

NO. 43076-2-II

COURT OF APPEALS, DIVISION II OF THE STATE OF
WASHINGTON

KITSAP COUNTY, a political subdivision of the State of Washington,

Respondent,

vs.

KITSAP RIFLE AND REVOLVER CLUB, a not-for-profit corporation
registered in the State of Washington,

Appellant,

and

IN THE MATTER OF NUISANCE AND UNPERMITTED
CONDITIONS LOCATED AT One 72-acre parcel identified by Kitsap
County Tax Parcel ID No. 362501-4-002-1006 with street address 4900
Seabeck Highway NW, Bremerton, Washington

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR PIERCE COUNTY

RESPONDENT KITSAP COUNTY'S THIRD STATEMENT OF
ADDITIONAL AUTHORITIES

TINA R. ROBINSON
Prosecuting Attorney

NEIL R. WACHTER
Special Deputy Prosecuting Attorney
Auburn City Attorney's Office
25 W. Main Street
Auburn, WA 98101


(253) 804-5027

Pursuant to RAP 10.8, Respondent KITSAP COUNTY respectfully submits the following additional authorities for the Court's consideration:

1. Kitsap County Ordinance No. 251-2000, attached hereto as **Appendix 1**,¹ enacting KCC² §§ 1.01.020, 1.01.040 and 1.04.050.³

Respectfully submitted this 22nd day of January, 2015.

TINA R. ROBINSON
Kitsap County Prosecuting Attorney


NEIL R. WACHTER, WSBA No. 23278
Special Deputy Prosecuting Attorney,
Attorney for Respondent Kitsap County

¹ In 2000, Kitsap County Ordinance No. 251-2000 recodified and reorganized the Kitsap County Code ("KCC" or the "Code"). This Ordinance is provided here without its attached 26 pp. table reciting the reorganization, revision and/or repeal of sections throughout the Code. On request the County can provide the Ordinance in its entirety.

² The KCC is online at <http://www.codepublishing.com/wa/kitsapcounty> (last visited 1-13-15).

³ Code sections enacted by County Ord. No. 251-2000, cited in briefs and statements of additional authorities for the pending motion for reconsideration:

KCC §	Cited in
1.01.020	KRRC's Second Statement (1-09-15) at 2.
1.01.040	County's Second Statement (12-19-14) at 1; County's Answer at 17; KRRC's Second Statement (1-09-15) at 2.
1.04.050	County's Second Statement (12-19-14) at 1, n. 2; County's Answer at 18.

CERTIFICATE OF SERVICE

I, Batrice Fredsti, declare, under penalty of perjury under the laws of the State of Washington, that I am now and at all times herein mentioned, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the above document in the manner noted upon the following:

Brian D. Chenoweth	<input checked="" type="checkbox"/>	Via U.S. Mail
Brooks Foster	<input checked="" type="checkbox"/>	Via Email: As Agreed by the Parties
The Chenoweth Law Group	<input type="checkbox"/>	Via Hand Delivery
510 SW Fifth Ave., Ste. 500		
Portland, OR 97204		

David S. Mann	<input checked="" type="checkbox"/>	Via U.S. Mail
Gendler & Mann LLP	<input checked="" type="checkbox"/>	Via Email
936 N. 34 th St. Suite 400	<input type="checkbox"/>	Via Hand Delivery
Seattle, WA 98103-8869		

Matthew A. Lind	<input checked="" type="checkbox"/>	Via U.S. Mail
Sherrard McGonagle Tizzano, PS	<input checked="" type="checkbox"/>	Via Email
19717 Front Street NE, PO Box	<input type="checkbox"/>	Via Hand Delivery
400		
Poulsbo, WA 98370-0400		

Richard B. Sanders	<input checked="" type="checkbox"/>	Via U.S. Mail
Goodstein Law Group	<input checked="" type="checkbox"/>	Via Email
501 S G St	<input type="checkbox"/>	Via Hand Delivery
Tacoma, WA 98405-4715		

C.D. Michel	<input checked="" type="checkbox"/>	Via U.S. Mail
Michel & Associates, P.C.	<input checked="" type="checkbox"/>	Via Email
180 E. Ocean Blvd, Ste 200	<input type="checkbox"/>	Via Hand Delivery
Long Beach, CA 90802		

SIGNED in Port Orchard, Washington this 22nd day of January,
2015.



