 shall be revised as follows:

**Existing Structures.** The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the Abatement of Dangerous Buildings Code or the International Fire Code, or as deemed necessary by the building official for the general safety and welfare of the occupants and the public.

C. Section R103 is not adopted.

D. Section R1052 is amended as follows:

**Building:**

One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet (18.58m<sup>2</sup>).

E. Section R105.2 is further amended as follows:

**Electrical:** this subsection is not adopted.

- F. Section R105.3.1.1 is not adopted.
- G. Section R106.1.3 is not adopted.
- H. Section R107.3 is not adopted.
- I. Section R108.3 is amended to read as follows:

Building Permits and Valuations. The applicant for a building permit shall provide an estimated permit value at the time of application. Permit valuations shall include the total value of work, including materials

and labor, for which a permit is being issued, such as electrical, mechanical, plumbing equipment and permanent systems. The Building Official may use building cost and valuation data published in public or private publications as a guide to determine valuation.

- J. Section R112 is not adopted.
- K. Section R113 is not adopted.
- L. Table R301.2(1) is amended as follows:

GROUND SNOW LOAD	WIND SPEED (MPH)	SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP.	ICE SHIELD UNDER-LAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP.
			WEATHERING	FROST LINE DEPTH	TERMITE					
TABLE A	85	D1	MODERATE	12"	SLIGHT TO MOD.	22° F	NO	COUNTY CODE *	170	51.5° F

\* Flood Hazard construction shall comply with the provisions of CCC 16.25, Floodplain Management.

[Ord. 07-085, § 6, 7-3-07.]

**16.05.070 Table A.**

**TABLE A  
COWLITZ COUNTY DESIGN SNOW LOAD\* (psf)**

Elevation	Minimum Snow Load
200 or less	20
201 – 400	30
401 – 700	35
701 – 1000	45
1001 – 1300	55
1301 – 1600	65
1601 – 1900	75
1901 +	80
Minimum snow loads for elevations in excess of 2000 ft. shall be approved by the Building Official	

\* Based on "Snow Load Analysis for Washington" published in 1995 by Structural Engineers of Washington. Minimum snow loads for elevations in excess of 2000 ft. shall be approved by the Building Official.

[Ord. 07-085, § 7, 7-3-07.]

**16.05.080 Fire code.**

Cowlitz County hereby adopts by reference the 2006 edition of the International Fire Code, as published by the International Code Council and as now or hereafter amended by the Washington State Building Code Council, and with the following additions, deletions, and exceptions:

- A. Only the following appendices of the International Fire Code are adopted: Appendices B, C and D.
- B. Section 104.6.3 is amended to read as follows:

Fire Records. The local Fire District shall keep a record of fires occurring within its jurisdiction and of the facts concerning the same, including statistics as to the extent of such fires and damage caused thereby, together with other information as required by the fire code official. These records shall be made available to the fire code official and fire marshal upon request.

- C. Section 104.11 is not adopted.
- D. Section 105.2.2 is amended to include:

The fire code official shall inspect, as often as may be necessary, buildings and premises, including such other hazards or appliances as the fire marshal may designate for the purpose of ascertaining and causing to be corrected any conditions which

would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety, provided that fire prevention inspections shall not be made of the following: (1) one- and two-family dwellings; (2) residential accessory buildings; and (3) agricultural buildings; (4) those features of hazardous materials tanks, piping, and equipment inspected by other state or federal agencies on a regular schedule.

E. A new subsection 105.2.5, Fire Code Plan Review and Inspection Fees, is added:

Fire Code Plan Review and Inspection Fees. Fees for fire code permits and plan reviews shall be set from time to time by resolution by the Board. Fees shall be doubled if work is done without the required review and inspection. Payment of the plan review fee is not contingent upon issuance of a permit, but is due upon the submittal of plans and documentation for the review process.

F. Section 105.7.7 is amended to read as follows:

LP-gas. A construction permit is required for installation of or modification to an LP-gas system.

Exception: Above-ground portable LP-gas cylinders not in excess of 25 gallons water capacity.

G. Section 108 is not adopted.

H. Section 503.1 is amended to read as follows:

Where required. Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3 and Appendix D.

Exception: This section shall not apply where not more than two Group R-3 or Group U Occupancies are located on an individual property.

I. Section 503.2 is amended as follows:

Section 503.2.4. Turning radius. The turning radius of a fire apparatus access road shall be 28 feet inside, 50 feet outside radius.

Section 503.2.7. Grade. The gradient for a fire apparatus access road shall not exceed 15%.

Section 503.2.8. Construction. Unless otherwise required by public or private road design standards, fire apparatus access roads shall be constructed of a minimum of 6 inches of ballast (pit run) and 3 inches of crushed rock (1-1/4" minus). Roads in excess of 12% grade shall be paved.

J. Section 508.1 is amended to include the following:

EXEMPTIONS: The following are exempt from the fire flow and hydrant requirements of this chapter, except that the fire marshal may impose conditions to mitigate identified fire hazards. Such conditions may include, but are not limited to, increased setbacks, use of fire retardant materials, and/or protection. Nothing herein shall authorize any exemption from the requirements of Chapters 246-290 or 246-293 WAC.

1. Subdivisions and short subdivisions when all lots are over one acre in size, each structure does not exceed 3,500 square feet under roof, and the fire marshal determines that no substantial fire hazard will be created and a minimum twenty foot (20'0") building setback is maintained to all property lines.

2. Single family detached dwellings and mobile homes not in a mobile home park proposed on existing lots, provided, the lot is over one acre in size, each structure does not exceed 3,500 square feet under roof, and the fire marshal determines that no substantial fire hazard will be created and a minimum twenty foot (20'0") building setback is maintained to all property lines.

K. Section 508.3 is amended to read as follows:

Fire Flow. Fire flow for buildings or portions of buildings and facilities shall be determined by an approved method.

Buildings constructed within Urban Growth Boundaries shall comply with the requirements of Appendix B of the International Fire Code as amended.

Buildings constructed outside of Urban Growth Boundaries where adequate and reliable water supplies do not exist may apply NFPA 1142 (Standard on Water Supplies for Suburban and Rural Firefighting). Coordination with the local Fire District is required when utilizing this standard.

New or substantially improved residential and commercial structures proposed on properties not currently located within a Fire District shall either:

1. have the property annexed into a Fire District and provide appropriate fire flow per this chapter; or
2. be protected by an automatic fire sprinkler system that fully meets the requirements of NFPA 13, NFPA 13-D, or NFPA 13-R, and is provided with all of the following:
  - a) Class A roof covering,
  - b) All under floor areas are enclosed to the ground with exterior walls,
  - c) Exterior wall and eave coverings are either fire retardant or non-combustible, and
  - d) Attic, soffit and under floor vents or other ventilation openings do not exceed 144 square inches each. Such vents shall be covered with non-combustible, corrosion resistant mesh with openings not to exceed 1/4 inch.

L. A new section 508.5.7, Construction, is added to read as follows:

The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises to be protected as required and approved by the fire marshal. All hydrants shall be accessible to fire apparatus by roadways meeting the requirements of Section 503.1, as amended herein. Fire hydrant installations shall comply with the following:

1. Fire hydrants shall be located at roadway intersections whenever possible and the distance between them shall be no further than 900 feet in residential zones; all other zoned and non-zoned areas shall comply with Appendix C.

2. All fire hydrants shall conform to American Water Works Association specifications for dry barrel fire hydrants. Each hydrant shall have at least two hose connections of 2-1/2" diameter each and one steamer port. All connections must have national standard threads or other connection devices consistent with local fire protection authority requirements.

3. Fire hydrants shall be installed plumb and be set to the finished grade. The bottom of the lowest outlet of the hydrant shall be no less than eighteen inches above the grade. There shall be thirty-six inches of clear area about the hydrant for operation of a hydrant wrench on the outlets and on the control valve. The steamer port shall face the most likely route of approach of the fire truck as determined by the local fire protection authority.

4. Provisions shall be made to drain fire hydrant barrels to below the depth of maximum frost penetration.

5. All hydrants and water mains shall otherwise be installed in accordance with recognized standards and sound engineering practices.

M. Section 3304.1.1 is amended to read as follows:

The storage of explosives and blasting agents in areas zoned pursuant to Chapter 18.10 CCC, Land Use Ordinance, is permitted only on property designated as Heavy Manufacturing (MH).

Exception:

Notwithstanding Section 3304, the storage of explosives and blasting agents is permitted on a temporary basis in any land use area for use in connection with approved blasting operations. For the purpose of this section, temporary shall mean

a length of time not to exceed one year. The Administrator may grant an extension of time provided the Department receives within sixty (60) days prior to the date of permit expiration a written statement from the permittee indicating the reason(s) such extension is requested.

N. Section 3403.1.1 is amended to add:

The storage of Class I and Class II liquids in above-ground tanks outside of buildings on property zoned pursuant to Chapter 18.10 CCC, Land Use Ordinance, is permitted only on property designated as Light Manufacturing (ML), or Heavy Manufacturing (MH).

O. Section 3804.2 is amended to read as follows:

The bulk storage of liquefied petroleum gas (LPG) in areas zoned pursuant to Chapter 18.10 CCC, Land Use Ordinance, is permitted only on property zoned as Neighborhood Commercial (C-1), Urban Commercial (C-2), Light Manufacturing (ML), or Heavy Manufacturing (MH).

The aggregate capacity of any one installation of LPG storage in zoned areas shall not exceed 2,000 gallons water capacity; except that in particular installations, this capacity limit may be altered at the discretion of the fire marshal, after consideration of special features such as topographical conditions, nature of occupancy and proximity to buildings, capacity of proposed tanks, degree of private fire protection to be provided, and facilities of the local Fire Department.

P. Appendix Section B105.1, is amended to read as follows:

The minimum fire flow and flow duration requirements for one and two family dwellings and associated structures not meeting the exemptions in Section 508.1 and having a floor area which does not exceed 3,500 square feet under roof shall be 500 gallons per minute for 30 minutes. Fire flow and flow duration for dwellings having a floor area in excess of 3,500 square feet shall not be less than that specified in Table B 105.1.

Exceptions:

1. Tanker Water Supply Credit, as established by the Washington Surveying and Rating Bureau (WSRB) shall be considered as providing the minimum fire flow for one and two family dwellings and associated structures, having a floor area which does not exceed 3,500 square feet under roof, when those properties are located within five road miles of a recognized (manned) fire station.

2. When a structure is protected by an automatic fire sprinkler system that fully meets the requirements of NFPA 13, NFPA 13-D, or NFPA 13-R, and is provided with all of the following:

- a) Class A roof covering,
- b) All under floor areas are enclosed to the ground with exterior walls,
- c) Exterior wall and eave coverings are either fire retardant or non-combustible, and
- d) Attic, soffit and under floor vents or other ventilation openings do not exceed 144 square inches each. Such vents shall be covered with non-combustible, corrosion resistant mesh with openings not to exceed 1/4 inch.

Q. Appendix D, Section D107 is not adopted. [Ord. 07-085, § 8, 7-3-07.]

#### **16.05.090 Mechanical code.**

Cowlitz County hereby adopts by reference the 2006 Edition of the International Mechanical Code, as published by the International Code Council and as now or hereafter amended by the Washington State Building Code Council, and with the following additions, deletions, and exceptions:

A. Section 106.5.2 is amended to read as follows:

**Permit Fees.** Fees for mechanical permits shall be as established from time to time by resolution by the Board.

**Plan Review Fees.** When a plan or other data is required to be submitted by 106.3.1 a plan review fee shall be paid. Payment of

a plan review fee is not contingent upon issuance of a permit; but, is due upon submittal of an application for a plan review. The plan review fee for mechanical work shall be as established from time to time by resolution by the Board. When plans are incomplete or changed so as to require additional review, an additional plan review fee shall be paid.

B. Section 106.5.3 is amended as follows:

2. Not more than 80 percent of the permit fee when no work has been done under a permit issued in accordance with this code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit is withdrawn or canceled before any plan review effort has been expended.

C. Sections 108.3 and 108.4 are not adopted.

D. Section 109 is not adopted. [Ord. 07-085, § 9, 7-3-07.]

#### **16.05.100 Plumbing code.**

Cowlitz County hereby adopts by reference the 2006 Edition of the Uniform Plumbing Code and U.P.C. standards, as published by the International Association of Plumbing and Mechanical Officials and as now or hereafter amended by the Washington State Building Code Council, and with the following additions, deletions, and exceptions:

A. The following portions of the Uniform Plumbing Code are deleted: all of Chapters 12 and 15, and those requirements relating to venting and combustion air of fuel-fired appliances as found in Chapter 5. Those portions of the code dealing with building sewers are included as part of this code.

