



# AGENDA

**Thursday, July 12, 2012 - 10:00 AM**

**Board of County Commissioners Business Meeting**

Beginning Board Order No. 2012-72

**I. CALL TO ORDER**

- Roll Call
- Pledge of Allegiance
- Approval of Order of Agenda

**II. CITIZEN COMMUNICATION** *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. This portion of Citizen Communication will end at 10:30. If we are unable to hear everyone who has signed up to speak during this time, we will continue Citizen Communication when our business items conclude after the Consent agenda. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

**III. PRESENTATION** *(Following are items of interest to the citizens of the County)*

1

1. Recognition of County Employee Joan LeBarron for 59 Years of Service to Clackamas County Juvenile Department (Ellen Crawford, Juvenile Director)

**IV. PUBLIC HEARINGS** *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

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1. Second Reading of Ordinance No. 06-2012 Amending the Clackamas County Ambulance Service Plan (Cindy Becker, Larry MacDaniels Health, Housing & Human Services)

3

2. First Reading of Ordinance No. \_\_\_\_\_ Amending Chapter 7.03, Road Use, of the Clackamas County Code (Scot Sideras, County Counsel)

4

3. First Reading of Ordinance No. \_\_\_\_\_ Amending Chapter 5.01, Animal Services, of the Clackamas County Code (Diana Hallmark, Dog Services)

**V. DISCUSSION ITEMS** *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

**-NO DISCUSSION ITEMS SCHEDULED**

**VI. CONSENT AGENDA** *(The following items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Study Session. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

**A. Health, Housing & Human Services**

- 5 1. Approval of an Intergovernmental Agreement Amendment No. 2 with the City of Molalla/Molalla Adult Center to Provide Social Services for Clackamas County Residents - ss
- 6 2. Approval of Intergovernmental Agreement Amendment No. 3 with the City of Oregon City/Pioneer Community Center to Provide Social Services for Clackamas County Residents age 60 and Over - ss
- 7 3. Approval of an Intergovernmental Agreement between the Community Development Division and the City of Wilsonville for Building Improvements to the Wilsonville Senior Center Kitchen - cd
- 8 4. Approval of Amendment No. 6 to the Intergovernmental Agreement with the State of Oregon, Department of Human Services for the Operation of the JOBS Program - csc
- 9 5. Approval of an Annual Renewal of an Intergovernmental Agreement with the Workforce Investment Council of Clackamas County for Specialized Work Force Services – csc
- 10 6. Board Order No. \_\_\_\_\_ Approval of Mental Health Director's Designees to Authorize a Custody Hold Under ORS 426.233 - BH

**B. Elected Officials**

- 11 1. Approval of Previous Business Meeting Minutes – BCC

**C. Business and Community Services**

- 12 1. Approval of an Intergovernmental Agreement with Multnomah County, Washington County, Hood River County Library District, Fort Vancouver Regional Library District and the City of Camas for Continuing the Metropolitan Information Exchange (MIX)

**D. Juvenile Department**

- 13 1. Approval of an Intergovernmental Agreement with the Oregon Commission on Children and Families for Juvenile Crime Prevention Funds

**E. Community Corrections**

- 14 1. Approval of Amendment No. 1 to the Intergovernmental Agreement #4601 between the State Department of Corrections and Clackamas County

**VII. WATER ENVIRONMENT SERVICES**

- 15 1. Approval of the Construction Services Agreement for the Tri-City Service District Secondary Clarifier No. 1 Rehabilitation Project
- 16 2. Approval of an Intergovernmental Agreement between the City of Happy Valley and Clackamas County Service District No. 1 for Reimbursement of the Cost of the 129<sup>th</sup> Avenue Fish Passage-Culvert Removal Project

**CITIZEN COMMUNICATION** (continued if needed)

**VIII. COUNTY ADMINISTRATOR UPDATE**

**IX. COMMISSIONERS COMMUNICATION**

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.  
<http://www.clackamas.us/bcc/business/>



ELLEN CRAWFORD  
DIRECTOR

**JUVENILE DEPARTMENT**

**JUVENILE INTAKE AND ASSESSMENT CENTER**  
2121 KAEN ROAD | OREGON CITY, OR 97045

July 12, 2012

Board of Commissioners  
Clackamas County

Members of the Board:

RECOGNITION OF YEARS OF SERVICE  
BY COUNTY EMPLOYEE JOAN LeBARRON

I respectfully request the Board to recognize one of our employees, Joan LeBarron, who will be retiring on Monday, July 16, 2012. Joan has worked for the county for 59 years!

Joan began working for Clackamas County Juvenile Department on July 1, 1953. During this time she has made significant contributions in the lives of youth and families, participated on numerous boards and committees always serving the best interests of public safety. Her dedication and commitment to public service is extraordinary.

Over these many decades Joan has experienced numerous changes in public service and the juvenile justice system. She has always embraced change with an enthusiastic attitude and exemplified a positive role model among her peers and professional partners.

Joan has always demonstrated a high degree of professionalism in her relationships with community partners, the Court and her co-workers. She takes great pride in representing the County and the work being accomplished for youth and families.

Joan contributions will be missed but her impact on public safety and juvenile justice will remain for years to come.

I respectfully request a public recognition of her service.

Sincerely,  
*Ellen F. Crawford*

Ellen Crawford, Director  
Juvenile Department

For information on this issue or copies of attachments  
please contact Crystal Wright at (503) 655-8342 ext 7112

COPY

2

Cindy Becker  
Director

July 12, 2012

Board of County Commissioners  
Clackamas County

Members of the Board:

**Second Reading of Ordinance No. 06-2012**  
**Adoption of the Amended Clackamas County Ambulance Service Plan**

The Clackamas County Health, Housing and Human Services Department (H3S) requests the Board conduct the second reading and adoption of an amended Ambulance Service Plan, County Code, Chapter 10.01.

At the direction of the Board of Commissioners, staff has prepared proposed amendments to the County Ambulance Service Plan adopted in 2005.

If the Board chooses to amend the plan, each element of the system must be addressed and considered as described in Oregon State statute and administrative rules. [ORS 682.063, OAR 333-260-0030]

The Plan must be adopted by the Board as a non emergency ordinance and approved by the State of Oregon, Public Health Division. [ORS 682.205]

Notification of interested parties per ORS 682.205, 682.063 was made by email February 8, 2012. Proposals received were addressed and considered by staff and the EMS Council. The EMS Council approved the draft plan presented by staff on May 31, 2012.

Process for adoption of amended Plan: study session was held on 6/12/2012; first reading took place June 28, 2012; the scheduled date for second reading is July 12, 2012, followed by submission of amended plan for State review (up to 60 days). Amended ordinance becomes effective 90 days following adoption.

No County general funds are involved. The Board of Commissioners may choose to amend the ambulance service plan.

**Recommendation:**

We recommend the Board conduct second reading and adoption of the Ambulance Service Plan by title only.

Respectfully submitted,



Cindy Becker  
Director

For information on this issue or copies of attachments, please contact Larry MacDaniels at (503) 655-8256

*Healthy Families. Strong Communities.*

2051 Kaen Road #239, Oregon City, OR 97045 • Phone: 503-650-5697 • Fax: 503-655-8677 • www.clackamas.us

**ORDINANCE NO. 06-2012**

**An Ordinance Amending Chapter 10.01, Ambulance Service Plan, of the Clackamas County Code.**

WHEREAS the Oregon Revised Statutes, Chapter 682, require counties to develop a plan relating to the need for and coordination of ambulance services, and to establish ambulance service areas, and

WHEREAS Clackamas County has previously adopted and amended ambulance service plans by order numbers 91-182, 91-599, 93-972, 04-2002 and 08-2005, and it appearing that further amendments are now in the public interest, and

WHEREAS notice has been given to the public and to interested parties of the County's intention to consider ambulance plan amendments, and the County has consulted and sought advice from persons and entities expressing an interest, and

WHEREAS in determining the provider of ambulance services the County has not granted preference solely on the basis that a person or government unit is providing ambulance service, but instead has relied on the Board of County Commissioner's determination that efficient and effective service is being provided at a reasonable price, and that it is in the public interest to adopt these amendments to the ambulance service plan, now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Clackamas County Code Chapter 10.01, Ambulance Service Plan is hereby amended to read as shown on the attached Exhibit A.

ADOPTED this \_\_\_\_\_ day of July, 2012.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

**CLACKAMAS COUNTY CODE**

**TITLE 10**

**FRANCHISES**

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**CHAPTER 10.01**

**10.01 AMBULANCE SERVICE PLAN**

**10.01.010 Certification by Board of County Commissioners**

Clackamas County Code Chapter 10.01 is the Ambulance Service Plan for the County. The Board of County Commissioners hereby certifies that:

- A. The County has included in this plan each of the subjects or items set forth in Oregon Administrative Rule 333-260-0020 and has addressed and considered each of those subjects or items in the adoption process.
- B. In the Board's judgment, the ambulance service areas established in the plan will provide for the efficient and effective provision of ambulance services; and
- C. To the extent they are applicable, Clackamas County has complied with ORS 682.062 and 682.063 and with existing local ordinances and rules.

[Codified by Ord. 05-2000, 7/13/00]

**10.01.020 Overview of County**

- A. Clackamas County has a population of approximately 378,480 as of April 1, 2010, and an area of 1,879 square miles. Provision of emergency medical services presents a challenge due to the widely varying demographic and geographic areas within the County. The urbanized areas of the County within the Portland metropolitan urban growth boundary are densely populated, while rural areas are much less densely populated. More than one-third of the County

consists of federally owned National Forest or BLM land, which is less densely populated still. There are fourteen cities located wholly within the County, and two others partially inside County borders. Large parts of the urban area are unincorporated, with about 40% of County residents living outside of city boundaries. Geographically the County varies dramatically, rising from the 31-foot elevation at Oregon City to the 11,239-foot peak of Mt. Hood.

**B. History of ASAs**

In 1991 the Board approved the following Ambulance Service Areas: Canby ASA, Clackamas ASA, and Molalla ASA. Boundary descriptions are in the ASA Map (Section 10.01.040.A) and ASA Narrative Description (Section 10.01.040.B) of this Plan.

- C.** The Ambulance Service Plan, with associated agreements and contracts, is designed to assure high quality, timely medical care at the time of a medical emergency, and to coordinate public safety answering points, dispatch centers, first responders and transport agencies into a unified system for providing Emergency Medical Services.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02]

**10.01.030 Definitions**

- A.** "AMBULANCE" means any privately or publicly owned motor vehicle, aircraft, or marine craft that is regularly provided or offered to be provided for the transportation of persons suffering from illness, injury or disability including any unit registered with the State of Oregon as an advance life support ambulance.
- B.** "AMBULANCE SERVICE AREA" or "ASA" means a specific geographic area of Clackamas County which is served by one ambulance service provider.
- C.** "AMBULANCE SERVICE PROVIDER" or "AMBULANCE PROVIDER" means a licensed ambulance service that responds to 9-1-1 dispatched calls or provides pre-arranged non-emergency transfers or emergency or non-emergency inter-facility transfers.
- D.** "AMBULANCE SERVICE" means any individual, partnership, corporation, association, governmental agency or other entity that holds a Division-issued ambulance service license to provide emergency and non-emergency care and transportation to sick, injured or disabled persons.
- E.** "BOARD" means the Board of Commissioners for Clackamas County, Oregon.
- F.** "COUNTY" means Clackamas County, a political Subdivision of the State of Oregon.
- G.** "COUNTY EMS MEDICAL DIRECTOR" or "EMSMD" means a licensed physician employed by or contracted to the County to provide medical direction as required.
- H.** "DEPARTMENT" means the Clackamas County Department of Health, Housing and Human Services.
- I.** "DIVISION" means the Public Health Division, Oregon Health Authority.

- J. "EMERGENCY AMBULANCE SERVICE" means the provision of advanced or basic life support care and transportation by ambulance, if appropriate, in response to medical and traumatic emergencies.
- K. "EMERGENCY MEDICAL SERVICES" or "EMS" means those prehospital functions and services whose purpose is to prepare for and respond to medical and traumatic emergencies, including rescue and ambulance services, patient care, communications and evaluation.
- L. "EMERGENCY MEDICAL SERVICES AGENCY" means an ambulance service or non-transport EMS service that uses emergency medical services providers to respond to requests for emergency medical services.
- M. "EMERGENCY MEDICAL SERVICES PROVIDER" means a person who has received formal training in pre-hospital and emergency care, and is licensed to attend any person who is ill or injured or who has a disability.
- N. "EMERGENCY MEDICAL SERVICES SYSTEM" means the system that provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of pre-hospital health care services in Clackamas County.
- O. "EMERGENCY PHYSICIAN ADVISORY BOARD" or "EPAB" means an advisory board constituted by the Supervising Physician of each EMS responding agency in the County.
- P. "EMS COUNCIL" or "COUNCIL" means Emergency Medical Services Council.
- Q. "FIRST RESPONDER" or "FIRST RESPONSE AGENCY" means fire and other governmental or private agencies providing Emergency Medical Services.
- R. "FRANCHISE" means a right granted by the Board to provide ambulance services as defined by ORS 682.027 on an exclusive basis but subject to the limits and conditions of this Plan. Assignment of an ASA to a rural fire protection district pursuant to Sections 10.01.070.A.1 and 10.01.070.A.2 of this Plan shall not be considered a franchise.
- S. "FRONTIER AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.
- T. "MEDICAL DIRECTOR" or "SUPERVISING PHYSICIAN" means a licensed physician meeting the requirements of the Oregon Health Authority and employed or contracted by an agency to provide medical direction.
- U. "MEDICAL RESOURCE HOSPITAL" or "MRH" means a medical communications facility contracted by the County which provides on-line medical control functions.
- V. "NOTIFICATION TIME" means the length of time between the initial receipt of the request for emergency medical service by either a provider or an emergency dispatch center ("9-1-1"), and the notification of all responding emergency medical service providers.

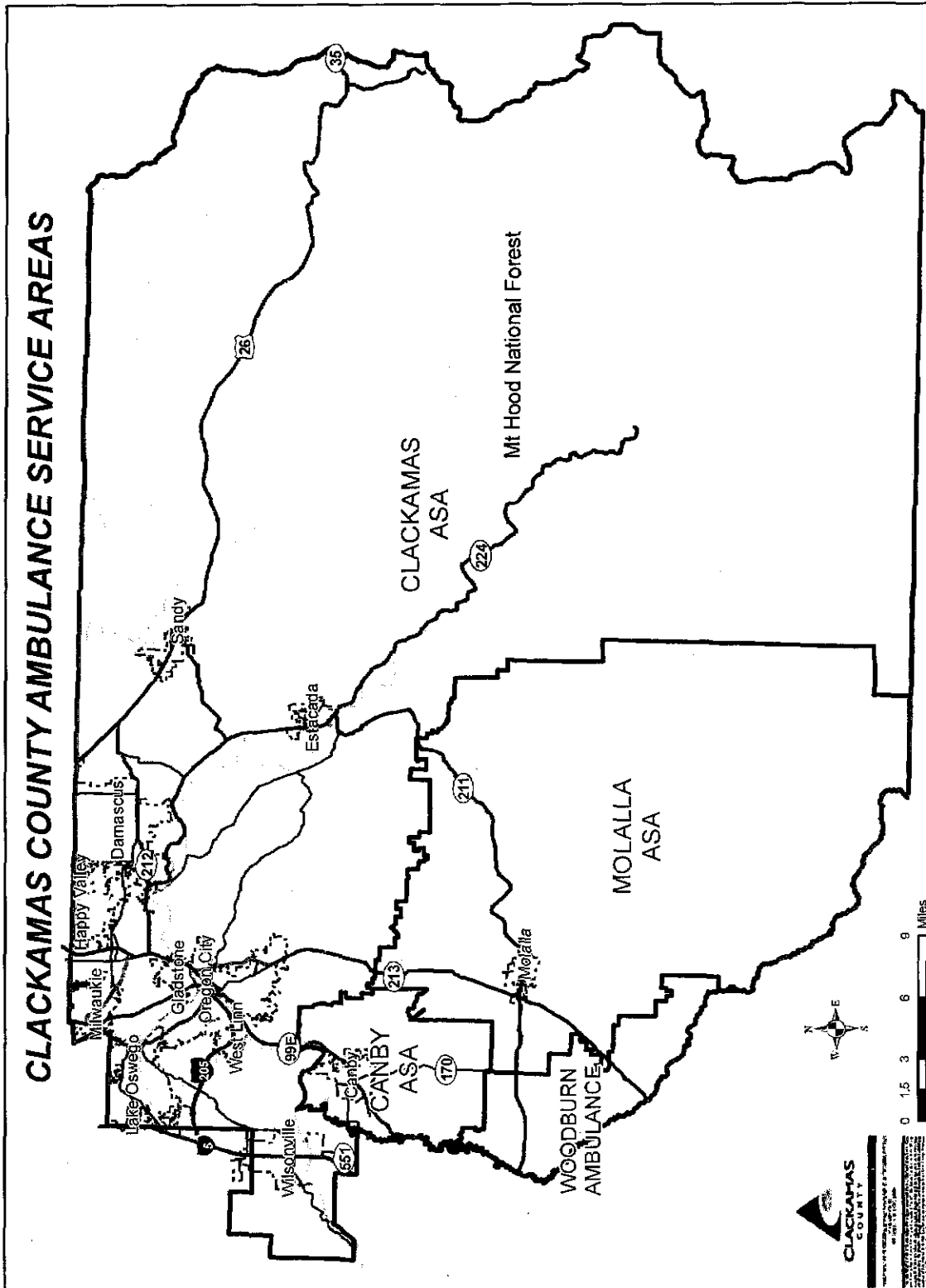


- W. "ON-LINE MEDICAL CONTROL" or "OLMC" means a physician directing medical treatment in person, over a radio, by phone or through some other form of instant communication.
- X. "PARTICIPATING PROVIDER" means a fire service agency (fire district or fire department) that has a contractual agreement with the County allowing the County to integrate agency resources into an EMS response plan including using agency responses to modify ambulance response time requirements.
- Y. "PATIENT" means a person who is ill or injured or who has a disability and for whom patient care from an EMS Provider is requested.
- Z. "PUBLIC SAFETY ANSWERING POINT" or "PSAP" means a call center responsible for answering calls to an emergency telephone number ("9-1-1") for police, firefighting and ambulance services. Trained emergency communications personnel are also responsible for dispatching these emergency services.
- AA. "RESPONSE TIME" means the length of time between the notification of each provider and the arrival of each provider's emergency medical service unit(s) at the incident scene.
- BB. "RURAL AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.
- CC. "STAFFED" mean qualified persons, physically located at or immediately accessible to an ambulance provider's base of operation within an ASA, available on a 24-hour basis.
- DD. "SUBURBAN AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.
- EE. "URBAN AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02]

10.01.040 Boundaries

A. ASA Map



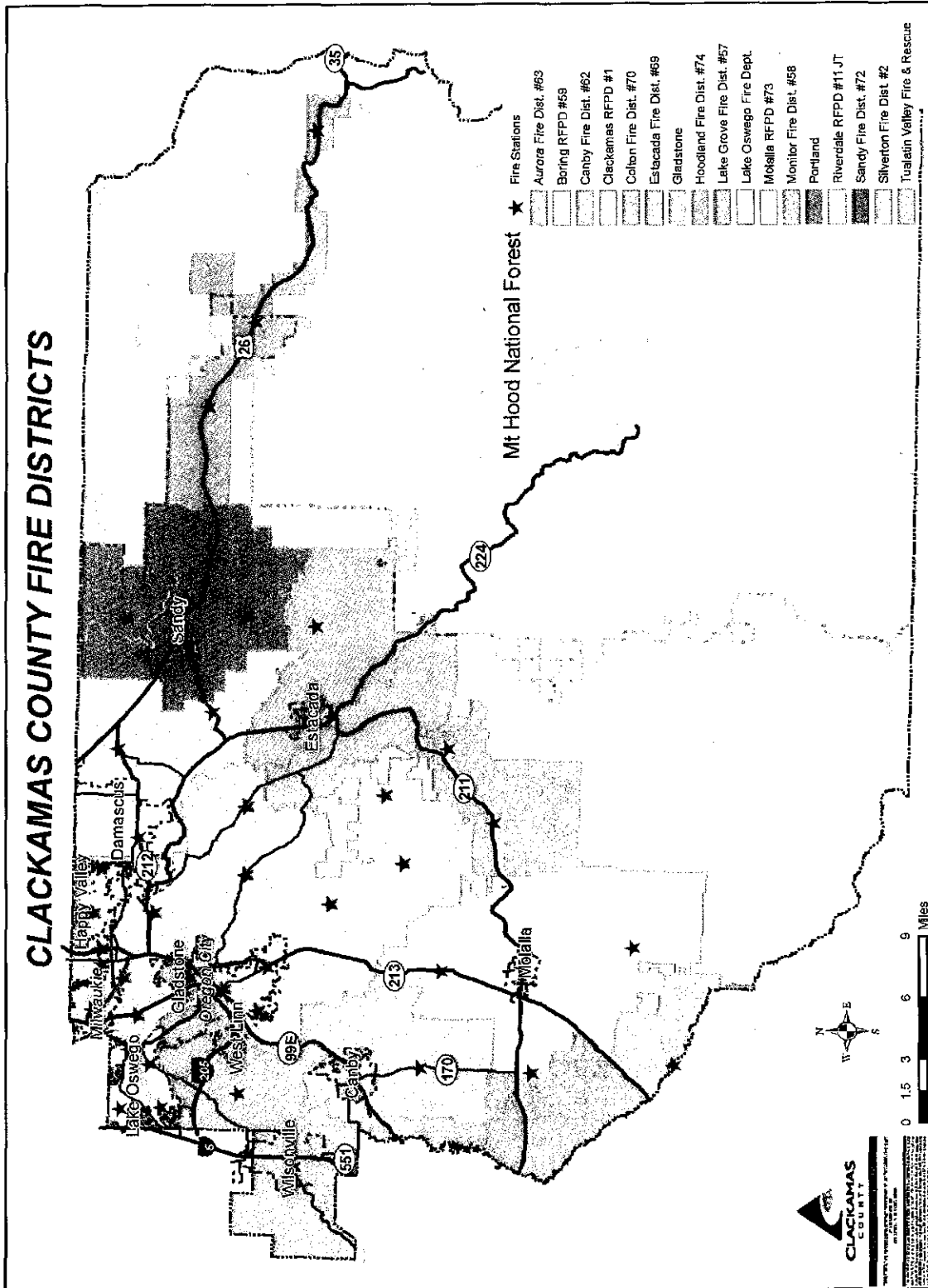
## **B. ASA Narrative Description**

1. Clackamas County is divided into the following ambulance service areas:
  - a. The City of Molalla and the area served by the Molalla Rural Fire Protection District ambulance, including the Colton and Molalla Fire Districts, the part of Clackamas County Fire District #1 south of a line drawn along Buckner Creek Road, Gard Road, and Unger Road, and the Oregon Department of Forestry Fire Protection District south of Highway 211, within Clackamas County, known as the "Molalla ASA."
  - b. The City of Canby and the area served by the Canby Fire Protection District ambulance, including the part of the Aurora Fire District within Clackamas County east of the Pudding River, known as the "Canby ASA."
  - c. The Clackamas Ambulance Service Area is composed of the remaining part of the County except the part of the City of Tualatin located in Clackamas County that is served under an intergovernmental agreement with Washington County, and the parts of the Aurora, Monitor and Silverton Fire Districts within Clackamas County that are served by Woodburn Ambulance Service.

