

BOARD OF COUNTY COMMISSIONERS  
MINUTES OF PUBLIC HEARING  
March 28, 2019  
**Kootenai County Building Code Ordinance**

Commissioners Present: Chairman Chris Fillios, Commissioner Leslie Duncan and Commissioner Bill Brooks

Commissioner Absent: None

Staff Present: David Callahan, Pat Braden, John Mills, Elizabeth Anderson, Kathryn Ford



The purpose of the meeting was for the Board to conduct a public hearing as advertised in the *Coeur d'Alene Press*. Chairman Fillios called the hearing to order at 6:03 p.m. The members were polled for conflicts of interest. No conflicts were expressed.

CONFLICT(S): None

CHANGES: None

**Case No. ORA19-0001**, regarding the Kootenai County Building Code Ordinance, currently codified at Title 7, Chapter 1 of the Kootenai County Code, as follows:

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO ADOPTION OF BUILDING CODES; REPEALING TITLE 7, CHAPTER 1, KOOTENAI CODE AND ADOPTING A NEW TITLE 7, CHAPTER 1, KOOTENAI COUNTY CODE, ADOPTING PURPOSES AND DEFINITIONS, ADOPTING CONSTRUCTION, MECHANICAL, ENERGY, AND OTHER CODES AND REQUIREMENTS, INCLUDING EXEMPTIONS CONTAINED THEREIN, ADOPTING LOCAL AMENDMENTS TO ADOPTED CODES, PROVIDING FOR ADMINISTRATION AND ENFORCEMENT, PROVIDING FOR VESTING OF LOCATION PERMITS ISSUED UNDER PRIOR ORDINANCE AND PROVIDING THE BUILDING OFFICIAL WITH AUTHORITY TO GRANT EXTENSIONS OF SUCH PERMITS, PROVIDING FOR APPEALS OF ACTIONS OF THE BUILDING OFFICIAL, REPEALING PREVIOUSLY ADOPTED ORDINANCES AND CODES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SURVIVAL AND NON-WAIVER OF ENFORCEMENT ACTIONS UNDER PREVIOUSLY ADOPTED ORDINANCES AND CODES; AND PROVIDING FOR AN EFFECTIVE DATE. *(David Callahan, Director/John Mills-Chief Building Official)*

Chairman Fillios introduced the public hearing. He began the testimony with each group speaker and taking role for those in attendance who signed up for the speaker. Mr. Regan spoke on behalf of Group 1 which were opposed to removing the Location Permit option from the Building Code. He read into the record a Resolution from the Kootenai County Republican Central Committee (KCRCC) requesting Chairman Fillios recuse himself from debate and voting on the matter of repealing the Opt Out from the building code and submitted emails from the public in opposition.

Chairman Fillios address the Resolution stating the issue before the Board is a legislative issue and Commissioners are free to advocate their position. All correspondence and statements he did prior to the hearing he did in good faith with guidance from the legal staff. Pat Braden, Legal Counsel, added conflict of interest does not apply and he read into the record the Ethics in Government Act.

Mr. Miranda spoke on behalf of Group 2 which were in-favor of removing the Location Permit option from the Building Code. He read into the record a Resolution from the Kootenai County Democrat Central Committee to support of Reversal of Building Code Opt Out. He stated the Board has authority and Jurisdiction for the Building and Safety Codes of Kootenai County and elected Obligation to the Safety and Fair application of the codes.

Mr. Eberlein spoke on behalf of Group 3 which were opposed to removing the Location Permit option from the Building Code. He reference comments voicing his opinion, the "institution" of government washed its hands of responsibility by adopting code with "minimum standards" and "professions" are bound to follow. Good builders build good structures using best practices regardless of code. Bad builders know how to work the system building bad structures regardless of code. In conclusion Mr. Eberlein referenced the Code of Hammurabi philosophy.

Ms. Fillios spoke on behalf of Group 4 which were in-favor of removing the Location Permit option from the Building Code. She reference a presentation showing dangerous and unsafe building problems in areas of the State with no building codes to promote health and safety for its citizens or potential buyers.

Chairman Fillios introduced David Callahan, Director of Community Development, for an opening statement prior to continuing with the individual public speakers testimony.

**Staff Presentation:** David Callahan, Director, provided statistical details on the permits applied for throughout last year which included the Location Permits. He clarified that Code Violations have been resolved due to the Location Permit option. Contractors do own property and have the option to Opt Out on their property. Mr. Callahan clarified there is no building standard for structural integrity once a homeowner selects the Location Permit (Opt Out). Staff does a courtesy plan review to check site with no follow-up inspections. They will receive a Certification of Completion but no Certificate of Occupancy. In conclusion, Mr. Callahan stated he has seen how this permitting issue has pulled apart the community. He would like to see open dialogue continue to think critically and workout issues.

**Exhibits:** B 1000a – KCRCC Resolution submitted by Brent Regan.

B 1000b – Public Comments via email submitted Brent Regan.

B 1001 – KCDCC Resolution submitted by Ruben Miranda.