B. Only the following appendices of the Uniform Plumbing Code are adopted: Appendix A.

C. Section 102.3.2, Penalties, is hereby deleted.

D. Section 103.4.1 is amended to read as follows:

**Permit Fees.** Fees for plumbing permits shall be as established from time to time by resolution by the Board.

E. Section 103.4.2 is amended to read as follows:

**Plan Review Fees.** When a plan or other data is required to be submitted by 103.2.2, a plan review fee shall be paid. Payment of a plan review fee is not contin-

gent upon issuance of a permit; but, is due upon submittal of an application for plan review. The plan review fee for plumbing work shall be as established from time to time by resolution by the Board. When plans are incomplete or changed so as to require additional review, an additional plan review fee shall be paid.

[Ord. 07-085, § 10, 7-3-07.]

#### **16.05.110 Fuel gas code.**

Cowlitz County hereby adopts by reference the 2006 Edition of the International Fuel Gas Code, as published by the International Code Council and as now or hereafter amended by the Washington State Building Code Council, and with the following additions, deletions, and exceptions:

A. Section 106.5.2 is amended to read as follows:

**Permit Fees.** Fees for fuel gas permits shall be as established from time to time by resolution by the Board.

**Plan Review Fees.** When a plan or other data is required to be submitted by 106.3.1 a plan review fee shall be paid. Payment of a plan review fee is not contingent upon issuance of a permit; but, is due upon submittal of an application for a plan review. The plan review fee for fuel gas work shall be as established from time to time by resolution by the Board. When plans are incomplete or changed so as to require additional review, an additional plan review fee shall be paid.

B. Section 106.5.3 is amended as follows:

2. Not more than 80 percent of the permit fee when no work has been done under a permit issued in accordance with this code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit is withdrawn or canceled before any plan review effort has been expended.

C. Section 109 is not adopted. [Ord. 07-085, § 11, 7-3-07.]

#### **16.05.120 Abatement of dangerous buildings.**

Cowlitz County hereby adopts by reference the 1997 Edition of the Uniform Code for the Abate-

ment of Dangerous Buildings, as published by the International Conference of Building Officials and as now or hereafter amended. [Ord. 07-085, § 12, 7-3-07.]

#### **16.05.130 Washington State Energy Code.**

Cowlitz County hereby adopts by reference the 2006 Edition of the Washington State Energy Code as now and hereafter adopted and amended by the Washington State Building Code Council. [Ord. 07-085, § 13, 7-3-07.]

#### **16.05.140 Washington State Ventilation and Indoor Air Quality Code.**

Cowlitz County hereby adopts by reference the 2006 Edition of the Washington State Ventilation and Indoor Air Quality Code as now and hereafter adopted and amended by the Washington State Building Code Council. [Ord. 07-085, § 14, 7-3-07.]

#### **16.05.150 Permits.**

All permits under any code adopted by this chapter shall be obtained from the Department. Permits shall be applied for on forms provided by the Department. All permits issued by the Department prior to the effective date of the ordinance codified in this chapter shall be effective so long as construction begins within 180 days of permit issuance, and work proceeds through completion without expiration of the permit. [Ord. 07-085, § 15, 7-3-07.]

#### **16.05.160 Waiver of fees.**

The Administrator may waive fees for permits to repair damage caused by any emergency condition declared by the Board of County Commissioners to constitute a state of emergency; such waivers shall apply to permits obtained during the 90 days following the date of declaration of the state of emergency. [Ord. 07-085, § 16, 7-3-07.]

#### **16.05.170 Administration and enforcement.**

The Department of Building and Planning shall administer all codes adopted by this chapter. Further, the Director may refer violations of the codes described herein to the Prosecuting Attorney for appropriate action. [Ord. 07-085, § 17, 7-3-07.]

#### **16.05.180 Board of Appeals.**

There is hereby created a Cowlitz County Board of Appeals. The Board of County Commissioners shall serve as the Board of Appeals. The Board of Appeals shall hear and decide appeals relating to

all codes adopted by this chapter. Appeals shall be in writing, and the Department shall provide forms that may be used in filing appeals. Appeals shall be filed with the Department not later than 20 days after the issuance of the decision being appealed. Appeals shall be accompanied by a filing fee of \$1,000, payable to Cowlitz County Department of Building and Planning.

An application for appeal shall be based on a claim that the true intent of the particular code or the rules adopted hereunder have been incorrectly interpreted, the provisions of the code do not apply, or an equally good or better alternative to the code is proposed. The Board of Appeals shall have no authority to waive the requirements of any code adopted by this chapter. [Ord. 07-085, § 18, 7-3-07.]

#### **16.05.190 Violation.**

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, occupy, conduct any activity within, operate, or maintain any building, structure, facility or vehicle within the unincorporated areas of Cowlitz County or cause the same to be done contrary to, or in violation of, any of the provisions of this chapter or any code adopted hereby. [Ord. 07-085, § 19, 7-3-07.]

#### **16.05.200 Penalties.**

Any violation of any provision of this chapter or any code adopted hereby is a civil infraction, and shall be processed under the provisions of Chapter 2.06 CCC. Every day a violation continues is considered a separate infraction. A conviction and/or payment of monetary penalty does not relieve the violator from compliance with the provisions of this chapter. The penalty provisions of this chapter supersede all penalty provisions in the codes adopted herein. [Ord. 07-085, § 20, 7-3-07.]

#### **16.05.210 Nuisance.**

Failure to comply with the provisions of this chapter or of any code adopted hereby is declared to be a public nuisance. [Ord. 07-085, § 21, 7-3-07.]

#### **16.05.220 Liability for damages.**

This chapter 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 noninspection of any building, equipment or property as herein authorized. [Ord. 07-085, § 22, 7-3-07.]

**16.05.230 Severability.**

Should any section, clause or provision of this chapter 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. [Ord. 07-085, § 23, 7-3-07.]

**16.05.240 Conflict with other regulations.**

Where other Cowlitz County ordinances, resolutions, or regulations are in conflict with this chapter, the more restrictive regulation shall apply and such application shall extend to those specific provisions which are more restrictive. [Ord. 07-085, § 24, 7-3-07.]

**Chapter 16.08****MANUFACTURED HOME/MOBILE HOME PLACEMENT CODE**

## Sections:

- 16.08.010 Title.
- 16.08.020 Purpose.
- 16.08.030 Definitions.
- 16.08.040 Applicability.
- 16.08.050 Exemptions.
- 16.08.060 Application.
- 16.08.070 Administration – Application approval.
- 16.08.080 Standards.
- 16.08.090 Commencement of mobile home placement by the applicant.
- 16.08.100 Appeals.
- 16.08.110 Fees.
- 16.08.120 Violations and penalties.
- 16.08.130 Severability.

**16.08.010 Title.**

This chapter may be cited as the “County Manufactured Home/Mobile Home Placement Code.” [Ord. 94-143, § 1, 8-22-94.]

**16.08.020 Purpose.**

The Board of County Commissioners finds it necessary to establish standards and procedures for installing manufactured homes in the county for the following purposes:

A. To preserve the life, safety, health and welfare of the general public, which shall not be construed to protect or benefit any specific person or class of persons.

B. To ensure that the appropriate water and sewage disposal systems are available prior to issuance of a manufactured home placement permit.

C. To ensure that water and sewage disposal systems and other services are properly installed prior to human occupancy of a manufactured home.

D. To provide a reasonable degree of protection for manufactured homes, mobile homes or commercial coaches placed in the unincorporated areas of Cowlitz County, when damage from winds, earth movements, flooding and other such disasters could cause manufactured homes to overturn, or cause manufactured homes to become a safety hazard to persons living in the unit or to neighbors.

E. To make county codes consistent with other state and local regulations. [Ord. 94-143, § 2, 8-22-94.]

**16.08.030 Definitions.**

The following definitions shall apply for interpretation, administration and enforcement of this chapter.

A. "Applicant(s)" means a manufactured home owner, manufactured home occupant, landowner and/or their authorized representative.

B. "Approved access" means issuance of a road approach permit and construction of such access in conformance with state, city or county road standards.

C. "Available water or sewers" means ready, convenient and obtainable connection to water and/or sewage disposal systems, whether public, community or private on-site systems.

D. "Board" means the Board of County Commissioners of Cowlitz County.

E. "Commercial coach" shall have the same meaning as that term is defined in WAC 296-150B-015(36), as now enacted or hereafter amended. For the purposes of this chapter any reference to the term "manufactured home" shall include "commercial coach."

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

G. "Director" means the Director of the Department or designee.

H. "Insignia" means a label, stamp or tag issued by the Washington State Department of Labor and Industries (DLI) indicating the structure or component bearing the insignia complies with Chapter 296-150B WAC, or such insignia issued by the U.S. Department of Housing and Urban Development (HUD).

I. "Installer" means a person who is in the business of installing manufactured homes who has been issued a certificate by the state as provided in Chapter 284, Laws of 1994 and as hereafter amended.

J. "Lot" means a parcel of land the boundaries of which are described in the records of the Cowlitz County Auditor.

K. "Manufactured home" as defined in Chapter 284, Laws of 1994, Section 15(5) means a single-family dwelling built after June 15, 1976, in accordance with the U.S. Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards Act, or as hereafter amended, and bearing the appropriate insignia indicating such compliance. For the purposes of this chapter any regulatory reference to the term "manufactured home" shall include "commercial coach" and "mobile home."

L. "Manufactured home placement permit" means a permit issued by the Department for permanent installation of a manufactured home in the unincorporated areas of the county.

M. "Mobile home" means a single-family residence transportable in one or more sections that are eight feet or more in width and 32 feet or more in length, built on a permanent chassis, designed to be used as a permanent dwelling, and constructed before June 15, 1976. For the purposes of installation and placement standards as required by this chapter, a "manufactured home" shall include "mobile home."

N. "Occupancy" means any human use of a manufactured home.

O. "Park trailer" shall have the same meaning as that term is defined in WAC 296-150B-015(37), or as hereafter amended. For the purposes of this chapter any reference to the term "park trailer" shall have the same meaning as "recreational vehicle."

P. "Permanent installation" means all on-site work necessary for the placement and installation of a manufactured home in conformance with Chapter 296-150B WAC, as now enacted or as hereafter amended. Such installations shall include approved connections to all appropriate utilities.

Q. "Person" means any individual, firm, partnership, corporation or other entity.

R. "Road" means a dedicated or publicly maintained road or road right-of-way; or a private road right-of-way or easement providing access to three or more lots or dwellings.

S. "Recreational vehicle" shall have the same meaning as that term is defined in WAC 296-150B-015(32), as now enacted or as hereafter amended. For the purposes of this chapter the term shall include travel trailer, folding camping trailer, truck camper, motor home, multi-use vehicles designed for temporary occupancy, and also park trailer as that term is defined in WAC 296-150B-015(37).

T. "Recreational vehicle park" means a lot with two or more sites for lease or rent approved in conformance with Chapter 18.56 CCC, as now enacted or as hereafter amended.

U. "Sewage disposal system" means the service and connection lines of a sanitary sewer system, or an on-site (septic) sewage disposal system approved pursuant to Chapter 246-272 WAC, including septic tank, septic drainfield, drainfield replacement area, and any components thereof.

V. "Space" means the area identified for placement and permanent installation of a manufactured home within an approved mobile home park.

W. "Structural addition" means any appurtenance or structural modification to a manufactured home that was not part of the original factory built component(s). Structural additions include but are not limited to the following: steps/stairs; porch; stoop; deck, patio, cover; roof; carport; garage; bedroom; family room; windows; awning; etc.

X. "Water system" means service and connection lines of a public or community potable water system, or on-site well that conforms to the requirements of Chapter 246-290 WAC; or the Washington State Department of Health Guidelines for Determining Water Availability for New Buildings, as now enacted or as hereafter amended. [Ord. 94-143, § 3, 8-22-94.]

#### **16.08.040 Applicability.**

Any person, including the installer, placing a manufactured home on a lot or space, or connecting utilities to a manufactured home in the unincorporated areas of Cowlitz County shall first obtain a manufactured home placement permit from the Department. No dealer shall deliver a manufactured home or commercial coach until the owner or installer has obtained a placement permit. Until July 1, 1995, no person may install a manufactured home unless he or she owns the mobile home, is a licensed mobile home dealer, or is a contractor registered under Chapter 18.27 RCW. On or after July 1, 1995, no person may install a mobile or manufactured home without a certified manufactured home installer providing on-site supervision whenever installation work is being performed, as required under Section 16, Chapter 284, Laws of 1994, or as hereafter amended. [Ord. 94-143, § 4, 8-22-94.]