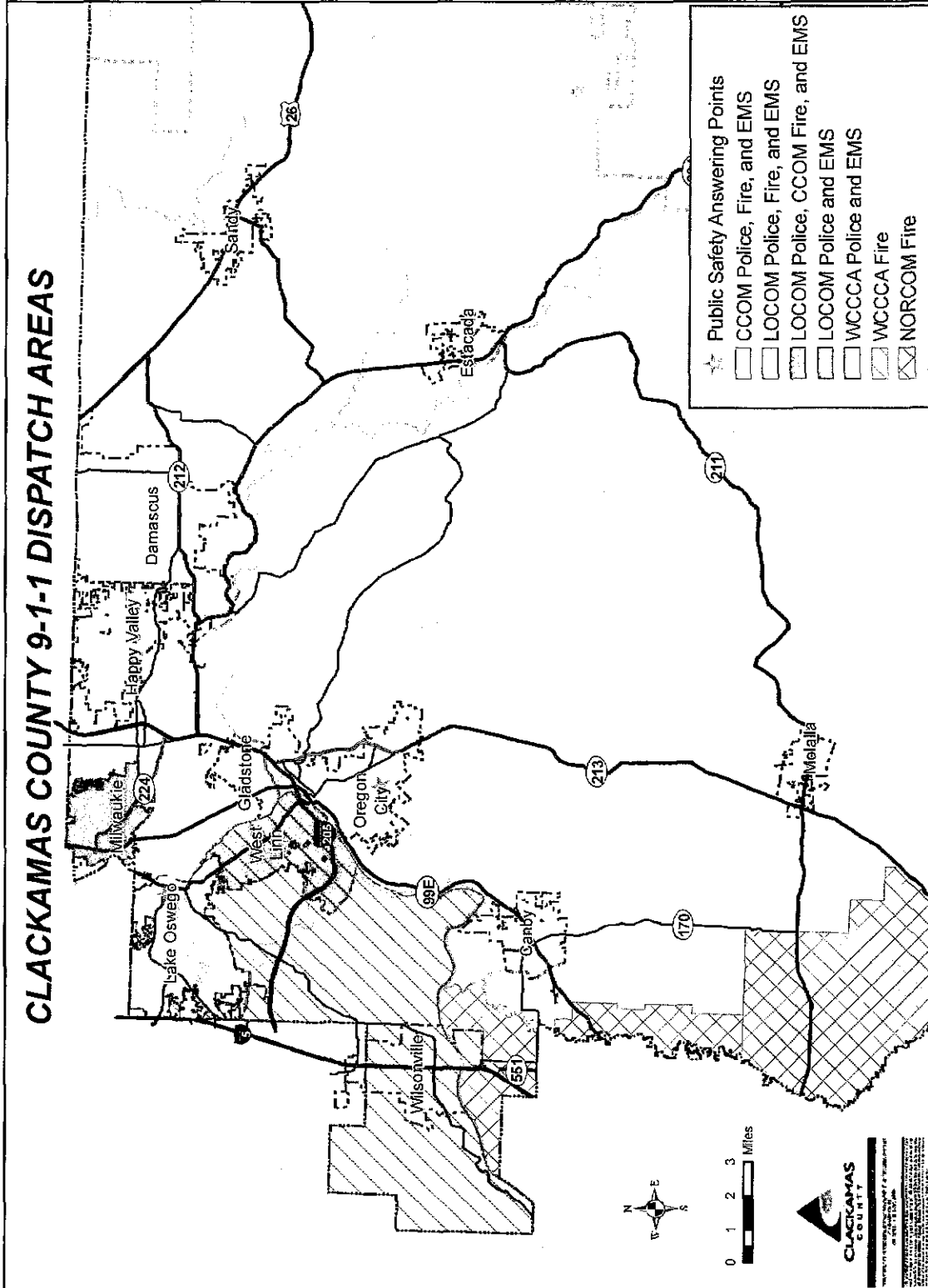
The following areas outside Clackamas County are served as part of the Clackamas ASA:

- The City of Wilsonville within Washington County is served under an intergovernmental agreement with Washington County.
  - The parts of the Cities of Lake Oswego and Rivergrove that are within Washington County are served under an intergovernmental agreement with Washington County.
  - The part of the City of Lake Oswego that is within Multnomah County, and the Alto Park Fire District and the Riverdale-Dunthorpe Fire District within Multnomah County.
2. The Board reserves the right, after further addressing and considering the subjects or items required by law, to change the boundaries of these ASAs, or create other ASAs, or incorporate or remove exclusive non-emergency services in one into one or more ASAs in order to provide for the effective and efficient provision of emergency medical service.

C. Fire District Map



D. 9-1-1 Map



**E. Alternatives Considered to Reduce Response Times**

1. The County believes that, while there are many artificial and geographic barriers to improving response times, e. g., distance, rural population and density, etc., by establishing maximum response times based on urban, suburban, rural and frontier categories, establishing a procedure that monitors response time performance and establishing a system of times and penalties for failure to comply, the County has established the framework from which Ambulance Providers can operate to provide rapid response times in their service to the community. Additionally, by establishing market rights of sufficient size and duration, the County enables providers to serve the community more efficiently.
2. The County expects Ambulance Providers to use their best expert and professional judgment in deciding upon various methods of achieving and maintaining the level of ambulance service performance required. "Methods" include, but are not limited to, compensation programs, shift schedules, personnel policies, supervisory structure, vehicle deployment techniques and other internal matters which, taken together, comprise strategy for getting the job done in the most effective and efficient manner possible.

The County recognizes that different Ambulance Providers may employ different methods to achieve equal success. By allowing each Ambulance Provider a wide range of management methods, the County hopes to inspire innovation, improve efficiency, and reduce costs without sacrificing the system's performance.

3. The County believes that a well-designed, effective partnership between First Response Agencies and Ambulance Service Providers may allow a reduction in ambulance response time requirements in the county. Through this plan the County encourages transport providers to work closely with advanced life support and other first response agencies to develop programs that will deliver medical care as rapidly as possible while enhancing countywide service or reducing rates. The county believes that well-articulated, cooperative efforts improve patient outcomes and therefore encourages all EMS providers to work toward this goal.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02]

**10.01.050 SYSTEM ELEMENTS**

**A. 9-1-1 Dispatched Calls**

The County designates dispatch centers for Ambulance Providers. Dispatch centers providing ambulance dispatch shall have a Medical Director and use emergency medical dispatch protocols approved by the EMSMD. This plan establishes the goal of a single dispatch center, designated by the County, to provide dispatch and data collection for Emergency Medical Services.

9-1-1 calls for medical assistance in Clackamas County are currently received by two Public Safety Answering Points (PSAP), Clackamas County Communications (C-COM) and Lake Oswego Communications Center (LOCOM).

C-COM dispatches fire and EMS in the Molalla ASA, the Canby ASA, and the Clackamas ASA east of the Willamette River, and forwards information to North Marion County Communications (NORCOM) and Washington County Consolidated Communications Agency (WCCCA) for dispatch in the areas served by Tualatin Valley Fire and Rescue and Woodburn Ambulance Service.

LOCOM dispatches fire and EMS in Lake Oswego and the Clackamas ASA served by the Lake Oswego Fire Department.

NORCOM dispatches fire and Woodburn Ambulance Service in the Aurora, Monitor and Silverton Fire Districts within Clackamas County.

WCCCA dispatches fire and EMS in the part of the Clackamas ASA served by Tualatin Valley Fire and Rescue.

9-1-1 requests for ambulance service to C-COM and LOCOM are currently transmitted electronically to the franchisee which operates a communications center in Multnomah County, Oregon. The franchisee may employ its own methods for deploying and notifying ambulances and will be electronically linked to key C-COM systems. The franchisee will employ an approved method of data capture and transmission to assure that specific verifiable and auditable data elements, required for dispatch and performance evaluation are made available in a format that allows the County to adequately measure, evaluate and regulate system performance. Dispatch tasks employed by the franchisee and the franchisee's computer links with C-COM and LOCOM will not reduce the franchisee's responsibility for its dispatch and response time performance.

Dispatch centers participating in 9-1-1 and non-emergency dispatch of ambulance resources within the County, including non-emergency ambulance providers, will utilize and comply with protocols for emergency medical dispatch and priority dispatch that have been approved by the County EMS Medical Director, with the advice of EPAB. All calls classified as emergency calls under the approved protocols will be immediately forwarded, transferred or otherwise communicated, in accordance with protocols established by the County, to the appropriate dispatch centers for EMS and emergency ambulance providers.

#### **B. Pre-arranged Non-emergency Transfers and Inter-facility Transfers**

The County reserves the right to grant exclusive market rights for non-emergency ambulance service in the future at any time that the Board determines that it is in the County's interest.

The franchisee in the Clackamas ASA may specifically compete in the non-emergency and interfacility segment of the market and may utilize ambulances and personnel deployed to meet its emergency responsibilities in non-emergency service, provided that the franchisee complies with the requirements of the franchise contract.

The Department may adopt regulations and requirements for the issuance of non-emergency ambulance permits. Failure to meet any of these requirements may be grounds for the denial or revocation of an ambulance permit.

The denial or revocation of any ambulance provider permit by the Department may be appealed to the Board, whose decision will be final.

### **C. Notification and Response Times**

#### **1. Notification Times**

The County may require dispatch centers that receive requests for service and dispatch ambulances to report call answer times, notification times, total call processing times and compliance with emergency medical dispatch protocols.

The County may establish specific maximum times for use in calculating the performance of each center. If the County has not established maximum standards for any center, the center will report its performance at the 90<sup>th</sup> percentile. For example: 90% of calls answered within 23 seconds, 90% of notifications made within 54 seconds, 90 % of calls processed within 2 minutes and 14 seconds, and 92% compliance with EMD protocols.

If an Ambulance Service Provider receives a call for Emergency Ambulance Service as determined by approved dispatch protocols on a non-emergency telephone line, that service shall immediately notify the appropriate designated dispatch center. Ambulance Service Providers shall report the number of calls turned over to designated dispatch centers, and the time required to turn over the call, each month.

#### **2. Response Times**

Ambulance Service Providers are encouraged to exceed minimum performance requirements.

- a. Initially, response times for Code-3 calls shall be within the following response time limits.
  - i. Urban Areas: Maximum response time of 8:00 minutes for 90% of all emergency calls.
  - ii. Suburban Areas: Maximum response time of 12:00 minutes for 90% of all emergency calls.
  - iii. Rural Areas: Maximum response time of 25:00 minutes for 90% of all emergency calls.
  - iv. Frontier Areas: Maximum response time of 2:00:00 hours for 90% of all emergency calls.

Where response time areas are divided along the centerline of a road, the shorter response time shall apply to both sides of the road and to all property having immediate access from that road. The County will monitor response times and if it is found that more than 10% of the emergency calls in any type of response zone are not responded to in the required maximum response times or less during any calendar month, the ambulance provider may be required to redeploy or add additional units, or the County may, if it is determined to be in the public interest, seek revocation of a franchise, ASA assignment, or other remedies.



- b. The Board may modify the response time requirements detailed above to promote efficient and appropriate responses to 9-1-1 emergency calls, including modifications adopted in agreements to integrate first responder services delivered by Participating Providers. The Department and County EMS Medical Director will provide recommendations to the Board after reviewing proposed modifications to the requirements with consideration of the following:
- The level of acuity of each call, using modern emergency medical dispatch and priority dispatch capabilities.
  - Clinical evidence that any particular standard is more efficacious.
  - The efficient use of system resources.
  - Alternative delivery systems including, but not limited, to approved advanced life support first response.
  - The projected economic impact of any proposed change.
  - Requests from local governmental jurisdictions.
- c. Emergency response time for ambulances will be calculated from the time that a call is received by the Ambulance Provider until the time that the provider's first ambulance arrives on-scene.

In areas where a Participating Provider has a contractual agreement with the County, response time for the Participating Provider will be calculated from the time a call is received by the Participating Provider to the on-scene arrival of the Participating Provider.

If a designated dispatch center downgrades a call from emergency status, the above maximum response times will not apply. Ambulance Providers shall be responsible, however, for responding to such a downgraded call within the appropriate response time criteria, if any, for the downgraded priority. The County may adopt rules to govern calculation of response time performance in cases of upgrades and downgrades of response priorities and for nonemergency calls.

Ambulance Providers will not be held responsible for response-time performance on an emergency call outside the ASA. However, Ambulance Providers shall use their best efforts in responding to mutual aid calls.

Responses to emergency calls outside the ASA will not be counted in the number of total calls dispatched used to determine contract compliance statistics.

For the purpose of measuring contract compliance, each incident will be counted as only one call dispatched, no matter how many units respond to the incident.

Each month Ambulance Providers shall document in writing, in a manner as required by the County, each ambulance call dispatched.

Each month Ambulance Providers contracted by the County shall document in writing, in a manner as required by the County, each ambulance call dispatched which was not responded to within a response time for the area of the call. If more than 10% of the emergency calls in any type of response zone are not responded to in the required maximum response times or less during any calendar month, the Ambulance Provider shall identify the cause of such extended response time and shall document its efforts to eliminate repetitions of that cause of poor response-time performance.

When an Ambulance Provider utilizes mutual aid or another ambulance resource to respond to a call, such response shall not be counted as a late response unless the response time standard is not met, or no response time is reported. Section 10.01.060.C addresses the use of mutual aid agreements.

d. Response Time Exemptions

It is understood that unusual circumstances beyond an Ambulance Provider's reasonable control can cause response times to exceed the aforementioned standards. *Equipment failure, traffic accidents or lack of a nearby ambulance shall not furnish grounds for release from late run deductions or general response time standards.*

Dispatcher errors by an Ambulance Provider's selected dispatch center shall not furnish grounds for release from late run deductions or general response time standards.

If an Ambulance Provider believes that any run or group of runs should be exempt from response time standards due to unusual circumstances beyond the Ambulance Provider's reasonable control, it may request that these runs be excluded from response time performance calculations and late run penalties. If the Department concurs that the circumstances were due to unusual circumstances beyond the Ambulance Provider's reasonable control, the Department will allow such exemptions in calculating overall response time performance and in assessing late run penalties. Additional detail and requirements regarding response time exemptions will be contained in the franchise request for proposals and any resulting contract.

e. Penalties for Failure to Meet Response Time/Performance Criteria

Response time performance of Ambulance Providers under contract to the County shall be reviewed monthly. For those months that the provider fails to respond to 90 percent of all Code-3 calls within a time period specified under Response Times (Section 10.01.050.C.2), the County will review appropriate system-status plans, unit-hour production capacities, or other factors to determine the causes of noncompliance. For those months that the provider fails to meet the 90 percent standard, a \$1,000 financial penalty for each one-tenth of a percentage point less than 90 percent will be assessed for each individual zone (i.e., Urban, Suburban, Rural and Frontier). The penalty will increase to \$2,000 for each one-tenth of a

percentage point less than 90 percent if the provider fails to meet the 90 percent standard in additional consecutive months. The same penalties will apply if response times for Code-1 calls established by the County are not met.

For monitoring purposes, each zone (i.e., Urban, Suburban, Rural and Frontier) shall have, in addition to the 90-percent standard, a response time limit for every call. The Code-3 every call time limits are: 12 minutes-Urban, 20 minutes-Suburban, 45 minutes-Rural, 4 hours-Frontier). The County will review calls exceeding these time limits and may impose penalties if necessary to resolve significant problems.

Calls referred to another agency will be included as part of the response-time requirements.

Penalties for failure to report "at-scene" times for calls will be assessed at \$300 for each incident, but such at-scene times may be established from appropriate data, including radio transmissions identifying the scene time or first responder reports. The contract governing a franchise may further define or restrict methods for reporting at-scene and other times.

Ambulance Providers shall notify the dispatch center designated by the County when no ambulances are immediately available. A \$1,000 penalty will be assessed for any instance when a contracted Ambulance Provider fails to respond to an emergency ambulance call within three (0:03:00) minutes of notification. No such penalty will be assessed if a call is handled by mutual aid referral.

f. Response Time Map Changes

The response time map attached as Appendix A reflects historical commitments made by the Board to various communities in the county regarding ambulance response times, and incorporates changes based on population increases within the county since 2005. In the event that changed circumstances, such as population growth or other changes, indicate a compelling need to change the response time map, the following procedure will be followed.

The Director of the County Department of Health, Housing and Human Services shall proceed with proposed response time map changes by giving prior written notice of the proposed changes to any city or fire district whose territory would be affected. At the request of any affected city or fire district, any proposed changes will be forwarded to the Board for decision by the Board.

In reviewing proposed changes to the response time map, the County may consider the following general guidelines:

"Urban area" designation may be appropriate for areas within an ASA which are in an incorporated city with a population greater than 9,000 persons and a population density greater than 2,000 persons per square mile, or which consist of census tracts having a population density greater

than 2,000 persons per square mile that are contiguous to such an incorporated city.

"Suburban area" designation may be appropriate for areas within an ASA which are non-urban but are contiguous to urban areas, and consist of census tracts having a population density between 1,000 and 2,000 persons per square mile, or for traffic corridors in which the suburban response time standard can be extended without unduly adding to system cost.

"Rural area" designation may be appropriate for areas within an ASA which are not urban, not suburban, and which are either an incorporated city of less than 9,000 population, or consist of census tracts having a population density less than 1,000 persons per square mile, or for traffic corridors in which the rural response time standard can be extended without unduly adding to system cost.

"Frontier area" designation may be appropriate for areas within an ASA which are not urban, suburban, or rural areas, and for inaccessible or roadless areas of the National Forest where rural response times cannot be achieved without unduly adding to system cost.

The Director of the Department may make changes in the response time criteria detailed above to make the County criteria consistent with State mandated Trauma System and/or criteria used for similar purposes and reporting.

#### **D. Levels of Care**

1. Ambulance Service Providers for each Ambulance Service Area:
  - a. Shall provide service at the advanced life support level, staffed by Emergency Medical Services Providers as described in Section 10.01.050.E, on a 24-hour basis.
  - b. Shall maintain vehicles and equipment that conform to the standards, requirements, and maintenance provisions established by the County or in Oregon Revised Statutes and in the rules adopted by the Division.
  - c. Shall maintain and make available, upon request of the Department, patient care records in a form approved by the Department.
  - d. Shall prohibit the performance of Emergency Medical Services Providers or trainees who suffer suspension, revocation, or termination of license by the Division.

#### **E. Personnel**

1. All Ambulances used to provide emergency or non-emergency service in the County must be staffed with Emergency Medical Services Providers licensed by the State of Oregon. Emergency Medical Services Providers are required to have a Medical Director who meets the requirements of the Division.
2. Advanced Life Support Ambulances shall be staffed at minimum with two Emergency Medical Services Providers. The minimum level of staffing is one (1) licensed Paramedic and one (1) licensed Emergency Medical Technician.

3. Emergency Medical Service Providers deployed by Participating Providers as part of a plan to modify ambulance response time requirements shall meet, at a minimum, the licensing and authorization standards established for Ambulance Providers by the County EMS Medical Director.

#### **F. Medical Supervision**

This Plan establishes the goal of unified medical direction for Emergency Medical Services within the County while maintaining the collaborative relationship between Medical Directors.

1. The County EMS Medical Director is hired or contracted by the County to serve as the medical advisor to the County for Emergency Medical Services and shall meet the qualifications of the Oregon Health Authority for EMS Supervising Physicians.
2. The EMSMD:
  - Serves as the Medical Director for Ambulance Service Providers contracted by the County and may serve as the Medical Director for any agency providing Emergency Medical Services in Clackamas County.
  - May implement protocols and set standards of care for Ambulance Service Providers and Participating Providers serving Clackamas County and may require patient care equipment, supplies and medications in addition to those required by the state.
  - May, in appropriate cases, suspend medical authorization for Emergency Medical Services Providers working under his/her medical authorization.
  - Provides oversight of the County quality improvement program.
  - Assists the County in disaster preparedness and response.
  - May recommend modifications to the response time requirements in the Ambulance Service Plan.
  - Participates in the regional protocol development process.
3. The County may hire or contract assistants to help carry out the duties assigned to the EMSMD. The EMSMD retains the sole responsibility for all assigned duties.
4. The Medical Directors of Emergency Medical Service agencies, including dispatch centers, in the County constitute the Emergency Physicians Advisory Board (EPAB). The EPAB advises the County EMS Medical Director about significant EMS system issues including:
  - Staffing requirements for EMS services.
  - Coordination of ambulance services with other EMS services.
  - Training needs of EMS services and providers.
  - Standards for quality improvement programs.
  - Procedures for the resolution of quality assurance problems.
  - Sanctions for noncompliant personnel and providers

5. Ambulance Service Providers, Participating Providers and dispatch centers shall have a Medical Director who meets standards established by the Department and the EMSMD.
6. Dispatch centers providing ambulance dispatch shall have a Medical Director and use emergency medical dispatch protocols approved by the EMSMD.
7. The County may establish a County EMS Medical Authority comprised of the EMSMD and the Medical Directors of Participating Providers, approved and contracted by the County, to provide medical direction to EMS agencies.
8. Medical supervision is also addressed in the Quality Improvement provisions of this Plan (Section 10.01.050.J).

#### **G. Patient Care Equipment**

Patient Care Equipment is addressed in the Levels of Care provisions of this Plan (Section 10.01.050.D), and the Vehicles provisions of this Plan (Section 10.01.050.H).

#### **H. Vehicles**

Ambulance Service Providers for each Ambulance Service Area shall:

1. Supply a sufficient number of vehicles outfitted with necessary equipment and supplies as required by the County and Oregon Revised Statutes and Administrative Rules.
2. Report annually to the Department, upon request, the type, age and mileage of each vehicle.
3. Provide to the Department upon request a written description of its program of vehicle and equipment maintenance and inventory control. Providers may modify such maintenance and inventory control programs, from time to time, as necessary to improve performance and contain costs.

#### **I. Training**

1. The County expects all Emergency Medical Service Agencies to meet State-required licensing levels, participate in a medical audit process, and to provide special training and support to personnel in need of specific training.
2. Participating Providers will ensure that the EMS Providers utilized in EMS response meet the initial, recurrent and competency based training standards established by the EMSMD.
3. This plan establishes a goal of conducting Multi-Agency Training for all Ambulance Service Providers and First Responder Agencies at least once each year.

#### **J. Quality Improvement**

1. This plan establishes a goal of a countywide quality improvement program that includes a database integrating data for PSAP handling of medical calls, first response agencies, ambulance service providers and hospital outcome.
2. The EMSMD provides oversight of the County quality improvement program.

3. Ambulance Service Providers and Participating Providers shall participate in medical oversight as directed by the County, and shall provide data to the County for quality improvement as requested and in a manner determined by the County to be secure, reliable and accessible by quality improvement personnel.
4. Ambulance Service Providers and Participating Providers shall meet state-required licensing levels, participate in a medical audit process, and provide special training and support to personnel in need of specific training.
5. Each agency will be responsible for maintaining an internal quality assurance program including monitoring performance of its personnel, responding to complaints and addressing errors and serious events.
6. At a minimum, the County expects Emergency Medical Services Agencies to:
  - a. Supervise the services provided by them.
  - b. Participate actively in the medical audit process, provide special training and support to personnel found in need of special assistance in specific skill or knowledge areas, and provide additional clinical leadership by maintaining a current and extensive knowledge of developments in EMS equipment and procedures;
  - c. Maintain State and local vehicle permits and personnel licenses;
  - d. Cause all official EMS policies and protocols to be properly implemented in the field. Where questions related to clinical performance are concerned, Emergency Medical Services Agencies shall satisfy the requirements of the Division and the County. EMS Agencies shall ensure that knowledge gained during the medical audit process is routinely translated into improved field performance by way of training, amendments to operating procedures, bulletins, and any other method necessary to ensure it becomes standard practice.
  - e. Utilize the services of a Medical Director to review the quality of care provided by them.
7. Problem Resolution: the County, with advice from the EMSMD, EPAB and EMS Council, will develop a procedure for the resolution of quality assurance problems. Where EMS Services are provided pursuant to a contract with Clackamas County, the contract shall set forth a procedure for addressing and resolving quality assurance problems.
8. Sanctions: the County may implement sanctions for noncompliant personnel and providers subject to this plan. Where EMS Services are provided pursuant to a contract with the County, the contract shall set forth sanctions to be applied in the event of a major breach by the provider, and shall set forth end-of-term provisions designed to provide an orderly transition if necessary.

**K. Changes by Board**

The Board reserves the right, after further addressing and considering the subjects or items required by law, to change system elements described in Sections

10.01.050.A through 10.01.050.J in order to provide for the effective and efficient provision of emergency medical services.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02]

#### **10.01.060 COORDINATION**

##### **A. The Entity that will Administer and Revise the ASA Plan**

The Director of the Clackamas County Department of Health, Housing and Human Services or his/her designee shall be responsible for the administration of this Plan. The Board of County Commissioners of Clackamas County will be responsible for revisions to this Plan.

##### **B. Process for Input and Complaint Review**

1. Complaints will be reported to the Director or his/her designee for investigation.
2. Complaints of a clinical nature and those that may have clinical components will be referred to the agency medical director for investigation. Urgent issues and complaints of an egregious clinical nature may be referred directly to the EMSMD for assistance in generating an immediate investigation and/or intervention.
3. To provide regular consultation on EMS issues, the Board has appointed an Emergency Medical Services Council composed of eleven members as follows:
  - a. One representative of a commercial ambulance service provider;
  - b. One representative from a governmental agency that provides ambulance services, if there is such an agency;
  - c. One representative from the Clackamas County Fire Defense Board;
  - d. One emergency medicine physician from a hospital within Clackamas County.
  - e. One Medical Director to an EMS Agency in Clackamas County;
  - f. One governmental representative from Clackamas County as recommended by the Director of the Department of Health, Housing and Human Services;
  - g. One licensed Paramedic currently providing prehospital emergency medical care in Clackamas County;
  - h. One Basic Life Support Emergency Medical Provider currently providing prehospital emergency medical care in Clackamas County;
  - i. One person representing a city in Clackamas County.
  - j. One person representing consumers of ambulance services;
  - k. One person representing a Primary Public Safety Answering Point (PSAP) Communications Center within Clackamas County.
4. Appointments shall be made for a term of three years.



5. The Council shall adopt bylaws to govern the operations of the Council.
6. The Council shall advise the Board and the Department in all matters relating to this Plan and matters relating to prehospital emergency medical services, and provide consultation or make recommendations as may be requested by the Board or the Department.

### **C. Mutual Aid Agreements**

Ambulance Providers shall enter into effective agreements for mutual aid or additional ambulance resources and provide copies of such agreements to the County.

