



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 27, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

First Reading of Ordinance No. _____
Amending Chapter 7.03 of the County Code

Purpose/Outcome	To amend the Code to implement new policy related to gates within the public right of way.
Dollar Amount and Fiscal Impact	No change.
Funding Source	N/A.
Duration	Permanent.
Previous Board Action/Review	Policy Session- 8/7/18.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government
Contact Person	Mike Bays, Survey Group Supervisor, (503) 742-4667 Nate Boderman, Assistant County Counsel, (503) 655-8364

Oregon Revised Statutes (ORS) 368.056 authorizes the Board of County Commissioners to issue permits to allow for the construction of a gate on a public road under the jurisdiction of the county. This authorization also includes the authority to "... impose any conditions or specifications on the permit it determines advisable to preserve the purposes of the public road".

Clackamas County Code Section 7.03.090(M) contains the County's existing regulations regarding the authorization of gates on public roads. Under the County Code, gates are to be allowed only under the most "extraordinary circumstances". The process for issuing gate permits under 7.03.090(M)(1) is as follows:

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.

In the event a gate permit is issued, 7.030.090(M)(2)(c) limits the duration of the permit, which are renewable in five-year increments.

Department of Transportation and Development staff are asking the board to consider two changes to Clackamas County Code Section 7.03. The first change would add a requirement to 7.03.090(M)(1)(a) whereby 100% of those property owners that access from or adjoin the road right-of-way to be gated must provide consent as part of the application to the Board. This is being added to ensure those primarily affected by the proposal are aware of the application. The second change would remove the requirement in 7.03.090(M)(2)(c) that an approved gate permit be reviewed every five years. Instead, staff is requesting that authorized gate permits only be reviewed when there is a change of conditions which may warrant removal of the previously authorized gate.

The changes in this section of the county code reflect somewhat the road vacation process, which also requires consent from affected landowners and a hearing before the board (in certain circumstances). The change should also dissuade the installation of gates on public roads except in the most extraordinary circumstances, thus furthering the purpose of the County Code restrictions related to gate authorizations. Finally, these changes should help staff and the Board of County Commissioners use time more efficiently by only reviewing those gate proposals which are in line with the intent and purpose of 7.03.090(M).

In addition to the ordinance and code language changes that are attached to this report, staff has included documents that have been distributed to members of the public initiating the process to apply for a gate permit. If the Board adopts the changes proposed by staff, these documents that have been used in the past, along with the attached gate permit, would be updated to reflect the new policy.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners hold this public hearing and schedule a second reading of this ordinance on October 11, 2018.

Sincerely,

Mike Bezner
Assistant Director, Department of Transportation and Development

Attachments: Ordinance Amending Clackamas County Code Chapter 7.03
Gate Policy Handout
Gate Application Form
Gate Petition Form
Gate Consent Form
Gate Permit

ORDINANCE NO. _____

An Ordinance Amending Chapter 7.03 of the Clackamas County Code

WHEREAS, this matter coming before the Clackamas County Board of County Commissioners at its regularly scheduled public meeting on October 11, 2018 to consider changes to Chapter 7.03 of the County Code pertaining to gates within the public right of way.

WHEREAS, Chapter 7.03 of the County Code contains standards and requirements for the application by members of the public to install and maintain a gate that blocks access to a road right of way; and

WHEREAS, Chapter 7.03.090(M) of the County Code states that gates are allowed only under the most extraordinary circumstances; and

WHEREAS, to ensure those primarily affected by the proposal are aware of any gate application that could impact access to their property, Clackamas County desires to add a requirement to Chapter 7.03.090(M)(1)(a) whereby 100% of those property owners that access from or adjoin the road right-of-way to be gated provide consent as part of the application to the Board; and. The second change would remove the requirement in 7.03.090(M)(2)(c) that an approved gate permit be reviewed every five years. Instead, staff is requesting that authorized gate permits only be reviewed when there is a change of conditions which may warrant removal of the previously authorized gate; and

WHEREAS, to increase efficiencies by only reviewing approved gate permits when there is a change of conditions which may warrant removal of the previously authorized gate, Clackamas County desires to remove the requirement in 7.03.090(M)(2)(c) that an approved gate permit be reviewed every five years; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 7.03 of the County Code is hereby amended as shown in Exhibit A, hereto attached.

Section 2: This ordinance shall be effective on January 9, 2019

ADOPTED this 11th day of October, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

TITLE 7

VEHICLES AND TRAFFIC

Summary

7.01 VEHICLE PARKING AND TOWING.....	1
7.02 OFF-ROAD VEHICLES.....	15
7.03 ROAD USE.....	17
7.04 OVER-DIMENSIONAL VEHICLE REQUIREMENTS.....	36
7.05 ADDRESSING AND ROAD NAMING.....	45
7.06 WAYS OF NECESSITY, TRANSFER OF JURISDICTION TO THE CIRCUIT COURT.....	65

TITLE 7

VEHICLES AND TRAFFIC

Table of Contents

CHAPTERS

7.01 VEHICLE PARKING AND TOWING.....	1
7.01.010 Definitions	1
7.01.020 Parking Restrictions Enforceable by Citation and Fine	1
7.01.030 Person in Violation, Affirmative Defense.....	2
7.01.040 Citation	3
7.01.050 Fines	3
7.01.060 Response to Citations	3
7.01.070 Violation Hearing Procedure.....	4
7.01.080 Towing Without Prior Notice.....	5
7.01.090 Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03].....	6
7.01.100 Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03].....	6
7.01.110 Notice After Tow.....	6
7.01.120 Vehicle Inventory and Report	7
7.01.140 Notice After Affixing Boot	10
7.01.150 Unidentifiable Vehicle	10
7.01.160 Request for Hearing.....	10
7.01.170 Hearing	11
7.01.180 When Tow or Boot Found Invalid	12
7.01.190 Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03].....	12
7.01.200 When Tow or Boot Found Valid.....	12
7.01.210 Payment of Towing Charges; Reasonableness	12
7.01.220 Lien for Towing Charges; Release of Vehicle	13

7.01.230	Sale of Vehicle	14
7.02	OFF-ROAD VEHICLES.....	15
7.02.010	Policy.....	15
7.02.020	Definitions	15
7.02.030	Operation of Off-Road Vehicles	15
7.02.040	System of Off-Road Vehicle Trails and Facilities	16
7.02.050	Penalties.....	16
7.02.060	Conformance with Law	16
7.03	ROAD USE.....	17
7.03.010	Purpose	17
7.03.20	Definitions	17
7.03.030	Compliance.....	19
7.03.040	Conflicting Requirements	19
7.03.050	Violation as Nuisance.....	20
7.03.060	Issuance of Violation Notice	20
7.03.070	Remedies	20
7.03.080	Penalties.....	20
7.03.090	Road Use Impediments – Prohibited Activity	20
7.03.095	Vacation Proceedings and Road Status Changes	24
7.03.099	Utilities’ Use of County Right of Way	26
7.03.100	Utility Placement Permits.....	28
7.03.110	Effective Period of Utility Placement Permits	28
7.03.120	Liability, Control and Responsibility for Utilities	29
7.03.130	Required Insurance and Performance Bond for Utility Work	30
7.03.200	Allocation of Costs Connected to Utility Placement	32
7.03.210	Protection of Survey Monuments in the Vicinity of Utilities	32
7.03.220	Maintenance and Operation of Utilities	33 3332
7.03.230	Removal, Relocation or Repair of Utilities.....	33
7.03.240	General Requirements for Road Entry Permits.....	34
7.04	OVER-DIMENSIONAL VEHICLE REQUIREMENTS..	36
7.04.010	Purpose	36

7.04.020	Maximum Vehicle Lengths.....	36
7.04.030	Exceptions / Restricted Roads.....	36
7.05	ADDRESSING AND ROAD NAMING	38
7.06	WAYS OF NECESSITY, TRANSFER OF JURISDICTION TO THE CIRCUIT COURT.....	46

Chapter 7.01

7.01 VEHICLE PARKING AND TOWING

7.01.010 Definitions

This chapter incorporates the definitions set out in the Oregon Vehicle Code (ORS chapters 801 to 822), or elsewhere in Oregon statutes, except:

- A. AUTHORIZED OFFICER means the Sheriff, any Sheriffs Deputy, or any other person expressly authorized by the Clackamas County Sheriff to issue parking citations or order vehicles towed under this chapter.
- B. VEHICLE means every device in, upon, or by which any person or property is, or may be, transported or drawn upon any street or highway, and includes any hulk or component thereof, including, but not limited to campers, recreational vehicles, motor homes, pickup trucks, pickup truck canopies, and trailers, except devices:
 - 1. Designed to be moved exclusively by human power; or
 - 2. Designed to be used exclusively upon stationary rails or tracks.
- C. BOOT means a device placed over the wheel of a vehicle which prevents the vehicle from being moved.
- D. HEARINGS OFFICER means the Parking and Towing Hearings Officer designated to hold hearings, make decisions and act on behalf of the Board of County Commissioners in accordance with this chapter.
- E. LAW ENFORCEMENT OFFICER means any police officer, sheriff, sheriff's deputy, medical examiner, deputy medical examiner, or probation officer.
- F. THE SHERIFF means the Clackamas County Sheriff, or any of the Sheriff's deputies or any person appointed by the Sheriff pursuant to ORS 204.635. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]
- G. RESIDENTIAL AREA means an area zoned as an urban or rural residential district under section 300 of the Clackamas County Zoning and Development Ordinance. [Added by Ord. 02-2005, 8-17-05]
- H. COMMERCIAL AREA means an area zoned as a commercial district under section 500 of the Clackamas County Zoning and Development Ordinance. [Added by Ord. 02-2005, 8-17-05]
- I. INDUSTRIAL AREA means an area zoned as an industrial district under section 600 of the Clackamas County Zoning and Development Ordinance. [Added by Ord. 02-2005, 8-17-05]