#### **16.08.050 Exemptions.**

The following are exempted from the requirements of this chapter:

A. Manufactured homes placed on sales lots exclusively for the purposes of sale, provided the unit remains unoccupied and the sales activity is consistent with applicable ordinances;

B. Recreational vehicles when used as temporary dwellings pursuant to Chapter 18.44 CCC, provided such recreational vehicles shall be connected to available and approved sewage disposal and water systems;

C. Recreational vehicles placed in an approved recreational vehicle park in conformance with Chapter 18.56 CCC, as now enacted or as hereafter amended. [Ord. 94-143, § 5, 8-22-94.]

#### **16.08.060 Application.**

Any person seeking to place a manufactured home on a lot shall submit an application to the Department. Each application shall include the following:

A. Name, address and daytime telephone number of the applicant;

B. Name, address and daytime telephone number of the property owner if different from the applicant;

C. Project development site address;

D. Assessor's parcel number and location of the project site, and section, township, range, donation land claim, subdivision name, lot and block, or mobile home park and space number;

E. Description of the manufactured home (e.g., size, number of bedrooms, year of manufacture, serial number and make of unit);

F. Market value of manufactured home;

G. Vicinity sketch showing site location in relation to the road system;

H. Site plan drawn to scale showing the location of lot boundaries or mobile home park space perimeter; community or public sewage disposal system sewer lines or all components of the on-site sewage disposal system drainfield and drainfield replacement area; proposed manufactured home, accessory buildings, driveways, fences and other improvements existing or proposed for the site;

I. Signature of applicant;

J. Proof of any available water and sewage disposal system(s), or approval for connection to a sanitary sewer service from the purveyor of such service;

K. Proof that potable water is available on or to the property;

L. For mobile homes constructed prior to June 15, 1976, proof of a current fire and life safety inspection approval from the Washington State Department of Labor and Industries;

M. On or after July 1, 1995, name, registration number and telephone number of the certified manufactured home installer. The installer's registration card must be presented to the Department before permit issuance. Prior to July 1, 1995, the name, address and daytime telephone number of the installer;

N. Proof of driveway access approval; or, if access is from a private road, proof that such road conforms to the requirements of Chapter 16.05 CCC;

O. An 11-inch by 17-inch Assessor's map, or other scaled reproduction thereof, showing the location of the property on which the manufactured home will be placed;

P. Other information as may be necessary. [Ord. 94-143, § 6, 8-22-94.]

**16.08.070 Administration – Application approval.**

A. The Director shall administer the provisions of this chapter.

B. A complete application shall be submitted to the Department on such forms as may be required by the Director.

C. Each application shall be reviewed by the Department to determine that placement of a manufactured home is consistent with applicable health, safety and other regulations. If the proposed placement is consistent, the placement permit shall be issued following payment of all applicable fees.

D. Double Fees. Any person who places a manufactured home without first obtaining a placement permit shall be assessed double the permit fee in addition to any civil penalties imposed pursuant to CCC 16.08.120. [Ord. 94-143, § 7, 8-22-94.]

**16.08.080 Standards.**

Each manufactured home placed in unincorporated Cowlitz County after the effective date of the ordinance codified in this chapter shall comply with the following standards:

A. Only one manufactured home shall be allowed on a lot or space, except as provided in Chapter 18.44 CCC.

B. Each manufactured home shall have a HUD insignia of approval, of proof of fire/life safety inspection approval from the Washington State Department of Labor and Industries as required pursuant to CCC 16.08.060(L).

C. Placement of each manufactured home shall comply with the requirements of Chapter 296-150B WAC and this chapter, as now enacted or as hereafter amended, and other applicable regulations.

D. Each manufactured home shall have access to an available, approved and operable sewage disposal system, prior to issuance of a placement permit, and shall be connected to such system prior to occupancy. Each manufactured home shall remain connected as long as occupied.

E. Each manufactured home shall connect to an available, approved and operable potable water system prior to occupancy, and shall remain connected as long as occupied.

F. Any driveway shall be subject to verified access approval from the Washington State Department of Transportation, Cowlitz County Public Works Department, city and the Cowlitz County

Fire Marshal/Fire Life Safety Coordinator, as applicable.

G. Prior to occupancy or any other use, a manufactured home shall receive final inspection approval from the Department. [Ord. 94-143, § 8, 8-22-94.]

**16.08.090 Commencement of mobile home placement by the applicant.**

Following the issuance of the mobile home placement permit, the applicant may place the mobile home on the lot, in accordance with the standards under this chapter and any additional conditions contained in the placement permit. The mobile home shall not be occupied until the Department has issued a certificate of final inspection. The applicant shall be responsible for requesting and obtaining such certificate, and for obtaining any additional permits and inspections as may be required herein or by any other ordinance or resolution of Cowlitz County. A mobile home placement permit shall become void if the applicant has not applied for a certificate of final inspection within 180 days following the issuance of the placement permit. [Ord. 07-085, § 25, 7-3-07; Ord. 94-143, § 9, 8-22-94.]

**16.08.100 Appeals.**

Any person aggrieved by the issuance or denial of a permit under this chapter may appeal such action to the Hearing Examiner, appointed pursuant to CCC 18.10.340, as amended, in conformance with the procedures established in CCC 18.10.370 through 18.10.395. Each appeal shall be accompanied by a fee of \$100.00, or such fee as from time to time is adopted by resolution by the Board. [Ord. 95-193, § 2, 12-4-95; Ord. 94-143, § 10, 8-22-94.]

**16.08.110 Fees.**

Fees for manufactured home placement permits shall be as established from time to time by resolution by the Board. Fees for permits for additions shall be as established under Chapter 16.05 CCC. [Ord. 94-143, § 11, 8-22-94.]

**16.08.120 Violations and penalties.**

It is a civil infraction for any person to violate this chapter or assist in the violation of this chapter. Violations are subject to the provisions of Chapter 2.06 CCC. Any violation is a public nuisance. Each day a violation exists is a separate violation. Payment of any penalty imposed for a violation does

not relieve the person from the duty to comply with this chapter. [Ord. 94-143, § 12, 8-22-94.]

**16.08.130 Severability.**

If any section, subsection or other portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection or portion thereof shall be deemed a separate provision of this chapter and such holding shall not affect the validity of the remaining portions of this chapter. [Ord. 94-143, § 13, 8-22-94.]

**Chapter 16.10**

**GAS AND OIL PIPELINES**

Sections:

- 16.10.010 Title.
- 16.10.020 Purpose.
- 16.10.030 Definitions.
- 16.10.040 Construction without permit unlawful.
- 16.10.050 General permit – Planning Commission proceedings – Fees.
- 16.10.060 Roadway crossing permit.
- 16.10.070 Inspection.
- 16.10.080 Violations – Penalties.
- 16.10.900 Severability.

Cross-references:

RCW 80.28.210: Gas pipeline safety rules.

**16.10.010 Title.**

This chapter may be cited as the “Cowlitz County Gas and Oil Pipeline Permit Ordinance.” [Ord. 2270, § 1, 3-12-71.]

**16.10.020 Purpose.**

In the interest of public safety and good land use planning, the Board of County Commissioners deems it necessary that gas and oil pipeline construction through the unincorporated areas of Cowlitz County be subject to review for compliance with the Cowlitz County Comprehensive Plan; and that permit fees be established to meet the costs to the county of such review and costs attendant on crossings of county roads, and inspections thereof. [Ord. 2270, § 2, 3-12-71.]

**16.10.030 Definitions.**

A. “General permit” shall mean a permit issued by the Board of County Commissioners.

B. “Roadway crossing permit” shall mean a permit to cross a county road which may be issued by the Cowlitz County Engineer.

C. “Fee” shall mean the cost to be paid for a general permit and for the issuance and annual renewal of each roadway crossing permit as established herein.

D. “Hearing” shall mean a public hearing which may be held by the Cowlitz County Planning Commission before the issuance of a general permit. If a hearing is held, not less than 10 days notice shall be given by the Planning Commission, by publication of a notice in the legal newspaper and mailing of notice to applicant.

E. "Commission" means the Cowlitz County Planning Commission.

F. "Board" means the Board of County Commissioners of Cowlitz County.

G. "Road" means any road duly maintained by Cowlitz County or duly established by Cowlitz County under the laws of the State of Washington.

H. "Application" means presentation to the Board of County Commissioners, on a form to be provided by said Board, of the necessary information to permit a review of the request to construct or extend gas or oil pipeline facilities through the unincorporated areas of Cowlitz County.

I. "Pipeline," as used herein, shall mean a pipeline for the transmission and storage of gas and oil. [Ord. 2270, § 3, 3-12-71.]

#### **16.10.040 Construction without permit unlawful.**

It shall be unlawful for any person, persons, partnership, company, corporation, or association to construct or extend gas or oil pipeline facilities in the unincorporated areas of Cowlitz County without first obtaining a general permit. [Ord. 2270, § 4, 3-12-71.]

#### **16.10.050 General permit – Planning Commission proceedings – Fees.**

Before proceeding with the construction or extension of any gas or oil pipeline within the jurisdiction of the Board of Cowlitz County Commissioners, application shall be made to said Board for a general permit. Upon receipt of the application for a general permit, the Board shall refer said application to the Cowlitz County Planning Commission for consideration at its next regular meeting. The Commission shall review said application to see that the projected construction or extension of pipeline facilities meets the criteria of the Cowlitz County Comprehensive Plan. The Commission may hold a public hearing on said general permit application, giving notice as required by the law governing public hearings. The Commission shall, after making its findings, refer said application back to the Board with its recommendation, no later than 60 days from receipt thereof.

The Board may issue the permit after recording its findings at one of its regular meetings.

The fee for the general permit shall be \$2,500. [Ord. 2270, § 5, 3-12-71.]

#### **16.10.060 Roadway crossing permit.**

Any person, persons, partnership, company, corporation, or association making application for

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a general permit shall also make individual applications for each roadway crossing required. Such permit applications shall be made in a form to be prescribed by the Cowlitz County Engineer, and shall be approved by the County Engineer subject to granting of a general permit by the Board.

The fee for each roadway crossing permit shall be \$10.00 which shall be an annual fee, with renewal fees to be due and payable on the anniversary date of issuance. [Ord. 2270, § 6, 3-17-71.]

**16.10.070 Inspection.**

Inspection of roadway crossings and the general construction of the gas or oil pipeline for compliance with the Comprehensive Plan shall be under the jurisdiction of the Cowlitz County Engineer. [Ord. 2270, § 7, 3-12-71.]

**16.10.080 Violations – Penalties.**

It is a civil infraction for any person to violate this chapter or assist in the violation of this chapter. Violations are subject to the provisions of Chapter 2.06 CCC. Any violation is a public nuisance. Each day a violation exists is a separate violation. Payment of any penalty imposed for a violation does not relieve a person from the duty to comply with this chapter. [Ord. 93-102, § 16, 7-6-93.]

**16.10.900 Severability.**

If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances, shall not be affected. If any section of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, such section shall be deemed a separate section, and the holding shall not affect the validity of the remaining sections thereof. [Ord. 2270, § 9, 3-12-71.]

**Chapter 16.15**

**ROADS AND OTHER  
PUBLIC WORKS CONSTRUCTION**

Sections:

16.15.010 Public works standards.

16.15.020 Road, bridge, and drainage standards.

Cross-references:

Chapter 39.04 RCW et seq.: Public works contracts.

Chapter 2.28 CCC: Public Works Department.

**16.15.010 Public works standards.**

All future public works construction, including but not limited to sewers and water distribution systems in the County of Cowlitz, shall conform to the 1975 Standard Specifications for Municipal Public Works Construction, prepared by the Washington State Chapter of the American Public Works Association. [Res. 5172, 4-6-77; Res. 5169, 3-30-77.]

**16.15.020 Road, bridge, and drainage standards.**

The State of Washington Standard Specifications for Road and Bridge Construction, 1977 Edition, issued by the Washington State Department of Highways, is hereby adopted as a policy governing all construction of roadways, bridges, drainage facilities and other related work within the maintenance jurisdiction of the County Road Department, said manual being on file in the County Engineer's Office for purposes of implementation and public inspection; and that all amendments to said manual heretofore and hereafter made, be and the same are hereby adopted, unless otherwise excluded by resolution of this Board. [Res. 5172, 4-6-77.]

