

BOARD OF COUNTY COMMISSIONERS  
DOUGLAS COUNTY, WASHINGTON

Ordinance Adopting Amendments to )  
DCC Chapter 12.32 Re: Unauthorized ) Ordinance TLS No. 18-03-07B  
Use of County Rights-of-Way )  
)

WHEREAS, Douglas County has regulations codified under DCC Chapter 12.32 titled "Irrigation Water on County Roads" which have not been reviewed or updated for decades;

WHEREAS, Douglas County has experienced numerous incidents of unauthorized use of and obstructions of county roads and rights-of-way;

WHEREAS, such unauthorized uses and obstructions pose risks to vehicular traffic and recreational users of county roads and rights-of-way and damages to public and private property;

WHEREAS, the County Engineer and the Prosecuting Attorney have reviewed DCC Chapter 12.32 and recommend that the entire chapter be amended to address unauthorized uses and obstructions of county roads and rights-of-way beyond irrigation water, including sidewalk and right-of-way obstructions, any water crossing or accumulating on rights-of-way, and the deposit of snow or ice onto rights-of-way, and to provide for penalties for violations, as set forth at Exhibit A attached hereto; and

WHEREAS, the Board of County Commissioners finds that amendment of DCC Chapter 12.32 as set forth in Exhibit A would serve and protect public health, safety and general welfare, as well as protect public and private property, and prevent unnecessary expenditure of County Road Funds.

NOW, THEREFORE, be it hereby resolved and ordained by the Board of County Commissioners as follows:

1. Existing DCC sections 12.32.010, 12.32.020 and 12.32.030 be hereby repealed and replaced by the adoption of DCC 12.32.010, 12.32.020, 12.32.030, 12.32.040, 12.32.050, 12.32.060, 12.32.080, 12.32.090, 12.32.100, 12.32.110, 12.32.120 and 12.32.150 as set forth in Exhibit A and fully incorporated herein;
2. The title of DCC Chapter 12.32 be and is hereby changed to *Unauthorized Use and Obstruction of County Rights-of-Way; and*

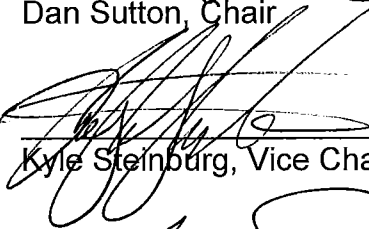
3. This ordinance shall be effective immediately.


DONE IN OPEN SESSION this 27 day of February, 2018, in the Commissioners' Chambers, Douglas County Courthouse, at Waterville, Washington.

BOARD OF COUNTY COMMISSIONERS  
DOUGLAS COUNTY, WASHINGTON



  
\_\_\_\_\_  
Dan Sutton, Chair

  
\_\_\_\_\_  
Kyle Steinburg, Vice Chair

  
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Steven D. Jenkins, Member

ATTEST:  
  
\_\_\_\_\_  
Tiana Rowland, Deputy Clerk of the Board

## EXHIBIT A

### Chapter 12.32

#### UNAUTHORIZED USE AND OBSTRUCTION OF COUNTY RIGHTS-OF-WAY

(All previous provisions of DCC Chapter 12.32 IRRIGATION WATER ON COUNTY ROADS repealed and replaced.)

**12.32.010 Purpose.** The purpose of this chapter is to protect the public using the County's rights-of-way for motor vehicle, bicycle and pedestrian travel and wheeled recreation, to protect the public's investment in traffic infrastructure and right-of-way acquisition, and to protect the persons and equipment performing construction and maintenance within the County's rights-of-way.

#### **12.32.020 Application.**

- A. This chapter shall be operative in the unincorporated areas of Douglas County.
- B. This chapter shall not apply to the following:
  - 1. Construction or maintenance by the County, its contractors, franchisees or permit holders in compliance with the work authorized by the permit;
  - 2. Mailboxes and newspaper boxes installed and located in conformity with the county code; and
  - 3. Events and activities authorized by permit.

#### **12.32.030 Definitions.**

In this chapter:

"Camp" means to use a tent, sleeping bag, temporary structure, vehicle, boat, motor home or trailer for the purpose of shelter, sleeping or preparation of meals.