7.01.020 Parking Restrictions Enforceable by Citation and Fine

- A. No vehicle shall be parked, stopped, or left standing in violation of ORS 811.550 to 811.560, or 811.570 to 811.575.
 - B. No vehicle shall be parked upon any County roadway in a location within twelve feet of any mailbox used for pickup or delivery of the United States mail.
 - C. No trailer shall be parked upon any County highway unless it is attached to a motor vehicle by which it may be propelled or drawn. This paragraph shall not
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- apply to trailers which are disabled to such an extent that the driver cannot avoid temporarily leaving the disabled trailer on the highway, provided that the trailer must be removed within seven days. This paragraph also shall not apply to trailers owned or operated under authority of the State or County when necessary to perform work on the roadway.
- D. No vehicle shall be parked upon any County highway in violation of “No Parking” signs or markings, where the Director of the Clackamas County Department of Transportation and Development, or designee, authorizes such signs or markings,.
 - E. No vehicle shall be parked upon any County roadway adjacent to any yellow curb, where the Director of the Clackamas County Department of Transportation and Development, or designee, authorizes such curb.
 - F. No vehicle shall be parked upon any County roadway in a manner such that less than 18 feet of unobstructed roadway width is left available for the passage of other vehicles.
 - G. No vehicle shall be parked upon any County highway in a manner other than parallel to the roadway and facing in the direction of travel of the nearest travel lane unless specifically designated by signs or markings which are authorized by the Director of the Clackamas County Department of Transportation and Development, or designee.
 - H. No vehicle shall be parked in violation of ORS 811.615 (failure to display disabled parking permit), ORS 811.625 or 811.630 (unlawful use of disabled parking permit).
 - I. No vehicle shall be parked on any County highway for more than 72 hours without moving at least three vehicle lengths away.
 - J. No vehicle shall be parked where it is impeding or likely to impede the normal flow of vehicular, bicycle, or pedestrian traffic; where it is a hazard or is likely to be a hazard to vehicular, bicycle, or pedestrian traffic; or where it is obstructing the required width of a fire apparatus access road.
 - K. No vehicle shall be parked or operated on a highway when the vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a County highway. [Codified by Ord. 05-2003, 7/13/00; Amended by Ord. 06-2003, 4/10/03]
 - L. No person shall use any vehicle or trailer to camp in or live in while parked upon a County roadway or highway in a residential area, commercial area, or industrial area. [Added by Ord. 02-2005, 5-19-05]

7.01.030 Person in Violation, Affirmative Defense

- A. A person commits the violation of illegal parking, stopping, or standing if:
 - 1. The person parks, stops, or leaves standing a vehicle in a place where such action is prohibited by this chapter; or
 - 2. The person is the owner of an unattended vehicle parked in a place where such parking is prohibited by this chapter.
 - B. An authorized officer who finds a vehicle standing upon a highway in violation
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of this chapter may move the vehicle, cause it to be moved, or require the driver or other person in charge of the vehicle to move it. The authority to take such action under this section is in addition to the authority granted under section 7.01.080.

- C. It is an affirmative defense to the prosecution of the owner of a vehicle under subsection A.2. of this section, that the owner did not authorize the use of the vehicle, either expressly or by implication.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.040 Citation

- A. When any authorized officer finds a vehicle parked in violation of this chapter, the authorized officer may issue a citation to the owner or operator of the vehicle. The authorized officer issuing a citation shall:
1. If the operator is present, issue the citation to the operator; or
 2. If the operator is not present, affix one copy of the citation to the vehicle and mail another copy to the owner(s) or other person(s) who reasonably appear to have an interest in the vehicle within 72 hours, Saturdays, Sundays, and holidays excluded. Additional citations shall not be issued for the same violation on the same vehicle unless at least 24 hours have passed since the previous citation.
- B. The citation shall contain the following information:
1. A description of the specific violation alleged;
 2. The date, time and location of its occurrence;
 3. The amount of the fine for the violation alleged;
 4. That the fine must be paid or a hearing requested within 14 days, and that upon failure to do so within 14 days, opportunity for a hearing is forfeited, and the fine doubles;
 5. A form for either admitting the violation alleged and paying the fine, or denying the violation alleged, paying the equivalent bail, and requesting a hearing;
 6. The address to which the form should be sent; and
 7. The telephone number of the person or facility which may be contacted for information.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.050 Fines

- A. Fines in an amount set by resolution of the Board of County Commissioners shall be assessed for each violation of Section 7.01.020.
- B. Each fine or the equivalent bail must be paid within 14 days of the date the citation is issued or the fine shall be doubled.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 06-2003, 4/10/03]

7.01.060 Response to Citations

Upon receiving a citation under this chapter, the vehicle owner(s) or operator may:

- A. Within 14 days, deliver to the Sheriff the form provided with the citation, admitting the violation(s), forfeiting and paying the amount of the fine(s) indicated on the citation; forfeiture may be made by mail but must be actually received by the Sheriff within 14 days from the date of the citation; or
- B. Within 14 days, deliver to the Sheriff the form provided with the citation, denying all or part of the violation(s), and posting bail by paying a refundable deposit equivalent to the amount of fine(s) indicated on the citation; response may be made by mail, but must be actually received by the Sheriff within 14 days from the date of the citation.

Upon receipt of a denial, the Sheriff's Department shall inform the Hearings Officer, who shall set a hearing within 30 days of the Sheriff's receipt of the denial and bail, and shall notify the vehicle owner(s) and any other person who reasonably appears to have an interest in the vehicle; notification of the hearing date, time and place shall be mailed within 15 days of the Sheriff's receipt of the denial and bail.

- C. Failure to perform any part of either subsection A or B, including failure to respond within 14 days, shall be presumed an admission of the violation(s) cited, and the fine(s) shall be doubled.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.070 Violation Hearing Procedure

- A. The hearing shall afford a reasonable opportunity for the person(s) requesting it to present evidence that the citation was invalid or unjustified.
 - B. The Hearings Officer may administer oaths and take the testimony of witnesses. The Hearings Officer may issue subpoenas in accordance with Oregon Rules of Civil Procedure 55, provided that subpoena requests be received in writing no later than 5 days before the scheduled hearing. If the person charged with the violation(s) requests a subpoena, the person shall pay a deposit for each witness in an amount set by resolution of the Board of County Commissioners. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in circuit court, to be paid by the person requesting the subpoena.
 - C. A person who receives a citation may be represented by an attorney or other person at any hearing, provided that in the case of representation by an attorney, the person gives written notice to the Hearings Officer two days prior to the hearing so that the County may, at its discretion, arrange for representation by an attorney on its behalf.
 - D. If the Hearings Officer, after due consideration, determines that the violation(s) alleged has been established, then the Hearings Officer shall issue a decision that the citation is valid and make brief findings of fact, and shall order the person cited to pay the appropriate fine to the County general Fund. The decision and order may be oral and issued at the conclusion of the hearing, but in all cases must be recorded in the record of the hearing. The Hearings Officer will also determine
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the amount of witness fees to be paid out of any deposit, or refunded.

E. The decision of the Hearings Officer is final.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 06-2003, 4/10/03]

7.01.080 Towing Without Prior Notice

The Sheriff may, without prior notice, order a vehicle towed when:

- A. Three or more parking citations have been issued for violations of sections 7.01.020 or 6.06.11, which have not been paid or contested within the time allowed by law;
 - B. The Sheriff has probable cause to believe that the vehicle operator is driving uninsured in violation of ORS 806.010;
 - C. The vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a County highway;
 - D. The vehicle is parked on property owned, operated, or occupied by the County, other than highways or clearly designated public parking spaces, without express County permission;
 - E. A boot has been affixed to the vehicle for more than 10 days; fines, boot fee, or bail have not been fully paid, and a hearing has not been requested pursuant to section 7.01.160;
 - F. The Sheriff has probable cause to believe the vehicle is stolen;
 - G. The Sheriff has probable cause to believe that the vehicle or its contents constitute evidence of any offense, if such towing is reasonably necessary to obtain or preserve such evidence;
 - H. The vehicle was in possession of a person taken into custody by any law enforcement officer, and towing of the vehicle appears to the officer to be the most reasonable disposition of the vehicle which is available;
 - I. The vehicle alarm system disturbs, injures, or endangers the peace, quiet, comfort, repose, health or safety of the public or any person, if no other reasonable disposition of the vehicle can be made and the owner cannot be contacted by reasonable efforts;
 - J. The vehicle is impeding, or likely to impede, the normal flow of vehicular, bicycle, or pedestrian traffic; the vehicle or is a hazard or is likely to be a hazard to vehicular, bicycle, or pedestrian traffic; or the vehicle is obstructing the required width of a fire apparatus access road;
 - K. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles, or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or is prohibited during a construction project defined by designated hours or days;
 - L. The Sheriff has probable cause to believe that the vehicle operator is driving while suspended or revoked in violation of ORS 811.175 or 811.182;
 - M. The Sheriff has probable cause to believe that the vehicle operator is operating a
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- vehicle without driving privileges, or in violation of license restrictions, in violation of ORS 807.010;
- N. The Sheriff has probable cause to believe that the vehicle operator, at or just prior to the time the Sheriff stops him or her, is driving under the influence of intoxicants in violation of ORS 813.010;
- O. The Sheriff has probable cause to believe that the vehicle operator, at or just prior to the time the Sheriff stops him or her, is speed racing on a County highway, in violation of ORS 811.125;
- P. The vehicle is parked, stopped, or left standing in any County park area after the daily closing time and before the daily opening time, or in violation of any “No Parking” signs or markings authorized by the Park Supervisor, or otherwise in violation of the Clackamas County Park Rules Chapter;
- Q. The Sheriff has probable cause to believe the driver of the vehicle has been fleeing or attempting to elude a police officer (ORS 811.540), and the vehicle is abandoned by the driver; or
- R. The Sheriff has probable cause to believe the driver of the vehicle has failed to perform the duties of a driver when property damaged or persons injured (ORS 811.700 or 811.705), and the vehicle is abandoned by the driver.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.090 **Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]**