## Chapter 16.20

### DEVELOPMENT IN DRAINAGE COURSES

#### Sections:

- 16.20.010 Legislative findings.
- 16.20.020 “Development” defined.
- 16.20.030 Drainage study required.
- 16.20.040 Drainage improvements design standards.
- 16.20.050 General standards.
- 16.20.900 Retroactivity.

#### Cross-reference:

CCC 16.15.020: Drainage construction standards.

#### 16.20.010 Legislative findings.

Unplanned development in drainage courses is detrimental to the safety, welfare, and health of the citizens residing adjacent to and downstream from said development. Unplanned development in drainage courses has the potential to substantially alter the natural drainage characteristics of said drainage course such that the water is diverted to new channels and thereby affects adjacent property and property owners’ rights. Substantial unplanned development in drainage courses is detrimental to the environment of Cowlitz County. An interim regulation controlling development in drainage courses is essential until such a time as a County Landslide Study is completed and implementing regulations adopted thereof.

The following drainage regulation applies to all new private and public development of land in all drainage courses, and developers of land shall be required to meet the specifications herein as a prerequisite to the approval of plans for development; providing that this chapter shall not apply to the normal maintenance of drainage improvements existing prior to the effective date of this chapter. [Res. 3099, preamble, 6-8-73.]

#### 16.20.020 “Development” defined.

“Development” shall mean an improvement of the land in which the labor and materials involved exceed a value of \$2,000. [Res. 3099, 6-8-73.]

#### 16.20.030 Drainage study required.

The developer will provide a storm drainage study for flows coming to and through the development, supplying the following information:

##### A. Storm Frequency for Design.

1. Twenty-five-year flows for primary drainage systems.

2. Ten-year flows for secondary drainage systems which provide for local surface drainage generated within or upon the development itself, except if the watershed exceeds 50 acres or the design discharge exceeds 20 cubic feet per second it will be considered as primary drainage.

- B. Drainage area will be shown on topographic maps with the acreage specified thereon.

- C. Total effect of concentration and increased rate of runoff on the downstream drainage system, i.e., the ability of existing and/or proposed downstream culverts and ditches to handle the run-off. [Res. 3099, § I, 6-8-73.]

#### 16.20.040 Drainage improvements design standards.

Plans will be submitted for approval showing means of handling storm drainage.

##### A. Open Ditch Construction.

1. Proposed cross-section of the channel will be shown with stable side slopes. Side slopes shall not exceed a grade of 3:1 unless paved or stabilized in some other manner as approved by the County Engineer.

2. The water surface elevation of the design flow will be indicated on the cross-section.

3. The channel width will be well defined and will provide capacity for at least the design flow. A minimum of 15 feet will be provided between any structures and the top of the bank of the defined channel.

##### B. Closed System.

1. A closed system will have a capacity for at least the design flow.

2. There will be an easement of at least 10 feet in width for closed system installation and maintenance.

3. All buildings and other structures will be a minimum of 10 feet from the closed system.

- C. Computations will be submitted with design plans, i.e., runoff co-efficients based on the ultimate development as set forth in the County Comprehensive Plan and all regulations adopted to implement said plan.

- D. In open channel work, the water surface elevation will be indicated on the plan and profile drawings. The configuration of the finished grades constituting the banks of the open channel will also be shown on the drawings. [Res. 3099, § II, 6-8-73.]

#### 16.20.050 General standards.

- A. The development will receive the drainage onto the tract at the natural occurring location and

will discharge from the tract at the natural and existing location with no diversion at these points.

B. If the drainage study shows that the drainage ways and/or drainage facilities downstream from the development are inadequate to handle the anticipated increased drainage from the development, the developer will make all the necessary improvements to bring the drainage way up to adequate capacity as a part of the development.

C. The developer shall obtain releases of damage from all affected properties for the flow of storm drainage between the development and a natural drainage way or creek acceptable to the County Engineer.

D. The drainage study shall be made by or under the direct supervision of a professional engineer licensed by the State of Washington.

E. The drainage study shall meet normal engineering practices and shall be reviewed by the County Engineer. When the County Engineer finds that the study meets the requirements herein, he shall affix his approval.

F. The County Engineer or his representative shall review all drainage studies and conduct all inspections required to see that construction of drainage facilities meets the requirements of the approved study and plans prepared subsequent thereto. [Res. 3099, § III, 6-8-73.]

#### **16.20.900 Retroactivity.**

The provisions as set forth herein shall become effective this date, and shall be retroactive to apply to all plats previously approved for filing by Cowlitz County which are as yet undeveloped. It shall also apply to those plats under bond for completion where the work is not completed within one year from the bond posting date. [Res. 3099, 6-8-73.]

## **Chapter 16.25**

### **FLOODPLAIN MANAGEMENT**

#### Sections:

- 16.25.010 Title.
- 16.25.020 Purpose.
- 16.25.030 Definitions.
- 16.25.040 Applicability.
- 16.25.050 Compliance.
- 16.25.060 Application.
- 16.25.070 Fees.
- 16.25.080 General development standards.
- 16.25.090 Specific development standards.
- 16.25.100 Administration.
- 16.25.110 Variance.
- 16.25.120 Appeal.
- 16.25.130 Violations – Penalties.
- 16.25.140 Severability.
- 16.25.150 Conflict.
- 16.25.160 Disclaimer.

#### Cross-references:

- RCW Title 86: Flood control.
- Chapter 86.12 RCW: Flood control by counties.
- Chapter 508-60 WAC: Flood control zones.
- Chapter 16.05 CCC: Building code.

#### **16.25.010 Title.**

The ordinance codified in this chapter shall be cited as the “Cowlitz County Floodplain Management Ordinance.” [Ord. 87-126, § 1, 6-22-87.]

#### **16.25.020 Purpose.**

It is the purpose of this chapter to promote the public health, safety, and general welfare by provisions designed:

- A. To implement the Washington State Flood Control Zone Permit Program pursuant to the requirements of RCW 86.16.080 and Chapter 508-60 WAC;
- B. To regulate floodplain development;
- C. To minimize the need for emergency rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize expenditure of public money on costly flood control projects;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To minimize prolonged business interruptions;

G. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

I. To coordinate administration of various county ordinances and policies relating to development in floodplain areas;

J. To fully implement floodplain management requirements of the Federal Emergency Management Agency to qualify existing and proposed homes and businesses for participation in the regular national flood insurance program. [Ord. 87-126, § 2, 6-22-87.]

### **16.25.030 Definitions.**

For the purposes of this chapter, the following terms shall be defined as follows, and all other words used shall carry their customary meanings:

A. “Administrator” means the Director of Building and Planning or his/her designee.

B. “Accessory structure” means any structure whose use is supplemental to the primary land use or structure, including but not limited to utility pads, pumphouses, sani-cans, small storage sheds, etc.

C. “Department” means the Cowlitz County Department of Building and Planning.

D. “Development” means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, and all works. “Works” are any dam, wall, wharf, embankment, levee, dike, pile, bridge, road, abutments, excavation, structure, subdivision, channel alteration, culvert, fill, earth movement or removal, mining, building, aboveground or underground hazardous material storage, or other similar development attached to or occurring upon real property.

E. “Flood insurance rate maps (FIRM)” means the official map(s), including amendments or revisions, issued by the Federal Insurance Administration of the Federal Emergency Management Agency, that delineates the areas of regulatory flood and the risk premium zones applicable to the community.

F. “Floodplain” means those areas of unincorporated Cowlitz County that are subject to the regulatory flood, as determined pursuant to CCC 16.25.040.

G. “Floodway” means the channel of a river or other watercourse and the adjacent land areas that

must be reserved in order to discharge the waters of a regulatory flood without increasing the water surface elevation of the flood at any point more than one foot above the established regulatory flood elevation.

H. “Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for loading or unloading cargo or passengers, and ship building or repair facilities, but does not include long-term storage or related manufacturing facilities.

I. “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure that is usable solely for parking of vehicles (e.g., attached garage), building access, or storage, and that cannot be enclosed as a basement, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this chapter.

J. “Manufactured home” means a structure transportable in one or more sections and that is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles as defined by WAC 296-150B-015 placed on a site for greater than 180 consecutive days.

K. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

L. “Person” means any individual, firm, partnership, association, corporation or public entity.

M. “Qualified professional person” means a licensed professional engineer or a licensed architect.

N. “Regulatory flood” means the flood having a one percent chance of being equalled or exceeded in any given year (also referred to as the base flood or “100-year” flood).

O. “Structure” means any piece of work artificially built up or composed of parts joined together in some definite manner, including a house, manufactured home, apartment, factory, garage, or other improvement having walls attached to or affixed upon the land and situated principally above the ground, bridges, storage tanks, etc.

P. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which over any 12-month period equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurs.

Q. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. [Ord. 87-126, § 3, 6-22-87.]

#### **16.25.040 Applicability.**

The Administrator shall be responsible for determining the extent of the floodplain in the unincorporated areas of Cowlitz County. To the extent practicable, the Administrator shall base such determination on the most current flood insurance study and associated flood insurance rate maps issued or adopted by the Federal Emergency Management Agency. If there is no such study with associated maps for a particular location, or if such study with associated maps for a particular location, or if such study and associated maps are out of date for a particular location, the Administrator may consult with the Federal Emergency Management Agency and the Department of Ecology and shall obtain, review and reasonably utilize any regulatory flood elevation and floodway data available from a federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in the regulatory floodplain meet the provisions of this regulation.

The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. [Ord. 87-126, § 4, 6-22-87.]

#### **16.25.050 Compliance.**

No person shall undertake or cause the undertaking of any development in the floodplain without first obtaining a floodplain management permit from the Department; except:

A. No permit is required before undertaking development in any portion of the floodplain covered by a declaration of emergency issued by the Board of County Commissioners, during the time such declaration is in effect;

B. No permit is required during an emergency for the construction of emergency works necessary to minimize or eliminate imminent flood threats to life or property; and

C. No permit is required for maintenance activities, provided such activities conform to the stan-

dards of this chapter. "Maintenance activities" include but are not limited to repaving of roads, cleaning culverts or bridges, like kind replacement of piles or dolphins, maintenance dredging activities (but excluding placement of dredge spoils), etc. [Ord. 87-126, § 5, 6-22-87.]

#### **16.25.060 Application.**

Application for a permit shall be made at the Department on forms provided by the Administrator. The application shall include, but not be limited to: plans in duplicate drawn to an approved scale showing the nature, location, dimensions, and elevations of the area in question; the location of existing and/or proposed structures, fill, sites of material storage and drainage facilities. In addition, the following information shall be provided:

A. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures, noting whether or not the structure contains a basement;

B. Elevation in relation to mean sea level of any structure which will be or has been floodproofed;

C. Unless exempted by the Administrator, certification by a qualified professional person that the floodproofing methods for any structure meet the standards of this chapter;

D. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

The Administrator shall keep on file in the Department of Building and Planning the best information known on flooding conditions affecting the land. The applicant shall use the information in preparing the application and to demonstrate compliance with the requirements of this chapter. [Ord. 87-126, § 6, 6-22-87.]

#### **16.25.070 Fees.**

The fees and charges for processing an application, appeals, and other administrative actions under this chapter shall be from time to time established by resolution by the Board. [Ord. 95-033, § 2, 3-13-95; Ord. 87-126, § 7, 6-22-87.]

#### **16.25.080 General development standards.**

All development within the floodplain shall comply with the following standards:

A. All altered or relocated waterways within a floodplain shall be maintained so the flood-carrying capacity is not diminished. Certification by a qualified professional person shall be provided, unless exempted by the Administrator, document-

ing that the new watercourse will not threaten the public safety or be injurious to property.

B. No development shall be allowed that, as determined by the Administrator, threatens to: (1) adversely restrict, alter, or increase the flow of floodwaters in the floodway; (2) adversely affect the efficiency or capacity of the floodway or the integrity or stability of flood protection facilities; or (3) increase water surface elevation or the location of the floodway during the regulatory flood.

C. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage.

D. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

E. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

F. Subdivision and Manufactured Home Park Proposals.

1. All subdivisions and manufactured home park proposals shall be consistent with the need to minimize flood damage.

2. All subdivision and manufactured home park proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision and manufactured home park proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where regulatory flood damage data has not been provided or is not available from another authoritative source, it shall be generated by the applicant through a qualified professional person for subdivision and manufactured home park proposals and other proposed developments which contain at least 50 lots or five acres.

G. Floodway. Any development in a floodway shall be subject to the following standards, in addition to the standards stated above:

1. All development intended for human habitation is prohibited from locating in a floodway, except as allowed in subsection (G)(2) of this section.

