

ORDINANCE NO. 600, 1996

AN ORDINANCE AMENDING CHAPTER 9.16 OF THE CLALLAM COUNTY CODE (C.C.C.), WHICH CHAPTER ESTABLISHES A LICENSE FOR THE USE OF UNOPENED RIGHTS OF WAY.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Amend Chapter 9.16 of the Clallam County Code (C.C.C.) to read as follows: "All new material shall be underlined, material deleted shall be placed within double parentheses and scored through."

Chapter 9.16  
License for Use of Unopened Rights of Way

Sections:

9.16.010	Purpose
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9.16.050	Publication and Notification
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C.C.C. 9.16.010. Purpose. The purpose of this chapter is to establish by ordinance procedures for granting licenses for private use of unopened County rights of way.

C.C.C. 9.16.020 Application. An application furnished by the Road Department (~~of Public Works~~) must be completed by the applicant for a license showing the following:

- A. Name of road or street (if named).
- B. Either an agreement of all abutting landowners as to the location of the County right of way or a survey plat by a licensed surveyor showing the correct location of the County right of way.
- C. Names and addresses of all owners of abutting property.
- D. Construction plans, including cross-section of the proposed roadway together with a statement of material to be used.
- E. Name of licensed contractor who will build the road (if applicable).
- F. Liability insurance policy with the County as (~~a named~~) an additional insured and a hold harmless agreement, indemnifying the County, (~~from any personal injury, death, or property damage,~~) associated with work, or

occurring within the County right of way during construction. Minimum liability limits under the policy shall ~~((be one million dollars (\$1,000,000) for personal injury or death of any one person, two million dollars (\$2,000,000) for personal injury or death of two or more persons, in any one occurrence, and one million dollars (\$1,000,000) for damage to property resulting from any one occurrence))~~ meet or exceed those limits as set forth in the most recent Washington State Department of Transportation Standard Specifications Manual, Section 1-07.18 Public Liability and Property Damage Insurance, or equivalent in future publications, secondary to the specifications as shown herein. The Insurance company providing coverage under this provision should have an AM Best rating of at least A-VI. Clallam County should be named as additional insured on the contractor's policy. Contractor's policy shall be considered primary to any insurance carried by the County. Contractor shall be responsible for losses falling within the deductible/SIR. Contractor shall have a waiver of subrogation in favor of the owner-Clallam County.

C.C.C. 9.16.030. Fees. The application shall be accompanied by a fee in the amount of \$275.00 as reimbursement for expenses incurred in advertising, mailing, site inspection and other costs related to the license.

C.C.C. 9.16.040. Timber Rights. If Clallam County determines that the right of way contains merchantable timber which belongs to Clallam County, the following steps shall occur prior to granting the license:

- A. The County forester shall determine the stumpage value of the timber.
- B. If the value is less than \$500.00, then the applicant shall pay the County said amount.
- C. If the value is more than \$500.00, then the County shall sell the timber in accordance with the procedures and requirements of Chapter 36.34 R.C.W.

C.C.C. 9.16.050. Publication and Notification. Notice of a public hearing on an application required herein shall be published in the County's official newspaper ten (10) days preceding the date of the hearing, which shall be at a regular meeting of the Board of Clallam County Commissioners. Notification of the hearing date shall also be mailed to each property owner abutting said right of way.

C.C.C. 9.16.060. Director's Report. The County Engineer ~~((Director of the Department of Public Works))~~ shall submit a report to the Board commenting on the qualifications of the contractor and the acceptability of the construction plans and addressing any problems that might arise from the road being opened as proposed.

C.C.C. 19.16.070. License. Following the public hearing, the Board of County Commissioners may grant the license, if it determines that it would be in the public interest to do so. Any license so granted shall include the following provisions:

- A. The road construction plans and contractor must be approved by the County prior to construction.
- B. Construction must be started within six (6) months, and completed within twelve (12) months, of the granting of the license.
- C. The license shall be revocable at the will of the County.
- D. Assignability of the license shall be at the County's discretion.
- E. The license shall be non-exclusive.

C.C.C. 9.16.080. Public Maintenance. If, pursuant to this Chapter and at no expense to Clallam County, a road is constructed or improved upon a County right of way which meets all County road standards, and the Clallam County Engineer so certifies to the Board, the Board of County Commissioners may, by Resolution, accept the road into the County Road System.

C.C.C. 9.16.090. Severability. If any portion of this ordinance or any application thereof is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion thereof or any application thereof shall not affect the validity of the remaining portions of the ordinance or its acceptability to other persons or circumstances.

C.C.C. 9.16.100. Effective Date. This ordinance shall take effect ten (10) days after this adoption.

PASSES AND ADOPTED THIS 16<sup>th</sup> DAY OF July, 1996

BOARD OF CLALLAM COUNTY COMMISSIONERS

Phillip Kitchel  
Phillip Kitchel, Chair

Martha M. Ireland  
Martha M. Ireland

Dorothy Duncan  
Dorothy Duncan

ATTEST:

Karen Flores  
Karen Flores  
Clerk of the Board

cc: Roads  
Minutes  
file