7.01.100 **Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]**

7.01.110 **Notice After Tow**

After a vehicle has been towed under this chapter, notice shall be provided as set forth in ORS 819.180, which provides as follows:

“ORS 819.180 Notice after removal; method; contents. (1) If an authority takes custody of a vehicle under ORS 819.120, the authority shall provide, by certified mail within 48 hours of the removal, written notice with an explanation of procedures available for obtaining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.

“(2) Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:

“(a) That the vehicle has been taken into custody and removed, the identity of the appropriate authority that took the vehicle into custody and removed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and removed.

“(b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.

“(c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.

“(d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.

“(e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

“(f) The time within which a hearing must be requested and the method for requesting a hearing.

“(g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority.”

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.120 Vehicle Inventory and Report

- A. Every vehicle impounded by the Sheriff’s office shall have its contents inventoried as soon as practical after impoundment is ordered. An inventory of an impounded vehicle is not a search for evidence of criminal activity. The purpose of the inventory is:
1. To protect private property located within impounded vehicles;
 2. To prevent or reduce the assertion of false or spurious claims for lost or stolen property; and,
 3. To protect people and property from any hazardous condition, material, or instrumentality that may be associated with an impounded vehicle.
- B. Areas of an impounded vehicle to be inventoried shall include:
1. The entire passenger compartment including but not limited to:
 - a. Any pockets or storage areas found on doors or seats;
 - b. Any console areas between seats or in the dash;
 - c. Under floor mats and under seats;
 - d. Any other areas that are part of the vehicle and designed to store items.
 2. Hatchback areas;
 3. Glove boxes;
 4. Trunks;
 5. Car-top containers.
- C. Closed containers that are found within an impounded vehicle shall be inventoried as follows:
1. The following containers shall be opened and their contents inventoried:
 - a. Containers normally used to carry money and/or valuables.
Examples include, but are not limited to; money bags, deposit
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- bags, purses, coin purses, wallets, billfolds, money belts, fanny packs, briefcases, and computer cases;
 - b. Clear containers. This includes any container the content of which can be viewed in whole or in part without opening the container; and
 - c. Containers that appear to contain hazardous or other materials imminently harmful to persons or property.
 - 2. Where a container is not otherwise subject to being opened, the deputy shall seek consent to open the container to inventory its content and shall inquire if the container contains any valuables. If proper consent is obtained or if the container is identified as containing valuables it shall be opened and the contents inventoried. Otherwise the container shall be listed in the inventory as a container with a description of its outward appearance.
 - D. Any locked compartment described in subsection B of this section or locked container subject to inventory under subsection C of this section shall be unlocked and inventoried if the keys are available and will be released with the vehicle to a third party towing company, or, an unlocking mechanism is located within the vehicle.
 - E. Any valuables and/or weapons found within an impounded vehicle shall be entered into an evidence locker for safe keeping unless returned to their owner.
 - F. Reports to be completed by deputy:
 - 1. Any items seized during an inventory (including; valuables, firearms, contraband, and evidence of criminal activity) shall be listed on a Property- In-Custody (PIC) report. A copy of the PIC report shall be given directly to the owner or operator of the vehicle, or, if such a person is not present, shall be left in a conspicuous place inside the vehicle and a copy shall be mailed to the registered owner of the vehicle.
 - 2. Regardless of whether any items are seized, a Property Evidence/Vehicle Inventory Report (PE/VI Report) shall be completed and signed by a deputy and given to the registered owner and to any other person(s) who reasonably appear(s) to have an interest in the vehicle. If no such person is present when the vehicle is towed, a copy of the report shall be left in a conspicuous place inside the vehicle and a copy shall be mailed to the registered owner of the vehicle. The PE/VI Report shall include:
 - a. The reason for the tow;
 - b. The name of the company towing the vehicle;
 - c. The name of the company or agency having custody of the vehicle for storage; and,
 - d. A list of the contents of the vehicle.
 - e. Responses to questions asked under subsection C(2).
 - G. Severability. If any clause or provision within this code section is declared unconstitutional or invalid for any reason, the remaining portion of this section shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein.
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- H. Nothing in this section shall be construed as limiting or restricting the authority of a deputy to engage in searches and seizures for purposes other than the inventory of impounded vehicles.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03; Amended by Ord. 06-2009, 12/18/08]

7.01.130 Affixing Boot Without Prior Notice

The Sheriff may, without prior notice, order a boot placed on a vehicle when:

- A. Three or more parking citations have been issued for violations of sections 7.01.020 or 6.06.11, which have not been paid or contested within the time allowed by law;
- B. The Sheriff has probable cause to believe that the vehicle operator is driving uninsured in violation of ORS 806.010;
- C. The vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a County highway;
- D. The vehicle is parked on property owned, operated or occupied by the County, other than highways or clearly designated public parking spaces, without express County permission;
- E. The Sheriff has probable cause to believe the vehicle is stolen;
- F. The vehicle is parked on any County highway for more than 72 hours without being moved at least three vehicle lengths away;
- G. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or is prohibited during a construction project defined by designated hours or days;
- H. The Sheriff has probable cause to believe that the vehicle operator, at or just prior to the time the Sheriff stops him or her, is speed racing on a highway, in violation of ORS 811.125;
- I. The vehicle is parked, stopped, or left standing in any County park area after the daily closing time and before the daily opening time, or in violation of any “No Parking” signs or markings authorized by the Park Supervisor, or otherwise in violation of the Clackamas County Park Rules Chapter;
- J. The vehicle is parked in violation of ORS 811.615 (failure to display disabled parking permit), ORS 811.625 or 811.630 (unlawful use of disabled parking permit);
- K. The Sheriff has probable cause to believe the driver of the vehicle has been fleeing or attempting to elude a police officer (ORS 811.540), and the vehicle is abandoned by the driver; or
- L. The Sheriff has probable cause to believe the driver of the vehicle has failed to perform the duties of a driver when property damaged or persons injured (ORS 811.700 or 811.705), and the vehicle is abandoned by the driver.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.140 Notice After Affixing Boot

- A. After a boot has been affixed to a vehicle pursuant to this chapter, notice will be provided to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle. Notice shall be provided by:
1. Affixing a notice to the vehicle; and
 2. Mailing a notice to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle within 72 hours (Saturdays, Sundays, and holidays excluded) after the boot is affixed.
- B. The affixed notice and mailed notice shall state:
1. That a boot has been affixed to the vehicle;
 2. The address and telephone number of the person or facility that may be contacted for information on the fines and fees that must be paid before the boot will be removed and the procedures for obtaining the removal of the boot;
 3. That the boot will not be removed until payment of a fee in an amount set by the Board of County Commissioners to offset the County's costs in applying the boot ("boot fee") plus any unpaid, outstanding fines (or the equivalent bail);
 4. That a hearing may be requested to contest the validity of the placement of the boot; and the method of requesting a hearing, including the time within which a hearing must be requested; and
 5. That all fines and fees, or bail, must be paid, or a hearing requested, within 9 days after the boot is affixed, or the vehicle will be subject to tow.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 062-2003, 4/10/03]

7.01.150 Unidentifiable Vehicle

A notice otherwise required by this chapter is not required when:

- A. A vehicle required by law to display license plates does not display license plates, or displays plates registered to a vehicle not matching the subject vehicle, and the vehicle identification number is not visible or does not indicate the ownership of the vehicle after inquiry to the Oregon Motor Vehicles Division records; or
- B. The owner of the vehicle, or other person(s) with an interest in the vehicle, cannot be determined after inquiry to the licensing and registration agency of the state from which the license plates originate.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.160 Request for Hearing

- A. Any person who has an interest in a vehicle subject to towing or booting under this chapter may request a hearing to contest the validity of the towing or booting. Any such person may also request a hearing to contest the reasonableness of the towing or storage charges, unless the person, or the owner, specifically requested
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- the tow or storage company used.
- B. The request for hearing must be in writing and must state the grounds upon which the person requesting the hearing believes the tow (or boot) to be invalid. The request for hearing must also contain such other information relating to the purposes of this chapter as the Hearings Officer may require.
- C. Such a request for hearing must be received by the Sheriff's Department within the following number of days:
1. If the hearing is to contest a citation, within 14 days from the issuance of the citation;
 2. If the hearing is to contest a tow without prior notice, within 14 days of the tow;
 3. If the vehicle has been booted, within 9 days of the date the vehicle was booted.
- D. The Hearings Officer will set and conduct an administrative hearing on the matter within 72 hours of receipt of a timely request for hearing (not including Saturdays, Sundays, or holidays), except in cases where the vehicle is not in custody because it has not yet been towed or has been reclaimed from the tow company. In such cases, the hearing will be set and conducted within 14 days of the date re request for hearing is received (excluding Saturdays, Sundays and holidays).