2. Recreational vehicles and travel trailers may be placed within the floodway provided the unit is not larger than eight feet wide by 35 feet long, has quick couplers on all utilities (including sewage, water, and electrical) and the tires and wheels are left on to enable the vehicle to be removed.

H. Undesignated Floodways. Where development is proposed in an area in which the precise location of the floodway is not known (such as in unnumbered A zones shown on the flood insurance rate maps), the Administrator may require that such development be reasonably safe from flooding. Factors to be considered in making such determination include but are not limited to historical data, high water marks, photographs of past flooding, intended use of the development, etc. Failure to elevate structures at least two feet above grade in such areas may result in higher insurance rates. [Ord. 87-126, § 8, 6-22-87.]

**16.25.090 Specific development standards.**

The following standards apply to all development proposed within the floodplain:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above regulatory flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a qualified professional per-

son or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

**B. Manufactured Homes.** All new or replacement manufactured homes and any substantial improvements thereto, whether located in a new or existing manufactured home park or subdivision or on a single lot, shall be anchored to resist flotation, collapse, or lateral movement by providing floodproofing and ground anchors pursuant to the following standards:

1. Any single-wide manufactured home constructed before 1976 shall provide over-the-top ties at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long require one additional tie per side.

2. On all single-wide manufactured homes constructed after 1976 and on all double-wide manufactured homes, frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long require four additional ties per side.

3. Each component of all anchoring systems shall be capable of carrying a force of 4,800 pounds.

4. As an alternative to the above anchoring standards, a person may propose a system designed to allow the manufactured home to withstand a wind force of 90 miles per hour or greater. Certification by a qualified professional person must be provided to the Administrator that this standard has been met.

5. All new or replacement manufactured homes shall be elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be one foot or higher above the regulatory flood level.

6. If a new, substantially improved or replacement manufactured home is located on pilings, the following applies:

a. Lots shall be large enough to permit steps.

b. Piling foundations shall be designed and certified by a registered engineer and placed in stable soil.

c. Reinforcement for pilings shall be designed and certified by a registered engineer.

**C. Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the level of the regulatory flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water.

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. Be certified by a qualified professional person or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection. Such certification shall be provided to the Administrator prior to approval of a permit under this chapter.

4. Nonresidential structures that are elevated but not floodproofed must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section.

**D. Accessory Structures.**

1. Accessory structures shall not be used for human habitation.

2. Accessory structures shall be designed to have low flood damage potential.

3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

4. Accessory structures shall be firmly anchored to prevent flotation that may result in damage to other structures.

5. Service facilities such as electrical and heating equipment shall be elevated above the regulatory flood elevation or floodproofed to prevent damage by floodwaters.

**E. Bridges, Culverts and Docks.**

1. All bridges shall be designed and constructed to provide for the passage of regulatory flood flows. The total design of the bridge, its road approaches and associated utilities and bank stabilization shall allow for flood flows to pass under or around the bridge structure without resulting in a significant damming of the stream. Plans may be submitted to the County Engineer for review.

2. The minimum floodway width shall be maintained. When center support piles are necessary, the structure shall be designed to withstand floodwater velocities with debris hangup and shall not result in increased flood depth or velocities.

3. Culverts shall be sized to adequately pass regulatory flood flows. The culvert and road shall allow floodwaters to pass through, over or around the road without causing significant damming of the stream. Plans may be submitted to the County Engineer for review.

4. Docks, piles, bridge abutments shall be designed to withstand regulatory flood flows and the additional hydrologic pressures associated with debris hangup on the structure during a flood. [Ord. 87-126, § 9, 6-22-87.]

### **16.25.100 Administration.**

A. The Administrator shall have the responsibility for administering and implementing this code.

#### **B. Notification.**

1. In reviewing an application, the Department shall coordinate with all agencies of jurisdiction. Public notice may be posted on or near the subject site and written notification may be mailed to all abutting property owners of record. Public notice shall be required when the proposed development could adversely affect adjacent properties. Any notice shall state the deadline for submitting responses to the Department.

2. When a proposed project involves any alteration or relocation of a watercourse, the Administrator shall notify communities and counties that would be affected, and the Department of Ecology. Evidence of such notification shall be submitted to the Federal Insurance Administration of the Federal Emergency Management Agency.

3. When development is proposed in the floodway common to the boundary of Cowlitz and Clark Counties, the Administrator shall submit the permit application to the appropriate agencies of Clark County for review and comment.

C. If the Administrator finds that the proposed development is consistent with this ordinance and Chapter 86.16 RCW, the Administrator shall approve the application. The Administrator may subject the permit approval to such reasonable conditions as may be necessary to assure conformance with provisions and purposes of this chapter. Issuance of a permit pursuant to this chapter does not relieve the applicant from compliance with all applicable county, state and federal regulations.

D. All development shall comply with all conditions of the permit and this code. The Department shall have the authority to inspect developments for consistency with the permits and conditions thereto and this code. If any development or activity is contrary to the permit, the conditions of the permit, this code, or Chapter 86.16 RCW or the regulations thereunder, the Department may suspend or revoke the permit and issue necessary orders to ensure compliance with applicable legal requirements. The Department shall verify and record "as-built" elevations of development and structures requiring permits pursuant to this code. [Ord. 87-126, § 10, 6-22-87.]

### **16.25.110 Variance.**

A. The Administrator may consider applications for variances from the requirements of this chapter, subject to the provisions of this section.

B. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use; provided, that (1) the criteria of subsections C, D, and E of this section are met; (2) the structure or other development is protected by measures that minimize flood damages during the regulatory flood; and (3) the development will create no additional threats to public safety.

C. Variances shall only be listed upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with Chapter 86.16 RCW or other laws, regulations, or ordinances.

D. The following requirements and guidelines apply to the granting of variances:

1. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
2. Variances shall not be issued within a floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

5. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with CCC 16.25.080(D) and (E).

6. Any applicant to whom a variance from the lowest floor elevation standards is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

E. Criteria. When acting on a variance request, the Administrator shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept on to other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety or access to the property in times of flood for ordinary and emergency vehicles;
10. The expected height, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
11. The cost of providing governmental services during and after flood conditions including

maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

F. Conditions. The Administrator may attach such reasonable conditions to the granting of the variance as may be appropriate to further the purposes of this code. Such conditions may include a requirement that the applicant record a document reciting the granting of the variance and providing notice of flood hazards.

G. The Administrator shall report any variances to the Federal Insurance Administrator of the Federal Emergency Management Agency and the Department of Ecology upon request. [Ord. 87-126, § 11, 6-22-87.]

### **16.25.120 Appeal.**

A person aggrieved by the issuance or denial of a permit or variance may appeal such action to the Hearing Examiner, appointed pursuant to CCC 18.10.340, as amended. Any such appeal shall be filed in writing with the Department of Building and Planning within 20 calendar days of the issuance of the Director's decision, with the first day being the day after the decision is issued. The appeal shall specify the reasons therefor. The Director shall provide the Hearing Examiner with the findings and documentation relating to the decision being appealed. The Hearing Examiner, following a de novo hearing, shall affirm, modify or reverse the Director's decision. The appellant carries the burden of proof on appeal.

B. Upon the filing of an appeal with appropriate fee, the Director shall set the public hearing before the Hearing Examiner. If the appeal is filed 20 calendar days or more before the Hearing Examiner's regularly scheduled monthly meeting, he/she shall hear the appeal at that meeting as set by the Director. For appeals filed within 19 calendar days of the regularly scheduled monthly meeting, the Hearing Examiner shall hear the appeal in the subsequent month.

C. Notice of the time, date and place of the hearing shall be sent to the appellant and the permittee by first class mail prior to the public hearing. Legal notice of the hearing shall be published in a newspaper of general circulation and the subject property shall be posted with said notice not less than 10 calendar days prior to the public hearing.

D. Within 10 calendar days after the public hearing, the Hearing Examiner shall issue a written decision, including findings of fact on which his/her decision is based. Such written decision shall be available to the appellant and the public

upon request. Appeals of Hearing Examiner decisions shall be to a court of competent jurisdiction, pursuant to the Land Use Petition Act, Chapter 347, Washington Laws, 1995. [Ord. 95-193, § 3, 12-4-95; Ord. 95-033, § 3, 3-13-95; Ord. 87-126, § 13, 6-22-87.]

#### **16.25.130 Violations – Penalties.**

It is a civil infraction for any person to violate this chapter or assist in the violation of this chapter. Violations are subject to the provisions of Chapter 2.06 CCC. Any violation is a public nuisance. Each day a violation exists is a separate violation. Payment of any penalty imposed for a violation does not relieve a person from the duty to comply with this chapter. [Ord. 93-102, § 17, 7-6-93.]

#### **16.25.140 Severability.**

Should any section, clause, or provision of this chapter be declared invalid, the same shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared invalid. [Ord. 87-126, § 15, 6-22-87.]

#### **16.25.150 Conflict.**

Where other county regulations or ordinances are in conflict with this chapter, the more restrictive regulation shall apply. [Ord. 87-126, § 16, 6-22-87.]

#### **16.25.160 Disclaimer.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes. Larger floods can and will occur on rare occasions.

Flood heights may be increased by human-made or natural causes such as log jams or bridge openings restricted by debris. This chapter does not imply that land outside the areas of the floodplain, or uses permitted within such areas, will be free from flooding or flood damages. The lawful application of this chapter shall not create any liability for any damages on the part of Cowlitz County, or any officer or employee thereof, or the Federal Insurance Administration of the Federal Emergency Management Agency. [Ord. 87-126, § 17, 6-22-87.]

## **Chapter 16.30**

### **PUBLIC AND PRIVATE UTILITY FRANCHISES**

#### Sections:

- 16.30.010 Terms and conditions – Scope.
- 16.30.020 Rights terminated when.
- 16.30.030 County right to acquire property of grantee.
- 16.30.040 Grantee – Rights described.
- 16.30.050 Grantee – Installation standards – Supervision required when.
- 16.30.060 Permit – Requirements generally.
- 16.30.070 Grantee – Work commencement and completion time.
- 16.30.080 Property to be restored to original condition – Damages – Emergency work.
- 16.30.090 Claims and damages – County to be held harmless.
- 16.30.100 Grantee – Liability.
- 16.30.110 County work contiguous to grantee improvements permitted when.
- 16.30.120 Readjustment and relocation of facilities.
- 16.30.130 Removal or relocation of facilities.
- 16.30.140 Franchise not exclusive – Work performance conditions generally.
- 16.30.150 Provisions – Binding upon successors and assigns.
- 16.30.160 Grantee – Rights forfeited when.
- 16.30.170 Provisions – Changes or amendments authorized when.
- 16.30.180 New facilities to be underground – Line extensions.
- 16.30.190 Grantee – Bond requirements.
- 16.30.200 Grantee – Scope of obligations.
- 16.30.210 Grantee – Franchise signature and acceptance time limit.
- 16.30.220 Severability.
- 16.30.230 Effective date.

#### **16.30.010 Terms and conditions – Scope.**

A. The following terms and conditions shall be subject to the Constitution and laws of the State of Washington and shall apply and shall be deemed to be terms and conditions of any franchise to use the roads, streets, avenues, highways, alleys, rights-of-way or other county properties of Cowlitz County hereafter granted by the county to any individual or municipal or private corporation engaged in the public service or utility business, unless and except to the extent that such ordinance or resolution

granting such franchise expressly provides terms or conditions contrary to those herein contained.

B. All work done under said franchise shall be done in a thorough and workmanlike manner. In the laying of underground pipelines and cables, the construction of other facilities, and the opening of trenches, the tunneling under county roads, rights-of-way or other county properties, the grantee shall leave such trenches, ditches and tunnels in such a way as to interfere as little as possible with public travel and shall take all due and necessary precautions to guard the same so that damage or injury shall not occur or arise by reason of such work. Where any of such trenches, ditches or tunnels are left open at night, the grantee shall place warning lights and barricades at such a position as to give adequate warning of such work. The grantee shall be liable for any injury to person or persons or damage to property sustained through its/his carelessness or neglect, or through any failure or neglect to properly guard or give warning of any trenches, ditches or tunnels dug or maintained by the grantee. [Ord. 5378, § 1, 8-8-77.]

#### **16.30.020 Rights terminated when.**

A. Whenever any of the streets, avenues, alleys, roads, highways, rights-of-way or public places designated in such franchise shall be eliminated from county jurisdiction by reason of the incorporation or annexation to a city, then all the rights, privileges and franchises so granted shall terminate in respect to said streets, avenues, alleys, roads, highways, rights-of-way and public places so eliminated, but otherwise the franchises shall continue in full force and effect in respect to all streets, avenues, alleys, roads, highways, rights-of-way and public places not so eliminated by such reduction or disincorporation.