*Mutual aid agreements must include provisions for moving resources into an ASA for disaster and mass casualty incidents.*

When no ambulance is immediately available in an ASA, the Provider shall request mutual aid assistance and assist the appropriate PSAP to identify and dispatch the next closest available ambulance.

Ambulance Providers are required to use best efforts to provide a response to all requests for mutual aid from neighboring jurisdictions.

Should delivery of mutual aid service to any neighboring jurisdiction become excessive, indicating that such jurisdiction is relying heavily upon another system for emergency service, the Ambulance Provider shall so inform the County and discuss adjustment of the delivery of mutual aid service to that neighboring jurisdiction to a level more consistent with mutual aid requests by other neighboring jurisdictions.

Mutual aid responses shall be reviewed at least annually unless problems or deficiencies occur. If it is found that an Ambulance Provider is relying on mutual aid to mask coverage deficiencies, the Ambulance Provider may be required to re-deploy units or add unit hours to cure deficiencies.

### **D. Disaster Response**

#### **1. County Resources Other than Ambulances**

The County will establish, in consultation with its Department of Emergency Management, the Fire Defense Board and law enforcement agencies, an inventory of County resources available to assist in any disaster response.

#### **2. Out of County Resources**

The County will establish, in consultation with its Department of Emergency Management, the Fire Defense Board, law enforcement agencies and neighboring jurisdictions, an inventory of out of County EMS resources available to assist in any disaster response. Provisions for disaster response will be included in all mutual aid agreements.

#### **3. Mass-Casualty Incident Plan**

The County will establish, in consultation with its Department of Emergency Management, the Fire Defense Board, law enforcement agencies and neighboring jurisdictions, a mass casualty plan to be used in any mass

casualty incident. Provisions for mass casualty response will be included in all mutual aid agreements.

4. Response to Terrorism

The County will establish, in consultation with its Department of Emergency Management, the Fire Defense Board and law enforcement agencies, a plan for responding to terrorism incidents including, weapons of mass destruction / effect and bio-terrorism incidents. Law enforcement will be the lead agency in the immediate response and mitigation of terrorist threats or incidents. The Department will be the lead health agency in determining the appropriate health agency response. The Public Health Officer will be the lead physician at the agency and the County EMS Medical Director will assist in coordinating EMS resources.

5. The County has an obligation to provide assistance to other communities during disasters or other extraordinary emergencies. All Ambulance Providers shall cooperate with the County in rendering emergency assistance to its citizens and to other communities during such events.

During such periods, and upon authorization from the County, Ambulance Providers will be exempted from responsibilities for response-time performance until notified that the assistance within the County or to other communities is no longer required. At the scene of the disaster or other extraordinary emergency, the Ambulance Providers' personnel shall perform in accordance with local emergency management procedures and protocols established by the affected County.

When an Ambulance Provider is notified that disaster assistance is no longer required, it shall return all of its resources to the primary area of responsibility, and shall resume all operations in a timely manner.

6. Ambulance Providers shall use the incident command and personnel accountability systems adopted by the Clackamas County Fire Defense Board, and provide necessary training to their employees.
7. Ambulance Providers shall participate in County disaster planning and training exercises as requested.

**E. Personnel and Equipment Resources**

1. Non-Transporting EMS Provider Agencies

EPAB may recommend standards for certification, equipment, standards of care, clinical protocols and patient hand-off procedures for all non-transporting EMS Providers. Individual agency Medical Directors will be responsible for implementing and supervising the agency's adherence to these standards.

2. Participating Provider agencies shall comply with standards for certification, equipment, standards of care, clinical protocols and patient hand-off procedures established by the County EMS Medical Director. Should any Participating Provider utilize a Medical Director in addition to the County

EMS Medical Director, compliance with this provision may be supervised by the agency's Medical Director.

3. All EMS Provider Agencies shall provide training for their crews to the hazardous materials first responder (awareness) level as determined by the Occupational Safety and Health Administration.
4. The authority having jurisdiction will identify the appropriate lead agency for hazardous materials, extrication, search and rescue, and specialized rescue.
5. All Ambulance Providers will participate in and comply with the countywide incident command and personnel accountability systems established by the Fire Defense Board.

#### **F. Emergency Communication and System Access**

##### **1. Telephone and Dispatch Procedures**

9-1-1 calls for emergency services received by Clackamas County Communications (C-COM) and Lake Oswego Communications (LOCOM) are dispatched, or forwarded to WCCCA or NORCOM for dispatch, as appropriate.

These PSAPs provide twenty-four hour per day staffing for dispatch of police, fire and medical services and for emergency and routine radio communications between users and other resources relating to the functions of user agencies.

PSAP dispatch personnel are trained in cardio pulmonary resuscitation (CPR) and emergency medical dispatch (EMD) techniques and will provide instructions for pre-arrival treatment if calling party is willing to perform treatment to ill or injured victims.

##### **2. Radio System**

The County has both an 800-megahertz and a VHF radio system. Ambulance Providers shall provide, install and utilize radios required by the County and shall be able to communicate with all Clackamas County first response agencies.

3. Emergency Ambulance Providers shall meet requirements for communication with On-Line Medical Control, trauma communications and receiving hospitals established by the County EMS Medical Director.

##### **4. Emergency Medical Services Dispatcher Training**

All dispatch centers handling EMS Calls will be required to operate under Emergency Medical Dispatch (EMD) and Priority Dispatch procedures approved by the County EMS Medical Director. EPAB may provide advice and consultation to the County EMS Medical Director in the development, evaluation and selection of EMD and Priority Dispatch systems. All persons assigned to EMS duties and call taking will be required to complete a prescribed training program in EMD.

5. Ambulance Providers shall follow dispatch and radio procedures as determined by member boards of each PSAP and the Fire Defense Board.

### **G. Changes by the Board**

The Board reserves the right, after further addressing and considering the subjects or items as required by law, to change coordination provisions described in Sections 10.01.060.A through 10.01.060.F in order to provide for the effective and efficient provision of emergency medical services.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02]

### **10.01.070 PROVIDER SELECTION**

#### **A. Initial Assignment of Ambulance Providers**

Initial assignment of Ambulance Providers has been as follows:

1. The Molalla Rural Fire Protection District (RFPD) was assigned as the provider for the Molalla ASA under the 1991 Ambulance Service Plan, and will continue to provide service to that area.
2. The Canby Rural Fire Protection District was assigned as the provider for the Canby ASA under the 1991 Ambulance Service Plan, and will continue to provide service to that area.
3. American Medical Response was assigned as the provider for the Clackamas ASA in a competitive process under the 1993 Ambulance Service Plan.

#### **B. Reassignment**

1. An emergency reassignment may be made at any time for a period of up to one year if the Board determines that the inability or failure of a provider to perform in the delivery of ambulance services constitutes an emergency related to public health and safety.
2. Should an Ambulance Provider notify the County that it is no longer willing or able to provide service to an ASA, or should the County take action to terminate the agreement for service or assignment to the ASA, the County shall then select a replacement provider by a competitive selection process recommended by the County Administrator and approved by the Board.
3. At the end of the term of an agreement for ambulance service, the Board may extend the agreement, renegotiate the agreement, or seek a service provider by a method recommended by the County Administrator.

#### **C. Application for an ASA**

The County will solicit applications for an ASA from Ambulance Providers if it determines that additional providers are needed. The format for such applications will be determined by the County Administrator.

#### **D. Notification of Vacating an ASA**

Assignees and Franchisees shall comply with the requirements of franchise or assignment agreements in serving notice of intent to vacate an ASA. Generally these agreements contain performance security measures that are adequate to assure uninterrupted service. Any provider that does not have an agreement that specifies procedures for vacating an ASA shall give adequate notice and fully cooperate with the County in the takeover of ASA responsibilities.

**E. Maintenance of Level of Service**

1. In the event that any provider vacates an ASA, the County will consider reassignment of the ASA as provided in subsection (B) above.
2. In all agreements related to ASA assignments and franchises, the County intends to require adequate performance security to assure adequate services levels are maintained.
3. Revocation: Upon recommendation by the Department, or upon its own motion, and after proper notice and opportunity to correct, the Board may modify, revoke, or refuse to renew a franchise, ambulance permit, or ASA assignment upon finding that the franchise holder or provider has:
  - a. Violated this Plan, a County ordinance, the terms of a permit, franchise, assignment, or the conditions thereunder, or other State laws or regulations herein applicable; or
  - b. Materially misrepresented facts or information given in the application for a franchise, or materially misrepresented facts and justification of rate adjustments; or
  - c. Failed to provide adequate service in an assigned service area; or
  - d. *Misrepresented the gross receipts from the franchise service area or such other reports required by the Board; or*
  - e. Willfully charged rates in excess of those authorized by the Board; or
  - f. *Generated an excessive number of investigated and confirmed complaints from police agencies, fire departments, health care facilities, the medical community, or the public concerning the provider's performance;*
  - g. Failed conscientiously to comply with any and all requirements of this Plan; or
  - h. Failed to follow the requirements as listed in the permit, Request for Proposal or the franchise contract.
4. The Board shall notify the ambulance provider in writing of the alleged failure.
5. The County shall have the right to revoke a permit, ASA assignment or franchise if it finds that there has been a violation of the terms of the permit, assignment, or a major breach of the terms of the franchise. The County shall have the right to exercise immediate takeover of the franchise operations if it finds that there has been a major breach of the terms of the franchise, and, in the County's opinion, public health or safety are endangered thereby. Such action may be effective immediately at the direction of the County.
6. No franchise, permit, or ASA assignment shall be revoked without providing a right to a hearing in the matter. The Ambulance Provider shall have the right to appear and defend against the charges, and if desired, to be represented by counsel. In the event of an emergency or immediate situation, the hearing may be conducted after the takeover of the system.

7. The County will include, in its contract with the Ambulance Provider selected to serve the Clackamas ASA, notification and termination provisions to provide for performance security.
8. In areas of the County where geographic or other limitations might hinder the adequate provision of ambulance services, the County may enter intergovernmental agreements with counties, cities or fire districts in order to provide efficient and effective ambulance service by means of public or private Ambulance Providers.
9. The assignments of Section 10.01.070.A shall be exclusive; however, such exclusivity shall not apply to:
  - a. Vehicles owned by or operated under the control of the United States Government or the State of Oregon;
  - b. Vehicles being used to render temporary assistance in the case of a disaster, or an emergency with which ambulance services of surrounding localities are unable to cope, or when directed to be used to render temporary assistance through an alarm/dispatch center or a public official at the scene of an accident;
  - c. Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any public street, road or highway serving the property of grounds is involved;
  - d. Any person who owns or who drives or attends a patient transported in a vehicle under this subsection 10.01.070.E.9;
  - e. Ambulance companies that provide service only to fulfill mutual service agreements, or non-emergency transportation contracts with specific organizations (if the County does not incorporate non-emergency ambulance services into an exclusive franchise agreement), provided the ambulance company and the organization are on a current basis identified and on file with the Department;
  - f. Vehicles operated solely for the transportation of lumber industry employees;
  - g. Transport of persons who do not require pre-hospital or out of hospital emergency assessment or treatment (if the County does not incorporate non-emergency ambulance services into an exclusive franchise agreement);
  - h. Transport of persons through an ASA, or patient delivery from another ASA.

#### **F. Changes by the Board**

The Board reserves the right, after further addressing and considering the subjects or items required by law, to change ambulance provider selection procedure or standards, or service provisions, as described in Sections 10.01.070.A through 10.01.070.E, in order to provide for the effective and efficient provision of emergency medical services.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02]

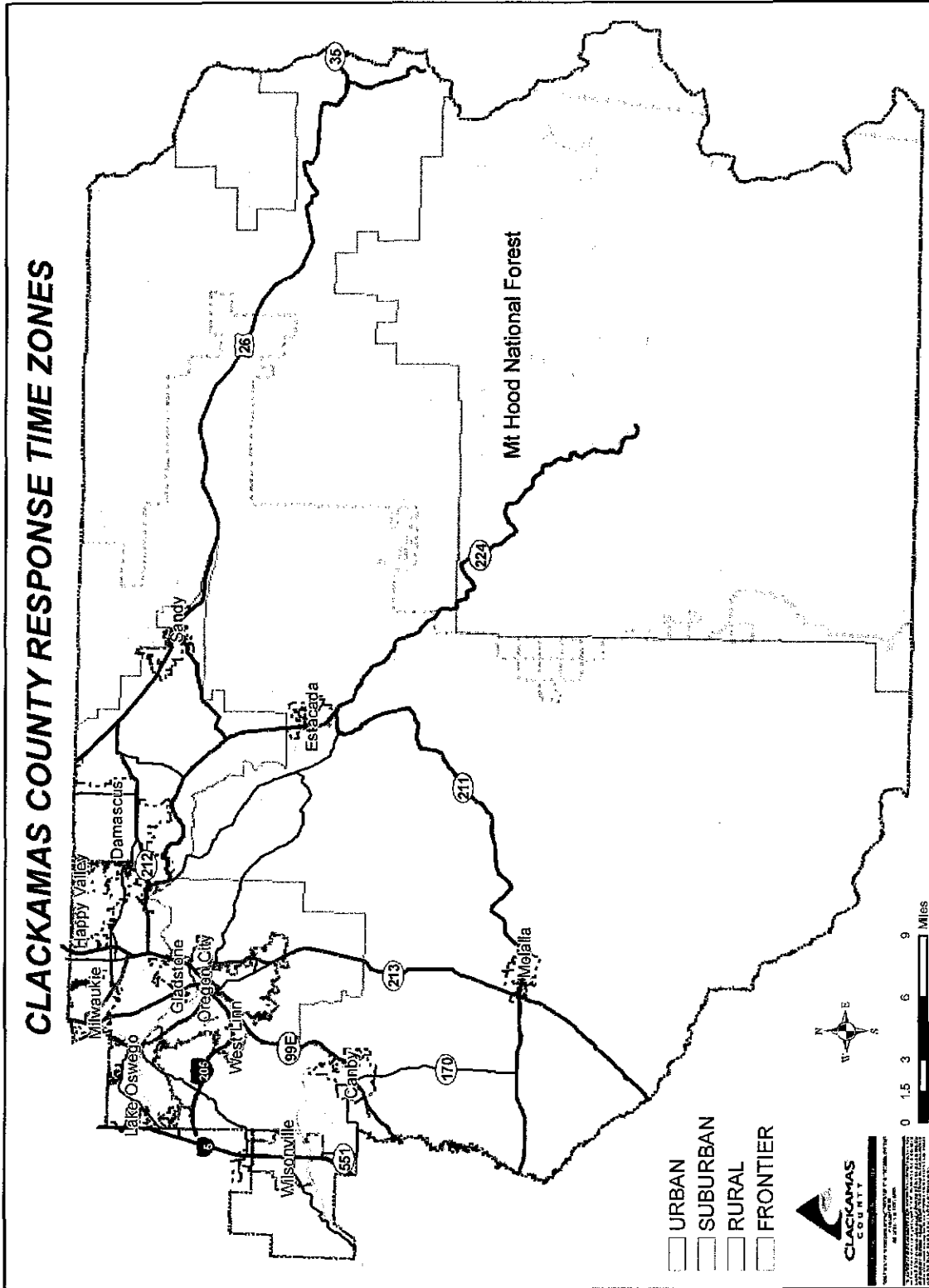
**10.01.080 COUNTY ORDINANCES AND RULES**

- A. Clackamas County Code Chapter 10.01, Ambulance Service, is the codified form of the County's Ambulance Service Plan, and is adopted by County ordinance.

[Added by Ord. 04-2002, 3/14/02]

APPENDIX A

Clackamas County Response Time Zone Map







3

OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING  
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July 12, 2012

Board of County Commissioners  
Clackamas County

Members of the Board:

**A FIRST READING OF AN ORDINANCE AMENDING CHAPTER 7.03 OF  
THE CLACKAMAS COUNTY CODE**

County Code Section 7.03 is the Road Use Ordinance and addresses activity and construction in the right of way. Section 7.03 was codified in 2000, with amendments in 2003 and 2009. This update deletes the technical specifications that were included originally in the Code, which are often updated by the state and have become obsolete. These technical specifications will instead be included in the County Roadway Standards which are also being updated and will be approved by the Department of Transportation and Development's Director concurrently.

Additional special items that have been included in the Code for this update are a policy regarding Roadside Memorials (7.03.090.J) and a policy regarding Portable Storage Containers (7.03.090.I).

**RECOMMENDATION:**

Staff respectfully recommends the Board of County Commissioners read the proposed Ordinance by title only, and hold a second reading on July 26, 2012.

Sincerely,

Scot A. Sideras  
Legal Counsel, Senior  
Attachments

For more information on this item, please contact Scot Sideras at (503)742-4332 or email at [scotsid@co.clackamas.or.us](mailto:scotsid@co.clackamas.or.us)

**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance Amending Chapter 7.03, Road Use, of the Clackamas County Code**

WHEREAS, Chapter 7.03, Road Use, of the Clackamas County Code contains technical specifications frequently updated by the state; and

WHEREAS, it has been determined by the Board of County Commissioners that because technical specifications are updated frequently by the state, they should not be included in the County Code; and

WHEREAS, this amendment deletes all technical specifications from Chapter 7.03; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Chapter 7.03, Road Use, of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## EXHIBIT "A"

### Chapter 7.03

#### 7.03 ROAD USE

##### 7.03.010 Purpose

This Chapter shall govern: a) road use impediments, entrances, utility placements, and other activities within the right-of-way of County roads, local access roads, and public roads; b) activities on private property which impact the safe use of these roads; and c) vacation proceedings and road status changes.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03]

##### 7.03.020 Definitions

- ~~A. AASHTO MANUALS~~ Shall mean the American Association of State Highway and Transportation Officials Manuals, including "A Policy on Geometric Design of Highways and Streets", "A Guide for Erecting Mailboxes on Highways" ~~(is this being updated still, is there a replacement document?, and the "Roadside Design Guide". These manuals are periodically updated and the most current update at any given time shall apply. Low Volume Standards. Do we need to refer to these anymore or just Rdwy stds?)~~
- ~~B-A. APPLICANT/OWNER~~ ~~APPLICANT/OWNER~~ – Shall mean the corporation, cooperative, company, firm, business, partnership, individual or individuals whose name and signature appear on a utility permit and to whom the permit is issued. The ~~"Applicant/Owner"~~ ~~applicant/owner~~<sup>2</sup> is presumed to have permanent care and maintenance of the utility.
- ~~C. APWA~~ Shall mean the American Public Works Association, Oregon Chapter, and the most recent edition of the ~~Standard Specifications for Public Works Construction. (Remove all references to APWA, refer to ODOT/APWA Std Specifications).~~
- ~~D. ASPHALT~~ Shall mean the hot mixture of asphaltic concrete (Class B or Class C mix) as defined in the most recent edition of the ~~Oregon Department of Transportation Standard Specifications for Highway Construction, or APWA Standard Specifications for Public Works, used for the construction of driveways. Asphalt structures shall be constructed at the respective locations shown in Standard Drawing D-500 of the Clackamas County Roadway Standards handbook. These structures shall substantially conform to the lines, grades, and dimensions shown on the standard drawings.~~
- ~~E-B. BOARD~~ – Shall mean the Board of Commissioners of Clackamas County.
- ~~F-C. CABLE/WIRE~~ – Shall mean any and all aerial pole lines and direct buried cables and conduit protected cable.
- ~~G-D. CLEAR ZONE~~ – Shall mean the area outside the traveled portions of the roadway that is available for safe use by errant vehicles, vehicles forced off the roadway, and pedestrians avoiding traffic when necessary. The clear zone may extend outside the right-of-way. See Clackamas County Roadway Standards. ~~The clear zone shall be clear of fixed objects under the criteria set out in the Clackamas County Roadway Standards.~~
- ~~H. CONCRETE~~ Shall mean Portland Cement Concrete (PCC) manufactured for the construction of walks, driveways, and surfacing. This concrete shall have design strength of 3300 psi in 28 days. ~~(3000 v. 3300) Walks, driveways, and surfacing shall be constructed in accordance with the most recent edition of the Oregon Department of Transportation Standard Specifications for Highway Construction or APWA Standard Specifications for Public Works Construction. Concrete structures shall be built in the locations shown in Standard Drawings D-300, D-500 and D-600 of the Clackamas County Roadway Standards handbook, and shall substantially conform to the lines, grades and dimensions shown on these standard drawings.~~
- ~~I. CONTROLLED DENSITY FILL~~ Shall mean a semi-fluid, self-compacting, plant mixed trench

~~backfill (CDF) material that can result in a non-compressible, low strength, digable material with compressive strength ranging from 50 to 150 psi in 28 days.~~

J.E. COUNTY ROAD – See “ROAD/ROADWAYoad.”

K.F. COUNTY ROAD OFFICIALROAD OFFICIAL (“Road Official”) – As used in Chapter 368 and defined in ORS 368.001(2) shall refer to the Director of ~~the Department of Transportation and Development~~DTD. Any authority granted to or act required or permitted by the ~~County Road Official~~ by statute may be exercised or done by the Director. Subject to approval by the County Administrator, the Director may adopt written policies designating employees of ~~the department~~DTD that are authorized to act as the ~~County Road Official~~ for specified purposes. (Amended by Ord. 02-2009, 3/5/09)

L.G. CULVERT – Shall mean storm sewer pipe used for conveying storm water within the road right-of-way, and meeting the following specifications of the Clackamas County Roadway Standards. ~~(Reference this definition in the Rdwy Stds):~~

1. ~~12, 15 and 18-inch inside diameter concrete pipe shall conform to the ASTM C-14 Class 3 standard (having Wall "B");~~
2. ~~24, 30 and 36-inch inside diameter concrete pipe shall conform to the ASTM C-76 Class 4 standard (having Wall "B");~~
3. ~~Twelve-inch metal culvert pipe shall be no less than No. 16-gauge coated corrugated steel pipe and shall conform with the requirements of AASHTO M-36, Types 1 and 2, with the protective bituminous coating conforming to the requirements of AASHTO Standard M-190. In addition, metal culvert shall have 3:1 sloped ends, or a concrete headwall, or an additional three feet at each end to prevent crushed and/or plugged ends.~~
4. ~~High Density Polyethylene Pipe (HDPE) Double-walled, smooth interior and corrugated exterior HDPE culvert pipe and associated HDPE fittings shall conform to AASHTO M294 and M252; ASTM 405 and 667. The minimum diameter shall be 12 inches. When pre-approved by the County Road Official, the installation shall conform to the manufacturer's recommendations. In addition, HDPE culvert shall have 3:1 sloped ends, a concrete headwall, or an additional three feet at each end to prevent crushed and/or plugged ends.~~

M.H. DEPARTMENTDTD – Shall mean the Clackamas County Department of Transportation and Development ~~(DTD)~~.

N.I. ENTRY PERMIT – Shall mean that written permission granted by the ~~County Road Official~~ or ~~designee~~agent in accordance with ORS 374.305–to-374.325. This written permission allows an applicant to place, build, or construct an entry, approach road, structure, culvert, ditch, or other facility, thing, or appurtenance on the right of way, or substantially alter a facility, thing or appurtenance, or change the manner of using the entry or approach road.

O.J. FACILITY – Shall mean any and all cables, wires, conduits, pipe lines, pedestals and/or related appurtenances placed on or beneath the ground and authorized by a County issued permit.

P.K. FIXED OBJECT – Shall mean any natural or man-made object, including vegetation, that could potentially cause harm to an errant vehicle or its' occupants. "Vegetation" specifically includes trees greater than 6 inches in diameter, among other things.

Q. ~~FRONTAGE IMPROVEMENTS – These enhancements made within public right-of-way that adjoins a subject property, including, but not limited to: upgrades to points of ingress and egress, curbs, culverts, base rock, asphalt or concrete road surfacing; utility relocation; grade changes of a roadway or utility; upgrades or installation of street lights, sidewalks, signing, signalization, and traffic capacity; and other related enhancements. These enhancements shall be consistent with the Standard Drawings incorporated within the Clackamas County Roadway Standards handbook and be in accordance with the Clackamas County Comprehensive Plan.~~

R.L. GATES – Shall mean any framework or structure that can be opened or closed, placed or installed in the right-of-way for the purpose of controlling or restricting the public travel.

S.M. INTERSECTION SIGHT DISTANCE (ISD) – ~~Shall mean the distance that a motorist can see when entering or exiting a County road, local access road, public road, private road or driveway. The ISD shall be determined according to Clackamas County Roadway Standards. See the Clackamas County~~

Roadway Standards. Sight distance will depend upon Road Classification, and the relative location of the area to the Urban Growth Boundary (UGB).

~~T.N.~~ LOCAL ACCESS ROAD – See “ROAD/ROADWAY Road.”

O. M-U-T-C-D. – Shall mean the Manual on Uniform Traffic Control Devices for Streets and Highways in its most recent Oregon -adopted edition and Oregon adopted supplements.