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.170 Hearing

- A. Tow hearings shall afford a reasonable opportunity for the person(s) requesting them to demonstrate, by the statements of witnesses and other evidence, that the tow or placement of a boot is invalid, or that the towing or storage charges are unreasonable where the company was not specifically requested by the person or the owner.
- B. The towing and storage charges shall be presumed reasonable.
- C. The County shall have the burden of showing that the tow, or proposed tow, or the placement of the boot, was or would be, valid.
- D. The Office of the Parking and Towing Hearings Officer is hereby established. The Hearings Officer shall hold hearings on cases of disputed citations and tows, and act on behalf of the Board of County Commissioners in accordance with this chapter. The Hearings Officer shall be appointed by the Board of County Commissioners and serve at its pleasure. The Hearings Officer may establish necessary rules and regulations regarding the conduct of such hearings, consistent with this section.
- E. The decision of the Hearings Officer is the County's final decision.
- F. The owner(s) and any other person(s) who have an interest in the vehicle are entitled to only one hearing for each seizure of that vehicle.
- G. If the person requesting a hearing fails to appear at the hearing, the Hearings Officer may enter an order finding the tow or boot to be valid, and assessing towing and storage charges against the owner.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.180 When Tow or Boot Found Invalid

If the Hearings Officer finds the tow or boot was, or would be invalid, the Hearings Officer shall order:

- A. That the vehicle immediately be released if already towed, and any money paid by the person requesting the hearing for tow and storage charges to be returned to that person;
 - B. That the vehicle not be towed if it has not yet been towed; or
 - C. That the boot be removed from the vehicle if a boot has been affixed, and the boot fee waived; and
 - D. That appropriate disposition is made of any bail, which has been posted.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.190 Reserved [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]**7.01.200 When Tow or Boot Found Valid**

If the Hearings officer finds the tow or boot to be valid, the Hearings Officer shall:

- A. Assess the amount of the fine under this chapter;
 - B. If the vehicle is still booted or held, order that it continue to be booted or towed to storage or held until all charges, fines, and fees have been paid, or until County ordinances or State statutes allow for further disposition or sale;
 - C. If the vehicle is subject to towing after prior notice, order the vehicle to be towed and impounded until all fines, fees and charges have been paid, or until ordinances and statutes allow for other disposition; and
 - D. Order appropriate disposition of any bail, which has been posted.
- [Codified by Ord. 05-2003, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.210 Payment of Towing Charges; Reasonableness

- A. If the Hearings Officer finds the towing or booting was valid, or if the validity of the tow cannot be challenged because prior notice was given and no hearing was requested in a timely manner, s/he shall determine whether the towing and storage charges are reasonable, and order that the towing and storage charges be paid:
 1. By the person requesting a hearing, or other person claiming possession of the vehicle, to the extent the charges are reasonable; and
 2. By the County or the tow company to the extent the charges are unreasonable.
- B. If the Hearings Officer finds the towing or booting was invalid, s/he shall determine whether the towing and storage charges are reasonable, and order that the towing and storage charges be paid by the County or the towing company.
- C. The Hearings Officer shall not order that the towing or storage charges be paid by the County in any case where the State Police have ordered the vehicle towed and then transferred authority over the vehicle to the County under ORS 819.140

(1)(a).

- D. Payments already made to tow or to storage companies may be offset or reimbursed in appropriate cases.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

7.01.220 Lien for Towing Charges; Release of Vehicle

- A. Any person who tows or stores any vehicle pursuant to this chapter shall have a lien on the vehicle and its contents, in accordance with ORS 87.152, for the just and reasonable charges for the tow and storage services performed. The person may retain possession of the vehicle, consistent with law, until towing and storage charges have been paid.
- B. A towed or booted vehicle and its contents must be immediately released to the person(s) entitled to lawful possession once the following obligations are satisfied:
1. Payment of towing and storage charges;
 2. Payment of outstanding fees, fines or the equivalent bail (including but not limited to fines under chapter 6.06 and 7.01);
 3. Proof of liability insurance covering the vehicle, if the vehicle was towed for the operator's failure to have liability insurance;
 4. Proof of registration, if the vehicle was towed for expired registration;
 5. Proof of ownership, a valid driver's license, and liability insurance covering the vehicle, if the vehicle is towed for any of the following:
 - a. Driving while suspended or revoked;
 - b. Driving without driving privileges or in violation of license restrictions;
 - c. Driving under the influence of intoxicants;
 - d. Speed racing on highway;
 - e. Fleeing or attempting to elude a police officer; or
 - f. Failure to perform the duties of a driver; and
 6. A release by the responsible officials of the Sheriff's Office or District Attorney's Office of a vehicle impounded as evidence, when it is no longer needed as evidence.
- C. If towing and storage charges and outstanding fees, fines, or the equivalent bail have not been paid, a vehicle will not be released, except upon order of the Hearings Officer.
- D. A vehicle towed or booted pursuant to this chapter may only be released to the owner, or to the person who was lawfully in possession or control of the vehicle at the time it was towed or booted, or to a person who purchased it from the owner and who produces written proof of ownership. In all cases, adequate evidence of the right to possession of the vehicle must be presented prior to release.
- E. If a vehicle has been towed by order of the Sheriff, or if authority over a towed vehicle has been transferred to the Sheriff, the person claiming the vehicle shall pay to the Sheriff's Department an administrative fee in an amount set by resolution of the Board of County Commissioners in order to obtain release of the vehicle.
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- F. If a vehicle has been towed for driving uninsured, driving while suspended or revoked, driving without driving privileges or in violation of license restrictions, or for violation of ORS 809.715 or 809.720, the person claiming the vehicle shall pay to the Sheriff's Department an administrative fee in an amount set by resolution of the Board of County Commissioners in order to obtain release of the vehicle.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03; Amended by Ord. 06-2003, 4/10/03]

7.01.230 Sale of Vehicle

- A. Any vehicle that is not reclaimed within the time allowed by law may be sold, provided however that if a hearing or decision of the Hearings Officer is pending, the vehicle shall not be sold until 7 days after a decision is rendered. The contents of any vehicle are subject to the same conditions of sale as the vehicle in which they were found. A vehicle is not "reclaimed" until the owner(s) or other person(s) entitled to possession of the vehicle has fully paid all required fines, fees, and charges, and provided such other documentation as is required under this chapter.
- B. Vehicles to be sold shall be sold:
1. At public auction in the manner provided in ORS 87.172 to 87.206 (60 days to reclaim); or
 2. Vehicles appraised at a value of \$1,000 or less, may be sold under the provisions of ORS 819.220 (15 days to reclaim); or
 3. Abandoned vehicles appraised at a value of \$500 or less, may be disposed of as provided in ORS 819.215 (15 days to reclaim).
- C. The proceeds of such sale or disposition will be first applied to payment of the cost of such sale and expense incurred in the preservation and custody of such vehicles and the balance, if any, will be credited to the General Fund of the County.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2003, 4/10/03]

Chapter 7.02

7.02 OFF-ROAD VEHICLES

7.02.010 Policy

The Board has determined that off-road vehicles can provide appropriate, useful and energy-efficient alternatives to automobiles when properly operated, but that the unregulated use of such vehicles is a public nuisance to the people of Clackamas County and causes damage to and deterioration of the environment, detrimental to the health, safety and welfare of the people.

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

7.02.020 Definitions

- A. For the purposes of this chapter, unless the context requires otherwise, the following terms are defined as follows:
1. NON-ROAD AREAS--any area that is not a road, or a road which is closed to off-road vehicles and posted as such; except those areas commonly held open to vehicular use, such as parking lots and race tracks, shall not be considered off-road areas;
 2. OFF-ROAD VEHICLE--every self-propelled motor vehicle designed for, or capable of, traversing on or over natural terrain, including but not limited to: snowmobiles, mini-bikes, motorcycles, four-wheel drive trucks, pickups, all terrain vehicles, jeeps, half tracks and helicopters. The definition of off-road vehicles does not include, unless used for purposes prohibited by this chapter, implements of husbandry; nor does it include military, fire, emergency or law enforcement vehicles used for legal purposes;
 3. ROAD--every public way, thoroughfare, road, street, or easement within the county used, or intended for use, by the general public for vehicular travel;
 4. SHERIFF--Clackamas County Sheriff, and his/her duly authorized representatives and deputies.