B. If at any time the County of Cowlitz shall vacate any county street, avenue, alley, road, highway, right-of-way or other county property which is subject to rights granted by said franchise and said vacation shall be for the purpose of acquiring the fee or other property interest in said road, right-of-way or other county property for the use of Cowlitz County, in either its proprietary or governmental capacity, then the Board of County Commissioners for Cowlitz County may at its option, by giving 90 days' written notice to the grantee and after granting an alternate route, terminate this franchise with reference to such county road, right-of-way or other county property so vacated, and the County of Cowlitz shall not be liable for any damages or losses to the grantee by reason of such ter-

mination. Wherever possible, the county agrees to protect the grantee's interest by retaining easement rights. [Ord. 5378, § 2, 8-8-77.]

#### **16.30.030 County right to acquire property of grantee.**

The granting of such franchise shall not preclude Cowlitz County from acquiring by purchase or condemnation any or all of the mains, laterals, pipes, poles, cables or other improvements installed by the grantee within the county streets, avenues, alleys, roads, highways, rights-of-way or public places within Cowlitz County. [Ord. 5378, § 3, 8-8-77.]

#### **16.30.040 Grantee – Rights described.**

The grantee shall have the right and authority, to the extent expressed in the resolution of the Board of County Commissioners granting such franchise, or in any supplemental document, to enter upon the streets, avenues, alleys, roads, highways, rights-of-way and public places designated by such franchise for the purpose of construction work, extension of existing systems, connection of such systems with consumers' pipelines, cables, lines or equipment, repairing of equipment, and in all fashions maintaining and operating the improvements installed within such county property, and to make rules and regulations governing the same in conformity with state and federal statutes and regulations now in force or hereafter enacted and adopted by state and/or federal agencies governing such utilities. [Ord. 5378, § 4, 8-8-77.]

#### **16.30.050 Grantee – Installation standards – Supervision required when.**

The grantee shall install the pipes, poles, lines, cables or other authorized improvements in the designated streets, avenues, alleys, roads, highways, rights-of-way or other public places pursuant to plans and specifications approved by the County Engineer and under supervision provided by the county at the expense of such grantee, whenever the grantee's inspection services are determined by the county to be inadequate. [Ord. 5378, § 5, 8-8-77.]

#### **16.30.060 Permit – Requirements generally.**

Before any work is done by the grantee under such franchise, it/he shall first file with the County Engineer an application for permit to do such work accompanied by such supporting documents and/or field information as the County Engineer may require. The grantee shall specify the class and type of material to be used and provide sufficiently

detailed plans so as to adequately show the type and extent of work to be performed upon the rights-of-way. All material and equipment shall conform to or exceed the standards of the industry. When requested by the County Engineer, the manner of excavation, construction installation, backfill and the type and size of temporary structures, including traffic turnouts, road obstructions, etc., shall be submitted for approval. The grantee shall pay to the county the actual cost and expenses incurred in the examination, necessary inspection and supervision of such work granted by the permit and done by the grantee or by an independent contractor under the franchise of the grantee. [Ord. 5378, § 6, 8-8-77.]

**16.30.070 Grantee – Work commencement and completion time.**

The grantee, its/his successors or assigns, shall commence construction under such permit granted by the County Engineer within the time period stated in such permit and shall have completed and have in operation such portion of the system of improvements as may be specified in such permit or the rights therein conferred upon the grantee shall cease and terminate insofar as unoccupied streets, roads, etc., are concerned. [Ord. 5378, § 7, 8-8-77.]

**16.30.080 Property to be restored to original condition – Damages – Emergency work.**

A. The grantee shall leave all streets, avenues, alleys, roads, highways, rights-of-way and other county properties, after laying and installing mains and doing construction work, making repairs to equipment, etc., in as good and safe condition in all respects as they were before the commencement of such work by the grantee, its/his agents or contractors, and all recorded monuments which have been disturbed or displaced by the work shall be reset to the specifications and approval of the County Engineer.

B. In case of any damage to said streets, avenues, alleys, roads, highways, rights-of-way or other county properties, or to paved or surfaced roadways, turn-outs, gutters, ditches, wood or concrete walks, drainpipes, hand or embankment rails, bridges, trestles, wharves, landings or monuments by the grantee, the said grantee agrees to immediately repair said damage at its/his own sole cost and expense.

C. When the County Engineer determines that an emergency situation does exist, he may order and have done any and all work considered neces-

sary to restore to a safe condition any such street, avenue, alley, road, highway, right-of-way or other county property left by the grantee or agents in a condition dangerous to life or property. He may cause to be replaced or reset recorded monuments if a grantee fails to replace or reset same within a reasonable time after completion of construction. The grantee, upon demand, shall pay to the county all costs of such construction or repair and of doing such work. [Ord. 5378, § 8, 8-8-77.]

**16.30.090 Claims and damages – County to be held harmless.**

A. The grantee, its/his successors or assigns, shall protect, indemnify and save harmless Cowlitz County from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person or persons, corporation or property by reason of any faulty construction, defective material or equipment operation or by the improper occupation of said rights-of-way or other county properties by the said grantee or by reason of the negligent, improper or faulty manner of safeguarding any excavation, temporary turnouts or inefficient operation by the grantee of its/his lines over or under said streets, avenues, alleys, roads, highways, rights-of-way or other county properties as hereinbefore designated, or for any other negligent acts or omissions on the part of grantee, and in case that suit or action is brought against the said county for damage arising out of or by reason of any of the abovementioned causes, the grantee, its/his successors or assigns, will, upon notice to it or him of the commencement of said action, defend the same at its or his sole cost and expense and in case judgment shall be rendered against Cowlitz County in such suit or action, will fully satisfy said judgment within 90 days after the said suit or action shall have been finally determined, if determined adversely to Cowlitz County; provided, that the grantee herein, its/his successors or assigns shall have the right to employ its/his own counsel in any cause or action and be given the management of the defense thereof.

B. Acceptance by the county of any work performed by the grantee at the time of completion shall not be ground for avoidance of this covenant. [Ord. 5378, § 9, 8-8-77.]

**16.30.100 Grantee – Liability.**

In consideration of the granting of such franchise by the grantor to the grantee, the grantee, for itself/himself and its/his assigns, shall contract and agree to save Cowlitz County harmless from any

liability of whatsoever nature arising out of any damage and/or destruction done or suffered to be done to grantee's mains, valves, pipes, poles, cables, lines or other fittings or appurtenances of whatsoever nature placed upon, along, across, over and/or under the county road right-of-way or other county property. This section shall be construed to mean that the grantee accepts such franchise and any rights conferred thereunder for the use and occupation of any portion of the right-of-way, at its/his own risk, and agrees to assume responsibility for any damage occasioned to grantee or third parties by grantor in the maintenance and/or construction work performed by grantor upon the roadways described herein and which would not have occurred but for the presence on said roadways of the grantee's pipes, poles, lines, cables, fittings or other appurtenances mentioned above, except to the extent any such damage or loss is caused by the sole negligence of the grantor. [Ord. 5378, § 10, 8-8-77.]

**16.30.110 County work contiguous to grantee improvements permitted when.**

The laying, construction, maintenance and operation of the system of improvements granted under said franchise shall not preclude Cowlitz County, its accredited agents or its contractors, from blasting, grading or doing other necessary road work in a reasonably careful and prudent manner contiguous to the said grantee's improvements; provided, that the grantee shall be given a minimum of two business days' prior notice, in writing, signed by the County Engineer, of said blasting or excavating in order that said grantee may protect its/his lines and property. [Ord. 5378, § 11, 8-8-77.]

**16.30.120 Readjustment and relocation of facilities.**

If at any time Cowlitz County deems it advisable to improve any of its streets, avenues, alleys, roads, highways, rights-of-way or other county properties as hereinbefore designated, by grading, regrading, surfacing or paving same, or altering, changing, repairing or improving same, the grantee, upon written notice by the county, shall, at its/his own expense, as soon as reasonably practicable, so raise, lower or move its/his lines or improvements to conform to such new grades as may be established, or place said property in such locations or positions as shall cause the least interference with any such improvements or work thereon as contemplated by the county and the said county shall on no wise be held liable for any damage to said grantee that may

occur by reason of the county improvements, repairs or maintenance performed in a reasonably careful and prudent manner, or by the exercise of any rights so reserved in this section or grant. If the county shall improve such streets, avenues, alleys, roads, highways, rights-of-way or other county properties, the grantee shall on written notice by county officials, at its/his own expense, replace such pipes, lines or system as may be in or through the improved subgrade of such improvement, with such materials as shall conform to or exceed the applicable standards of the industry for use in such streets, avenues, alleys, roads, highways, rights-of-way or other county properties; provided, that if a readjustment or relocation is necessitated for a reason other than the above-enumerated county purposes, the person, firm or private corporation or entity requesting such readjustment or relocation shall pay the grantee the actual costs thereof; provided, further, that in the event grantor should require such readjustment or relocation in connection with any improvement or project funded wholly or in part by state or federal funds, the grantor shall pay grantee such proportion of the actual cost of readjustment or relocation to the extent provided for by such state or federal funds received by grantor in connection with such improvement or project. [Ord. 5378, § 12, 8-8-77.]

**16.30.130 Removal or relocation of facilities.**

If at any time Cowlitz County shall install a line of pipes for sewage and/or drainage upon any of the streets, avenues, alleys, roads, highways, rights-of-way or other county properties herein described, wherein a grantee's facilities unreasonably interfere with the construction project, the grantee, upon written notice by the County Engineer, shall temporarily remove or relocate its/his line of pipes or improvements at its/his own expense during said installation and replace same at its/his own sole cost and expense under the supervision of Cowlitz County. [Ord. 5378, § 13, 8-8-77.]

**16.30.140 Franchise not exclusive – Work performance conditions generally.**

A. Such grant or privileges shall not be deemed or held to be an exclusive franchise. It shall in no manner prohibit Cowlitz County from granting other franchises of a like nature or franchises for other public or private utilities over, along, across, under and upon any of the streets, avenues, alleys, roads, highways, rights-of-way or other county properties as herein enumerated, and shall in no wise prevent or prohibit the county from using any

of said streets, avenues, alleys, roads, highways, rights-of-way or other county properties or affect its jurisdiction over them or any part of them.

B. All construction or installation of mains, valves, pipes, poles, cables, lines fittings and facilities, service, repair or relocation of the same, performed along, over and/or under the county roads, rights-of-way or other county properties subject to said franchise shall be done in such a manner as not to interfere with the construction and maintenance of other utilities, public or private, drains, drainage ditches and structures located therein, nor with the grading or improvement of such county roads, rights-of-way or other county properties.

C. The owners of all other utilities, public or private, installed in such county roads, rights-of-way or other county properties prior in time to the lines and facilities of the grantee shall have preference as to the positioning and location of such utilities so installed with respect to the grantee. Such preference shall continue in the event of the necessity of relocating or changing the grade of any such county road or right-of-way. [Ord. 5378, § 14, 8-8-77.]

#### **16.30.150 Provisions – Binding upon successors and assigns.**

All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns and independent contractors of the grantee, and all rights and privileges of the grantee shall inure to its/his successors, assigns and such contractors equally as if they were specifically mentioned herein wherever the grantee is mentioned.

The grantee, its/his successors and assigns shall have the right to sell, transfer or assign said franchise upon giving written notice of its/his intention to do so, not less than 60 days in advance of the date of the proposed transfer, to the Clerk of the Board of County Commissioners of Cowlitz County. [Ord. 5378, § 15, 8-8-77.]

#### **16.30.160 Grantee – Rights forfeited when.**

If the grantee, its/his successors or assigns, shall through willful or unreasonable neglect, fail to heed or comply with any notice given the grantee under the provisions of such grant, then the said grantee, its/his successors or assigns, shall forfeit all rights conferred thereunder and such franchise may be revoked or annulled by the Board of County Commissioners of Cowlitz County upon 30 days' written notice thereof to the grantee. [Ord. 5378, § 16, 8-8-77.]

#### **16.30.170 Provisions – Changes or amendments authorized when.**

A. The county reserves for itself the right at any time, upon a 48-hour written notice to the grantee, to so change, amend, modify or amplify any of the provisions or conditions herein enumerated to conform to any state statute or county regulation relating to the public welfare, health, safety or highway regulation as may hereafter be enacted, amended, adopted, changed, etc., and such franchise may be terminated upon 30 days' written notice to grantee if same is not operated or maintained in accordance with its provisions.