B 1002 – Comments submitted by Marc Eberlein.

B 1003 – Presentation submitted by Linda Fillios

B 1004 – MLS – Airport details on listings submitted by John Grimm.

B 1005 – Red Tape poster submitted by Bob Bingham.

**Public Testimony:** Comment Sheets submitted: 103 with 4 groups. Applicant – Kootenai County; In Favor (*Remove Opt Out*) – 29, Group 2 = 10; Group 4 = 12, Neutral – 2, Opposed (*Keep Opt Out*) – 72, Group 1 = 14; Group 3 = 12. The names and address of the individuals speaking or submitting comments are part of the record.

- Working with Community Development has been good
- Citizens need freedom to exercise what they want to do on their property
- People want to be innovative and not by supported by building codes
- Codes assist the value of your home and the safety of neighboring homes
- No code problems show up the first year
- No codes are not adequate for evaluating assessments and tax base
- It is difficult to address building issues that have already happened
- Opt out was a win for rural property owners to do as they choose
- Kootenai County is acting as a municipality
- Opt out is a fraud
- Freedom still needs safety guidelines for rural property owners
- Society becomes stronger when they make their own sound decisions
- Governs least, governs best
- Let people take care of their own lives
- Have not seen banks not lending for home builds
- People have common sense to not hurt themselves with a home structure
- Scare tactics are being used by the government
- Brent Regan does not represent all Republicans
- Democrats have reasonable ideas
- Belief in freedom and personal responsibility is to abide by the law or try to change the law
- County Commissioners have the responsibility to consider the health, safety and welfare for the common good and not special interests
- People have made a choice to live with their own decisions
- Government is to serve the people
- Saving money to have a builder without permits and the additional price increase

- No way you can write enough code to write out poor craftsmanship or stupidity
- Let this Location Permit run for another year or two for more results
- Building codes make contractors accountable
- Safety standards are to protect the general public and not just the property owner
- Do not administratively protect citizens
- Allow people the choice to pick a rule they want to live by
- Homeowner-builder knows more about his house than an inspector
- As a homeowner you need to make the contractor responsible
- City folk want to be taken care and not be as responsible as the rural lifestyle
- Getting a permit is not difficult
- State inspections have failed
- Let people live and die by their own decisions
- Anyone who does not build a quality structure will impact their investment
- Put a vote to the people in unincorporated areas
- Building code is ineffective and makes no sense
- No one wants to build a shoddy building
- Government strong arming citizens to continue to do something they do not want to do
- Why do they need county permission to do what they want to on their land
- Paying county and city taxes and using none of those services
- No one needs to understand why rural people want to live rural but let them do what they want with their land
- County bureaucrats are not going to take of the family as much as the family

**Rebuttal:** None.

Motion by Commissioner Duncan seconded by Commissioner Brooks, to close the public hearing and enter into deliberations at 9:55 p.m.

**Deliberations:** Chairman Fillios called for Board discussion. Commissioner Brooks stated this agenda item had lengthy discussion over a year ago. There was a lot of bad information circulating. He added at that time it was no secret that he was opposed to the Location Permit (Opt Out) and nothing has changed during this hearing to change his opinion. Commissioner Duncan addressed the Board expressing that it was sad on how society has become fearful. Neighbors fear people are not going to do the right thing. She was impressed with testimony from the young engaged couple wanting to take care of their future by taking care of themselves and family. America is about choice and keeping the Location Permits (Opt Out) in the building code gives you a choice. Commissioner Duncan concluded no financing or insurance is on the person who makes that decision and they have a right to with no neighbor infringement. Chairman Fillios stated most of the complaints coming from the Building Department were on process and not on codes. We can assume most everyone wants to build decent but good is not always the case. The safeguards are for those who break the rules and it becomes dangerous. He added there was a lot of testimony on liberty but with liberty comes with a responsibility. Commissioner Fillios read into the record a statement by a past Commissioner Todd Tondee. He concluded stating he could not in good conscience support keeping the Location Permit (Opt Out) in the Building Codes. Commissioner Duncan added abuse will always happen. Placing that burden on my neighbor is not right. Real Estate Comparisons are not your neighbor's issues. Chairman Fillios concluded he could not ignore everything he sees which shows no responsibility for health or safety.

Motion by Commissioner Duncan to keep the current building code ordinance which includes Location Permits (Opt Out). Motion dies due to a lack of a second at 10:22 p.m.

Motion by Commissioner Brooks, seconded by Chairman Fillios, to adopt a new Building Code Ordinance, Title 7, Chapter 1, Kootenai County Code, as presented by Staff with an effective date of April 29, 2019, thereby allowing for a new fee schedule to coincide with and become effective on the same date as this ordinance **ORA19-0001 Kootenai County Building Code Ordinance**.

Commissioner Brooks	Aye
Commissioner Duncan:	Nay
Chairman Fillios:	Aye

Decision:                      Approved

Deputy Clerk's Signature: \_\_\_\_\_  
March 28, 2019