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

7.02.030 Operation of Off-Road Vehicles

- A. It shall be unlawful for any person to operate an off-road vehicle on any non-road area which the operator does not own, unless:
1. The operator possesses written permission from the owner, contract purchaser, or lessee of the non-road area;
 2. The operator possesses written evidence of membership in a club or association to which the owner, contract purchaser, or lessee of the non-road area has given written permission, and a copy of which has been filed

- with the Sheriff;
 - 3. The owner, contract purchaser, or lessee of the non- road area has designated the non-road area as open for recreational purposes in accordance with ORS 105.655 to 105.680 by filing such consent and other information necessary to identify the area with the Sheriff; or
 - 4. The owner, contract purchaser or lessee has designated the non-road area as being open to off-road vehicle use by posting notice thereof in a form and manner prescribed by the sheriff.
- B. It shall be unlawful for any person to:
- 1. Falsify the written permission required by subsection A 1 of this Section;
 - 2. Falsify the evidence of club or association membership or the written permission required by subsection A 2 of this Section;
 - 3. Falsify the filing or consent required by subsection A 3 of this Section; or
 - 4. Post the notice, or remove the posted notice, required by subsection A 4 of this Section without the consent of the owner, contract purchaser, or lessee.

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

7.02.040 System of Off-Road Vehicle Trails and Facilities

The Board of County Commissioners may develop, maintain and regulate facilities for the enjoyment of off-road vehicles, and shall conspicuously post such areas as off-road vehicle areas.

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

7.02.050 Penalties

- A. It shall be a violation of County law for any person to violate this chapter.
- B. Such a violator may be prosecuted by the County in the name of the people of the County, or may be redressed by a civil action, suit, or proceeding brought by the County. The Sheriff may arrest such person when he/she is found in the act of operating an off-road vehicle in violation of this chapter; the Sheriff may issue a citation in accordance with ORS 133.070 in lieu of exercising custody of the operator.
- C. A fine in an amount set by resolution of the Board of County Commissioners shall punish any person convicted of a violation of this chapter.

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

7.02.060 Conformance with Law

This chapter shall not be a substitute for or eliminate the necessity of conformity with any and all State laws, rules and regulations, and other chapters or ordinances, which are now or may be in the future, in effect, which relate to the activities herein regulated.

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

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]

7.03.20 Definitions

- A. 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 is presumed to have permanent care and maintenance of the utility.
 - B. BOARD – Shall mean the Board of Commissioners of Clackamas County.
 - C. CABLE/WIRE – Shall mean any and all aerial pole lines and direct buried cables and conduit protected cable.
 - D. CLEAR ZONE – Shall mean the area outside the traveled portion 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.
 - E. COUNTY ROAD – See “ROAD/ROADWAY”.
 - F. COUNTY ROAD OFFICIAL (“Road Official”) – As used in Chapter 368 and defined in ORS 368.001(2) shall refer to the Director of DTD. Any authority granted to or act required or permitted by the 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 DTD that are authorized to act as the Road Official for specified purposes. (Amended by Ord. 02-2009, 3/5/09)
 - G. CULVERT – Shall mean storm sewer pipe used for conveying storm water within the road right-of-way, and meeting the specifications of the Clackamas County Roadway Standards.
 - H. DTD – Shall mean the Clackamas County Department of Transportation and Development.
 - I. ENTRY PERMIT – Shall mean that written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. 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
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- manner of using the entry or approach road.
- 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.
- 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.
- 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.
- M. INTERSECTION SIGHT DISTANCE (ISD) – See the Clackamas County Roadway Standards.
- N. LOCAL ACCESS ROAD – See “ROAD/ROADWAY”.
- O. MUTCD – Shall mean the Manual on Uniform Traffic Control Devices in its most recent Oregon adopted edition and Oregon adopted supplements.
- P. ORS - Shall mean Oregon Revised Statutes.
- Q. PERSON – Shall mean and include individuals, cooperatives, corporations, associations, firms, partnerships, joint stock companies, trusts and estates, municipalities, and any other legal entities whatsoever.
- 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.
- S. POLE LINE – Shall mean any and all poles, wires, guys, anchors, and/or related appurtenances authorized by the issuance of a permit.
- 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.
- U. ROAD/ROADWAY – See ORS 368. For purposes of this chapter, all of the following are “roads”:
1. PUBLIC ROADS: See ORS 368.
 2. COUNTY ROADS: See ORS 368.
 3. LOCAL ACCESS ROADS: See ORS 368.
- 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 county, state, or federal agencies.
- X. TRAFFIC CONTROL DEVICE – See ORS 801.540.
- 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.)
- Z. TRAVELED PORTION OF THE ROADWAY – Shall mean those areas used by and accessible to vehicles and pedestrians, including paved shoulders and bike facilities, and shall also include sidewalks or other pedestrian facilities.
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- 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.
- BB. UTILITY PERMIT – Shall mean the written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. 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 Road Official.
- CC. VIOLATION – Shall mean an activity that does not comply with the 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; Amended by Ord. 07-2012, 7/26/12]

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 of Clackamas County.

The Road Official or the 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; Amended by Ord. 07-2012, 7/26/12]

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

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

- A. The contact information for the County department and division issuing the violation,
- B. The date the violation was issued, and
- C. A statement that failure to correct the 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; Amended by Ord. 07-2012, 7/26/12]

7.03.070 Remedies

In addition to any other remedies provided by law, if the violation has not been corrected within a minimum of ten (10) days after a violation 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; Amended by Ord. 07-2012, 7/26/12]

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:

- A. For violations of Sections 7.03.090 – 7.03.230, by imposing civil penalties in the amounts authorized under ORS 203.065(1).
- B. For violations of Sections 7.03.240 – 7.03.290, by imposing civil penalties in an amount to be set by the Board and as determined by the Compliance Hearings Officer.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/0; Amended by Ord. 07-2012, 7/26/12]

7.03.090 Road Use Impediments – Prohibited Activity

- A. Potential Hazards – No person shall allow any of the following things to exist on
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- 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.
 - 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 described in the Clackamas County Roadway Standards..
- C. Impediments that Compromise Clear Zone – No person shall allow any fixed object 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 clear zone criteria of the Clackamas County Roadway Standards.
- 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;
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- e. Berms;
 - f. Natural or man-made objects.
2. When the traffic control device is a “Stop” sign, a “Yield” sign, or a traffic control signal, nothing shall obstruct its visibility from the distance described in the MUTCD, if that 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. 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 that abuts their property, if the water creates a nuisance condition or impedes the safe use of the 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 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 10 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 Roadside Design Guide, 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
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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.
- 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 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 – 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, 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 [and can obtain the approval of 100% of the land owners that access from or adjoin the road right-of-way to be gated; and;](#)
 - b. The Board has held a public hearing, and met the notice requirements in ORS 368.086, to give interested parties an
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- 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 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 no record of objections 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 374.305, 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, 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; Amended by Ord. 07-2012, 7/26/12]

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 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 vacation proceeding shall not be a land use decision, but may be appealed by Writ of Review under ORS 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 road, local access road, public road or trail.
 2. In order to change the status of any such right-of-way, the Board shall designate the proposed new status as a local access road, public road, or 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 Order changing the status of a right-of-way under this 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
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- c. 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 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; Amended by Ord. 07-2012, 7/26/12]

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, utilities 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, utilities must provide written notice to the Road Official, including 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, utilities must provide telephone or other appropriate notice to the Road Official; and
 - c. No matter the scope or scale of the proposed work, utilities 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 utilities shall give notice of work undertaken no later than the first workday following the emergency.
 - 3. The Road Official shall approve utilities 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.
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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 utility required by the Road Official shall be paid by the utility.

1. The Road Official shall notify utilities 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 utilities' facilities.
2. Upon receiving the notice described in 7.03.099(B)(1) above, utilities 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 utilities and contractors.
4. The Road Official shall send a second notice to the utilities, 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 utilities and contractors under this Chapter. This notice shall constitute an Order from the Road Official requiring relocation of the specified utility facilities.
5. If the Road Official determines that the work must occur on a different date from that previously discussed with a utility, then s/he shall give the utility 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 amended Order of the Road Official requiring relocation of the specified utility facilities.

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

Should a utility fail to temporarily or permanently remove, relocate or repair the lines, fixtures or facilities operated by the utility 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 utility to act as ordered by the Road Official, including the costs of completing the work the utility should have done under the Order, shall be itemized and an invoice shall be sent to the responsible utility. All such costs shall be promptly repaid to the County by the utility.

D. Prohibition of Interference with Public Travel, Maintenance and Improvement. Work done by utilities shall always be in accordance with state statutes, Clackamas County Roadway Standards, and with other specifications adopted by the County. 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. Immediately following the opening of a road, utilities shall replace and restore the surface and grade to as good and safe a condition as it was in prior to opening. Repair of defects in openings made by utilities shall be undertaken by

utilities 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.

1. 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.
2. No closure of intersecting streets, roadways, driveway approaches or other access points will be permitted without review and approval by the Road Official.
3. 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 utility 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 utility's expense. Upon receiving a statement of the costs, utility shall promptly reimburse the County. If legal action is necessary to collect these amounts, then utility shall pay all legal costs and reasonable attorney fees.