P. ORS - Shall mean Oregon Revised Statutes.

U.O. PERSON – Shall mean and include individuals, cooperatives, corporations, associations, firms, partnerships, joint stock companies, trusts and estates, municipalities, and any other legal entities whatsoever.

V.R. PIPE LINE – Shall mean any and all pipe lines, hydrants, valve boxes, manholes, and/or related appurtenances authorized by the issuance of a permit.

W.S. POLE LINE – Shall mean any and all poles, wires, guys, anchors, and/or related appurtenances authorized by the issuance of a permit.

X.T. PRIVATE ROADWAY – Shall mean a roadway on private property, maintained with private funds, generally considered to provide practical and legal access to more than one parcel of property.

~~Y.U.~~ ROAD/ROADWAY – ~~Shall mean and include the entire right of way, along with all improvements, including but not limited to, the pavement surface, shoulders, driveway entrances, ditches, culverts and other drainage features, bridges and other structures, guard rails, curbs, sidewalks, traffic controls and all features necessary for use of the road. See ORS 368.~~ For purposes of this chapter, all of the following are “roads”:

1. PUBLIC ROADS: ~~roadways over which the public has a right of use that is a matter of public record, but that has not been accepted for maintenance by Clackamas County. See ORS 368.~~
2. COUNTY ROADS: ~~public roads or local access roads that have been designated as County roads pursuant to ORS 368.016. See ORS 368.~~ Customarily, Clackamas County has accepted County roads for maintenance.
3. LOCAL ACCESS ROADS: ~~Public roads that are subject to the exercise of jurisdiction by the County in the same manner as other County roads under ORS 368.001 and ORS 368.031. See ORS 368. The maintenance of local access roads shall not be funded by the County unless the Board expressly decides orders otherwise.~~

V. ROAD OFFICIAL - See “COUNTY ROAD OFFICIAL”.

W. RIGHT-OF-WAY (ROW) – Shall mean a legal use or right of passage, given to the public, over a strip of ground under the jurisdiction of cCounty, sState, or fFederal agencies.

~~Z. (check ZDO definition)~~

~~ROAD USE REQUIREMENTS – Shall mean and include ORS 374.305 – 374.340, ORS Chapter 368, any County road use ordinances, rules, regulations or standards, and any conditions of permits issued pursuant to those State statutes or County ordinances, rules or regulations.~~

AA.X. TRAFFIC CONTROL DEVICE – See ORS 801.540xx.

BB.Y. TRAIL – Shall mean any easement over land that is not part of a road right-of-way and does not provide motor vehicle access of the type provided by a road, but which permits travel between places. For the purpose of this chapter, a trail must be under the sole jurisdiction of Clackamas County, and must be an easement over which the public has a right of non motor -vehicular use. (A change in use from a road to a trail shall not change the designation of any easement as road right of way.)

CC.Z. TRAVELED PORTION OF THE ROADWAY – Shall mean those areas used by and accessible to motor vehicles and pedestrians, including paved shoulders and bike lanesfacilities, and shall also include sidewalks or other pedestrian facilities. ~~(Conflicts with definition in Rdwy Stds).~~

DD.AA. UTILITY – Shall mean privately, publicly or cooperatively owned line, network, or system for communications, cable television, power, electricity, light, heat, gas, oil, crude products, potable water, surface water or storm water, steam, waste water not connected with roadway drainage, or any other similar commodity, including any fire or police signal system, or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any substantially owned or controlled subsidiary. For the purposes of this ordinance, the term includes those utility-type facilities owned or leased by a government agency for its own use, or otherwise dedicated

solely to governmental use. The term utility includes facilities and appurtenances used solely by the utility that are a part of its operation. ~~(update rdwy stds def)~~

~~EE.BB.~~ UTILITY PERMIT – Shall mean the written permission granted by the ~~County~~ Road Official or ~~agent~~ designee in accordance with ORS 374.305 ~~to~~ 374.325. This written permission provides for the lawful construction of aerial pole lines, buried cables, pipe lines, and miscellaneous utility operations, and may include special permit provisions if deemed necessary by the ~~County~~ Road Official.

~~FF.CC.~~ VIOLATION – Shall mean an activity that does not comply with the ~~Road Use~~ requirements of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03; Amended by Ord. 02-2009, 3/5/09]

### 7.03.030 Compliance

Every person shall comply with the requirements of this chapter in the location, construction, and alteration of any approach road, driveway, underground utility or any other facility, road use impediment, thing or appurtenance on or in the right-of-way of any County road, local access road, or public road under the jurisdiction within the boundaries of Clackamas County.

The Road Official or the ~~Board of County Commissioners~~ Board may take any action deemed to safeguard the best interests of the traveling public, regardless of the provisions of this Chapter. This specifically includes the authority to erect gates when necessary to safeguard a public interest, without seeking a permit.

[Codified by Ord. 05-2000, 7/13/00; Amended Ord. 01-2003, 1/23/03]

### 7.03.040 Conflicting Requirements

The provisions of this chapter are minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law, rules, regulations, resolutions, easements, covenants or other agreements between parties, the provisions of this chapter shall control. Where other provisions of law are more restrictive than this chapter, the more restrictive provision shall control.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.050 Violation as Nuisance

A violation of this chapter is hereby declared to be a public nuisance and shall continue to be a nuisance until the offending road use violation is brought into compliance with this chapter.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.060 Issuance of Violation Notice ~~Warnings~~

The ~~County~~ Road Official or ~~his~~ the Road Official's designee may issue violation ~~warning~~ notices ~~of alleged violations~~. If issued, such ~~warning~~ notices shall give a brief description of the violation ~~alleged~~ and shall be served upon the person responsible for ~~accused of~~ the offense. The ~~warning~~ notice shall also contain:

- A. ~~The name of the County Department to contact regarding the violation.~~ The contact information for the County department and division issuing the violation.
- B. ~~The name of the person issuing the warning notice.~~
- C. ~~The date the violation warning was issued, and~~
- D. ~~A statement that failure to correct the alleged violation or to contact the appropriate County Department within a specified time period, may result in civil or Compliance Hearings Officer proceedings to abate the nuisance.~~

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.070 Remedies

In addition to any other remedies provided by law, if the ~~alleged~~ violation has not been corrected within a minimum of ten (10) days after a violation warning notice is received, the County may refer the matter to the Compliance Hearings Officer for enforcement under the Compliance Hearings Officer Chapter or institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, correct or remove the installation which is in violation of the requirements of this chapter. These remedies shall exist in addition to all other remedies provided by law.

[Codified by Ord. 05-2000, 7/13/00]

### **7.03.080 Penalties**

Violation of the provisions of this chapter may be sanctioned in any manner provided for by law, including, but not limited to, ~~the following:~~

For violations of Sections 7.03.090 – 7.03.230, by imposing civil penalties in the amounts authorized under ORS 203.065(1).

For violations of Sections 7.03.240 – 7.03.290, by imposing civil penalties in an amount to be set by ~~County Code Chapter 2.07 the Board and~~ as determined by the Compliance Hearings Officer.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03]

### **7.03.090 Road Use Impediments – Prohibited Activity**

A. Potential Hazards – No person shall allow any of the following things to exist on any portion of the road right-of-way that abuts property s/he owns or occupies, including sidewalks, if it could create a potential hazard in the opinion of the Road Official:

1. Earth;
2. Rock;
3. Vegetation;
4. Structures;
5. Objects;
6. Debris;
7. Anything that may cause a potential hazard to the public in their use of a sidewalk or other facility intended for pedestrians, including, but not limited to:
  - a. Vertical displacements on the surface greater than 1/2" or vertical displacements between 1/4" and 1/2" not beveled with a slope of 50 percent or less across the entire vertical displacement.

a.b. Cracks or disrepair.

B. Visual Impediments to Safe Road Use – No person shall allow any of the following things to exist on or in the road right-of-way, including intersecting corners, that abuts property s/he owns or occupies, or on property that abuts a road, or in the airspace above a road, if the thing obstructs the view necessary for safe operation of motor vehicles upon the road, or if it causes potential danger to the public that uses the road:

1. Trees;
2. Shrubs;
3. Hedges;
4. Any vegetation;
5. Projecting overhanging limbs of vegetation;
6. Temporary or permanent structures;
7. Fences;
8. Berms;
9. Natural or man-made objects.

The view necessary for safe use of the road by the public shall be Intersection Sight Distance (ISD) as

described in the ~~AASHTO and the~~ Clackamas County Roadway Standards ~~handbook~~.

- C. ~~Visual Impediments that Compromise Clear Zone or ISD~~ – No person shall allow any fixed object to ~~or visual impediment to~~ exist within the road right-of-way, ~~or on property that abuts a road that person owns or occupies, or in the airspace above a road~~ if it compromises the ~~either~~ clear zone criteria of the Clackamas County Roadway Standards. ~~or intersection sight distance.~~
- D. Obstruction of Official Traffic Control Device –
1. No person shall allow any of the following things to exist within the road right-of-way, ~~or on property that abuts a road that person owns or occupies, or in the airspace above a road~~ in a manner that wholly or partially obstructs the visibility of an official traffic control device from a distance of 200 feet:
    - a. Vegetation;
    - b. Overhanging or projecting limbs;
    - c. Permanent or temporary structures;
    - d. Fences;
    - e. Berms;
    - f. Natural or man-made objects.
  2. When the traffic control device is a “~~Stop~~TOP” sign, a “Yield” sign, or a traffic control signal, no thing shall obstruct its visibility from the ~~stopping sight distance prescribed by the AASHTO or Clackamas County Roadway Standards handbook, distance described in the Manual on Uniform Traffic Control Devices~~ MUTCD, if that ~~stopping sight~~ distance is greater than the 200 feet necessary for other traffic control devices under) D 1 of this subsection.
- E. Flow of Water Impeding Safe Use of traveled portion of the roadway. ~~Roads, Sidewalks or Bike Paths~~ – No owner or lawful occupant of property abutting any road shall allow water to overflow, seep or otherwise discharge into the traveled portion of the roadway, ~~sidewalk or bike path~~ that abuts their property, if the water creates a nuisance condition or impedes the safe use of the ~~road, sidewalk or bike path~~ traveled portion of the roadway. The source of the water flow shall be irrelevant to liability under this subsection.
- F. Prohibition Against Blocking Drainage or Traveled Portion of ~~the~~ Roadway – No person shall allow any soil, rock, earthen material, dirt, bark dust, compost or similar processed vegetative material to erode, flow, discharge or otherwise be placed or deposited in the traveled portion of ~~any road, sidewalk or bike path~~ of the roadway, or to block any drainage system within the road right-of-way.
- G. Regulation of Basketball Hoops, Skate Board Ramps & Cycle Ramps –
1. No person shall allow the following to exist on or in the road right-of-way, or on property abutting a road, if its placement encourages approach from, or use in conjunction with the road right-of-way:
    - a. Basketball hoop;
    - b. Skateboard ramp;
    - c. Cycle ramp;
    - d. Any other thing or structure capable of being used from the road right-of-way.
  2. Notwithstanding the prohibition set forth above, a basketball hoop, backboard and supporting structure may be located on dead-end local residential streets and local residential streets having expected traffic volumes of less than 250 vehicles per day, if all of the following conditions apply:
    - a. The basketball hoop is no closer than 150 feet from any street intersection.
    - b. Sight distance to the basketball hoop for approaching vehicles must not be less than 150 feet.
    - c. No portion of the basketball hoop shall be located closer than 20 feet from an adjacent property line.
    - d. In no case shall court markings be placed on the roadway.
    - e. In no case shall the basketball hoop be used between the hours of ~~109~~ PM and 7 AM.

- H. Regulations for Mail boxes, Newspaper Boxes, Other Receptacles – No person shall allow any mail box, newspaper box or other receptacle to exist on the road right-of-way unless it conforms to the safety



standards outlined in the most recent editions of the AASHTO manuals-Roadside Design Guide, or is approved by the Federal Highway Administration and the Oregon Department of Transportation, the AASHTO "A Guide For Erecting Mailboxes On Highways", the clear zone standards of the County Roadway Standards, or the standards of the United States Postal Service.

I. Regulations for Portable Storage Containers – No person shall allow the placement of a portable storage container within the traveled portion of the roadway or within the clear zone.

J. Regulations for Roadside Memorials –

1. A roadside memorial may be authorized pursuant to Clackamas County's Roadside Memorial policy;

2. Unauthorized roadside memorials may be removed if:

a. The roadside memorial is a safety hazard in the opinion of the Road Official;

b. The roadside memorial creates a safety/operational/productivity issue for Transportation Maintenance personnel and/or equipment in the opinion of the Road Official, or;

c. The County receives a complaint regarding the unauthorized roadside memorial.

3. If an unauthorized roadside memorial is to be removed, DTD will attempt to contact the person responsible for the roadside memorial. If contact is made with the person, 14 days will be provided to allow for removal. After a minimum of 14 days, DTD may remove the roadside memorial.

~~— Roadside memorials will be allowed through the Department's "Adopt a Road" program. A person may adopt a section of roadway for litter/debris removal with the use of "In Memory of xxxxxx" signage.~~

~~— Unauthorized roadside memorials will be removed if:~~

~~— The roadside memorial is a safety hazard in the opinion of the Road Official;~~

~~— The roadside memorial creates safety/operational/productivity issue for Transportation Maintenance personnel and/or equipment in the opinion of the Road Official;~~

~~— The County receives a complaint regarding the unauthorized roadside memorial.~~

~~4. If an unauthorized roadside memorial is to be removed, the Department will attempt to contact the family if they are able to identify who the family is. If contact is made with the family, 14 days will be provided to allow for removal. After a minimum of 14 days, the Department may remove the roadside memorial.~~

K. Regulations for Written or Graphic Displays – No person shall post, paste, paint, brand or otherwise place or attach notices, signs, pictures, advertisements, cards, posters, bills, notices or any other form of written or graphic display to any building, fence, gate, bridge, tree, rock, board, structure, utility pole, traffic control device or its supporting structure, or anything whatever within the road right-of-way unless it is authorized under ORS 368.942—368.960.

L. Regulations on Obstructing View by Vending or Advertising Merchandise – No person shall allow the following things to be present on ~~a sidewalk, pedestrian way, bike path or road right-of-way,~~ the traveled portion of the roadway or on property abutting a road, if it could obstruct the view of, or cause danger to, persons who use the road:

1. Any vehicle that facilitates vending or merchandise sales;
2. Any object or structure that facilitates vending or merchandise sales;
3. Any object or structure that advertises, sells or offers merchandise for sale;
4. Any utility trailer;
5. Any recreational vehicle;
6. Any mobile or modular home.

M. Prohibition of Gates on Roads – ~~It is the policy of the Board of County Commissioners that all public roads are open to the traveling public and should not be gated. Only under the most extraordinary circumstances will a gate be allowed. When extraordinary circumstances create an exception to the "no gates" policy,~~ the Board's express preference will be for permitted gates to be unlocked.

1. No person shall install or allow the presence of any gate that blocks access to a road right-of-way

unless:

- a. The person has made application to the Board, describing the reasons for construction of the proposed gate, and has paid the required application fee;
  - b. The Board has held a public hearing, and met the notice requirements in ORS 368.086, to give interested parties an opportunity to describe their concerns regarding construction of the gate; and
  - c. The Board has approved the placement of the gate and issued a permit for the gate's construction pursuant to ORS 368.056.
2. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board shall place the following conditions on the permit:
- a. Except under extraordinary circumstances or when necessary for the health, welfare and safety of the public, the gate shall not be locked in a way that prevents vehicle access by the traveling public on the road right-of-way;
  - b. If the road right-of-way has attained its public status due to ten years or more of adverse use under ORS 105.620, or ten years or more of uncontested public use under ORS 12.050, then the question of the road's status shall be considered in the public hearing on the gate permit, and a finding shall be made and written into the language of the permit that the road's public status has been clearly established and can no longer be contested; (This action shall fulfill the requirements of ORS 368.073(1); and ORS 368.096(2)(c).)
  - c. The permit shall be limited in duration and renewable in five-year increments. If any condition existing when a gate permit is granted or renewed changes during the five year permit term, the Board may evaluate whether to revoke the permit and require the gate to be removed prior to expiration of the term. At the time set for renewal of a gate permit, the requirements for a public hearing set forth in Section 7.03.090.N.1.b may be waived by the Road Official if there ~~is~~ are no record of objections ~~no controversy~~ surrounding the gate's presence or the permit renewal.
3. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board may place the following conditions on the permit:
- a. Specifications regarding the method and means of construction of the gate;
  - b. A requirement that the person issued the permit shall bear all costs of construction and maintenance of the gate; and/or
  - c. Any other conditions the Board deems reasonable.

N. Road Official's Authority to Issue Revocable Permit – Pursuant to ORS 3274.305, the Road Official is authorized to make a case-by-case determination to allow structures, objects or other things to exist in public right-of-way, including sidewalks, so long as the things could not create a potential hazard or impediment. If the Road Official makes a determination to authorize such a thing, ~~s/he~~ the Road Official may issue a revocable permit reflecting that revocable permission, and may impose any conditions ~~s/he~~ determines are necessary to protect the public interest. [Codified by Ord. 05-2000, Amended by Ord. 01-2003, 1/23/03]

### 7.03.095 Vacation Proceedings and Road Status Changes

#### A. Vacation Proceedings.

1. Vacation of any public property listed in ORS 368.326 shall be carried out pursuant to ORS 368.326—368.366.
2. Partial vacations of public property, with reservations of rights in the form of easements (utility, ingress/egress, etc.) shall also be carried out pursuant to ORS 368.326—368.366.
3. A vacation of public property may eliminate rights of ~~vehicular~~ public access, but no vacation of public property shall be allowed if the vacation would deprive an owner of access to their property without their consent.
4. In determining whether vacation of public property is in the public interest, the Board shall consider the following criteria:

- a. Whether the vacation would inhibit or preclude access to an abutting property, and whether an access reservation would be adequate to protect that access;
  - b. Whether it is physically possible to build a road that meets contemporary standards over the existing terrain or right of way;
  - c. Whether it is economically feasible to build a road that meets contemporary standards over the existing terrain or right of way;
  - d. Whether there is another nearby road that can effectively provide the same access as the right-of-way to be vacated;
  - e. Whether the right-of-way to be vacated has present or future value in terms of development potential, use in transportation linkages, or use in road replacements;
  - f. Whether there are present and future likely benefits of the right-of-way to the traveling public;
  - g. Whether anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated;
  - h. Whether the right-of-way proposed to be vacated leads to a creek, river, or other waterway that can be used for public recreation; and
  - i. Whether the right-of-way proposed to be vacated leads to federal, state or local public lands that can be used for public recreation.
5. The Order issued pursuant to ORS 368.356 at the conclusion of any ~~v~~Vacation ~~p~~Proceeding shall not be a land use decision, but may be appealed by Writ of Review under ORS ~~Chapter 34.102~~.

**B. Road Status Changes.**

1. The Board has the discretion to determine that it is necessary to change the status of a County ~~r~~Road, ~~l~~Local ~~a~~Access ~~r~~Road, ~~p~~Public ~~r~~Road or ~~t~~Trail.
2. In order to change the status of any such right-of-way, the Board shall designate the proposed new status as a ~~l~~Local ~~a~~Access ~~r~~Road, ~~p~~Public ~~r~~Road, or ~~t~~Trail, and shall use the same procedure set forth in ORS 368.026 for withdrawal of County right-of-way status.
3. In determining whether to enter an ~~O~~Order changing the status of a right-of-way under this ~~s~~Subsection, the Board shall consider the following criteria:
  - a. County's cost of maintenance under existing status, given the general public benefit of such maintenance;
  - b. Existing or reasonable future use of property or bodies of water being accessed by subject road,
  - c. Impact to public facilities (e.g., public water supply) being served by subject road,
  - d. Existence of a long history of inappropriate use of the right-of-way, e.g., dumping of refuse/hazardous materials onto the right of way, trespassing onto or damaging of abutting property.
4. A change of status may temporarily or permanently eliminate rights of ~~vehicular~~public access, but no change of status may deprive a recorded owner of access to their property. If a public right-of-way is to be changed into a private right-of-way, the Board Order shall follow ORS 368.326--368.366 and ensure that necessary rights of access are reserved through appropriate easements.

**C. Simultaneous Acceptance and Vacation of Roads.**

If the circumstances of a specific road project require both vacation of an existing right-of-way and acceptance of a new right of way, the vacation and acceptance may be consolidated for hearing before the Board when consolidation is likely to maximize the efficiency of the road project.

[Added by Ord. 01-2003, 1/23/03]

**7.03.099 Utilities' Use of County Right of Way**

**A. Designating Location of Utilities; Costs; Construction Approval.**

The Road Official has the authority to designate the location where lines, fixtures and facilities operated by Utilities may be located upon roads under Clackamas County's jurisdiction.

1. Except as provided in this Chapter, uUtilities shall not begin construction of a new facility or relocate an existing facility on County roads without doing the following things first:
  - a. When the proposed work is more significant than routing service connections and ordinary maintenance, uUtilities must provide written notice to the Road Official, including ~~a map or sketch~~ plans and specifications of the proposed construction in the form and to the scale required by the Road Official; ~~or;~~
  - b. When the proposed work is routine routing of service connections and ordinary maintenance, uUtilities must provide telephone or other appropriate notice to the Road Official; and
  - c. No matter the scope or scale of the proposed work, uUtilities must first obtain the Road Official's approval of the proposed construction or relocation of an existing facility.
2. No advance approval shall be required when construction or relocation is necessitated by an emergency, but uUtilities shall give notice of work undertaken no later than the first workday following the emergency.
3. The Road Official shall approve uUtilities work proposals unless s/he finds that the proposed construction or relocation is contrary to the public interest.

**B. Changing the Designated Location of Utilities; Costs; Notice/Orders.**

The Road Official has the authority to order the designated location of lines, fixtures and facilities operated by utilities to be changed, either temporarily or permanently, at any time the Road Official deems it expedient. The cost of any temporary or permanent relocation of any uUtility required by the Road Official shall be paid by the uUtility.

1. The Road Official shall notify uUtilities in writing of proposed changes in grade, contours or alignments of County roads or of proposed vacations of roads or parts of roads that require the removal, relocation or repair of uUtilities' facilities.
2. Upon receiving the notice described in 7.03.099(B)(1) above, uUtilities shall determine the estimated requirements for accomplishing the action directed by the Road Official, and provide those requirements to the Road Official within thirty (30) days.
3. Upon receiving the estimated requirements, the Road Official may schedule a pre-construction meeting with other affected uUtilities and contractors.
4. The Road Official shall send a second notice to the uUtilities, directing them to complete the removal, relocation or repair of their facilities within a specified time frame and consistent with the coordinated plan established with other affected uUtilities and contractors under this Chapter. This notice shall constitute an Order from the Road Official requiring relocation of the specified uUtility facilities.
5. If the Road Official determines that the work must occur on a different date from that previously discussed with a uUtility, then s/he shall give the uUtility written notice of the date change no less than thirty (30) days prior to the rescheduled date. This notice shall be sent by first class mail, postage prepaid. This notice shall be an ~~a~~ amended Order of the Road Official requiring relocation of the specified uUtility facilities.

**C. Remedy for Failure of Utilities to Remove, Relocate or Repair Facilities aAs Directed.**

Should a uUtility fail to temporarily or permanently remove, relocate or repair the lines, fixtures or facilities operated by the uUtility as ordered by the Road Official under this section, the lines, fixtures or facilities shall automatically become a public nuisance, which the Road Official may abate in any expedient manner. The total costs attributable to the failure of the uUtility to act as ordered by the Road Official, including the costs of completing the work the uUtility should have done under the Order, shall be itemized and an invoice shall be sent to the responsible uUtility. All such costs shall be promptly repaid to the County by the uUtility.

**D. Prohibition of Interference with Public Travel, Maintenance and Improvement.**

F. Work done by uUtilities shall always be in accordance with state statutes, Clackamas County Roadway Standards, -and with other specifications adopted by the County.

G. Utility work shall not endanger or interfere unduly with public travel on County roads, or with the maintenance and improvement of such roads by the County.

1. Immediately following the opening of a road, uUtilities shall replace and restore the surface and grade to as good and safe a condition as it was in prior to opening.

H. Repair of defects in openings made by uUtilities shall be undertaken by uUtilities within six (6) hours from notice by the Road Official when such defects endanger the public, and within one week of notice in all other cases.

2. When trenching across more than one-travel lane of the roadway, no more than one-half (1/2) of the traveled portion is to be opened at any one time. The relevant installation shall be made, then the opened half shall be covered and secured with steel running plates or be completely back filled and compacted before opening the remaining half.

3. No closure of intersecting streets, roadways, driveway approaches or other access points will be permitted without review and approval by the Road Official.

4. Upon trenching, steel running plates or other satisfactory methods shall be used to maintain traffic. No more than two hundred and fifty (250) feet of longitudinal trench along the roadway shall be open at one time and no trench shall be left open overnight

E. Requirement for Periodic Inspections of Utility Openings.

Utilities shall conduct periodic inspections of openings they have made during the preceding twelve months to ensure compliance with the provisions of this section. If, after the notice described in 7.03.099(D), a uUtility fails to replace or restore any pavement or road surface opened by it, the Road Official may, after written notice and demand, cause the work to be done at the uUtility's expense. Upon receiving a statement of the costs, uUtility shall promptly reimburse the County. If legal action is necessary to collect these amounts, then uUtility shall pay all legal costs and reasonable attorney fees.