BATRICE FREDSTI, Legal Assistant
Kitsap County Prosecuting Attorney
614 Division Street, MS-35A
Port Orchard, WA 98366-4676
(360) 337-4992

Appendix 1

Kitsap County Ordinance No. 251-2000

ORDINANCE NO. 251-2000

Adopting the 2000 Edition of the Kitsap County Code, a recodification which includes reorganizations and revisions to, and repeals of parts of the 1971 Kitsap County Code, as amended, as set forth in the attached Appendix, adding two new chapters to the county code, and amending Chapter 1.04 Kitsap County Code

BE IT ORDAINED:

Section 1. The reorganizations and revisions to, and the repeal of, parts of the 1971 Kitsap County Code, as amended, which are included in the Appendix attached to this ordinance, are incorporated herein by this reference and are adopted. These reorganizations, revisions and repeals are reflected in that recodification of general and permanent ordinances and resolutions of the Board of Kitsap County Commissioners known as the "Kitsap County Code, 2000 Edition", which is also adopted. A copy of the Kitsap County Code, 2000 Edition, is on file with the clerk to the board of county commissioners.

Section 2. Hard copies of the Kitsap County Code shall be distributed to county departments and offices in accordance with the distribution list maintained by the clerk to the board of county commissioners. Hard copies will also be made available to the public for purchase from ProCode, the county's present code reviser, at 2900 First Avenue North, Seattle, Washington 98109, or 1-800-324-2633, or from its successor.

Section 3. The Kitsap County Code will also be made available in a searchable, electronic format on all county computers and through a link on the county's Internet web site, www.wa.gov/kitsap.

Section 4. The county's hard copies of the Kitsap County Code will be updated via quarterly supplements from the code reviser, which shall be distributed by the clerk to the board of county commissioners. The electronic code will be continuously updated. Immediately following adoption of each ordinance and resolution by the board of county commissioners, the clerk to the board shall forward an electronic copy of the ordinance or resolution to the code reviser.

NEW SECTION. Section 5. A new chapter 1.01, "Code Adoption", is added to Title 1, Kitsap County Code, to read as follows:

Sections:

- | | |
|-----------------|---|
| 1.01.010 | Title, content and reference |
| 1.01.020 | Effective date |
| 1.01.030 | Effect of adoption on past or pending actions or obligations |
| 1.01.040 | Continuation of existing law |
| 1.01.050 | Title, chapter and section headings |
| 1.01.060 | Ordinances passed prior to code adoption |
| 1.01.070 | Severability |

Section 1.01.010 Title, content and reference.

This code shall be known as the "Kitsap County Code" and includes all laws of Kitsap County which are of a general and permanent nature or impose any fine, penalty or forfeiture. This code shall be received in all courts and tribunals, and in all other matters, without further proof. In any prosecution for violation of any provision of this code, or in any proceeding at law or in equity, it is sufficient to refer to the appropriate "Kitsap County Code" sections or to the underlying ordinance or resolution upon which the prosecution is based.

Section 1.01.020 Effective date.

This code takes effect on December 4, 2000.

Section 1.01.030 Ordinances passed prior to adoption of code.