[Added by Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12]

7.03.100 Utility Placement Permits

- A. Application Requirements – Application for a permit to establish, place and operate utilities within the right-of-way shall be made on the official permit application, available from DTD. The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the permitting, design and construction of utilities.
- B. Emergency Repair Work Rules – Emergency repair work done by the 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 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.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.110 Effective Period of Utility Placement Permits

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- 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 applicant/owner or his successor or assign;
 2. By order of the Board or the Road Official, if the applicant/owner 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 applicant/owner shall be cause to suspend, modify, annul and forfeit any and all rights acquired by the applicant/owner under the terms stated in the permit or these provisions. The applicant/owner acquires no rights in the road right-of-way 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 applicant/owner 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 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 applicant/owner shall notify the Road Official. A Department inspection will be performed within 30 days of notification. If necessary, a corrective work list will be generated. Following a 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; Amended by Ord. 07-2012, 7/26/12]

7.03.120 Liability, Control and Responsibility for Utilities

- A. Necessity for Additional Permits – The 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 Road Official that the physical character of the roadway has been changed, degraded or damaged by the applicant/owner, the applicant/owner shall restore or repair the damage in compliance with the Clackamas County Roadway Standards, whether that damage is discovered at the time of utility installation or at a later date. If the applicant/owner fails to satisfactorily restore or repair the roadway, the Road Official may employ enforcement provisions of this Ordinance or make the necessary restoration or repairs using contractor or County forces. The applicant/owner under the terms set out in Section 7.03.200 shall pay all costs incurred by the County under these circumstances.
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- C. Responsibility for Relocating or Adjusting Pre-Existing Utilities – The applicant/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 applicant/owner, its agent or contractor, will be permitted only after the applicant/owner has furnished evidence to the 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 applicant/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 applicant/owner shall accomplish 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, 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 contractor or other permittee operations.
- F. County Supervision Shall Not Impact Liability of applicant/owner – Any supervision or control exercised by County personnel shall in no way relieve the applicant/owner of any duty or responsibility to the general public, nor shall such supervision or control relieve the applicant/owner from any liability for loss, damage or injury to persons or property as provided in this Section.
- G. Recorded and Unrecorded Public and Private Rights To be Honored, Regardless of Board Consent – The applicant/owner 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 applicant/owner as a mere license, and the applicant/owner shall assume the entire responsibility incidental thereto.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.130 Required Insurance and Performance Bond for Utility Work

- A. Comprehensive General Liability Insurance Requirement – The applicant/owner or its contractor shall furnish a certificate of insurance for comprehensive general liability insurance to the Road Official, in an amount established by Clackamas County's Risk Management 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
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- liability for damages of any nature caused by the conduct or operation of the applicant/owner, 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 applicant/owner 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 applicant/owner and its contractor 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 applicant/owner, 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 applicant’s/owner’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
1. The applicant/owner’s contractor shall furnish a performance bond and a minimum of \$1000 cash deposit for the period of time necessary to construct or install a utility or conduct an operation authorized by permit through a specified period of time determined by DTD following surface repair.
 2. The dollar amount assigned to the performance bond 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 DTD, certifying bond limits as set out in the permit’s special provisions.
 4. No work shall be commenced under the permit until the performance bond and cash deposit has been submitted to and received by DTD.
 5. In lieu of furnishing a cash deposit and/or a performance bond, the applicant/owner, or its contractor, may file a security 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 security agreement shall be on a form provided by DTD and shall be returned for review and
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- acceptance.
6. A public utility company or municipal authority may be relieved of the performance bond and cash deposit requirements.
- F. Rules for Retaining and Releasing Bonds and Cash Deposits – When the applicant/owner advises that all work set out in the permit has been completed and verified by 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 Road Official shall cause the release and/or refund of all bonds, cash deposits, or other sureties to the provider after a DTD inspection confirms satisfactory surface restoration. If 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; Amended by Ord. 07-2012, 7/26/12]

7.03.200 Allocation of Costs Connected to Utility Placement

- A. Costs Incurred Incident to Utility Placement or Continuing Operation – The applicant/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 applicant/owner.
- B. Expense Reimbursement to County – The applicant/owner shall, in addition to Section 7.03.200.A, 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 Road Official deems it necessary to obtain an advance deposit, during the permit application and review process, the amount required shall be filed with DTD before the permit work is begun.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.210 Protection of Survey Monuments in the Vicinity of Utilities

- A. Location & Protection of Monuments as Responsibility of applicant/owner – It shall be the responsibility of the 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 applicant's/owner's operation, the applicant/owner shall cause a registered professional land surveyor to preserve the monument(s) and shall do so in the manner described in ORS 209.140-209.150. The costs of referencing and replacing the survey monuments shall be paid by the applicant/owner and shall be ensured by the performance bond. Failure to comply with these terms may be prosecuted as stated in ORS 209.990.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.220 Maintenance and Operation of Utilities

- A. Required Upkeep of Utilities Authorized by Permit – The 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 368.251-368.281. The applicant/owner will be advised of the circumstances as soon as practical. The County will also respond by requiring the 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 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 shall obtain prior approval from the Road Official.
- C. Removal of Abandoned Utilities – All abandoned utilities belonging to the applicant/owner shall be removed from the right-of-way by the applicant/owner, unless the 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. Reimbursement of all County costs shall be as stated in the earlier section, “Allocation of Costs”.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

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, and the 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 Interest in Utility – Permits are issued by the County pursuant to state law, which authorizes the County to require the applicant/owner to remove, relocate or repair a permitted utility at the sole cost of the applicant/owner at any time subsequent to initial installation. If the 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 Road Official may give written notice of the concern, and require the 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 applicant/owner 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 has provided an estimated time requirement for

removal, relocation or repair of the relevant utility, the Road Official may schedule a pre-construction meeting to coordinate the requested activity with the applicant/owner, County personnel, and affected contractors.

3. In a second written notice, the Road Official shall direct the 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 applicant's/owner's estimated time requirements. The costs of removal, relocation, or repair shall be paid by the applicant/owner as set out in the second notice and instructions received from the Road Official.
4. Before commencing removal, relocation or repair, the applicant/owner shall furnish insurance in the manner provided for in Section 7.03.130.
5. Should the applicant/owner fail to remove, relocate or repair the utility as provided in this section, the 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. Upon receiving the cost statement, the applicant/owner will reimburse the County in full, either:
 - a. Immediately; or
 - b. Within a period of time agreed on by the applicant/owner and the Road Official.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.240 General Requirements for Road Entry Permits

- A. Road Entry Permit Required.
An entry permit is required:
 1. For any new construction which requires a building permit;
 2. For any new entry constructed onto a public, County or local access road;
 3. For any change of occupancy (as defined under the Uniform Building Code);
 4. For any driveway entry or approach road onto a public, County or local accesses road which, in the opinion of the Road Official or designee, affects traffic of any kind, including vehicular and pedestrian traffic.
 - B. Exceptions to the Requirement for a Road Entry Permit – Road 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 development permit is required by the Road Official or designee per the County Roadway Standards.
 - 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 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 Road Official.
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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; Amended by Ord. 07-2012, 7/26/12]

Chapter 7.04

7.04 OVER-DIMENSIONAL VEHICLE REQUIREMENTS

7.04.010 Purpose

The purpose of this chapter is to establish rules for the maximum length of vehicles permitted to operate upon public roads within the boundaries of Clackamas County. This chapter is enacted after the authority granted the County by ORS 810.060(1).

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

7.04.020 Maximum Vehicle Lengths

- A. Combinations of vehicles having an overall length not exceeding 60 feet are issued Annual Permits for continuing operation. All Clackamas County Public Roads have the general capability for operation of combinations, as well as vehicles with a maximum overall length of 60 feet. Therefore, any combination of vehicles with an overall length that does not exceed 60 feet, shall be permitted continuous operation upon all Clackamas County public roads, except on those roads that are specifically restricted and identified as exceptions under Section 7.05.030 of this chapter.
- B. When appropriate, Clackamas County may also allow vehicles up to a length of 75 feet to have continuous operations on certain highways within the County boundaries, through the issuance of variance permits under the authority of ORS 818.200. These variance permits are also subject to the specific restrictions identified as exceptions under Section 7.05.030 of this chapter.

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

7.04.030 Exceptions / Restricted Roads

- A. If it is determined that safe and efficient operations upon any of Clackamas County's public roads is reduced, the road geometric, or a specific hazard potential, then the Director of the Department of Transportation and Development, or his representative, shall:
 - 1. Identify those roads or sections of roads that merit restriction because of road geometric or specific hazard potential;
 - 2. File a list of restricted roads and sections of roads in the offices of the Department of Transportation and Development;
 - 3. Create a map that shows the location of restricted roads and sections of road; and,
 - 4. Provide a copy of the map to all trucks that are issued a County permit to exceed the 60-foot length, at the time that the permit is issued.
- B. Any road or section of road listed as restricted with the Department of Transportation and Development and/or identified on the map, provided along

with County variance permits issued to trucks to authorize travel, is an exception to the general rules that are described in Section 7.05.020 of this chapter.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 7.05

7.05 ADDRESSING AND ROAD NAMING

7.05.010 Purpose

The purpose of this policy is to:

- A. Establish a consistent and accurate methodology for site identification.
- B. Provide standards and procedures for addressing and readdressing properties in unincorporated Clackamas County.
- C. Provide standards and procedures for naming and renaming roads in unincorporated Clackamas County.
- D. Enhance site identification for improved emergency dispatch response, mail delivery, and geographic information system (GIS) compatibility.