"Person" includes a partnership, corporation, limited liability company, association and other legal entities.

"Right-of-way" means all area within public land dedicated to transportation infrastructure, and includes the traveled roadway, shoulders, on-street parking, sidewalks, storm water facilities and utility corridors within that area.

#### **12.32.040 Sidewalk use restriction.**

All sidewalks are exclusively for the use of pedestrians and shall be used for no other purpose. No person shall place or maintain any structure, sign, merchandise or other

object on a sidewalk that obstructs use of the entire sidewalk width by pedestrians, or place or maintain a sign or structure over any portion of a sidewalk at such height or in such manner as to prevent or interfere with the unobstructed use of a portion of any sidewalk by pedestrians.

**12.32.050 Water prohibited on rights-of-way.**

No person shall cause or allow water to flow across, accumulate upon or fall onto a county right-of-way. Persons shall exercise reasonable care to prevent wind drift of sprinkler irrigation water onto county rights-of-way.

**12.32.060 Depositing snow or ice on county rights-of-way prohibited.**

No person shall intentionally deposit, pile or push snow or ice onto a county right-of-way in any manner that obstructs traffic, impedes or endangers motor vehicle and pedestrian use, interferes with right-of-way maintenance, blocks traffic sign visibility, or obstructs or hinders access to a fire hydrant.

**12.32.080 Right-of-way obstruction and uses prohibited.**

- A. No person shall deposit, place, store, create, construct, install, maintain, leave or abandon any structure, device, encroachment, or natural or artificial object within a county right-of-way.
- B. No person shall place, dump, spill, sprinkle, drain, divert, collect, channel, deposit or maintains any natural or artificial substance or material, including water, within a county right-of-way.
- C. No person shall damage, erode or endanger any portion of a county right-of-way.
- D. No person shall interfere with, hinder or obstruct construction, maintenance or repair of a county right-of-way.
- E. No person shall camp within a county right-of-way.

**13.32.090 Cost of Compliance and Enforcement**

- A. Any person(s) creating, causing, or committing a violation of this chapter shall be responsible for all costs to prevent, eliminate or stop the violation and the county may recover from the person(s) all expenditures it incurs to prevent, eliminate or stop the violation.
- C. Any person(s) creating, causing, or committing a violation of this chapter shall be liable for the cost of repairs to the county right-of-way caused by the violation and the county may recover from the person(s) all repair expenses it incurs for repairs.

### **12.32.100 Public safety emergencies - costs and expenses.**

A. The county engineer and the county sheriff are each independently empowered to determine whether a violation of this chapter presents a public safety emergency due to the existence of imminent risks to the public or the county's right-of-way, or both, and to take such summary action as the county official may determine reasonable to prevent, remove, stop or otherwise eliminate the imminent risks to the public or the county's right-of-way. Emergency action under this section shall not constitute a breach of the peace or a trespass.

B. The circumstances of the emergency action shall be promptly reported to the board of county commissioners.

C. The person(s) creating, causing, or committing a violation of this chapter which requires emergency action due to the existence of imminent risks to the public or the county's right-of-way shall be liable for the cost of the emergency action and the county may recover from the person(s) all expenses it incurs during such emergency action.

### **12.32.110 Cumulative remedies.**

The enforcement provisions of this chapter are cumulative and not exclusive, and may be used in addition to any other enforcement provisions authorized by law.

### **12.32.120 Violation—Penalties.**

A. Each day a person does not comply with this chapter shall constitute a separate violation.

B. The following penalties shall apply to violations of this chapter:

1. A first violation is a class 2 civil infraction with a penalty not to exceed one hundred twenty-five dollars, not including statutory assessments.
2. A second violation within two years is a class 3 civil infraction with a penalty not to exceed two hundred fifty dollars, not including statutory assessments.
3. A third violation within a two-year period shall constitute a misdemeanor criminal offense, punishable by imprisonment in jail for a period not to exceed ninety days or by a fine not to exceed one thousand dollars, or both.

### **12.32.150. Severability.**

If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of the chapter, or application of the provision to other persons or circumstances, is not affected.