B. The grantee, notwithstanding any other terms of such franchise appearing to the contrary, shall be subject to the police power of the county to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in such franchise. [Ord. 5378, § 17, 8-8-77.]

#### **16.30.180 New facilities to be underground – Line extensions.**

The grantee, as far as practicable, shall construct all new utility facilities underground. Extension of overhead facilities following streets, avenues, ways, boulevards or thoroughfares shall be undertaken only with the approval of the County Engineer; provided, however, that said approval shall not be unreasonably withheld. Grantee recognizes the desirability of underground facilities rather than overhead facilities and shall convert existing overhead facilities to underground facilities as and when equipment replacement is undertaken, or when other existing overhead utilities are placed underground, unless such replacement is unsafe, impractical or economically unreasonable. Line extension policies and procedures established by the grantee, and uniformly applied through its service area, shall be the standard in determining what is "practical, impractical or economically unreasonable" under this chapter; provided, that no new overhead utility facilities shall be constructed or established in any area set aside for public park, school, playground or athletic field purposes. [Ord. 5378, § 18, 8-8-77.]

#### **16.30.190 Grantee – Bond requirements.**

Before undertaking any of the work or improvements authorized by the franchise, the grantee, if other than a municipal corporation, shall furnish to the county a bond, executed by grantee and a corporate surety authorized to do a surety business in the State of Washington, in a sum to be recom-

mended by the County Engineer and set and approved by the Board of County Commissioners as sufficient to insure performance of the grantee's obligations under such franchise, and conditioned that the grantee shall well and truly keep and observe all of the covenants, terms and conditions and faithfully perform all of grantee's obligations under said franchise, and to reset or replace any defective work performed or materials installed by or under the direction of the grantee, its/his employees or contractors, discovered in the replacement of the county's roads, rights-of-way or other county properties within a period of two years from the date of the replacement and acceptance of such repaired roads, rights-of-way or other county properties by the county. Said bond requirement may be met by surety bonds of a continuing nature now in effect or that may hereafter come into effect. [Ord. 5378, § 19, 8-8-77.]

**16.30.200 Grantee – Scope of obligations.**

The obligations imposed upon the grantee by the express terms of the resolution granting such franchise or implied by the terms of this chapter or any other ordinance affecting the same, shall be deemed to include every employee, nominee or independent contractor of the grantee performing work in the county streets, avenues, alleys, roads, highways, rights-of-way or other county properties under contract, direction, request or authority of the grantee under this franchise, and the grantee, its/his agent, employee or independent contractor, severally, shall be responsible to the county for any injury or damage to county property or the expense incurred or suffered by the county in correcting defects in work replacing county roads or other improvements damaged by the acts or neglect of such servants, agents, or independent contractors of grantee. [Ord. 5378, § 20, 8-8-77.]

**16.30.210 Grantee – Franchise signature and acceptance time limit.**

If within 30 days of the granting of such franchise the grantee shall have failed to sign its/his written acceptance of same, then the granted rights and privileges therein shall be deemed forfeited and declared null and void. [Ord. 5378, § 22, 8-8-77.]

**16.30.220 Severability.**

If any provision of this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or appli-

cation, and to this end the provisions of this chapter are declared to be severable. [Ord. 5378, § 21, 8-8-77.]

**16.30.230 Effective date.**

This chapter shall be in full force and effect five days from and after the date of its passage. [Ord. 5378, § 23, 8-8-77.]

## Chapter 16.35

### GRADING

#### Sections:

- 16.35.010 Title.
- 16.35.020 Purpose.
- 16.35.030 Authority and administration.
- 16.35.040 Applicability.
- 16.35.050 Exemptions.
- 16.35.060 Application requirements.
- 16.35.070 Grading plan.
- 16.35.080 Grading standards.
- 16.35.090 Grading inspection.
- 16.35.100 Appeals.
- 16.35.110 Violations – Penalties.
- 16.35.120 Fees.
- 16.35.130 Definitions.
- 16.35.140 Severability.
- 16.35.150 Liability for damages.
- 16.35.160 Conflict with other regulations.

#### 16.35.010 Title.

This chapter shall be known and may be cited as the Cowlitz County Grading Ordinance. [Ord. 04-135, § 1, 6-22-04.]

#### 16.35.020 Purpose.

This chapter is intended to provide uniform procedures authorizing and regulating excavation, grading and earthwork activities within the unincorporated area of Cowlitz County. While not intended to duplicate other regulations, these regulations are designed to aid in controlling erosion incident to grading activity, and to protect public health, safety and welfare through the adoption and enforcement of provisions designed to:

- A. Minimize adverse impacts associated with the excavation and grading of land;
- B. Protect water quality from the adverse impacts associated with erosion and sedimentation;
- C. Ensure prompt development, restoration, replanting, and effective erosion and sedimentation control of property during and after grading activities;
- D. Establish administrative procedures for the issuance of permits, approval of plans, and inspection of grading operations; and
- E. Allow for the reasonable development of land in Cowlitz County. [Ord. 04-135, § 2, 6-22-04.]

#### 16.35.030 Authority and administration.

The Director of Building and Planning shall administer, interpret, and enforce this chapter. The Director shall have the authority to issue permits and to perform, or cause to be performed, inspections and take such actions as may be required to enforce the provisions of this chapter. [Ord. 04-135, § 3, 6-22-04.]

#### 16.35.040 Applicability.

Unless exempted under CCC 16.35.050, no person shall perform any grading activity without having first obtained a permit from the Department. Exemption from the permit process shall not relieve any person the requirement for installation of appropriate erosion control measures for their project. No permit or exemption granted pursuant to this chapter shall remove applicant's obligation to comply in all respects with the applicable provisions of any other federal, state, or local law or regulation. [Ord. 04-135, § 4, 6-22-04.]

#### 16.35.050 Exemptions.

The following activities are exempt from the permit requirements of this chapter. Materials from exempted excavations may require a separate permit for placement as fill.

A. Installation or maintenance of landscaped areas on private or public property that does not require fills in excess of one foot in depth or cuts in excess of two feet in depth.

B. Existing and ongoing agricultural or horticultural activities as defined in this chapter.

C. Excavation of cemetery graves.

D. Maintenance of existing private driveways, private access roads within their existing rights-of-way or easements, or private roadways in active commercial forest production areas.

E. Construction of private roadways regulated by the Cowlitz County Private Roadway Ordinance (Chapter 11.36 CCC), within their existing rights-of-way or easements.

F. Any work conducted exclusively within a public right-of-way or public access easement and in compliance with other local, state and federal regulations.

G. The temporary stockpiling of materials for public road maintenance and construction projects.

H. Excavations for a well, soils testing, tunnels, directional boring, or utilities.

I. Operation and maintenance of facilities within an existing right-of-way for a common rail carrier or general pipeline engaged in interstate/intrastate commerce.

J. Fish enhancement projects that are sponsored or endorsed by the Washington State Department of Fish and Wildlife, Washington Salmon Recovery Funding Board, or other state or federally recognized agencies.

K. Mining, quarrying, excavating, processing, or stockpiling activities of rock, sand, gravel, or clay if such operations are authorized by a valid Department of Natural Resources Surface Mine Reclamation Permit or Cowlitz County Special Use Permit or other provision of the Cowlitz County Code.

L. All State Department of Natural Resources regulated Class I, II, III, or IV special forest practice activity conducted in accordance with Chapter 76.09 RCW and WAC Title 222.

M. Operation and maintenance of an existing, licensed solid waste disposal facility.

N. Any project where all grading activities are regulated by a valid local, state or federal permit.

O. When not exempt under other provisions of this chapter, and approved by the Director, grading not in excess of 500 cubic yards, which is located in an isolated self-contained area, if there is no danger to public or private property. This exemption shall not be granted for work in a critical area (Chapter 19.15 CCC), or within a regulated Washington State Shoreline (Chapter 90.58 RCW).

P. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation having an unsupported height greater than five feet after the completion of such structure.

Q. An excavation which (1) is less than two feet in depth, or (2) creates a cut slope not greater than five feet in height and not steeper than one unit vertical in one and one-half units horizontal (66.7 percent slope).

R. A fill less than one foot in depth and placed on natural terrain with a slope flatter than one unit vertical in five units horizontal (20 percent slope), or less than three feet in depth, not intended to support structures, that does not exceed 50 cubic yards on one lot and does not obstruct a drainage course.

S. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter when it is necessary to:

1. Prevent an imminent threat to public health or safety;

2. Prevent imminent danger to public or private property;

3. Prevent an imminent threat of serious environmental degradation;

4. In the event a person or emergency agency determines that the need to take emergency action is so urgent that there is insufficient time for review by the Department, such emergency action may be taken immediately.

Any person or agency undertaking such action shall notify the Department within one working day following the commencement of the emergency activity. Following such notification the Department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Department determines that the action taken or part of the action taken is beyond the scope of allowed emergency action, enforcement action is authorized, as outlined in CCC 16.35.110. [Ord. 04-135, § 5, 6-22-04.]

#### **16.35.060 Application requirements.**

Unless exempted under CCC 16.35.050, all persons proposing to conduct grading activity within the jurisdictional boundaries of Cowlitz County shall first apply for a grading permit. The applicant shall obtain a grading permit in conformance with this chapter prior to any grading activity.

A. The permit application shall at a minimum include the following:

1. A completed master application, signed by the applicant, a vicinity map, environmental checklist, and any relevant supplemental information required by the Director.

2. A site plan drawn to a reasonable scale (e.g., one inch equals 20 feet). The site plan should clearly show the following:

a. North arrow.

b. Property lines and dimensions.

c. Location and dimensions of all existing and proposed development, including structures, roads, sewer and water lines, wells, utilities, easements, water bodies, drainage facilities, and on-site sewage disposal and drainfield areas, within the permit area boundary.

3. Grading plans when required in CCC 16.35.070.

4. A full identification and description of the work to be covered by the permit for which the application is made.

5. A timeline for completion of the project.

B. Granting of Permits.

1. After an application has been filed and reviewed, the Director shall ascertain whether such

proposed grading work complies with the provisions of this chapter. If the application and plans so comply, or if they are corrected or amended so as to comply, and the proposal is consistent with all other relevant county codes, the Director shall issue a grading permit.

2. The applicant/property owner shall maintain the approved grading plans and permit available on the site, and provide an individual copy to any grading contractor who will be working at the site.

3. A grading permit shall be valid for a period of two years from the date of permit issuance. An extension may be granted for an additional 12 months for special circumstances. Request for extension shall be submitted in writing to the Department prior to expiration of the current permit, setting forth the reasons and justification for the request. No permit may be extended more than once. Renewal of permits may be accomplished with existing plans and reports, if no changes are being made to the proposal, and no new significant issues are raised during the review. [Ord. 04-135, § 6, 6-22-04.]

#### **16.35.070 Grading plan.**

An application for grading in excess of 100 cubic yards or in a critical area shall be accompanied by a grading plan. Applications for projects involving engineered grading, as defined in CCC 16.35.130, shall be accompanied by an engineered grading plan based on an engineering report or an engineering geology report. Engineered grading plans shall be prepared and stamped by an engineering geologist, geotechnical engineer and/or civil engineer licensed to work in the State of Washington. Grading within a geological hazard critical area may require a geotechnical assessment in compliance with the Critical Areas Protection Ordinance (Chapter 19.15 CCC). Materials excavated for building foundations and basements need not be considered in the above quantities, if that material is transported off site to a permitted or other approved location.

A grading plan, or an engineered grading plan, shall include:

A. An easily reproducible scale of appropriate size to show location and details of all cuts and all fills including depth and finished slopes of all cuts and all fills.

B. A general vicinity map of the area.

C. North arrow.

D. Subject property boundary lines, existing and proposed roads or driveways, easements, natu-

ral or manmade bodies of water and drainages, critical areas, shorelines and any existing or proposed structures, wells or septic systems on the site, and the distance between such features.

E. Bodies of water, critical areas, structures, wells and septic systems on adjacent property and lying within 50 feet of the subject grading activity boundary that could be affected by the proposed grading operations.

F. Maps drawn with contour intervals that adequately depict existing and proposed slopes for the proposal.

G. Total quantities, in cubic yards, and type of cut and fill material, including on-site grading material, and imported material.