The last ordinance included in the 2000 Edition of the code is Ordinance 244-1999, adopted December 6, 1999. The following ordinances, adopted after Ordinance 244-1999, but prior to adoption of this code, are expressly made a part of this code:

Ordinance 245-2000	Establishing Permit Standards for Use and Improvements to County Right-of-way
Ordinance 224-C-2000	Amending the Building Ordinance to Allow Concurrent Review of Building Permit Applications by the Health District without Affecting Requirements for a Complete Building Permit Application
Ordinance 106-D-2000	Relating to Large Lot Subdivisions
Ordinance 59-D-2000	Amending the Tax Exemption Amount for Raffles, Punch Boards and Pull-Tabs Conducted by Bona Fide Charitable or Non-Profit Organizations, and Lowering the Tax Imposed on Bingo and Raffles
Ordinance 150-A-2000	Relating to Timber Harvesting
Ordinance 50-F-2000	Establishing the Olalla (Stevens Road) No-Shooting Area
Ordinance 116-B-2000	Amending Chapter 4.84 KCC, "Risk Management"
Ordinance 50-G-2000	Amending KCC §10.24.103 Relating to

	Shooting Ranges to Clarify That Existing Law Prohibits Establishment of a Shooting Range in a Designated No-Shooting Area
Ordinance 247-2000	Adopting the Bethel Road Corridor Development Plan, Amending the Kitsap County Zoning Ordinance and Establishing How Road Improvements Will Occur From SE Ives Mill Road to the Port Orchard City Limits
Ordinance 248-2000	Amending Chapter 10.48 KCC Regarding the Discharge and Sale of Common Fireworks in Kitsap County
Ordinance 249-2000	Relating to Land Use Planning and Development Regulations for the Port Blakely Joint Planning Area

Section 1.01.040 Effect of adoption on past or pending actions or obligations.

The adoption and the repeal of ordinances by this code shall not affect the following matters:

- (A) Actions and proceedings which began before the effective date of this code;
- (B) Prosecutions for violations of county ordinances committed before the effective date of this code;
- (C) Licenses, fees and penalties due and unpaid at the effective date of this code, or the collection of such licenses, fees and penalties;
- (D) Bonds, and cash deposits in lieu, required to be posted, filed or deposited pursuant to any ordinance; and
- (E) Matters of record which refer to, or are connected with ordinances, the substance of which are included within this code; such references shall be construed to apply to the corresponding provisions of this code.

Section 1.01.050 Continuation of existing law.

Where they are substantially the same as existing law, the provisions of this code shall be considered continuations of existing law and shall not be considered new enactments.

Section 1.01.060 Title, chapter and section headings.

Title, chapter and section headings included in this code shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this code.

Section 1.01.070 Severability

If any section subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, the validity or constitutionality of the remaining portions of the code shall not be affected. The board of commissioners expressly states that it would have adopted this code, and each section and subsection thereof, regardless of the fact that any one or more sections or subsections had been found to be invalid or unconstitutional. Further, if for any reason this code is held invalid or unconstitutional, the original ordinances and resolutions codified herein shall remain in full force and effect.

NEW SECTION. Section 6. A new chapter 1.02, "Code Revision", is added to Title 1, Kitsap County Code, to read as follows:

Sections:

- 1.02.010 Proposed ordinances**
- 1.02.020 Code reviser**
- 1.02.030 Duties of code reviser**
- 1.02.040 Code reviser may omit parts of legislation**

Section 1.02.010 Proposed ordinances.

All ordinances proposed for consideration by the board of commissioners shall be prepared in accordance with the "Kitsap County Legislative Drafting Manual" available from the prosecuting attorney's office. All ordinances which are of a permanent and general effect must be prepared in the form of amendments or supplements to this code. Before being submitted to the commissioners, all ordinances shall be reviewed and approved "as to form" by the prosecuting attorney's office. Ordinance summaries for publication shall be approved by the appropriate department head or elected official in accordance with statutory requirements.

Section 1.02.020 Code reviser.

The "code reviser" is the office or entity with which the county has contracted to compile the law of Kitsap County, as enacted by the board of county commissioners, into a code or compilation of laws by title, chapter and section, without substantive change or alteration of purpose or intent.

Section 1.02.030 Duties of code reviser.