[Added by Ord. 01-2003, 1/23/03]

## 7.03.100 Utility Placement Permits

A. Application Requirements – Application for a permit to establish, place and operate utilities within the right-of-ways shall be made on the official permit application, available from the Department DTD. The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the permitting, design and construction of uUtilities. ~~permitting requirements of the Clackamas County Roadway Standards.~~

A. ~~The following items must be submitted along with applications:~~

1. ~~Verification of insurance as required under Section 7.03.130 of this Chapter;~~

2. ~~Performance Bond as required under Section 7.03.130 of this Chapter;~~

3. ~~Any drawings requested by the County Road Official to illustrate the work described in the permit application;~~

4. ~~An application drawing that clearly depicts protection devices, such as guardrails or bollards, for supplemental review by the County Traffic Engineer to ensure compliance with the clear zone criteria in the Clackamas County Roadway Standards handbook.~~

B. ~~Design Responsibility – The utility company shall be responsible for the design of the utility being proposed. The design responsibility shall include:~~

1. ~~Advanced coordination with other users of the roadway to ensure the compatibility of the new utility placement and shared uses;~~

2. ~~Construction and location in compliance with this chapter, in addition to maintenance of the proposed utility and its appurtenances;~~

3. ~~Provisions for public safety and accident prevention for the service life of the installation.~~

C. ~~Permit Review Objectives – In reviewing permit applications, the County Road Official or his designee may consider the following objectives:~~

1. ~~Location – where it is reasonable to construct, maintain and provide for the shared uses of the right-of-way;~~

2. ~~Methods – particularly the manner in which the utility is to be installed;~~

3. ~~Traffic Safety~~ which must include measures to accommodate the utility and to preserve and/or enhance traffic safety, operation and maintenance of the roadway system;
4. ~~Roadway Integrity~~ including sustaining the structural integrity of the roadway, bridge or other structure;
5. ~~Use and Appearance~~ specifically the use and appearance of the right of way;
6. ~~Public Safety~~ considering daytime or extended roadway closure, when the Applicant/Owner demonstrates that it is in the interest of the traveling public or necessary for the safety of the construction/installation workers. Closures must be in compliance with procedures for notifying public agencies and emergency service providers and must be finalized with the County Road Official in advance of the actual closure.

D.B. ~~Emergency Repair Work Rules~~ – Emergency repair work done by the Applicant/Owner applicant/owner may proceed as needed if the Road Official is properly notified when traffic control is required. Proper notification is accomplished in the following ways:

1. During work hours – telephone contact with ~~the Department~~ DTD;
  2. After work hours – telephone contact with the County's central dispatch office.
- Permits for emergency repairs shall be obtained no later than the first business day following commencement of the work.

E. ~~Possible Requirements for Facilitating Site Review~~ – To facilitate site review, the County Road Official may require the Applicant/Owner to place markers such as lath, stakes, paint, or other means of identification at the locations where the Applicant/Owner proposes to work.

F. ~~Signatures Required on Permits~~ – If an installation contractor is to be used, then both the Applicant/Owner and the selected contractor must sign the permit.

G. ~~Assigning Permit Rights~~ – The privileges granted and obligations created by virtue of the permit issued shall be binding not only upon the Applicant/Owner, but also upon the successors and assigns of the Applicant/Owner. The Applicant/Owner shall give the County Road Official written notice of any such assignment or transfer within a reasonable time not to exceed 90 days after assignment.

H. ~~Importance of Truthfully Reporting All Facts Material to Application~~ – The Applicant/Owner shall be solely responsible for providing correct and complete information required for the permit. If the County Road Official determines that the Applicant/Owner misrepresented, misstated, or omitted any fact which is material to assessment of the utility or to the operation's impact upon traffic safety, convenience, and/or the legal property rights of any person (including the County), this will result in denial or revocation of the permit. At any time during the application process, or the period during which the permit is valid, the County Road Official may require the Applicant/Owner to provide additional safeguards to protect the convenience and rights of the traveling public and persons (including the County). The Applicant/Owner shall pay all costs for such safeguards.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.110 Effective Period of Utility Placement Permits

- A. Effective unless Revoked – Permits for utility occupation and operations shall be in effect upon issuance indefinitely, or until revoked. Revocation will occur only under the following circumstances:
  1. By mutual consent of the County and the aApplicant/oOwner or his successor or assign;
  2. By order of the Board or the County Road Official, if the aApplicant/oOwner or his successor or assign fails to abide by the terms and conditions of the permit;
  3. By operation of law.
- B. Effect of Violations of Permit Terms or Conditions – Any violation of the conditions or terms of the permit by the aApplicant/oOwner shall be cause to suspend, modify, annul and forfeit any and all rights acquired by the aApplicant/oOwner under the terms stated in the permit or these provisions. The aApplicant/oOwner acquires no rights in the road right-of-ways through obtaining a permit, and is presumed to have waived any claims for damages or compensation as a result of revocation of the permit as described in subsection A of this Section.
- C. Rules Regarding Commencement of Installation and Placement of Utility – If the aApplicant/oOwner

fails to commence installation and placement of the utility by the starting date specified on the permit, the permit shall be deemed null and void, and all privileges there under shall be forfeited, unless a notice and acknowledgment of a different start date is confirmed with the County Road Official. Change of a starting date may require a revision to the conditions of approval, which must be set out in special provisions.

- D. Commencement of Surety Repair Period – Upon initial completion of the permitted installation and restoration repairs, the ~~a~~Applicant/~~o~~Owner shall notify the County Road Official. A ~~D~~epartment inspection will be performed within 30 days of notification. If necessary, a corrective work list will be generated. Following a County Road Official inspection that results in a finding that the installation and the repaired right-of-way are within County standards, a three year surety repair period shall begin, as set out in Section 7.03.130 of this Chapter.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.120 Liability, Control and Responsibility for Utilities

- A. Necessity for Additional Permits – The ~~Applicant/Owner~~applicant/owner shall be responsible for securing any other permits necessary or required from cities, counties, corporations, districts, state and federal governments or individuals.
- B. Restoration or Repair of Roadway – If it is evident to the County Road Official that the physical character of the roadway has been changed, degraded or damaged by the ~~a~~Applicant/~~o~~Owner, the ~~a~~Applicant/~~o~~Owner shall restore or repair the damage in compliance with the ~~specifications of this chapter~~Clackamas County Roadway Standards, whether that damage is discovered at the time of utility installation or at a later date. If the ~~a~~Applicant/~~o~~Owner fails to satisfactorily restore or repair the roadway, the County Road Official may employ enforcement provisions of this Ordinance or make the necessary restoration or repairs using ~~c~~Contractor or County forces. The ~~a~~Applicant/~~o~~Owner under the terms set out in Section 7.03.200 shall pay all costs incurred by the County under these circumstances.
- C. Responsibility for Relocating or Adjusting Pre-Existing Utilities – The ~~a~~Applicant/~~o~~Owner shall be responsible for relocating or adjusting any other utilities located on County right-of-ways or other right-of-ways under the jurisdiction of the County if this is required to accommodate the utility or operation applied for. Construction of the utility or conduct of an operation by the ~~a~~Applicant/~~o~~Owner, its agent or ~~c~~Contractor, will be permitted only after the ~~a~~Applicant/~~o~~Owner has furnished evidence to the County Road Official that satisfactory arrangements for such relocations or adjustments have been made with the owners of the other affected utilities.
- D. Notifying Abutting Property Owners about Impact of Utility or Utility Work – Mailboxes, lawns, landscapes and rain drain connections are considered the possession of abutting property owners or lawful occupants. The ~~a~~Applicant/~~o~~Owner shall be responsible for notifying the abutting property owners and restoring or replacing any materials that are disturbed or removed because of utility construction, maintenance, or operation. The ~~a~~Applicant/~~o~~Owner shall accomplish ~~r~~Restoration or replacement of materials as expediently as possible. This responsibility continues through the life of the permit. The surrounding area shall always be restored to a comparable or better condition from that which it was in prior to commencement of utility work.
- E. Liability for Injury or Damage to a Utility Covered by a Permit – The County, ~~DTD~~the department, or employees thereof, shall not be responsible or liable for injury or damage that may occur to a utility covered by a permit, if caused by substandard installations, misallocated, non-located or non-locatable utilities, by reason of County maintenance and construction operations, or by motorist or road user operations, or County ~~c~~Contractor or other ~~p~~Permittee operations.
- ~~F. Necessity to Protect Public and Roadway – The Applicant/Owner shall employ any and all means, methods, techniques, or sequences in performing the operations authorized by the permit that the County Road Official deems necessary, and that also comply with the requirements of any other regulatory agencies with authority, in order to properly protect the public from injury and the roadway from damage.~~
- ~~G. Necessity for Approved Traffic Control Plan – During any construction or maintenance performed under~~

~~the permit provisions the work area shall be protected with sufficient traffic controls in accordance with the current M.U.T.C.D. or amended or supplemented by the County Road Official. The Applicant/Owner shall furnish necessary signs unless otherwise specified in the permit. Applicant's/Owner's traffic control plan shall be reviewed and approved by the department before work begins. Applicant/Owner shall allow two weeks for this review.~~

~~H. Inspections and Compliance Checks — To insure compliance with the terms and conditions of the permit, the County Road Official may perform random inspections of the work being done, check compliance with the terms of the permit, and require the Applicant/Owner to correct all deviations from those terms and conditions. When increased inspection is deemed necessary by the County Road Official, additional costs shall be paid by the Applicant/Owner under the terms outlined in Section 7.03.200. Examples of special circumstances that may trigger increased inspection include:~~

- ~~1. Extended hours of work/operation;~~
- ~~2. Failure to comply with permit requirements;~~
- ~~3. High traffic volumes in the vicinity of the work/operation; or~~
- ~~4. Special accesses requirements for the work/operation.~~

~~I.F. County Supervision Shall Not Impact Liability of Applicant/Owner~~ applicant/owner – Any supervision or control exercised by County personnel shall in no way relieve the aApplicant/oOwner of any duty or responsibility to the general public, nor shall such supervision or control relieve the aApplicant/oOwner from any liability for loss, damage or injury to persons or property as provided in this Section.

~~J. Discreet Placement Required for Above Ground Appurtenances — All above ground appurtenances shall be located where they do not create undue interference or a hazard to the free movement of normal roadway traffic, whether vehicular, bicycle or pedestrian. Utility appurtenances shall not be located in areas of restricted sight distance, i.e., on sharp curves and steep grades. They shall not interfere with the proper function of traffic control signs, signals, lighting or other devices that affect traffic operation. The County Road Official shall approve any revisions to historic utility locations.~~

~~K.G. Recorded and Unrecorded Public and Private Rights To be Honored, Regardless of Board Consent — The~~ aApplicant/oOwner is subject to all existing public and private rights recorded and unrecorded within and appurtenant to the right-of-way of the roads. Consent of the Board for installation and operation of permitted utilities is only to the extent that the Board has legal authority to grant such consent. The expressed understanding is that the Board is granting said consent free of charge to the aApplicant/oOwner as a mere license, and the aApplicant/oOwner shall assume the entire responsibility incidental thereto.

[Codified by Ord. 05-2000, 7/13/00]

### **7.03.130 Required Insurance and Performance Bond for Utility Work**

- A. Comprehensive General Liability Insurance Requirement – The aApplicant/oOwner or its cContractor shall furnish a certificate of insurance for comprehensive general liability insurance to the County Road Official, in an amount established by Clackamas the County's Risk Management Office Division. The insurance shall be for a combined single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees. It shall protect against liability for damages of any nature caused by the conduct or operation of the aApplicant/oOwner, its agents, subcontractors or employees, resulting in personal injury, bodily injury, death, or damage to property, including loss of use thereof, in any way related to the physical location, installation, construction, maintenance, repair, operation or use of said utility, repair, and restoration of the roadway, or in conducting any operation of this ordinance. The aApplicant/oOwner may submit evidence of insurance coverage annually in lieu of individual submissions for each permit.
- B. Acceptable Substitutions – A utility company, cooperative or municipal authority may be relieved of the obligation of submitting a certificate of insurance if it submits satisfactory evidence that it is insured, or has adequate provisions for self-insurance, in accordance with the requirements of this section.
- C. Indemnification Requirement – Both the aApplicant/oOwner and its cContractor shall indemnify, save harmless and defend the County, its officers, commissioners and employees from and against all claims



and action, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the aApplicant/oOwner, any subcontractor, anyone directly or indirectly employed thereby or anyone for whose acts they may be liable, regardless of whether it is caused in part by a party indemnified hereunder.

D. Additional Assurances Required – The insurance shall include the County as an additional insured and refer to and support the aApplicant's/oOwner's obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide thirty (30) days written notice to the County in the event of cancellation, non-renewal, or material change, and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance.

E. Performance Bond Requirements – The following rules apply to the pPerformance bBond requirement set out in Section 7.034.100 A 2:

1. The applicant/owner's contractor shall furnish a performance bond and a minimum of \$1000 cash deposit ~~The Applicant/Owner, or its Contractor, shall furnish a Performance Bond and a minimum \$1,000.00 cash deposit~~ for the period of time necessary to construct or install a utility or conduct an operation authorized by permit through a minimum three years specified period of time determined by the Department DTD following surface repair.
2. The dollar amount assigned to the pPerformance bBond shall equal the amount noted in the permit special provisions, and shall be based upon the estimated cost for the trench and surface repairs.
3. Bonds furnished must be written by a surety company duly qualified and licensed to do business in the State of Oregon, upon a form provided by the Department DTD, certifying bBond limits as set out in the permit's special provisions.
4. No work shall be commenced under the permit until the pPerformance bBond and cash deposit has been submitted to and received by the Department DTD.
5. In lieu of furnishing a cash deposit and/or a pPerformance bBond, the aApplicant/oOwner, or its cContractor, may file an "sSecurity aAgreement" ~~Assignment Agreement~~ form securing their performance through assignment of a savings account kept in a reputable savings institution, in an amount equal to the amount required in the permit's special provisions. The Assignment sSecurity aAgreement shall be on a form provided by the Department DTD and shall be returned for review and acceptance.
6. A pPublic uUtility cCompany or municipal authority may be relieved of the pPerformance bBond and cash deposit requirements.

F. Rules for Retaining and Releasing Bonds and Cash Deposits – When the aApplicant/oOwner advises that all work set out in the permit has been completed and verified by Department DTD inspection, all bonds and cash deposits shall be held and shall remain in full force and effect for a three year surety repair period. At the end of this period, the ~~County~~ Road Official shall cause the release and/or refund of all bonds, cash deposits, or other sureties to the provider after a Department DTD inspection confirms satisfactory surface restoration. ~~If the Department DTD~~ incurs costs to achieve satisfactory surface restoration, those costs will be deducted from the surety bond or cash deposit prior to release or refund of the remainder.

[Codified by Ord. 05-2000, 7/13/00]

#### 7.03.140 ~~Traffic Control In Association with Utility Work~~

- A. ~~Required Safety Devices and Protections for the Public~~ During the installation, construction, relocation, repair, maintenance and removal of utilities connected with the permit, the Applicant/Owner shall at all times ensure the presence of such workers, tools and materials, flaggers, barricades and other safety devices as may be necessary to properly protect bicyclists/pedestrians, construction personnel and vehicular traffic upon the roadway, and to warn and safeguard the public against injury or damage resulting from the Applicant's/Owner's operations.
- B. ~~Protection of Work Area under MUTCD~~ During any construction or maintenance performed under the

permit, the work area shall be protected in accordance with the current M.U.T.C.D. or as amended by special provisions. The Applicant/Owner shall furnish necessary signs and flaggers unless otherwise specified in the permit.

- C. ~~Minimizing Interference and Interruption of Traffic~~—The Applicant/Owner shall conduct operations to minimize interference and interruption of traffic upon and along the impacted roadways. At no time shall the Applicant/Owner close a road without County Road Official review and approval. At no time shall the Applicant/Owner or its Contractor delay traffic for a period greater than twenty (20) minutes.
- D. ~~Special Conditions Relating to Traffic Issues~~—The County Road Official may require special conditions in connection with the handling of traffic. The Applicant/Owner shall comply with all special conditions. Those special conditions may include a requirement that a road be closed to ensure traffic safety.

[Codified by Ord. 05 2000, 7/13/00]

### 7.03.150 ~~Conformance with Regulations and Industry Codes~~

- A. ~~Construction Methods and Manner of Work~~—All work in connection with a permitted utility shall be done in a neat and workmanlike manner to conform to the specifics of this ordinance. Construction methods shall also comply with the applicable rules and regulations of other regulatory agencies. In the event that the regulatory agencies do not prescribe standards, the appropriate industry codes shall apply.
- B. ~~Applicability of Standards and Specifications~~—The permit, plans, sketches and supplementary documents shall describe and provide for the complete project. The intent of County specification, special provisions and standard drawings is to prescribe all details for construction of utility work which the Applicant/Owner or their Contractor will perform. If a conflict, error, omission, or lack of detailed description is discovered in the permit documents, then standards and specifications shall govern in the following order:
  - 1. ~~Special Provisions~~
  - 2. ~~Specific construction details contained in these regulations~~
  - 3. ~~Clackamas County Roadway Standards—Standard Drawings~~
  - 4. ~~APWA Standard Specifications~~
  - 5. ~~ODOT's Standard Specifications for Highway construction~~combine
  - 6. ~~Utility construction plans.~~

[Codified by Ord. 05 2000, 7/13/00]

### 7.03.160 ~~General Construction and Location Details for Utilities~~

- A. ~~Locating Existing Utilities~~—All existing utilities shall be located sufficiently ahead of trench excavation to allow for their protection or relocation. Potholing may be necessary to confirm their actual location. Practices and procedures for locating existing utilities shall adhere to all requirements of ORS Chapter 757 (Excavation Regulation).
- B. ~~Notification Required Before Commencing Construction~~—The Applicant/Owner or its Contractor shall give the County Road Official at least 48 hours advance notice before commencing construction of a utility for which a permit has been issued. In the event of an unanticipated schedule change, re-notification is required to apprise the County Road Official of the change.
- C. ~~Contents of Required Prints/Drawings/Sketches~~—Along with the permit application, the Applicant/Owner shall submit prints, or adequate drawings, or sketches, showing the detailed location of the proposed utility or operation described in the permit application. The drawings or sketches will also show the relative location of existing and planned road improvements, the right of way lines and existing utilities. Other details to be submitted with the application shall include:
  - 1. ~~When attachment to a road structure is involved, (i.e. a bridge or a box culvert), details of the attachment method and specifics of the dead load, support, spacing, size of pipe and attachment method shall be quantified and designed by a professional engineer registered in the State of Oregon. The attachment shall be designed to be structurally sufficient and compatible with the~~

affected road structure. The design of the attachment is subject to approval of the County Road Official or the County's consultant structural engineer.

2. ~~When the proposed utility involves pressure pipe line the following additional details are required:~~

- a. ~~Design pressure of pipe;~~
- b. ~~Normal operating pressure;~~
- c. ~~Maximum operating pressure.~~

D. ~~Substantial Conformance with Prints/Drawings/Sketches Required~~ The Applicant's/Owner's completed utility shall be in substantial conformance with the drawings or sketches referred to in the above section, unless special permission is obtained from the Department to alter the design during installation.

E. ~~Noise Control Requirements~~ Construction related noise should be kept to the lowest possible level. Such noise shall be within the hours and decibel level limits established in the County Noise Control Ordinance or other applicable local noise control ordinances.

{Codified by Ord. 05-2000, 7/13/00}

### 7.03.170 ~~Specific Construction Details for Utility Facilities~~

A. ~~Specific Provisions to Prevent Nuisance and Hazard~~ In granting any permit, the County Road Official may attach other specific provisions when necessary to prevent damage to public property, or to prevent the operation from being conducted in a manner hazardous to life or property, or likely to create a nuisance. Such conditions may include, but shall not be limited to:

1. ~~Limitations on the season or time of the year in which the work may be performed;~~
2. ~~Restrictions as to the size and type of equipment;~~
3. ~~Designation of routes upon which materials may be transported;~~
4. ~~The place and manner of disposal of excavated materials;~~
5. ~~Requirements as to the abatement of dust, the cleaning of streets, the prevention of noise, and other results which are offensive or injurious to the neighborhood, the general public, or any portion thereof;~~
6. ~~Regulations as to the use of roadways as alternate routes to bypass construction delays in the course of the work;~~
7. ~~Limitations on the operation to protect the roadway from temperature related damage, i.e., delamination of oil Macadam surfaces or through freeze/thaw cycles;~~
8. ~~Mitigation of potential subsurface hydrologic flow along the utility or appurtenant trench;~~
9. ~~Additional asphalt area removal and replacement to ensure the smoothness or ride characteristic present in the former undisturbed asphalt surface.~~

~~This provision would apply on arterial and collector classified roadways or where the affected roadway surface is newer than five years from the time of the last overlay, without regard to roadway classification.~~

B. ~~Distance Below the Nearest Vertical Roadway Surface~~ All underground installations shall be buried a minimum of thirty (30) inches below the nearest vertical roadway surface, (i.e., from the bottom of ditch line). The respective plans must show the distance from the nearest vertical roadway surface to the top of the proposed buried cable, pipe line, or facility, unless written permission to vary from this section is first obtained in writing from the County Road Official.

C. ~~Minimum Vertical Clearance~~ Aerial utilities crossing the roadway shall have a minimum vertical clearance of eighteen (18) feet from the lowest elevation above the nearest roadway surface.

D. ~~Restoring Right of Way to Previous Condition after Work is Completed~~ All debris, refuse and waste of all kinds which accumulates upon the right of way in association with a permitted activity of the Applicant/Owner shall be removed immediately upon completion of the activity, and the right of way must be restored to its previous condition, or better, as determined by the County Road Official.

E. ~~Restrictions on Use of the Plowing Method for Direct Burial of Cable~~ Unless special permission is first obtained from the County Road Official, direct burial of cable placed by the plowing method shall

be limited to areas behind the ditch line. Approval is subject to time and schedule restraints to allow for preferable soil moisture conditions, oil Macadam road surface temperatures, and other roadway characteristics. In all cases mechanical comparative efforts shall be applied to the entire disturbed portion of the right of way. Restoration of gravel shoulders and drainage ditches and the verification of the function of all drainage structures must be achieved prior to completion.

F. ~~Warning Sign Requirements~~ — Standard warning signs for buried power or communications cable, and for pipe lines carrying gas or flammable liquids, and all private utilities shall be placed at each crossing under the roadway, and at intervals along longitudinal installations as required by the current Public Utility Commissioner's Order and as specified by the County Road Official as follows:

1. ~~Signs shall be placed as near the right of way line as is practical.~~
2. ~~Notwithstanding subsection (1) above, signs for an installation within the roadway shall be placed behind the existing guardrail.~~

G. ~~Location of Pedestals~~ — Pedestals installed as part of a buried cable installation are to be located as far from the traveled portion of the roadway as is practical, and preferably one foot from the right of way line unless special permission is obtained from the County Road Official to locate elsewhere. All pedestals located within the right of way where maintenance operations occur, including routine mowing operations, shall be routinely maintained by the Applicant/Owner for vegetation control.

H. ~~Materials Requirements~~ — All material installed within the right of way shall be durable, designed for long service life expectancy, and relatively free of routine servicing and maintenance requirements.

I. ~~Soil Loss and Erosion Control Measures~~ — Soil loss and erosion control measures shall conform to the Clackamas County Department of Water Environment Services "Erosion Prevention and Sediment Control Plans," Technical Guidance Handbook.