H. Cross section drawings that include:

1. Maximum depth of fill and maximum height of cuts.

2. Existing and proposed buildings and their setbacks from cut or fill slopes.

3. Existing grades extending a minimum of 20 feet beyond the scope of work.

4. Finished grades of cuts and fills extending a minimum of 20 feet beyond the scope of work.

5. Retaining walls and the adjacent grade at least 20 feet on either side of the wall(s).

6. Grades of all existing cut and fill areas expressed as a ratio of horizontal to vertical slope.

I. The disposal site for excavated material. Off-site disposal may require a separate grading permit.

J. The location of proposed erosion and sedimentation control measures showing compliance with the requirements of CCC 16.35.080.

K. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds, or other water or erosion control devices to be utilized as a part of the proposed work.

L. Any recommendations included in an engineering geology or geotechnical assessment or report for grading or developing the property. If required, assessment and reports shall be completed in compliance with Chapter 19.15 CCC, the Cowlitz County Critical Areas Protection Ordinance. [Ord. 04-135, § 7, 6-22-04.]

#### **16.35.080 Grading standards.**

Unless otherwise recommended in the approved soils engineering or engineering geology report, grading shall conform to the following standards. Erosion control measures may be installed as outlined in Appendix A attached to the ordinance codified in this chapter, unless otherwise recommended by a project engineer.

A. Appropriate erosion control structures shall be installed prior to any grading activity. All erosion control measures shall be maintained in place until vegetation is established for suitable erosion and sedimentation control. No sediment from grading operations shall be permitted to leave the site or enter any surface waters or wetlands.

B. Sites shall have a finished grade that drains away from structural foundations for a minimum of 10 feet.

C. All sites shall be cleaned upon project completion, including installation of permanent organic erosion control measures such as grass seeding, landscaping, or other organic means of erosion control.

D. Cuts or fills of five feet in depth or greater shall be set back from property lines by a minimum of 25 feet. This can be decreased with appropriate engineering. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

E. The top of cut slopes shall not be made nearer to a permit area boundary line than one fifth of the vertical height of cut with a minimum of two feet and a maximum of 10 feet. The setback needs to be increased for any required interceptor drains.

F. The toe of fill slopes shall be made not nearer to the permit area boundary line than one-half the height of the slope with a minimum of two feet and a maximum of 20 feet.

G. The Director may approve alternate setbacks at the request of the applicant. In approving these alternate setbacks, the Director may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.

H. Any proposed finished slope that is steeper than two horizontal to one vertical shall be engineered.

I. The ground surface shall be prepared to receive fill by removing all organic material, non-complying fill, and scarifying topsoil.

J. Solid waste as defined in Chapter 15.30 CCC, Solid Waste Management, and detrimental amounts of organic material shall not be used as fill material.

K. Fill slopes shall not be constructed on natural or cut slopes steeper than two units horizontal in one unit vertical (50 percent slope) unless engineered. The ground surface shall be prepared to receive fill by scarifying to provide a bond with the new fill and, where slopes are steeper than five units horizontal in one unit vertical (20 percent slope) and the height is greater than five feet, by

benching into sound bedrock or other competent material as determined by the engineer.

L. All fills shall be compacted to a minimum of 90 percent of maximum density, unless approved as a waste site by the Director.

M. The slope of cut or fill surfaces shall be no steeper than two units horizontal in one unit vertical (50 percent slope) unless the permittee furnishes a geotechnical engineering or an engineering geology report or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property.

At the request of the applicant, the Director may approve the use of alternate grading standards. These approvals shall be based on sound engineering practices and may require the submittal of additional documentation, reports, or testing. [Ord. 04-135, § 8, 6-22-04.]

#### **16.35.090 Grading inspection.**

Grading projects for which a permit is required shall be subject to inspection by the Director. A licensed engineer shall provide professional inspections of grading operations if engineering is required elsewhere in this chapter. An inspection schedule shall be established for each project prior to permit issuance based on the following:

A. A civil engineer shall provide professional inspections within such engineer's area of technical specialty, which shall consist of observation and review as to the establishment of line, grade and surface drainage of the development area. If revised plans are required during the course of the work, they shall be prepared by the civil engineer.

B. A geotechnical engineer and/or engineering geologist shall provide professional inspection within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction. The engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter. He or she shall also provide professional inspection of any excavation to determine if conditions encountered are in conformance with the approved report or plan. Revised recommendations relating to conditions differing from the approved engineering geology or geotechnical reports shall be submitted to the permittee, the Department, and the civil engineer.

C. The permittee shall be responsible for the work being performed in accordance with the approved plans and specifications and in conformance with the provisions of this chapter. When approved by the Director, the permittee may engage consultants, if required, to provide professional inspections on a timely basis. The permittee shall act as a coordinator between the consultants, the contractor and the Department. In the event of changing conditions, the permittee shall be responsible for informing the Department of such change and shall provide revised plans for approval.

D. The Department may inspect the project in various stages of work.

E. If, in the course of fulfilling their respective duties under this chapter, the civil engineer, geotechnical engineer, or engineering geologist finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported in writing within three working days to the permittee and to the Department.

F. If the civil engineer, geotechnical engineer, or engineering geologist of record is changed during grading, the work shall be stopped until the replacement has agreed in writing to accept the responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the permittee to notify the Department in writing of such change prior to the recommencement of such grading. [Ord. 04-135, § 9, 6-22-04.]

### **16.35.100 Appeals.**

Any interpretation or decision made by the Director in the administration of this chapter is final and conclusive unless appealed to the Cowlitz County Hearing Examiner as authorized by Chapter 18.10 CCC.

A. The subject property owner, if aggrieved by a decision of the Director may, within 30 days following the date of the Department's written decision, submit an appeal of that decision. The burden of proof in any appeal is the responsibility of the appellant. Any appeal shall be in written form and filed with the Department together with the fee as established by resolution of the Board of County Commissioners. Any appeal shall as a minimum contain the following information:

1. An explanation and description of how the appellant is aggrieved.

2. A statement describing why the appellant believes the decision of the Director is in error and the specific relief sought.

3. A statement showing why upholding an appeal will not be detrimental to public health, safety or welfare, or significantly negate the purposes of this chapter.

4. A statement describing any mitigating measures the appellant proposes to assure that the proposed actions will not irrevocably jeopardize adjacent properties or water bodies in the event the appeal is successful.

B. Notice of the time, date and place of the hearing before the Hearing Examiner shall be sent to the appellant and the permittee by first class mail prior to the public hearing. Legal notice of the hearing shall be published in a newspaper of general circulation and the subject property shall be posted with said notice not less than 10 days prior to the public hearing.

C. The Director shall transmit the application and appeal information to the Hearing Examiner at least 10 days prior to the public hearing. The Director may provide additional information if the appeal contains material or facts not available prior to the Director's decision.

D. Within 10 days after the public hearing, the Hearing Examiner shall issue a written decision, including findings of fact on which the decision is based. The Hearing Examiner shall determine if the appeal should be upheld, upheld with conditions, or denied. Such written decision shall be available to the appellant and the public upon request.

E. Any person aggrieved by the decision of the Hearing Examiner may request relief from the Superior Court of Cowlitz County pursuant to state law. [Ord. 04-135, § 10, 6-22-04.]

### **16.35.110 Violations – Penalties.**

Whenever any work is being done contrary to the provisions of this chapter, the Director may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Director to proceed with the work. It is a civil infraction for any person to violate the provisions of this chapter or assist in the violation of this chapter. Violations of this chapter are subject to the provisions of Chapter 2.06 CCC. Any violation is a public nuisance. Each day a violation continues is a separate infraction. Payment of any fine imposed for a violation does not relieve a person from the duty to comply with this chapter.

Whenever grading activity for which a permit is required by this chapter has been commenced with-

out first obtaining said permit, an investigation fee may be imposed in addition to the permit fee. The investigation fee shall be equal to the amount of and in addition to the permit fee. The payment of an investigation fee shall not exempt any person from compliance with all other provisions of this chapter nor from any penalty prescribed by law. [Ord. 04-135, § 11, 6-22-04.]

#### **16.35.120 Fees.**

Fees for administering the provisions of this chapter shall be as set from time to time by the Board of County Commissioners. [Ord. 04-135, § 12, 6-22-04.]

#### **16.35.130 Definitions.**

For the purpose of this chapter, the following definitions shall apply:

1. "Agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2) as agricultural lands and those activities involved in the production of crops or livestock, including but not limited to operation and maintenance of existing fields, farm and stock ponds or drainage systems, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that would significantly impact a previously undisturbed area are not part of an ongoing activity. An activity ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use.

2. "Applicant" means a property owner or any person or entity authorized or named in writing by the property owner to be the applicant, in an application for a development proposal permit.

3. "Approval" means that the proposed work or completed work conforms to this chapter in the opinion of the Director of Building and Planning.

4. "Bench" means a cut into a deep soil or rock face to provide stability or control surface drainage.

5. "Berm" means a mound or raised area usually used for the purpose of screening a site or operation, or for containing or directing runoff.

6. "Best Management Practices (BMPs)" means physical, structural, or managerial practices that have gained general acceptance by the scientific community, and that minimize adverse environmental impacts.

7. "Civil engineer" means a professional engineer registered in the State of Washington to practice in civil works.

8. "Compaction" means the densification of a fill by mechanical means or approved by an engineering geologist or civil engineer.

9. "Critical areas" as used in this chapter means fish and wildlife habitat conservation areas, wetlands, flood hazard areas, geologically hazardous areas, and their buffers, as defined in Chapter 19.15 CCC, the Cowlitz County Critical Areas Protection Ordinance.

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

11. "Director" means the Director of Building and Planning or authorized representative.

12. "Earth material" means any rock, gravel, natural soil or any combination thereof.

13. "Engineered" or "engineering" means work conducted or prepared by a person licensed in the State of Washington to practice as a professional engineer. "Engineer" is further defined as a civil engineer or geotechnical engineer within this chapter.

14. "Engineering geologist" means an engineering geologist licensed by the State of Washington.

15. "Erosion" means the wearing away of the ground surface as the result of the movement of wind, water, and/or ice.

16. "Erosion and sedimentation control" means any measure taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.

17. "Excavation" means the removal of earth material.

18. "Existing grade" is the grade prior to grading.

19. "Fill" means a deposit of clean earth material or concrete pieces less than one cubic foot in volume.

20. "Finished grade" is the final grade of the site that conforms to an approved plan.

21. "Forest practices" means any activity conducted on or directly pertaining to forest land and related to growing, harvesting, or processing timber as described in Chapter 222-16 WAC.

22. "Geotechnical engineer" means a professional engineer licensed by the State of Washington to practice in the field of civil engineering who has experience and is knowledgeable in the theory of geology, soils testing, and geotechnical engineering.

23. "Grade" means the elevation of the ground surface.

24. "Grading" is any excavation or filling activity or combination thereof.

25. "Grading (engineered)" is grading on sites with a natural slope in excess of 50 percent, or requiring grading of 5,000 cubic yards, or which are located within a critical area as defined in Chapter 19.15 CCC, the Cowlitz County Critical Areas Protection Ordinance.

26. "Grading permit" means the permit required by this chapter for grading activities.

27. "Horticulture activities" means the growing of fruits, vegetables, flowers, or ornamental plants for commercial purposes.

28. "Permit area boundary" means the defined boundary surrounding grading activity. The permit area boundary will usually be the property lines for the parcel; however, alternate boundaries may be defined on larger parcels with a limited grading area.

29. "Rough grade" is the stage at which the grade approximately conforms to an approved plan.

30. "Site" means any lot or parcel of land or contiguous combination thereof where activities regulated by this chapter are performed.

31. "Slope" is an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

32. "State shorelines" are those water bodies, adjacent lands, and associated wetlands defined as such by the Shoreline Management Act (RCW 90.58.030).

33. "Structure" is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. [Ord. 04-135, § 13, 6-22-04.]

#### **16.35.140 Severability.**

If any section, subsection, or other portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, or portion thereof shall be deemed a separate provision of this chapter and such holding shall not affect the validity of the remaining portions of this chapter. Where conflicts exist between standards, the more restrictive shall apply. [Ord. 04-135, § 14, 6-22-04.]

#### **16.35.150 Liability for damages.**

This chapter shall not be construed to hold Cowlitz County, its officers, employees or agents responsible for any injury or damage resulting from the failure of any person subject to this chapter to comply with this chapter, or by reason or in consequence of any act or omission in connection

with the implementation or enforcement of this chapter on the part of Cowlitz County, its officers, employees or agents. [Ord. 04-135, § 15, 6-22-04.]

#### **16.35.160 Conflict with other regulations.**

Where other Cowlitz County ordinances, resolutions, or regulations, or other state or local regulations are in conflict with this chapter, the more restrictive regulation shall apply and such application shall extend to those specific provisions which are more restrictive. [Ord. 04-135, § 16, 6-22-04.]