[Added by Ord. 12-2002, 10/3/02]

7.05.020 Definitions

- A. ADDRESS: A number that assigns a reference point to a site based on the appropriate regional grid system.
 - B. AVENUE: A public or county right-of-way that runs in a north-south direction.
 - C. BOULEVARD: A broad, landscaped minor or major arterial that carries moderate to heavy volumes of traffic at moderate to high speeds.
 - D. CIRCLE: A road that runs in a circular direction terminating at or in near proximity to its beginning, and carries low to moderate volumes of traffic at low to moderate speeds (synonymous with Loop).
 - E. COUNTY ROAD: A road that has been created by deed or plat and accepted into the county road maintenance system by Order of the Board of County Commissioners.
 - F. COURT: A road that is of a short length, with no cross streets, that carries low volumes of traffic, at low speeds, and generally terminates in a cul-de-sac.
 - G. DRIVE: A meandering collector or arterial that carries low, moderate or high volumes of traffic at low, moderate or high speeds (synonymous with Parkway).
 - H. EMERGENCY SERVICE PROVIDER: Clackamas County Central Dispatch, a fire district providing service in Clackamas County, or the Clackamas County Sheriff's Department.
 - I. FRONT PROPERTY LINE: Any boundary line separating the lot from a county, public, state or private road or access drive.
 - J. GRID: The addressing matrix based on the nearest urban system, i.e., Portland, Salem, etc.
 - K. LANE: A local road that is of a short length, that carries low volumes of traffic, at low speeds, and generally terminates in a cul-de-sac.
 - L. LOOP: A road that runs in a circular direction terminating at or in near proximity to its beginning, and carries low to moderate volumes of traffic at low to moderate speeds (synonymous with Circle).
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- M. PARKWAY: A meandering collector or arterial that carries low, moderate or high volumes of traffic at low, moderate or high speeds (synonymous with Drive).
 - N. PLACE: A local road that is of a short length, that carries low volumes of traffic at low speeds (synonymous with Terrace and Way).
 - O. PRIVATE ROAD: A road that may be an easement, that has been created without a dedication to the public, and is not maintained by the county.
 - P. PUBLIC ROAD: A road that has been created by deed or dedicated on a plat to provide a public way, but has not been accepted by the county for maintenance.
 - Q. ROAD: Any public or private right-of-way. The term “road” for the purposes of this chapter shall be synonymous with the term “street”, except when used as a suffix as described below.
 - R. STREET: A public or county right-of-way that runs generally in an east-west direction.
 - S. TERRACE: A road that is of a short length, that carries low volumes of traffic at low speeds (synonymous with Place and Way).
 - T. WAY: A road that is of a short length, that carries low volumes of traffic at low speeds (synonymous with Place and Terrace).

[Added by Ord. 12-2002, 10/3/02]

7.05.030 Addressing Standards

Addresses shall be assigned by the county consistent with the following standards:

- A. Eligibility for Address
 - 1. All occupied structures shall be assigned separate addresses as necessary as determined by the Planning Division.
 - 2. Unoccupied structures or properties may be assigned addresses if it is necessary to identify the site because of utility connections, assessment, permit issuance, emergency dispatching, or other similar reasons.
 - 3. Temporary residences shall be addressed separately from other uses on the property.
 - B. Placement of Address. Addresses shall be placed and located in a manner that is readily visible and legible from the street as required by the Uniform Fire Code. Additionally:
 - 1. Structures shall have addresses posted on the wall adjacent to the front entrance.
 - 2. Structures that do not have street frontage shall post additional addresses at the driveway entrance.
 - 3. Commercial and industrial business parks, multifamily developments, and manufactured dwelling parks shall post addresses on each site. Buildings with multiple addresses shall have the address range identified on the structure through the use of on-building signs.
 - 4. Addresses shall be posted in accordance with the applicable Oregon Uniform Fire Code or One and Two Family Dwelling Code.
 - C. Sequence of Numbering. Addresses shall be assigned consistent with the regional or established grid of the county in consideration of the following:
-

1. Sites located on the south or east side of a road shall be assigned even numbered addresses and remain consistent the entire length of the road regardless of its meandering.
 2. Sites located on the north or west side of a road shall be assigned odd numbered addresses and remain consistent the entire length of the road regardless of its meandering.
 3. Street numbers for urban areas shall be assigned according to the front property line. Corner lots shall be addressed from the property line to which the front door is oriented.
 4. Street numbers for rural areas shall be assigned at that point where the driveway intersects the road. Should a driveway be relocated, the address shall be changed consistent with the applicable grid system unless the original driveway is maintained in a usable condition.
 5. Subdivisions shall be assigned different address numbers for adjacent parallel streets. Additionally, streets that are within the same subdivision and have similar names (Cottonwood, Firwood, etc.) shall not have the same address numbers.
- D. Exceptions. The following exceptions may be granted when the addressing of property conflicts with the addressing standards:
1. The addressing of any road shall remain sequential along the entire length of that road regardless of its meandering.
 2. Addresses of sites with circular driveways shall be assigned to that access point having the lowest number on the grid.
 3. Commercial and industrial business parks, multifamily developments, and manufactured dwelling parks may be assigned building, suite, unit, or space numbers when there are insufficient numbers available to assign addresses according to the grid. In the case of multiple floor structures, the first digit of a unit or suite number shall be consistent with the floor level. Numbers, rather than letters, shall be used for such identification.
 4. Sites without access to the road adjacent to the front property line shall be addressed in reference to the grid of the road accessing the site.

[Added by Ord. 12-2002, 10/3/02]

7.05.040 Road Naming Standards

Road names shall be selected in consideration of the following factors:

- A. A new name shall not duplicate or sound similar to the name of an existing road. In the case of new subdivisions and partitions, duplicate road names may be permitted when the roads to be so named intersect with one another and are given different suffixes in accordance with the suffix definitions in section 7.05.020 of this policy.
 - B. Major streets and highways shall maintain a common name for the entire alignment
 - C. Whenever practical, historical names shall be utilized or retained. Historical factors to be considered shall include:
 1. Original holders of donation land claims in the county.
-

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2. Early homesteaders or settlers in the county.
 3. Long-time residents of the county.
 4. Explorers of the county.
 5. Local Native American Tribes.
 6. Early leaders and pioneers of eminence.
 7. People and events that have left their mark on the county.
 8. Native flora and fauna.
- D. Hyphenated or exceptionally long names shall be avoided as well as initials (such as A.J. Feely Street).
- E. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the county.
- F. All new roads serving three (3) or more existing, or potential, properties shall be named. Sites being served by this road shall be addressed on this road using the grid system in effect for the area.
- G. A minimum of two (2) existing or potential properties being served by a single road is required before the road is eligible for a name.
- H. Access roads in new manufactured dwelling parks shall be named.
- I. Road names shall not include a compass direction (i.e. north, south etc.) except in the prefix.

[Added by Ord. 12-2002, 10/3/02]

7.05.050 Road Sign Standards

County, public, and private roads shall be identified with an approved road sign. An “approved” road sign is a sign built and placed by the County Road Department and shall be consistent with the following standards:

- A. County and public road signs shall be green with white letters and constructed to county standards.
- B. Private road signs shall be white with black letters and constructed to county standards.
- C. Road signs shall be placed and maintained so they are fully visible from the intersecting roadway. County and public road signs shall be maintained by the county whereas private road signs shall be maintained by the residents the road is serving.
- D. When a county or public road is named or renamed at the request of other than the county or an emergency service provider, the first road sign(s) shall be purchased by the person(s) who made the request. Future replacement signs will be provided by the county at no charge to the residents whom the road is serving. The purchase of private road signs is the sole responsibility of the residents whom the road is serving or person who made the request.
- E. The county shall be responsible for providing signage for newly constructed public roads that are not part of a new subdivision, commercial or industrial business park, multifamily development or manufactured dwelling park.

[Added by Ord. 12-2002, 10/3/02]

7.05.060 Procedures

The following provisions shall establish procedures to request new or revised addresses and to request the naming or renaming of roads.

- A. Addresses: The addressing or readdressing of properties is a ministerial process to be conducted by the Planning Division. This function shall be performed by the county consistent with the following standards:
1. New subdivisions shall have addresses assigned after approval of the final plat by the Planning Division.
 2. Commercial and industrial business parks, multifamily developments, and manufactured dwelling parks shall have addresses assigned after final development approval by the Planning Division.
 3. Individual sites not described above may be issued an address when consistent with section 7.05.030.A.
 4. The county may reassign addresses without the consent of the affected property owners, under the following circumstances:
 - a. Emergency service providers state in a written request that the numbering sequence identifying properties is in such disarray that emergency response time may be compromised, or
 - b. The development or redevelopment of an area requires new street addresses as a result of the creation or extension of roads, or
 - c. Any other reason that is in the public interest.
- B. Road Names: The naming or renaming of roads shall occur consistent with the following procedures:
1. The naming of roads when reviewing applications for subdivisions, commercial and industrial business parks, multifamily developments, and manufactured dwelling parks is a ministerial process to be conducted by the Planning Division. This process shall be consistent with the Type I provisions of section 7.06.060.C.1.
 2. The Planning Division shall consider an application to name or rename a road, consistent with the Type II provisions of section 7.05.060.C.2, when the Planning Division receives a written request from emergency response providers that indicates the current identification of the road is inadequate and could compromise emergency response times.
 3. The Planning Division shall consider an application to name or rename an existing road, consistent with the Type III provisions of section 7.05.030.C.3 when the Planning Division receives a completed Road Name Application consistent with the provisions of section 7.05.070.
 4. The Planning Division shall consider an application to name or rename a newly constructed public road that is not part of a new subdivision, partition, commercial or industrial park, multifamily development or manufactured dwelling park consistent with the Type IV provisions of section 7.05.060.C.4 when the Planning Division receives a written request from the Engineering Division Manager or designee to name the new road pursuant to the standards of section 7.05.040.
-