J. ~~Requirements When Utility is Within Nonconductive Chase or Casing~~ — Placement of any utility within a nonconductive chase or casing shall be accompanied with excavation warning tapes and a location tracer wire placed immediately above the utility.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.180 — Requirements and Specifications for Controlled Density Fill

A. ~~Circumstances Under Which Backfill with CDF is Required~~ — All utility trenches shall be backfilled with CDF when:

1. ~~Utility trenches are within the roadway of Arterial and Collector classified roadways; or~~
2. ~~The affected roadway surface is newer than 5 years from the time of the last overlay, without regard to roadway classification; or~~
3. ~~The County Road Official deems it necessary.~~

B. ~~Applicable Specifications Dependent Upon Dimension of Trenches~~ — Backfill materials meeting APWA Class "B" backfill specifications may be proposed, reviewed and approved for use when trenches exceed one of the following dimensions:

1. ~~Wider than 4 feet (trench edge to trench edge);~~
2. ~~100 feet in length or longer; or~~
3. ~~Greater than 10 feet in depth.~~

C. ~~Potential for Exemption from CDF~~ — Exemption from CDF may be considered if all of the following construction requirements are otherwise met:

1. ~~Backfill materials meeting APWA Class "B" backfill specifications or its approved equal are used;~~
2. ~~Not less than 97% relative maximum density (using AASHTO T-99) is achieved;~~
3. ~~Compaction results are provided by a certified testing lab;~~
4. ~~Perimeter excavation for manholes is 10' X 10' or greater to allow for sufficient mechanical compaction of the backfill;~~
5. ~~The surety repair time duration is extended an additional two years beyond the three years as specified in the subsequent section "Open Cut of Paved Roadway Surfaces".~~

D. ~~Specifications for CDF~~ — CDF shall be ordered from a batch plant to conform to the following

specifications:

1. ~~Be excavatable and produce unconfined, compressive, 28-day strengths from 50 psi to a maximum of 150 psi.~~
  2. ~~Contain aggregate no larger than 3/4 inch, and for trenches less than 12 inches in width, the aggregate shall be no larger than 3/8 inch.~~
  3. ~~Slump shall be 6 to 8 inches to insure flowability and will fill all voids without requiring compaction efforts.~~
  4. ~~The surface of fill shall reach a strength to withstand the process of paving without displacement or disruption within 48 hours, regardless of weather conditions, temperature or moisture content of the soil where placed. Additives such as calcium (1% or 2%), hot water and/or a pozzolith (water reducer) are acceptable means to achieve this set.~~
  5. ~~Copies of the CDF batch weights must be submitted to County Road Official for County records.~~
- E. ~~Protections Required for Trenches Backfilled with CDF~~ Trenches backfilled with CDF shall be protected in the following manner:
1. ~~Sufficient weight and size steel plating or approved equal materials, capable of carrying a minimum of H 20 (HL 93 of the Roadway Standards replace?) loading, shall be present at the work site prior to excavation and placed over the trench to protect the public. Plating shall be positively secured (steel pins or welded lugs) from movement and shall be ramped with cold mix asphalt to provide for all traffic.~~
  2. ~~Plates must extend beyond the trench wall a minimum of 1 foot on all sides.~~
  3. ~~Lighted barricades with "CONSTRUCTION AHEAD" and "BUMP" signs mounted on them shall be placed sufficiently ahead of, and adjacent to, plating to warn all traffic.~~
  4. ~~All plating and signs are to remain in place until permanent surface repair paving operations are underway.~~
  5. ~~A 24 hour phone number will be provided while plates are in the roadway.~~

[Codified by Ord. 05 2000, 7/13/00]

#### 7.03.190 ~~Open Cuts of Paved Roadway Surfaces~~

- A. ~~Cables, Pipelines, and Other Conduits that Cross Under Roadways~~ A cable, pipeline, or conduit which crosses under the roadway, other roadway connections, or road approaches or driveways, shall either be tunneled, jacked, driven, or placed in a casing bored under the surface for that purpose in accordance with the following provisions:
1. ~~All utility companies serving the work site vicinity shall be contacted to request line locate services.~~
  2. ~~Any utility conflicts shall be resolved before initiation of construction.~~
  3. ~~The Applicant/Owner will again be required to comply with ORS Chapter 757 (Excavation Regulation).~~
  4. ~~Should the Applicant/Owner and the owners of the existing utilities determine that exploration and pot holing is necessary, the disturbed roadway must be restored to County specifications.~~
- B. ~~Requirements for Open Cutting of Roadways~~ When requested, special permission may be granted and acknowledged on the permit to open cut the roadway. The following provisions shall be adhered to:
1. ~~Immediately after the utility has been placed upon its prepared bedding in the trench and covered to meet the pipe zone specifications, the remaining trench section shall be backfilled with materials approved or specified by the County Road Official. The backfill material shall be placed and compacted to an elevation compatible with subsequent surface repair. When approved and exempt from use of CDF, the roadway trench shall be backfilled using granular materials conforming to the following:~~
    - a. ~~Granular backfill materials in CDF exempt trenches shall meet APWA Class B backfill specifications, or its approved equal, from the pipe zone to the bottom of the asphalt concrete surface repair; the Clackamas County Roadway Standards.~~
    - b. ~~Separate, sequential, mechanical compaction efforts on all bedding, pipe zone, and~~

backfill materials shall produce a density in place of not less than 95% relative maximum density (using AASHTO T-99);

- e. ~~Trench backfill materials outside of the ditch line or the curb and sidewalk zone, but in the right of way, shall may meet either APWA Class A, B, C, or D backfill specifications the Clackamas County Roadway Standards unless otherwise noted in this chapter or in the permit's special provisions.~~
2. ~~When trenching across more than one travel lane of the roadway, no more than one half (1/2) of the traveled portion is to be opened at any one time. The relevant installation shall be made, then the opened half shall be covered and secured with steel running plates or be completely back filled and compacted before opening the remaining half.~~
3. ~~No closure of intersecting streets, roadways, driveway approaches or other access points will be permitted without review and approval by the County Road Official. Upon trenching, steel running plates or other satisfactory methods shall be used to maintain traffic.~~
4. ~~No more than two hundred and fifty (250) feet of longitudinal trench along the roadway shall be open at one time and no trench shall be left open overnight.~~
5. ~~All undermined pavements caused by trench excavation and cave in, shall be removed immediately during construction.~~
6. ~~Surface repairs shall conform to the following specifications:~~
  - a. ~~Trenches in paved areas shall provide the typical "T" cut trench repair, not necessarily being centered over the utility;~~
  - b. ~~Asphalt shall be saw cut with neat lines. The cut lines are to be a minimum 1 foot (12") beyond the trench edges to the depth of the first pavement lamination or at a depth sufficient to permit removal of pavement without damage to pavement that is to be left in place;~~
  - c. ~~Removal of the pavement to the neat lines shall be by methods satisfactory to the County Road Official; use of a pavement mill (cold plane) and depth of asphalt removal may be prescribed in permit special provisions;~~
  - d. ~~Pavement within the cutting limits, together with all other excavated material, shall be removed and disposed of outside the road right of way in proper dump sites;~~
  - e. ~~If work results in an irregular trench width, or if incidental damage to the adjacent roadway surface occurs, another sawing and removal of the pavement shall be performed along a line approved by the County Road Official prior to the placement of the permanent surface repair;~~
  - f. ~~Surface repairs to asphalt pavements shall conform to the current APWA Division 211 (Asphalt Concrete Pavement Specifications) Oregon Std specs;~~
  - g. ~~Asphalt joints (seams) shall be sealed with hot liquid asphalt, (i.e. CRS-2 AR-4000 or its approved equal), and choked with sand.~~
  - h. ~~Compacted asphalt concrete shall be a minimum of 4", or be equal to the thickness that was removed or four (4) inches, whichever is greater;~~

~~Asphalt concrete shall be placed in maximum 3" lifts; Asphalt concrete shall be placed in maximum 3" lifts (Rdwy std max 2 inches - 3 inches sometimes used in CIP and in utilities, change rdwy stds, see section 250.12 ASPHALTIC CONCRETE) No single lift shall be less than 1 1/2 inches or greater than 2 inches in thickness without prior approval. In no case shall any lift be greater than three inches.~~

- i.
- j. ~~APWA Division 211 Oregon std specs will dictate paving machine specifications;~~
- k. ~~Where the roadway surface is Portland Cement Concrete, the following specifications shall apply:~~
  - i. ~~The entire Portland Cement concrete panel must be removed between the nearest construction joint. If the trench excavation is within two feet of the nearest joint the abutting panel must be removed.~~
  - ii. ~~Placement of the bedding material and approved granular backfill must be placed~~

and compacted to 95% compaction.

- iii. ~~Replacement of the Portland Cement concrete panel must equal the thickness and design strength of the concrete material removed, or be of a minimum 4,000 pound, 28 day strength design mix, whichever is stronger. The concrete must be placed in conformance with industry standards and protected against freezing. The texture of the concrete surface must be like the adjoining surfaces.~~
- iv. ~~The work area must be signed and protected to detour traffic away from the repair for seven (7) days following the placement of the concrete repair.~~

7. ~~For a period of three (3) years following the initial completion of the installation and the surface repair, the Applicant's/Owner's bond shall remain in full force and effect, ensuring the condition of the roadway surface repairs. If earlier repairs become settled, cracked, broken or otherwise faulty, during this surety repair time duration, the County Road Official may request that the Applicant/Owner make subsequent repairs in order to comply with specifications. The Applicant/Owner shall comply with any such request.~~

8. ~~The Applicant/Owner of the permitted utility shall be responsible indefinitely for settlement over the utility and structural failures in the right of way that the County Road Official deems attributable to the installation or occupancy of the utility.~~

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.200 Allocation of Costs Connected to Utility Placement

- A. Costs Incurred Incident to Utility Placement or Continuing Operation – The ~~a~~Applicant/~~o~~Owner shall pay the entire cost of locating, constructing, installing, maintaining, repairing, operating, using or relocating and adjusting the utility. Any expense, whatsoever, which is incurred incident to the utilities or the operations authorized by the permit, shall also be paid by the ~~a~~Applicant/~~o~~Owner.
- B. Expense Reimbursement to County – The ~~a~~Applicant/~~o~~Owner shall, in addition to Section 7.03.200.AA of this section, reimburse the County for any reasonable and necessary expenses that the County may incur in connection with and related solely to the installation of the utility or conducting the operation authorized by permit. A detailed cost breakdown of County incurred expenses may be requested and obtained from the County, and payment shall be made within thirty (30) days after receipt of billing from the County. When the County Road Official deems it necessary to obtain an advance deposit, during the permit application and review process, the amount required shall be filed with ~~the~~ Department DTD before the permit work is begun.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.210 Protection of Survey Monuments in the Vicinity of Utilities

- A. Location & Protection of Monuments as Responsibility of ~~Applicant/Owner~~ applicant/owner – It shall be the responsibility of the ~~Applicant/Owner~~ applicant/owner to determine the location of and to protect all survey monuments in the vicinity of a utility installation during the construction, operation and subsequent maintenance of the utility.
- B. Removal, Disturbance or Destruction of Survey Monuments – Should it become necessary to remove, disturb or destroy any survey monument(s) of record in the course of the ~~a~~Applicant's/~~o~~Owner's operation, the ~~Applicant/Owner~~ applicant/owner shall cause a registered professional land surveyor to preserve the monument(s) and shall do so in the manner described in ORS 209.140 ~~through~~ 209.150. The costs of referencing and replacing the survey monuments shall be paid by the ~~Applicant/Owner~~ applicant/owner and shall be ensured by the ~~p~~Performance ~~b~~Bond. Failure to comply with these terms may be prosecuted as stated in ORS 209.990.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.220 Maintenance and Operation of Utilities

- A. Required Upkeep of Utilities Authorized by Permit – The ~~Applicant/Owner~~applicant/owner shall at all times keep utilities authorized by the permit in a good state of repair to keep the roadway protected from damage and to protect the public from injury. If the County is notified of non-compliance with this provision, the County will respond by taking the corrective measures necessary to abate the hazard in accordance with ORS 368.~~251-1 through~~ 368.281. The ~~Applicant/Owner~~applicant/owner will be advised of the circumstances as soon as practical. The County will also respond by requiring the ~~Applicant/Owner~~applicant/owner to undertake repairs or corrective action within six hours of advisement by the County when a defect endangers the public. Payment of all County costs shall be as stated in ~~the earlier section, “Allocation of Costs”,~~Section 7.03.200.
- B. Pre-Approval Required for Some Maintenance Work – Prior to operating or performing any maintenance work on a permitted utility which will interfere with or interrupt traffic upon or along the roadway, the ~~Applicant/Owner~~applicant/owner shall obtain prior approval from the ~~County Road~~ Official.
- C. Removal of Abandoned Utilities – All abandoned utilities belonging to the ~~Applicant/Owner~~applicant/owner shall be removed from the right-of-way by the ~~Applicant/Owner~~applicant/owner, unless the ~~County~~ Road Official allows the utilities to remain by permit. No exemptions shall be made for aerial network. Should the County have to remove any such utilities, a bill will be presented to the ~~Applicant/Owner~~applicant/owner. Reimbursement of all County costs shall be as stated in the earlier section, “Allocation of Costs”.

[Codified by Ord. 05-2000, 7/13/00]

**7.03.230 Removal, Relocation or Repair of Utilities**

- A. Response Time Required Upon County Notification of Need for Aid – If utilities are encountered in day-to-day County maintenance operations, the County shall notify the ~~Applicant/Owner~~applicant/owner, and the ~~Applicant/Owner~~applicant/owner shall respond as soon as practical, or no later than 24 hours from the time of notification, to aid in the maintenance efforts and further protect the utilities.
- B. Interest in Right-of-Way ~~Supersedes~~Supersedes Interest in Utility – Permits are issued by the County pursuant to ~~s~~State law, which authorizes the County to require the ~~Applicant/Owner~~applicant/owner to remove, relocate or repair a permitted utility at the sole cost of the ~~Applicant/Owner~~applicant/owner at any time subsequent to initial installation. If the ~~County~~ Road Official determines that the presence of the utility is detrimental to the right-of-way itself, or to the proper repair, maintenance or reconstruction of the right-of-way, the ~~County~~ Road Official may give written notice of the concern, and require the ~~Applicant/Owner~~applicant/owner to remove, relocate or repair the utility.
- C. Required Accommodations for Capital Improvements – In the case of a roadway capital improvement, the following will apply:
  1. Upon receipt of written notice as stated in Section 7.03.230(B), the ~~a~~Applicant/ oOwner shall, within 30 days or within the time frame contained in the notice, respond with a time estimate for accomplishing the required action.
  2. After the ~~Applicant/Owner~~applicant/owner has provided an estimated time requirement for removal, relocation or repair of the relevant utility, the ~~County~~ Road Official may schedule a pre-construction meeting to coordinate the requested activity with the ~~Applicant/Owner~~applicant/owner, County personnel, and affected ~~c~~Contractors.
  3. In a second written notice, the ~~County~~ Road Official shall direct the ~~Applicant/Owner~~applicant/owner to complete the removal, relocation or repair of the utility, within a specified time frame and consistent with a coordination plan. The time frame outlined in this notice shall take into consideration the ~~a~~Applicant’s/oOwner’s estimated time requirements. The costs of removal, relocation, or repair shall be paid by the ~~Applicant/Owner~~applicant/owner as set out in the second notice and instructions received from the ~~County~~ Road Official.
  4. Before commencing removal, relocation or repair, the ~~Applicant/Owner~~applicant/owner shall



furnish insurance in the manner provided for in Section 7.03.130.

5. Should the ~~Applicant/Owner~~applicant/owner fail to remove, relocate or repair the utility as provided in this section, the ~~County Road Official~~ may remove, relocate or repair it by any means, and submit a statement of total costs for this work to the ~~Applicant/Owner~~applicant/owner. Upon receiving the cost statement, the ~~Applicant/Owner~~applicant/owner will reimburse the County in full, either:
- Immediately; or
  - Within a period of time agreed on by the ~~Applicant/Owner~~applicant/owner and the ~~County Road Official~~.

[Codified by Ord. 05-2000, 7/13/00]

### 7.03.240 General Requirements for Road Entry Permits

A. ~~When a Road Entry Permit is Required,~~

A. —An entry permit is required:

- For any new construction which requires a building permit;
- For any new entry constructed onto a public, County or local access road;
- For any change of occupancy (as defined under the Uniform Building Code);
- For any driveway entry or approach road onto a public, County or local accesses road which, in the opinion of the ~~County Road Official~~ or designee agent, affects traffic of any kind, including vehicular and pedestrian traffic.

B. Exceptions to the Requirement for a Road Entry Permit – Road ~~e~~Entry permit standards shall not apply to single family residential replacements, single family residential remodels, additions to existing single family dwellings, or construction of accessory structures to single family dwellings, unless the driveway entry must be rebuilt or relocated, or a ~~“d~~Development an encroachment permit” is required by the ~~County Road Official~~ or designee per the County Roadway Standards agent.

C. ~~Prior Status of Road Entrances Preserved~~ – Any lawfully constructed approach road, structure, culvert, ditch, or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way prior to the adoption of this chapter shall be maintained by the occupant of the property being served and may remain in place unless it is determined by the ~~County Road Official~~ that a traffic or pedestrian hazard is created by this facility, thing, or appurtenance. That facility, thing, or appurtenance deemed in need of removal, repair, or maintenance shall be corrected to the satisfaction of the ~~County Road Official~~.

~~C. —The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the permitting, design and construction of road entries.~~

[Codified by Ord. 05-2000, 7/13/00]

### ~~7.03.250 Standards: Residential Entrances onto Public Roads and Non-Curbed County & Local Access Roads~~

A. ~~When Standards Apply to Residential Entrances onto Roads~~

- ~~The standards contained in Section 7.03.250 shall apply to new construction of single family residential entries onto public roads, unpaved County and Local Access Roads, and paved, non-curbed County and Local Access Roads. These standards do not apply to remodels or additions to existing structures, unless the driveway entry must be rebuilt or relocated or an entry permit is required by the County Road Official or agent.~~
- ~~In addition to the requirements herein stated, entries shall also comply with applicable building code and County zoning and development ordinances.~~

B. ~~Drainage Requirements for Residential Entrances onto Public Roads and Non-Curbed County and Local Access Roads~~

- ~~All driveways shall have culverts for proper road drainage, unless the County Road Official or his agent determines that they are not required. Culvert capacity is a primary concern; therefore 12 inch inside diameter storm sewer culvert is the minimum allowable size. Under the following~~

circumstances, a larger inside diameter is called for, and the permit applicant must determine and use the correct capacity:

- a. ~~When the existing storm sewer culverts above and below the proposed driveway entry are of larger diameter than 12 inch;~~
  - b. ~~When there is evidence that severe erosion has occurred in the roadside ditch;~~
  - c. ~~When there is other evidence to show that a larger diameter would be appropriate.~~
  2. ~~Bedding requirements for concrete and metal culvert pipe shall never be below the Class C Bedding Specification contained in the APWA constructed per the A Standard Specification for Public Works Construction Manual Clackamas County Roadway Standards.~~
  3. ~~Storm sewer culvert shall have enough aggregate and/or pavement cover to support HS 25 (Rdwy stds?) highway loading as per Standard Drawing D 250 of the the Clackamas County Roadway Standards handbook.~~
  4. ~~Notwithstanding the requirements of this subsection, Oregon Revised Statutes 368.251 to 368.281 shall govern storm sewer culverts and the accompanying entry structure.~~
- C. ~~Valley Gutters Required with Driveways— All driveways should have a valley gutter to direct storm runoff into the road ditch line. Valley gutter requirements for residential entrances are identified in the Clackamas County Roadway Standards handbook as follows:~~
1. ~~On Standard Drawing D 400 for public roads and unpaved County and local access roads;~~
  2. ~~On Standard Drawing D 500 for paved non-curbed County and local access roads.~~
- ~~Driveways shall not be constructed to allow water to flow onto the travel surface of a roadway or in front of mailboxes.~~
- D. ~~Special Requirements for Steep Driveways— Steep uphill driveways having greater than a ten percent grade shall be constructed with diagonal water bars (Berms) to assure that water from uphill properties is directed into the ditch line. In drainage situations which will not be remedied by valley gutters or water bars, it is the responsibility of the owner to construct ditches, etc., to prevent damage to the roadway or danger to the traveling public. Valley gutter and water bar construction for entrances onto roads shall comply with the following standards in the Clackamas County Roadway Standards handbook:~~
1. ~~Standard Drawings D 400 and D 700 for public roads and unpaved County and local access roads;~~
  2. ~~Standard Drawing D 500 for paved, non-curbed County and Local Access Roads.~~
- E. ~~Maintenance of Driveway Entrances— The maintenance of driveway entries within the right-of-ways, including culverts, aggregate, and driving surface, shall be the responsibility of the property owner being served by the entry. Maintenance must be performed so that the entry complies with the safety and function requirements of Sections 7.01.240 7.01.250 of this chapter, to prevent hazards to the public.~~
- F. ~~Improvement Specifications for Residential Entrances to Paved County and Local Access Roads— All driveways to paved County and local access roads shall be improved with Portland Cement concrete or "hot" asphaltic concrete a minimum of twenty (20) feet from the improved paved or oil mat surface of a County or local access road. Aggregate base, preparation, Portland Cement concrete and asphaltic concrete specifications shall comply with the Oregon std specs APWA Standard Specifications for Public Works Construction Manual, Section 212 215. A sand and oil sealant shall be applied at the joint between the improved driveway entry and the existing paved or oils mat surface of the County road as per Standard Drawing D 500 of the Clackamas County Roadway Standards handbook.~~

[Codified by Ord. 05-2000, 7/13/00]

7.03.260 Standards: Residential Entrances onto Paved and Curbed County & Local Access Roads

- A. ~~When Standards Set Out in this Section Apply:~~
1. ~~The standards contained in Section 7.03.260 shall apply to new construction of single family residential entries onto paved and curbed County or local access roads. These standards do not apply to remodels or additions to existing structures, unless the driveway entry must be rebuilt or relocated or an entry permit is required by the County Road Official or agent.~~

2. In addition to the requirements stated herein, entries must also comply with applicable building code and County zoning and development ordinances.
- ~~B. Drainage Requirements for Entrances onto Paved and Curbed County and Local Access Roads~~
1. Culvert installations are generally not required of owners of single-family residences on paved and curbed County or local access roads, because such properties generally lie within legally platted subdivisions with pre-existing drainage systems adequate to control surface runoff. If, however, the County Road Official or his agent determines that it is necessary to install entry culverts to control surface runoff, then the remainder of this Section will apply to these properties.
2. Culvert capacity is of primary concern; therefore 12-inch inside diameter storm sewer culvert is the minimum allowable size. Under the following circumstances a larger inside diameter is called for, and the permit applicant must determine and use the correct capacity:
- a. When the existing storm sewer culverts above and below the proposed driveway entry are of larger diameter than 12-inch;
- b. When there is evidence that severe erosion has occurred in the roadside ditch;
- c. When there is other evidence to show that a larger diameter would be appropriate.
3. Bedding requirements for concrete and metal culvert pipe shall never be below meet the Class C Bedding Specification contained in the APWA Standard Specifications for Public Works Construction Manual, Section 305~~Clackamas County Roadway Standards.~~
4. Storm sewer culvert shall have enough aggregate and/or pavement cover to support HS-25 (Rdwy stds?) highway loading as per Standard Drawing D-250 of the Clackamas County Roadway Standards handbook.
5. Notwithstanding the requirements of this subsection, Oregon Revised Statutes 368.251 to 368.281 shall govern storm sewer culverts and the accompanying entry structure.
- ~~C. Apron Requirements for Residential Driveways with Curbs~~ Residential driveway aprons in designated urban areas where curbs are present or are required as part of the development shall be constructed of Portland Cement Concrete in conformance with Standard Drawings D-600 of the Clackamas County Roadway Standards handbook as primary source or the APWA Standard Specifications for Public Works Construction Manual, Section 214, as a secondary source for specifications.
- ~~D. Special Requirements for Steep Driveways~~ Steep uphill driveways having greater than a ten percent grade shall be constructed with diagonal water bars (Berms) to assure that water from uphill properties is directed into the ditch line. In drainage situations which will not be remedied by valley gutters or water bars, it is the responsibility of the owner to construct ditches, etc., to prevent damage to the roadway or danger to the traveling public. Valley gutter and water bar construction shall comply with Standard Drawing D-700 of the Clackamas County Roadway Standards handbook.
- ~~E. Maintenance of Driveway Entrances~~ The maintenance of driveway entries within County or local access road right-of-ways, including culverts, sidewalks, curbs, aggregate, and driving surface, shall be the responsibility of the property owner being served by the entry, as required under ORS 368.910. Maintenance shall be performed so that the entry complies with the safety and function requirements of Sections 7.03.240-7.03.260 of this chapter, to prevent hazards to the public.