The code reviser will maintain this code in hard copy, as well as in an electronic format, in a current condition that reflects all newly adopted ordinances received from the county which are appropriate for codification. The code reviser will also compile, maintain and supplement a comprehensive code index and a table showing the disposition of all ordinances and resolutions included in the code. In consultation with the prosecuting attorney and the clerk to the board of county commissioners, the code reviser

will edit and revise ordinances for incorporation into this code, to the extent deemed necessary or desirable, and without changing the meaning, in the following respects:

- a) Make capitalization uniform with that followed generally by the code;
 - b) Make chapter or section division and subdivision designations uniform throughout the code;
 - c) Substitute for the term "this ordinance" where necessary the term "section", "part", "code", "chapter" or "title", or reference to specific section or chapter numbers, as the case may require;
 - d) Substitute for reference to a section of an "ordinance" the proper code section number reference;
 - e) Substitute for "as provided in the preceding section" and other phrases of similar import, the proper code section number references;
 - f) Substitute the proper calendar date for "effective date of this ordinance", "date of passage of this ordinance", and other phrases of similar import;
 - g) Rearrange any misplaced ordinance material, incorporate any omitted ordinance material, as well as correct manifest errors in spelling and manifest clerical or typographical errors, or errors by way of additions or omissions;
 - h) Correct manifest errors in references, by chapter or section number, to other ordinances;
 - i) Correct manifest errors or omissions in numbering or renumbering sections of the code;
 - j) Provide captions to new chapters and sections as required;
 - k) Strike provisions manifestly obsolete; and
 - l) Reorganize the code into new titles, chapters, and sections, or otherwise revise the title, chapter and sectional organization of the code, all as may be required from time to time to effectuate the orderly and logical arrangement of the provisions of the code.
- Such organizational revisions shall have the same force and effect as the titles, chapters and sections included in the 2000 edition of the code when adopted.

Section 1.02.040 Code reviser may omit parts of legislation.

The code reviser may omit from the code all titles to ordinances, enacting and repealing clauses, preambles, declarations of emergency, and validity and construction sections, unless it is necessary to retain them to preserve the full intent of an ordinance. Such an omission shall not affect in any way the effect of the omitted material.

Section 7. Kitsap County Code Section 1.04.040, adopted by Resolution 209-1971, is amended as follows:

1.04.040 Construction

The provisions of this code and all proceedings under it are to be construed with a view to effect its objects and to promote justice. All words and phrases used, but not defined in this code shall be construed according to the common and approved usage of the language. Technical words and phrases, and any others which may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to that meaning.

NEW SECTION. Section 8. A new section is added to Kitsap County Code Chapter 1.04, "General Provisions", as follows:

Section 1.04.050 Reference applies to all amendments.

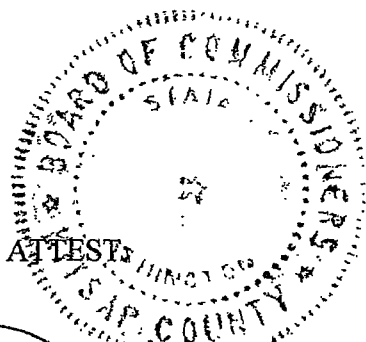
Whenever a reference is made to this code, or to any portion of it, or to any ordinance of Kitsap County, the reference shall apply to all amendments, corrections, and additions thereto, whenever made.

Section 9. Effective Date. This ordinance shall take effect immediately.

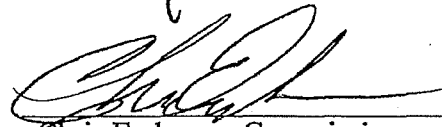
Severability. If any provision of this ordinance, or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

DATED this 4th day of December, 2000.


KITSAP COUNTY BOARD OF COMMISSIONERS

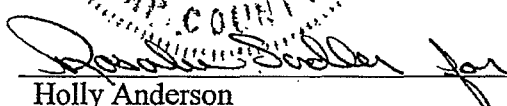



Tim Botkin, Chair

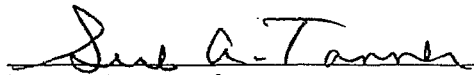

Chris Endresen, Commissioner

NOT PRESENT


Charlotte Garrido, Commissioner


Holly Anderson
Clerk of the Board

Approved as to form:


Deputy Prosecuting Attorney