{Codified by Ord. 05-2000, 7/13/00}

7.03.270 Standards for Commercial and Industrial Entrances onto Roads

- A. When Standards Apply to Commercial and Industrial Road Entrances The standards contained in Section 7.03.270 shall apply to new construction, changes of occupancy (as defined by the Uniform Building Code), or to remodels or additions to existing commercial or industrial structures, where the driveway entry must be rebuilt or relocated. Under this Section, an entry permit shall be the "Development Street Construction and Encroachment Permit" issued by the County Road Official or agent issued per the Clackamas County Roadway Standards, and shall be secured prior to construction.
- B. Requirements for Entry, Road Frontage and Off-Site Improvements In accordance with Sections 1007.03, 1007.04 and 1007.05 (current?) of the Clackamas County Zoning and Development

~~Ordinance, entry and road frontage improvements will be required, as will off-site improvements if they are necessary. A dedication of land for road purposes may also be required for these improvements, the details of which shall be coordinated with the permit process.~~

- ~~C. Applicability of Clackamas County Roadway Standards handbook—Application and issuance of a Street Construction and Encroachment Permit shall follow the outline established in Appendix A of the above referenced Clackamas County Roadway Standards handbook.~~
- ~~D. Performance Surety Requirement—Pursuant to Section 1104 of the Clackamas County Zoning and Development Ordinance, a performance surety is required as a pre-requisite to entry and street improvements. Performance surety cost estimates are based on work or development permitted by the County Road Official with the surety consisting of a Performance Bond, assignment of savings, cash bond, or combination thereof. The surety shall be posted with the County Road Official or agent prior to the issuance of an entry permit.~~
- ~~E. Planning and Approval of Roadway Improvements Associated with Commercial or Industrial Road Entrances—~~
- ~~1. Need for Engineering Plans—To ensure that roadway improvements are implemented consistent with Section 7.03.240, and the purpose and scope of this chapter, commercial and industrial developers shall generate engineering plans stamped by a civil engineer licensed in the State of Oregon. These plans shall provide sufficient detail so as to allow the County Road Official or designated agent to determine whether the proposed development complies with established Clackamas County conditions of approval. Engineering drawings shall incorporate the design criteria set out in the Standard Drawings of the Clackamas County Roadway Standards handbook.~~
  - ~~2. Need for Written Waiver if No Engineering Plans are Necessary—In developments having such a minor impact on both adjacent properties and the public that stamped plans are unnecessary, the developer shall obtain a written waiver of the engineer's stamp requirement from the County Road Official or agent. Upon plan approval by the County Road Official or agent, necessary construction staking shall be accomplished by the permittee under the supervision of the permittee's design engineer. The permittee shall advise the County Road Official or agent at appropriate intervals throughout construction of the permitted work so the County Road Official or his agent may make qualitative control inspections.~~
- ~~F. Drainage Requirements for Commercial and Industrial Road Entrances—All commercial and industrial entries shall have concrete culverts for proper road drainage, unless the County Road Official or his agent determines that they are not required. Culvert capacity is of primary concern; therefore 12 inch inside diameter storm sewer culvert is the minimum allowable size. The Road Official or agent may prescribe the appropriate diameter pursuant to adopted drainage master plans or may demand that the responsible civil engineer produce drainage calculations to provide sufficient data for culvert sizing.~~
- ~~G. Apron Requirements for Commercial and Industrial Road Entrances—Commercial driveway aprons that are required as part of the development shall be constructed of Portland Cement concrete in compliance with Standard Drawings D-300 or D-600 (anytime reference to Roadway Standards, get rid of it—search through and delete) of the Clackamas County Roadway Standards handbook.~~
- ~~H. Maintenance of Commercial and Industrial Road Entrances—Under ORS 368.910 (check all ORS and OAR references—Bill will do it 11/7/11), the property owner served by the entrance shall maintain all improvements between the curb and the road right-of-way line which lie along the property frontage of the property, including driveway entries, curbs, sidewalks within public, local access or County road rights of way, culverts, aggregate, and driving surface. The maintenance shall be performed so that the entry complies with the safety and function requirements in Sections 7.03.240-7.03.250 of this chapter so as to prevent hazards to the public.~~

[Codified by Ord. 05-2000, 7/13/00]

#### ~~7.03.280—Entrance Standards for Agricultural Purposes~~

- ~~A. When Standards Apply to Agricultural Entrances onto Roads—The standards contained in Section~~

7.03.280 shall apply to all agricultural entries (as defined by the Uniform Building Code and the Clackamas County Zoning and Development Ordinance) onto paved and unpaved public, local access and County roads.

~~B. Drainage Requirements for Agricultural Entrances onto Roads:~~

- ~~1. All agricultural entries shall have culverts for proper road drainage, unless the County Road Official or his agent determines that they are not required. Culvert capacity is a primary concern; therefore 12-inch inside diameter storm sewer culvert is the minimum allowable size. Under the following circumstances, a larger inside diameter is called for, and the permit applicant must determine and use the correct capacity:
  - ~~a. When the existing storm sewer culverts above and below the proposed driveway entry are of larger diameter than 12-inch;~~
  - ~~b. When there is evidence that severe erosion has occurred in the roadside ditch;~~
  - ~~c. When there is other evidence to show that a larger diameter would be appropriate.~~~~
- ~~2. Bedding requirements for concrete and metal culvert pipe shall never be below the Class C Bedding Specification contained in the APWA Standard Specification for Public Works Construction Manual conform to the Clackamas County Roadway Standards.~~
- ~~3. Storm sewer culvert shall have enough aggregate and/or pavement cover to support HS-25 (rdwy stds? Deana will check all HS references) highway loading as per Standard Drawing D-250 of per the Clackamas County Roadway Standards handbook.~~
- ~~4. Notwithstanding the requirements of this subsection, Oregon Revised Statutes 368.251 to 368.281 shall govern storm sewer culverts and the accompanying entry structure.~~

~~C. Valley Gutters Required with Entrances — All entries should have a valley gutter to direct storm runoff into the road ditch line. Valley gutter requirements are identified on Standard Drawing D-400 of in the Clackamas County Roadway Standards handbook. Entries shall not be constructed to allow water to flow onto the travel surface of a roadway or in front of mailboxes.~~

~~D. Special Requirements for Steep Entrances — Steep uphill entries having greater than a ten percent grade shall be constructed with diagonal water bars (Berms) to assure that water from uphill properties is directed into the ditch line. In drainage situations which will not be remedied by valley gutters or water bars, it is the responsibility of the owner to construct ditches, etc., to prevent damage to the roadway or danger to the traveling public. Valley gutter and water bar construction shall comply with Standard Drawings D-400 and D-700 of the Clackamas County Roadway Standards handbook.~~

~~E. Maintenance of Entrances — The maintenance of entries within the road right-of-ways, including culverts, aggregate, and driving surface, shall be the responsibility of the property owner being served by the entry. Maintenance shall be performed so that the entry complies with the safety and function requirements of Sections 7.03.240-7.03.250 of this chapter, to prevent hazards to the public. If in the opinion of the County Road Official, the entry becomes a hazard to the traveling public or a maintenance problem, then additional improvements may be required, and must be paid for by the property owner being served by the entry.~~

~~{Codified by Ord. 05-2000, 7/13/00}~~

~~7.03.290 — Entrance Standards for Logging Purposes~~

~~A. When Standards Apply to Logging Entrances onto Roads — The standards contained in Section 7.03.290 shall apply to all logging entries onto paved and unpaved public, local access and County roads constructed for the purpose of growing and harvesting timber and other forest products.~~

~~B. Drainage Requirements for Logging Entrances onto Roads —~~

- ~~1. All logging entries shall have culverts for proper road drainage, unless the County Road Official or his agent determines that they are not required. Culvert capacity is a primary concern; therefore 12-inch inside diameter storm sewer culvert is the minimum allowable size. Under the following circumstances, a larger inside diameter is called for, and the permit applicant must determine and use the correct capacity:
  - ~~a. When the existing storm sewer culverts above and below the proposed driveway entry are~~~~

of larger diameter than 12-inch;

b. ~~When it appears that severe erosion has occurred in the roadside ditch;~~

e. ~~When it appears that a larger diameter would be appropriate.~~

2. ~~Bedding requirements for concrete and metal culvert pipe shall never be below the Class C Bedding Specification contained in the APWA Standard Specification for Public Works Construction Manual conform to the Clackamas County Roadway Standards.~~

3. ~~Storm sewer culvert shall have enough aggregate and/or pavement cover to support HS-25 (rdwy stds?) highway loading per the as per Standard Drawing D-250 of the Clackamas County Roadway Standards handbook.~~

4. ~~Notwithstanding the requirements of this subsection, Oregon Revised Statutes 368.251 to 368.281 shall govern storm sewer culverts and the accompanying entry structure.~~

C. ~~Valley Gutters Required with Logging Entrances— All entries should have a valley gutter to direct storm runoff into the road ditch line. Valley gutter requirements are identified in on Standard Drawing D-400 of the Clackamas County Roadway Standards handbook. Entries shall not be constructed to allow water to flow onto the travel surface of a roadway or in front of mailboxes.~~

D. ~~Special Requirements for Steep Logging Entrances— Steep uphill entries having greater than a ten percent grade shall be constructed with diagonal water bars (berms) to assure that water from uphill properties is directed into the ditch line. In drainage situations which will not be remedied by valley gutters or water bars, it is the responsibility of the owner to construct ditches, etc., to prevent damage to the roadway or danger to the traveling public. Valley gutter and water bar construction shall comply with Standard Drawings D-400 and D-700 of the Clackamas County Roadway Standardss handbook.~~

E. ~~Maintenance of Logging Entrances— The maintenance of entries within the road right-of-ways, including culverts, aggregate, and driving surface, shall be the responsibility of the property owner being served by the entry, or by the permit applicant, when appropriate. Maintenance shall be performed so that the entry complies with the safety and function requirements of Sections 7.03.240-7.03.250 of this chapter, to prevent hazards to the public.~~

F. ~~Temporary Access Logging Entrances— All logging entries that are for temporary access to property adjoining the public, local access or County road shall comply with this Section. In addition, the permittee shall remove the entry culvert and gravel entry surface when logging is completed. The road ditch shall be returned to a condition at least as serviceable as it was when logging was commenced.~~

G. ~~Permanent Access Logging Entrances— All logging entries that are for permanent access to property adjoining the public, local access or County road shall comply with this Section and with Section 7.03.250 E when the road accessing the logging property is paved road.~~

[Codified by Ord. 05-2000, 7/13/00]



4

**Dog Services**

13141 SE Hwy 212, Clackamas, OR 97015

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July 12, 2012

Board of County Commissioners  
Clackamas County

First reading of an ordinance amendment Chapter 5.01,  
Animal Services, of the Clackamas County Code

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Members of the Board:

Clackamas County Dog Services and County Counsel recently conducted a review of Clackamas County Code, Chapter 5.01, Animal Services, and determined amendments are needed to enable the most effective and efficient use of resources. The changes suggested by staff are reflected in the proposed amendments that are attached hereto.

Proposed amendments include, in summary, the following changes and additions to the existing code:

- 1) **Add requirement that a person must be at least 18 years of age in order to purchase a dog license.**  
Enforcement of the code becomes increasingly difficult when individuals under the age of 18 are involved. Therefore staff recommends only individuals above the age of majority should be allowed to license a dog so that staff can better ensure compliance with licensing renewal, minimum care standards, and nuisance situations.
- 2) **Add requirement that all dogs must be licensed by no later than six months of age or when they have their permanent canine teeth, whichever comes first.**  
This addition conforms Code language to that of State Statute.
- 3) **Repeal the limitation on the number of dogs that can be owned on a particular property.**  
Dog Services has found it to be more effective, a more efficient use of limited resources, and more meaningful, to focus on individuals' ability to provide for dogs in compliance with minimum care standards, rather than simply focusing on the number of dogs owned.
- 4) **Clarify that an error in transcribing information into a citation that is, in the judgment of the Hearings Office, non-prejudicial shall not be grounds for setting aside the citation.**

This amendment provides that a simple administrative error in transcribing information into a citation will not cause the citation to be dismissed or vacated.

5) **Repeal language relating to penalties for continuous annoyance as the continuous annoyance section of the code was previously repealed in 2010.**

Title 5 Animal Code was amended in 2010 to eliminate continuous annoyance as a violation. This action is to repeal the related penalty language that was inadvertently left in the code despite the repeal of the underlying violation.

6) **Add a requirement that all veterinarians doing business in Clackamas County report to Dog Services within 30 days all rabies vaccinations administered to dogs along with information regarding purchase of a dog license.**

All dogs in Oregon are required by State statute to have a current rabies vaccination administered by a licensed veterinarian. All dogs over the age of six months and/or dogs with permanent canine teeth are required to have a dog license. Requiring veterinarians to provide this information to Dog Services enables us to be more efficient and effective in the enforcement of dog licensing. This information is also valuable in emergencies and in determining the vaccination status of impounded dogs with identification.

Beginning in the 2012-13 fiscal year, the anticipated financial impacts of the proposed amendments are as follows:

- Items 1, 2, 4 and 5 indicated above are anticipated to have no financial impact;
- Item 3 is anticipated to have no financial impact, but will permit the reallocation of enforcement resources to higher priority situations;
- Item 6 is anticipated to increase licensing revenues to Dog Services by up to 50% in the first full year of implementation and approximately 10% more per year after.

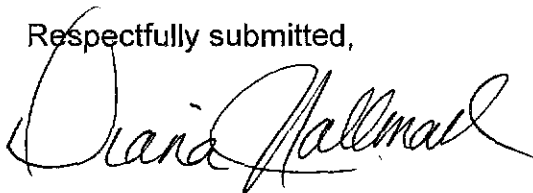
County Counsel has read and approved as to form the attached proposed amendments.

The Board of Commissioners reviewed the proposed amendments at a study session held April 24, 2012.

Recommendation

Staff recommends the Board read the attached ordinance by title only and schedule a second reading for July 26, 2012.

Respectfully submitted,



Diana Hallmark  
Manager, Clackamas County Dog Services

For more information on this item, please contact Diana Hallmark at (503) 650-3944 or [dianahal@co.clackamas.or.us](mailto:dianahal@co.clackamas.or.us)



**TITLE 5**  
**ANIMALS**

**Summary**

**5.01 DOG LICENSING & SERVICES .....1**

*R. Allen S. Keith*

**TITLE 5**

**ANIMALS**

**5.01 DOG LICENSING & SERVICES..... 1**

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## Chapter 5.01

### 5.01 DOG LICENSING & SERVICES

#### 5.01.010 Enactment; Authority

The County is authorized by Oregon Revised Statutes (ORS) 203.035 to regulate matters of County concern. The Board of County Commissioners finds that dog licensing and services within the County is a matter of County concern that impacts the health and safety of the people of Clackamas County. ORS 609.015, ORS 609.135 and ORS 153.030 recognize the authority of the County to enact and enforce regulations and procedures that vary from related state law provisions. The Board of County Commissioners adopts the following dog licensing and services regulations and procedures pursuant to ORS 203.035. Matters that concern crimes of abuse, neglect, or abandonment of dogs will be investigated and prosecuted under state law. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### 5.01.020 Definitions; Exclusions; Fines and Fees

- A. Definitions. Terms used but not defined shall have their plain meaning.
1. BITE, BITING, BITTEN means the breaking of the skin of a person, domestic animal, or livestock by the teeth of a dog.
  2. CONDITIONAL RELEASE means a security or non-security release of an impounded dog which imposes regulations and conditions on the activities and keeping of a dog pending final disposition of a violation of this chapter, including appeal.
  3. COSTS mean any monetary assessment, other than fines and fees ordered by a Hearings Officer including, but not limited to, costs for veterinarian care, restitution, prosecution expenses and attorney fees.
  4. DANGEROUS DOG means any dog that menaces, bites, injures or kills a person, domestic animal, or livestock.
  5. DOG means the common dog (*Canis familiaris*) and any animal claimed by its owner to be a wolf-hybrid unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.
  6. DOG AT LARGE means a dog that is off or outside the dog owner's property and not under the immediate control of a person.
  7. DOG OWNER means the following, however any presumption of ownership raised in this section may be rebutted by proof to the contrary:
    - a. Any person in whose name a dog license has been issued;
    - b. Any person who has a possessory property right in a dog;
    - c. In a family situation the adult head(s) of household shall be jointly and severally presumed to be the owner(s);
    - d. Any person who without regard to any ownership interest, shelters a dog or who has a dog in that person's care, possession, custody or control, or who knowingly permits a dog to remain on property occupied by that person for more than 30 days shall be presumed to be the owner.
  8. DOG SERVICES means Clackamas County Dog Services.

9. **DOG SERVICES OFFICER** means a person employed by or contracting with Clackamas County who is authorized to investigate violations and issue citations as provided in this chapter.
10. **DOMESTIC ANIMAL** has the meaning provided in ORS 167.310.
11. **EUTHANASIA** means the putting of a dog to death in any humane manner permitted under ORS 609.405.
12. **EXPENSES** mean expenditures incurred by Dog Services during impoundment, keeping and disposition of a dog.
13. **HEARINGS OFFICER** means any authority appointed by the Board of County Commissioners to hear and determine violations of this chapter.
14. **IMPOUND** means taking physical or constructive custody of a dog. A dog shall be considered impounded from the time Dog Services staff or a peace officer takes physical custody of the dog or serves an owner with a Notice of Impound and Conditional Release in accordance with this chapter.
15. **LIVESTOCK** has the meaning provided in ORS 609.125.
16. **MANAGER** means the Clackamas County Dog Services Manager or his/her designee.
17. **MENACE** means lunging, growling, snarling, chasing, attacking, or other behavior by a dog that would cause a reasonable person to fear for the person's safety, the safety of another person or the safety of a domestic animal or livestock.
18. **MINIMUM CARE** means but is not limited to, sufficient food to maintain the dog's health; access to potable water that is not snow or ice; access to an enclosed structure sufficient to protect the dog; continuous access to an area that is kept clean and has adequate space and ventilation with suitable temperature; and veterinary care to relieve distress from injury, neglect or disease.
19. **MULTIPLE DWELLING** means any building or portion thereof that is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of two or more families living independently of each other in separate units.
20. **PEACE OFFICER** has the meaning provided in ORS 161.015.
21. **PHYSICAL INJURY** has the meaning provided in ORS 167.310.
22. **SECURE ENCLOSURE** means any of the following:
  - a. A fully fenced pen, kennel or structure that is in compliance with applicable County codes, that will remain locked with a padlock or combination lock, and which has secure sides at least five feet high. The County may also require that the structure have a secure top and/or floor that are attached to the sides, or require that the sides be embedded in the ground no less than one foot; or
  - b. A house or garage that has latched doors kept in good repair to prevent the escape of the dog. A house, garage, patio, porch or any part of the house is not a secure enclosure if the structure would allow the dog to exit the structure of its own will; or
  - c. For a dangerous dog, a fully fenced pen, kennel or structure at least six feet in height that is either anchored beneath the ground or is in concrete and which prevents the dog from digging under it. The enclosure must be of a design that prevents entry of children or unauthorized persons and also prevents those persons from extending an arm or leg inside the enclosure. The enclosure must remain locked with a padlock or

combination lock when occupied by the dog. A County approved sign must remain posted at all entry points of the dog owner's property that informs both children and adults that the dog is dangerous.

23. VIOLATION means any violation of this chapter for which a fine, condition or restriction or other sanction may be imposed.
  24. WOLF-HYBRID means an animal that is either the result of cross breeding a purebred wolf and a dog, or an existing wolf-hybrid with a dog, or any dog declared by its owner to be a wolf-hybrid. A wolf-hybrid will be considered a dog under this chapter unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.
- B. Exclusions.  
This chapter does not regulate veterinarians, kennel operators or pet shop owners who for a period of not more than 90 days maintain on their property dogs owned by other persons.
- C. Fines and Fees  
All fines and fees associated with this chapter shall be set by resolution of the Board of County Commissioners.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05 2010, 7/1/10]

#### 5.01.030 Licensing; Vaccinations

- A. License.
1. Individual Dog License.
    - a. ~~A person must be at least 18 years old to obtain a license for a dog.~~
    - b. ~~Every dog owner shall license a dog by the time the dog has a set of permanent canine teeth or is six months old, whichever comes first, within thirty (30) days of the animal obtaining the age of six months or within thirty (30) days of acquiring the dog, whichever occurs later.~~
    - bc. A dog owner who has moved to Clackamas County and who does not have a current dog license from another Oregon city or county, shall obtain a dog license within thirty (30) days of moving into Clackamas County unless the dog has not yet reached six months of age. A dog with a current dog license from another city or county shall not require licensing under this chapter until expiration of the current license, if within thirty (30) days of moving into Clackamas County the owner notifies Dog Services of the dog's description, license number and city or county of issuance, and Clackamas County address.
  2. Multiple Dog license.
    - a. Qualification; Application; Inspection. When an owner has more than one dog the owner may obtain or renew a multiple dog license after submission of a qualifying Multiple Dog License Application and after a County inspection of the applicant's premises to determine that minimum care standards exist.
    - b. Denial of a Multiple Dog License. An owner may appeal the denial of a multiple dog license to a Hearings Officer by delivering a written request to Dog Services within seven (7) days of the mailing date of the written notice denying the license. A hearing will follow the same procedures set

- forth in this chapter for a hearing on a violation except that the burden of proof will be on the owner to prove that the denial was improper.
- c. Land Use Approval. Issuance of a Multiple Dog License does not constitute approval of a particular land use or indicate compliance with any zoning or land use planning restrictions that may apply. Applicant may be required to demonstrate compliance with city or county zoning or land use planning restrictions prior to issuance.
- B. Rabies Vaccination
1. Individual or multiple dog licenses will not be issued without evidence of one of the following for each dog to be licensed:
    - a. A rabies vaccination certificate issued by a licensed veterinarian that is valid for the license period; or,
    - b. A written statement signed by a licensed veterinarian stating that for medical reasons the rabies vaccination cannot be administered to the dog.
  2. A dog that does not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license, shall be apprehended and impounded at the owner's expense.
  3. A veterinarian performing a rabies vaccination of any dog must transmit a copy of the vaccination certificate or written documentation that includes information contained on the certificate to Dog Services within 30 days of the vaccination. In the alternative, a veterinarian may issue a dog license in accordance with the rules adopted by this Chapter, and submit proof of license to Dog Services within 30 days of the vaccination.
- C. License Term; Renewal; Fine
1. A license will be valid for one, two or three years from the date of issuance at the option of the dog owner and requires a rabies vaccination certificate for the licensing period.
  2. Renewal of a license shall not be due until the last day of the month in which the license expires. If a person fails to renew a license prior to its expiration date, a fine may be assessed at the time the license is renewed.
- D. Identification tags.
1. At the time an individual dog license is issued, the County will issue a free identification tag that is to be fastened to a collar or harness and kept on the dog at all times when the dog is not in the immediate possession of the owner.
  2. When a multiple dog license is issued, the owner may obtain identification tags upon payment of a fee.
  3. If a dog license tag is lost, the owner may obtain a duplicate tag from Dog Services upon payment of a fee.
- E. License Fees Exemptions.
1. No license fee will be required for the following:
    - a. Any dog that meets the definition of an "assistance animal" as defined in ORS 346.680, provided that the license applicant has filed a statement with Dog Services indicating that the dog is an "assistance animal" for a person who has a physical impairment in one or more of their daily life activities and resides in the applicant's household.
    - b. Any dog in training to be an "assistance animal" as defined in ORS 346.680, in affiliation with a recognized organization for the training or

placement of assistance animals, provided the trainer files a statement with Dog Services verifying that the dog is an assistance animal.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### 5.01.040 Control of Dogs

##### A. Number of Dogs Permitted on Premises:

1. Unless an exemption applies as provided in this chapter, the number of dogs shall not exceed:
  - a. More than 5 dogs in a unit of a multiple dwelling;
  - b. More than 5 dogs on premises less than or equal to one acre;
  - c. More than 10 dogs on premises larger than one acre but smaller than five acres;
  - d. More than 25 dogs on premises 5 acres or larger.
2. Exemption. This provision does not apply to:
  - a. Dogs not required to be licensed by this Chapter; or
  - b. A litter of puppies together with a mother, until the litter reaches six months of age the mother and puppies will count as one dog;
  - c. An owner that exceeds the number of dogs permitted, but has licensed all dogs on the premises prior to July 1, 2004 and thereafter has to date kept each qualified license in good standing by timely renewing each license in accordance with the provisions of this chapter.

B.A. Duties of Owners. For the purposes of this chapter a dog owner is responsible for the behavior of the dog regardless of whether the owner or another person allowed the dog to engage in the behavior that is the subject of the violation.

##### C.B. Violations.

1. It is unlawful to permit a dog to be a public nuisance. A dog is a public nuisance if it:
  - a. Menaces, bites, injures or kills a person, domestic animal, or livestock. It is a defense to this section if the dog engages in such behavior as a result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property;
  - b. Is a dog at large. It is a defense to this section that the dog was a working dog wearing a locating device and temporarily separated from the person in control of the dog;
  - c. Chases a vehicle while off the dog owner's property;
  - d. Damages or destroys property of another person while off the dog owner's property;
  - e. Scatters garbage while off the dog owner's property;
  - f. Is a female in heat (estrus) and is a dog at large.
2. It is unlawful to fail to comply with the requirements of this chapter that apply to keeping a dangerous dog.
3. It is unlawful to permit any dog to leave the confines of any prescribed quarantine area, and/or fail to comply with any other condition of quarantine.
4. It is unlawful to interfere with an identified County employee or peace officer who is enforcing any provision of this chapter by intentionally acting in any

manner that prevents, or attempts to prevent a County employee or peace officer from performing their lawful duties.

5. It is unlawful to knowingly provide false information to a County employee or peace officer enforcing any provision of this chapter.
6. It is unlawful to permit a dog to be confined within a motor vehicle at any location under such conditions as may endanger the health or well-being of the dog, including but not limited to dangerous temperature, lack of food, water or attention.
7. It is unlawful to permit a dog to be unrestrained in an open portion of a vehicle.
8. It is unlawful to fail to reclaim an impounded dog.
9. It is unlawful to fail to comply with any fine, fee, cost, expense, condition or restriction or other order imposed by a Hearings Officer under this chapter.
10. It is unlawful to fail to surrender a dog for apprehension to the County when required by this chapter.
11. It is unlawful to fail to license a dog or renew a license as required by this chapter.
12. It is unlawful for an owner to fail to immediately notify Dog Services when the owner's dog has bitten a person, domestic animal, or livestock.
- ~~13. It is unlawful to exceed the number of dogs permitted on premises or in a unit of a multiple dwelling as set forth in this chapter.~~
- ~~14.3. It is unlawful to keep a dog in a manner that does not meet minimum care standards of this chapter.~~
- ~~15.4. It is unlawful to fail to maintain a current rabies vaccination.~~
- ~~16.5. It is unlawful for a person who has been bitten by a dog, or a parent/guardian of a bitten minor, to fail to immediately notify Dog Services when required by this chapter.~~
- ~~17.6. It is unlawful for a dog owner to fail to follow any condition of release pending final disposition of a violation of this chapter, including appeal.~~

D.C. Lost Dogs; Duties of Finders. Any person who finds and shelters a dog without knowing the dog owner's identity shall notify Dog Services within three days with a description of the dog. A finder may surrender the dog to Dog Services, or retain possession subject to surrender upon County request.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### **5.01.050 Biting Dogs; Dangerous Dogs**

- A. Reporting biting dogs.
  1. The owner of a dog that bites a person, domestic animal, or livestock shall immediately notify Dog Services of the time and circumstances of the bite along with a description of the biting dog, its rabies vaccination status, the owner's name and address, and if known the name and address of the person who was bitten or the owner of the bitten domestic animal or livestock.
  2. Any person who is bitten by a dog, or is the parent/guardian of a bitten minor, or owns a domestic animal or livestock bitten by a dog shall immediately notify Dog Services of the time and circumstances of the bite along with his/her name and address, a description of the biting dog, and if known the name and address of the dog owner.
- B. Quarantine of biting dogs.



1. A dog suspected of biting a person will be quarantined at the owner's expense until the tenth day following the bite in accordance with state law.
  2. At the discretion of the County, a dog that has proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license may be quarantined at the premises of a licensed veterinarian or at the premises of the owner providing the dog is kept within a secure enclosure or with approved restraint deemed adequate to prevent contact with any person or other animal, and is kept in accordance with any other conditions set by the County as permitted by this chapter or required by state law. It shall be a violation of this chapter if during home quarantine the dog leaves the confines of a prescribed quarantine area for any reason or otherwise violates the conditions of quarantine.
  3. Dogs that have bitten a person and do not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license shall be apprehended and impounded as resources allow.
- C. Dangerous Dogs.
1. Classification of Dog as a Dangerous Dog. A dog may be classified by the Hearings Officer as a dangerous dog when it has menaced, bitten, chased, injured or killed any person, domestic animal, or livestock.
  2. Notice of Classification; Hearing.
    - a. Notice. Prior to a dog being classified as dangerous, the owner shall have a right to a hearing before a Hearings Officer. The County shall send a Dangerous Dog Notice to the dog owner by certified mail or personal service; if sent by mail the date of mailing will be considered the date of service. The notice shall inform the owner of:
      - i. A description of the alleged incident and specific behavior that supports classification of the dog as dangerous.
      - ii. The regulations that may be imposed following a dangerous dog classification, including the requirement of a dangerous dog certificate.
      - iii. An opportunity to request a hearing.
      - iv. Information that the dog owner must request a hearing within seven (7) days from the date of service by delivering a written request to Dog Services.
      - v. Information that if the dog owner does not make a timely request for hearing, the dog owner shall be deemed to have waived his/her right to a hearing. Thereafter, following proof of sufficient evidence that the dog is dangerous, the Hearings Officer may so classify the dog and impose regulations consistent with this chapter.
    - b. Hearing.
      - i. Following a timely request for hearing, the County will notify the dog owner and Hearings Officer of the date and time of the hearing. The hearing shall follow the procedures set forth in this chapter for a hearing on a violation.
      - ii. The Hearings Officer may refrain from classifying a dog as dangerous upon a finding that the behavior was the result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a

- trespasser, or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property.
- iii. A hearing on classification of a dangerous dog may be consolidated with a hearing on any underlying violation for which the dog owner has been cited.
3. Regulation of Dangerous Dogs; Microchip Identification. When a dog has been classified as dangerous, the dog shall be microchip identified at Dog Services at the expense of the owner, as provided in ORS 609.168. In addition, a Hearings Officer may order the following regulations:
- a. That the dog be kept in a secure enclosure;
  - b. That the dog owner obtain and maintain proof of public liability insurance;
  - c. That the dog owner not permit the dog to be off the owner's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a competent person;
  - d. That the dog owner successfully complete a County approved pet ownership program;
  - e. That the dog successfully complete obedience training certified by the American Temperament Testing Society or other similar County approved program;
  - f. That the dog be spayed or neutered;
  - g. After consideration of the factors set forth in ORS 609.093, require euthanasia when a dog has bitten or killed a person, domestic animal, or livestock. The Hearings Officer may also consider the public nuisance violation history of the dog and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred.
4. Certificate of Registration; Secure Enclosure; Notice to New Owner
- a. Certificate of Registration. Within seven (7) days after a dog has been classified as dangerous, the owner must license the dog, if not licensed, and obtain a dangerous dog certificate of registration to be renewed annually until the dog is declassified or dies. The County will only issue certificates of registration and renewals to persons who are at least 18 years of age and who present sufficient evidence of:
    - i. A rabies vaccination certificate which will remain in effect for at least one year from the date the certificate of registration is issued;
    - ii. A secure enclosure to confine the dangerous dog;
    - iii. A clearly visible County approved warning sign to be posted and remain at all entry points of the owner's property that informs both children and adults that the dog is dangerous;
    - iv. Microchip identification as provided in ORS 609.168; and,
    - v. Payment of an annual dangerous dog registration fee.
  - b. Secure Enclosure. The owner of a dog classified as dangerous shall confine the dog in a secure enclosure. The owner must immediately notify Dog Services when a dangerous dog is at large, or has bitten a person, domestic animal, or livestock. A dangerous dog shall not be

permitted to leave the confines of a secure enclosure unless the dog is muzzled and restrained by an adequate chain or leash and under control of a competent person.

- c. Notice to New Owner. Prior to a dangerous dog being sold or given away the owner shall provide notice to the new owner that the dog has been classified as a dangerous dog and provide the County with the name, address and telephone number of the new owner whether or not the new owner resides in Clackamas County. The new owner must comply with all dangerous dog regulations imposed unless and until the dog is declassified or dies.
5. Declassification of Dangerous Dog.
- a. Declassification. Following an owner's written request, the County may declassify a dog as dangerous and terminate the regulations ordered at the time of classification, except for microchip identification and secure enclosure, when the following conditions have been met:
    - i. For two years from the date of classification the dog has had no further incidents of behavior that would make it a dangerous dog;
    - ii. For two years from the date of classification there have been no violations of the regulations imposed;
    - iii. The dog owner has obtained a certificate of satisfactory completion of obedience training for the classified dog.
  - b. Appeal of Declassification Denial. A dog owner may appeal to a Hearings Officer the denial of a request to declassify a dangerous dog by delivering a written request for appeal to Dog Services within seven (7) days of the mailing date of the County's written notice denying declassification.
    - i. The County's written denial shall include information on how the dog owner may appeal the denial.
    - ii. On appeal the Hearings Officer shall determine whether the dog meets the criteria for declassification and shall either uphold the County's denial or order declassification.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### **5.01.060 Impoundment; Release; Adoption**

- A. Impoundment
  - 1. Any Dog Services Officer or peace officer may impound a dog that is in violation of this chapter, or when a Dog Services Officer or peace officer reasonably believes a dog requires medical assistance or care, or when ordered by a court or Hearings Officer.
  - 2. If a person refuses to allow a Dog Services Officer or peace officer to enter the premises to apprehend and impound a dog as authorized by this chapter, the County may request the assistance of the local law enforcement official to obtain and execute a search warrant as authorized by law to search for and seize the dog subject to impound.

3. Any Dog Services Officer or peace officer is authorized to remove a dog from a motor vehicle to apprehend and impound the dog when the officer reasonably believes it is confined in a manner that endangers its health or well-being, including but not limited to dangerous temperature, lack of food, water or attention. A written notice of impoundment will be left on or in the vehicle with information on how to reclaim the dog.
  4. Any person may immediately apprehend and hold for impoundment any dog that has trespassed upon the property of that person or another in violation of this chapter, or has menaced, bitten, injured or killed a person, domestic animal, or livestock.
- B. Impound Holding Periods. Unless otherwise provided in this chapter, dogs impounded will be held for the following minimum time periods, unless sooner reclaimed by their owner:
1. Dogs not wearing a license tag shall be held for at least three consecutive days, not including the day of impoundment.
  2. Dogs wearing a license tag shall be held for at least five consecutive days, from the date of notification of impoundment. If notification is by mail, the date of mailing shall be considered the date of notification.
- C. Release of Impounded Dogs; Conditional Release.
1. Release.
    - a. Release Prohibited. Unless otherwise ordered by a Hearings Officer or court of competent jurisdiction, an impounded dog may not be released until final disposition of any violation alleging that the dog has killed a person, or when a dog is pending classification or has been classified as a dangerous dog.
    - b. Release Permitted. Unless prohibited by this chapter prior to final disposition of a violation or pending appeal, an impounded dog may be released subject to release conditions consistent with this chapter if any in subsection 5.01.060(C)(2)(a) and upon posting security in the amount equal to 50% of the base fine for each violation and payment of fees and costs owed to date including prior outstanding balances, except upon showing of good cause.
  2. Conditional Release.
    - a. Conditions. As permitted by this chapter pending final disposition of a violation or appeal, the County or Hearings Officer may conditionally release an impounded dog to its owner and may impose any of the following release conditions, including but not limited to a requirement that the dog owner:
      - i. Obtain and provide proof of a rabies vaccination within a designated time;
      - ii. Provide proof of license within a designated time;
      - iii. Restrain the dog on the dog owner's property by means of a secure enclosure;
      - iv. Control the dog on a leash that is no longer than six (6) feet, and at all times handled by an adult who is able to control the dog;
      - v. Muzzle the dog at all times when off the dog owner's property;
      - vi. Obtain veterinary care for the dog within a designated time;
      - vii. Comply with minimum care standards consistent with this chapter;

- viii. Keep the dog indoors during certain hours.
- b. Revocation of Conditional Release; Violation; Security Forfeited.
  - i. Revocation. Upon reasonable ground to believe that a release condition has been violated the County may revoke release, and apprehend and impound the subject dog pending final disposition of the underlying violation or appeal.
  - ii. Violation. At the time of revocation the dog owner shall be cited for failure to follow condition(s) of release. A hearing on revocation may be made in accordance with section 5.01.070 of this chapter and consolidated with a hearing on the underlying violation(s).
  - iii. Security Forfeited. The security amount posted on conditional release shall be forfeited upon a finding that one or more conditions of release were violated or if no timely hearing is requested.
- 3. If a dog owner has been cited for a violation(s) of this chapter, and a Hearings Officer finds that no violation(s) occurred, then impoundment and board fees shall not be assessed until the first business day after notice of the Hearings Officer's Final Order.
- 4. An owner must reclaim a dog within five (5) business days after notice of a Hearings Officer's Final Order unless otherwise ordered or unless stayed by a court of competent jurisdiction.
- D. Failure to Reclaim.
  - 1. If an owner fails to reclaim a dog as provided in this chapter the dog will be deemed abandoned and shall become the property of the County without compensation paid to the owner.
  - 2. An owner that fails to reclaim a dog will be civilly liable to the County for all penalties, fines, fees, costs and expenses authorized by this chapter, which may be collected in the same manner as any other debt allowed by law.
- E. Diseased or Injured Dog. A dog owner shall be liable to the County for costs paid for medical treatment during impoundment. If the County determines a dog is seriously injured or seriously ill or its health condition causes a threat to public health or safety, the dog may be immediately euthanized without compensation paid to the owner.
- F. Release for Adoption.
  - 1. Fees. Adoption fees will be assessed consistent with this chapter.
  - 2. Standards. The Dog Services Manager shall have the authority to develop and enforce adoption policies and procedures.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### **5.01.070 Citation; Complaint; Hearing Process**

- A. Issuance of Citation.
  - 1. Any Dog Services Officer or peace officer may issue and serve a dog owner with a citation when there are reasonable grounds to believe the owner or dog has committed a violation of this chapter. The citation shall serve as the County's complaint.
  - 2. A citation shall be served by personal service or by certified mail with return receipt requested, no later than six (6) months from the date the alleged violation

occurred. When mailed the date of mailing shall be considered the date of service. The failure of any person to receive notice properly given shall not invalidate or otherwise affect proceedings under this chapter.

B. Form of Citation.

1. The citation shall include:
  - a. The name and address of the person cited;
  - b. The date(s) the alleged violation(s) occurred;
  - c. The number and title of the chapter section(s) violated;
  - d. A description of the dog(s) involved;
  - e. The base fine, to be equal to the minimum fine, along with the maximum fine for each violation as authorized by this chapter;
  - f. Whether appearance before a Hearings Officer is optional, or if mandatory the date, time and place at which the person is to appear;
  - g. The procedure for the person to follow to admit the violation and pay the fine, or contest the citation and appear before a Hearings Officer;
  - h. A statement that if the person fails to pay the fine within the time allowed, or fails to appear before the Hearings Officer when required, then the person shall have waived his/her right to contest the citation and the Hearings Officer may enter a judgment against the person for an amount up to the maximum fine, in addition to any fees, costs or expenses, conditions or restrictions authorized by this chapter;
  - i. A statement that when appearance before a Hearings Officer is mandatory the person cannot pay the fine in lieu of appearance.
2. An error in transcribing information into a citation, when determined by the Hearings Officer to be non-prejudicial to the defense of the cited person, may be corrected prior to or at the time of the hearing with notice to the cited person. Except as provided in this subsection, a citation that does not conform to the requirements of this section shall be set aside by the Hearings Officer upon motion of the cited person before any other proceedings at the hearing. Minor variations in the form of citation shall not be a basis for setting aside a citation. Nothing prohibits the Hearings Officer from amending a citation in the Hearings Officer's discretion.

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C. Response to Citation

1. Unless an appearance before a Hearings Officer is mandatory, a dog owner who has received a citation may respond by:
  - a. Appearing personally before the Hearings Officer on the cited appearance date and either admit or deny the violation; or
  - b. Prior to the appearance date return a signed copy of the citation to Dog Services admitting the violation, along with a check or money order payable to Clackamas County for the total base fine amount. Admission and payment does not relieve the dog owner of the requirement to correct the violation; or
  - c. Prior to the appearance date, return a signed copy of the citation to Dog Services denying the violation and requesting a hearing. Dog Services will set a time and place for the hearing and notify the Hearings Officer, and dog owner.
2. Mandatory Appearance. Personal appearance before a Hearings Officer at the time and place indicated on the citation shall be mandatory:

- a. When a dog owner has received a citation three (3) times or more within a twelve (12) month period or the issuing officer has determined the appearance should be mandatory;
  - b. For violation of Failure to Surrender a Dog;
  - c. For violation of Interfering with a County employee or Peace Officer;
  - d. For violation of Providing False Information to a County employee or Peace Officer;
  - e. For violation of Failure to Comply with Conditions of Quarantine;
  - f. For violation of Failure to Comply with any Fine, Fee, Cost, Expense, Condition or Restriction authorized by this chapter;
  - g. For violation of Dog as a Public Nuisance when a dog kills a person, domestic animal, or livestock;
  - h. For violation of Failure to Comply with the Requirements of Keeping a Dangerous Dog.
  - i. For failure to reclaim an impounded dog.
  - j. For failure to meet minimum care standards.
3. Failure to Respond to Citation. If a person cited fails to respond to a citation as required by this chapter then the person shall be deemed to have waived his/her right to contest the citation. Following proof of sufficient evidence that the person has committed the cited violation(s) the Hearings Officer may enter a Final Order against the person for an amount up to the maximum fine, in addition to any applicable fees, costs or expenses, and any other imposition consistent with this chapter. A copy of the Final Order shall be sent to the person cited by regular mail.
- D. Hearing Process.
1. Informal Disposition. The County and dog owner may agree to an informal and final disposition of any violation before a Hearings Officer issues a Final Order.
  2. Burden of Proof. The burden will be on the County to prove that the violation occurred by a preponderance of the evidence.
  3. Testimony of Witnesses and Parties. The Hearings Officer shall have the authority to administer oaths or affirmations and take testimony of and question witnesses and parties. Parties may offer witness testimony on their own behalf. Written testimony must be submitted by sworn affidavit and may be admitted into the record subject to exclusion by the Hearings Officer and objections by the opposing party.
  4. Cross-Examination of Witnesses. The person cited and attorneys may examine or cross-examine witnesses.
  5. Evidence. Reliable and relevant evidence shall be admitted subject to the rules of privilege recognized by law. The burden of presenting evidence to support a fact or position shall be on the offering party. The Hearings Officer may establish procedures for the presentation of evidence to ensure that the hearing record reflects a full and fair inquiry into the facts necessary to determine the matter alleged. The Hearings Officer shall have the discretion to exclude any material or testimony that is accumulative, repetitious, irrelevant or immaterial.
  6. Objections. Objections to admission of evidence shall be noted in the record and will be considered with respect to the weight to be given the particular evidence offered. The Hearings Officer shall have the discretion to admit or

- exclude any evidence presented and may reserve the ruling on the admissibility or exclusion of evidence until the time the Final Order is issued.
7. Subpoenas. The Hearings Officer may issue subpoenas to parties when a request is supported by a showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties, peace officers or employees of the County, shall be paid the same witness fees and mileage as allowed in civil cases from the party requesting the subpoena to be paid at the time the subpoena is issued. The party requesting the subpoena will be responsible for its service in accordance with the Oregon Rules of Civil Procedure.
  8. Representation. The person cited may represent him/herself or may be represented by counsel at personal expense. The County may be represented at the hearing by any employee of the County. If the employee is not an attorney, the employee shall not present legal argument, examine or cross-examine witnesses, present rebuttal evidence or give legal advice to the Hearings Officer conducting the hearing.
  9. Record. A verbatim written or mechanical record shall be made of all hearings. The record may be transcribed at the request of a party upon payment in advance of the cost of transcription.
  10. Final Order. At the conclusion of the hearing the Hearings Officer shall issue a Final Order based upon reliable, relevant and substantial evidence which shall be the County's final determination. A Final Order shall be effective on the date that it is issued unless otherwise provided by the Hearings Officer. The order may be oral or written, but in all cases must be recorded in the record of the proceeding. The Hearings Officer may impose fines, fees, costs, expenses, conditions or restrictions and any other imposition authorized by this Chapter. Monetary obligations are due and payable on the effective date of the Final Order unless otherwise provided.
  11. Judicial Review. Review of a Final Order of the Hearings Officer may be made by any party by writ of review as provided in ORS 34.010-34.100.
  12. Enforcement of Final Order. The County may maintain civil proceedings in law or equity in a court of competent jurisdiction to enforce any provision of a Hearings Officer's Final Order.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### **5.01.080 Penalties**

##### **A. Fines, Fees, Costs; Expenses.**

1. Upon a finding that a dog owner has violated this chapter, a Hearings Officer may impose fines, fees, costs and expenses, which shall become a debt owing to Clackamas County and may be collected in the same manner as any other debt allowed by law. If fines, fees, costs or expenses are not paid within sixty (60) days after payment is ordered, the County may file and record the Final Order for payment in the County Clerk Lien Record as authorized by ORS 30.460.
2. If the Hearings Officer finds that the alleged violation did not occur, the County shall reimburse the dog owner for any fines, fees, costs and expenses previously paid by the owner for the alleged violation.



3. The Hearings Officer may order payment of the County's attorney fees and prosecution costs to include staff time for any violation of this Chapter.
- B. Conditions and Restrictions; Restitution; Euthanasia.
1. Upon a finding by the Hearings Officer that a dog owner has violated a provision of this chapter, in addition to and not in lieu of any fine, fee, cost or expense, the Hearings Officer may impose restitution, euthanasia, and reasonable conditions and restrictions, including but not limited to:
    - a. Suspend the owner's right to own or keep any dog in Clackamas County for a period not to exceed five (5) years;
    - b. ~~Require an owner in violation of Continuous Annoyance to keep the dog inside the owner's residence during hours specified by the Hearings Officer, and/or keep an operating bark collar on the dog at all times. The bark collar must be of sufficient quality and design to ensure intervention of barking;~~
    - e.b. Upon sufficient proof order restitution to any person who has suffered actual monetary loss as a result of a violation of this chapter, including but not limited to expenses incurred for veterinarian care, burial and memorial expenses, repair or replacement of damaged property, or medical bills;
    - d.c. Require the owner to spay or neuter the dog;
    - e.d. Require the owner to remove the dog to a location where the dog does not present a threat to persons, domestic animals, or livestock;
    - f.e. Require the owner to surrender the dog to the County;
    - g.f. After consideration of the factors set forth in ORS 609.093, require euthanasia when a dog has bitten or killed a person, domestic animal, or livestock. The Hearings Officer may also consider the public nuisance violation history of the dog and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred;
    - h.g. Require that the owner comply with any other condition or restriction reasonably designed to abate any future violation of this chapter;
    - i.h. Require that the owner obtain microchip identification for the dog;
    - j.i. Require the owner to reduce the number of dogs on the owner's premises.
  2. Any condition or restriction imposed by a Hearings Officer must be complied with immediately unless otherwise ordered. The County may request that an owner provide proof of compliance by a date certain. If proof is not provided, or proof is insufficient, then a rebuttable presumption will exist that the owner has failed to comply and the owner may be cited for the violation of Failure to Comply in accordance with this chapter.
  3. An owner shall be responsible for all costs incurred in complying with any condition or restriction imposed.
  4. Upon a finding that an owner is guilty of a violation set forth in this chapter, regarding the same dog for the third time in a twelve (12) month period, the Hearings Officer may order that the owner surrender the dog to the County, without compensation paid to the owner.
 

When a dog has been ordered surrendered and the County has determined that the dog qualifies for adoption, the County may give placement preference to any

person who had prior contact with the dog, including but not limited to the former owner's family members or friends who reside separately from the former owner and whom the County has determined will provide adequate care and follow all conditions or restrictions imposed by the Hearings Officer in order to maintain control of the dog.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.090 Authority of Dog Services Manager**

In accordance with the provisions of this chapter the Dog Services Manager shall have the authority to:

- A. Collect fines, fees, costs and expenses.
- B. Authorize an owner to keep a licensed dog that has been impounded and quarantined, at the premises of the owner during the period of quarantine.
- C. Declassify a dog as dangerous in accordance with the provisions of this chapter.
- D. Request the assistance of local law enforcement officials to obtain and execute a warrant authorized under state law and this chapter for the search and seizure of property.
- E. Require a dog owner to provide proof of compliance with a Hearings Officer's Final Order.
- F. Inspect premises of a dog owner to ensure compliance with this chapter;
- G. Develop and enforce policy, procedures, and standards to ensure the effective administration of this chapter.

[Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.100 Transition**

A. ~~The provisions of chapter 5.01 as they existed prior to the most recent enactment of this chapter shall apply to violations of chapter 5.01 that occurred prior to the most recent enactment date, the disposition of which are not complete by the enactment date. The Dog Services Manager shall keep a copy of the previous chapter 5.01 on file.~~

B. ~~For the purposes of this chapter on or after the latest enactment date of this chapter, when consideration of prior or multiple violations is a factor, a violation of chapter 5.01 that occurred prior to the latest enactment date shall be considered a violation of this chapter.~~

[Added by Ord. 01-2004, 4/8/04]

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**5.01.110 Severability**

If any clause, section or provision of this chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein.

[Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.120 Enforcement of Other Laws**

- A. Enforcement of Dogs. Pursuant to ORS 203.035; 153.030; 609.015 and ORS 609.135, this chapter supersedes enforcement in the County of the following state statutes

regarding control of dogs: ORS 609.030 and 609.035 to 609.110; 609.155; 609.158; 609.165; 609.170; 609.180; 609.190.

- B. **Enforcement of Rabies Control.** Rabies control shall be enforced by the Clackamas County Health Officer in cooperation with the Dog Services Manager in accordance with the provisions of ORS 433.340 through 433.390.
- C. **Enforcement of Violations Involving Livestock.** When a dog is determined to be a Public Nuisance under this chapter for menacing, biting, injuring or killing livestock, in addition to all other provisions and regulations of this chapter the following state statutes apply: ORS 609.125; 609.156; 609.161; 609.162; 609.163; 609.167; 609.168.
- D. **Enforcement of Possession of Dogs.** The number of dogs possessed by a person shall be limited as provided in ORS 167.374. In addition to all other provisions and regulations of this chapter, ORS 167.374 shall apply.
- E.D. **Other Laws Apply.** Except as expressly provided in this chapter, this chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state and federal laws, rules and regulations, and other ordinances which relate to the requirements provided in this chapter.

[Added by Ord. 05-2010, 7/1/10]