5. The Planning staff shall consider a request to rename existing public road as mandated by a state or federal agency consistent with the Type V provisions of section 7.05.060.C.5.
- C. Administrative Review Process: The county shall assign new addresses, revise existing addresses, and name or rename roads subject to the following procedures:
1. Type I Actions. The assignment or reassignment of addresses and the naming of roads within new subdivisions, commercial and industrial business parks, multifamily developments, and manufactured dwelling parks shall be considered Type I actions. These actions are ministerial reviews and shall be approved when consistent with this chapter. Notice of new addresses and street names shall be sent to the agencies listed in section 7.05.080.A of this policy once roads are named and addresses are assigned. Staff decisions shall be considered final.
 2. Type II Actions. The naming or renaming of existing roads at the request of emergency response providers shall be processed pursuant to the following procedures:
 - a. Notice shall be given to those property owners who either access such streets or whose properties front such streets in addition to the parties listed in section 7.05.060.A.
 - b. The notice shall include a recommendation that the above mentioned property owners cooperatively submit a prospective road name choice within thirty (30) days of the date of notification. Such submissions shall be in the form of petitions in support of a specific road name. The petitions shall list the name and address of the petitioners and shall only contain signatures of owners of property who access such streets or whose property fronts such roads.
 - c. Staff shall render a decision for the road name based upon the submitted petitions. The road name that has the most signatures in support of a name shall be the road name that is selected. Only two signatures per property will be counted in tallying the votes (signatures must be legal owners'). In the event of a tie or a zero response rate, staff will choose the name based upon the road naming standards in section 7.05.040.
 - d. Only those name choices submitted within the 30-day period following notice will be considered by staff. In the event that there are no submissions, staff shall choose a name based upon the road naming standards in section 7.05.040.
 - e. Notice of the decision shall be given pursuant to sections 7.05.080.A and 7.05.080.B.
 - f. Staff decisions are the final decision of the county.
 3. Type III Actions. The naming or renaming of existing roads at the request of members of the general public shall be considered Type III actions and shall be processed pursuant to the following procedures:
 - a. The Planning Division receives a completed Road Name Application consistent with the provisions of section 7.05.070.
-

- b. Notice shall be given pursuant to sections 7.05.080.A and 7.05.080.B. A minimum of fifteen (15) days following the date of notice shall be allowed for comment on the application.
 - c. Staff shall render a decision pursuant to the road naming standards in section 7.05.040.
 - d. Staff decisions are the final decision of the county.
4. Type IV Actions. The naming of newly constructed, public roads that are not part of a subdivision, partition, commercial or industrial park, multi-family development or manufactured dwelling park shall be considered Type IV actions and shall be processed pursuant to the following procedures:
- a. The Planning Division receives a written request from the Engineering Division Manager to name the new road.
 - b. Planning staff shall make a recommendation to the County Administrator pursuant to section 7.05.040.
 - c. The County Administrator shall either approve or disapprove the recommendation from staff or defer the matter to the Board of County Commissioners for their decision pursuant to the public hearing process. If a hearing is scheduled, the Board of County Commissioners shall issue the decision.
 - d. Following the County Administrator's or the Board of County Commissioners' decision, the Planning Division shall give notice of this decision pursuant to sections 7.05.080.A and 7.05.080.B.
 - e. Such decisions are the final decision of the county.
5. Type V Actions. The renaming of existing roads as mandated by state or federal agencies shall be processed pursuant to the following procedures:
- a. The Planning Division receives notice from state or federal Agencies that specific street names shall be changed.
 - b. For roads with thirty or fewer properties that receive access from or front such roads the process listed in section 7.05.060.C.3 shall be followed.
 - c. For roads with thirty-one or more properties that receive access from or front such roads, Planning Staff shall make a recommendation to the County Administrator to name the road pursuant to the standards of section 7.05.040.
 - d. The County Administrator may approve or disapprove such recommendations or recommend a hearing with the Board of County Commissioners to consider proposed road names. If a hearing is scheduled, the Board of County Commissioners shall issue the decision.
 - e. Following the County Administrator's or the Board of County Commissioners' decision, the Planning Division shall give notice of this decision pursuant to sections 7.05.080.A and 7.05.080.B.
 - f. Such decisions are the final decision of the county.

[Added by Ord. 12-2002, 10/3/02]

7.05.070 Submittal Requirements

An application submitted by other than the County or an emergency service provider to name or rename a road shall be in the form of a petition that includes the following:

- A. A statement acknowledging that existing property addresses will change should the road name request be approved.
- B. One road name choice that meets the requirements of the Road Naming Standards as listed in section 7.05.040.
- C. Legal descriptions (Township, Range, Section, Tax Lot) of all the properties that either receive access from the road or front the road.
- D. The current addresses of all the properties receiving access from this road or front the road.
- E. The printed or typed names of the owners of all the properties receiving access from this road or front the road.
- F. The signatures of the owners of properties that receive access from or front this road acknowledging and agreeing to the requested change. A minimum of ninety percent (90%) of the property owners' signatures are necessary.
- G. The name, mailing address, and phone number of the designated contact person.
- H. A site plan or map showing the location of the road and properties that receive access from or front this road.
- I. An application fee as may be adopted by resolution of the Board of County Commissioners.

[Added by Ord. 12-2002, 10/3/02]

7.05.080 Notice Requirements

The following notice requirements shall apply to all address and road name requests. The County Assessor's records shall be used as the official records for notification purposes.

- A. Type I, II, III, IV & V actions require notification of the following parties:
 1. Clackamas County Central Dispatch.
 2. The fire district(s) having jurisdiction.
 3. The Clackamas County Sheriff's Department.
 4. The main Portland post office.
 5. The local post office(s) having jurisdiction.
 6. The Clackamas County Department of Assessment and Taxation.
 7. Others as requested or deemed appropriate.
- B. In addition to the parties listed above, Type II, III & IV actions require notification of:
 1. All property owners whose address will be changed.
 2. The local community planning organization.
 3. The applicable city when the affected property is located within an area governed by an Urban Growth Management Agreement.

[Added by Ord. 12-2002, 10/3/02]

Chapter 7.06

7.06 WAYS OF NECESSITY, TRANSFER OF JURISDICTION TO THE CIRCUIT COURT

7.06.010 Authority

Pursuant to ORS 376.200, the Board of County Commissioners of Clackamas County adopted an Ordinance removing the county governing body from jurisdiction over the establishment of ways of necessity. The Circuit Court of Clackamas County shall have jurisdiction of the statutory establishment of ways of necessity in Clackamas County. [Section 10(2), Chapter 862, Oregon Laws 1979; Ord. No. 79-2095, adopted 10/18/79]

7.06.020 Affect of ordinance

Nothing in this chapter affects any proceeding to establish a way of necessity if that proceeding was initiated before the effective date of this ordinance. [Ord. No. 79-2095, adopted 10/18/79]

Policy on Gates Blocking Access to Public Roadways

This policy handout has been written to clarify the process with which gate and related access issues will be handled by the Clackamas County Department of Transportation and Development (DTD).

Gates which block access to a public roadway are generally prohibited. In extraordinary cases gates may be allowed in accordance with County Code (attached) when the party wanting the gate clearly and convincingly proves to the Board of County Commissioners (BCC) the extraordinary conditions supporting the construction of a gate across the public roadway.

As an alternative to property owners wanting to restrict access to a public road, the abutting property owners may consider petitioning the county to change the status of the public road to a public trail or to vacate the public interest in the road, thereby creating a private road.

When a person is interested in requesting permission to install a gate across a public or county road, that person shall contact the Engineering Office of DTD, and receive a packet containing the Gate Application, Gate Petition, Consent to Gate, Gated Closure Signing, and Gate Permit forms. After reading the contents of the Gate Packet, having questions answered by Engineering staff, the applicant shall return the completed forms to DTD Engineering with the required application fee. All applicants shall be notified that the BCC strongly prefers no gates across public or county roads, and that it is the applicant's responsibility to convince the County that it is in the public's interest to install a gate across the subject roadway. Only under extremely rare circumstances will the BCC support a locked gate across a public or county roadway. All applicants shall also be notified that all costs for application processing, public hearing, warning signing, cul-de-sac or alternate turnaround construction are the responsibility of the applicant and not the County.

Following review of the application packet, records' research, notification to all interested parties including all abutting property owners and emergency service providers, and a site visit with identification of necessary advance signing and turnaround by Engineering staff, a County Road Official's recommendation memo will be created, submitted to the BCC, and a time and place set for Public Hearing. Documents accompanying this notification of interested parties will include the recommended advance signing, turnaround, and any other information considered important by the Road Official. At this Public Hearing, all interested parties will have the opportunity to offer supporting or controverting evidence regarding the proposed gate installation. At this Public Hearing, the BCC may decide to support or deny the gate installation request.

If the gate application is approved, then the applicant shall submit the required cash deposit, surety, and General Liability Certificate prior to commencing construction of the gate project. Once the gate project construction has been approved by the County, the gate may be legally used and the approved gate permit shall be subject to renewal in 5 year increments.

GATE APPLICATION

Clackamas County D.T.D.
Engineering Section
9101 SE Sunnybrook Bv
Clackamas OR 97015

1. Specific location of road to be gated

TOWNSHIP _____, RANGE _____, SECTION _____, TAX LOT _____

2. Has road been improved? Yes ___/ No ___. If so, to what level, and does it serve any homes?

3. Is the road inside an incorporated city? Yes ___/ No ___.

4. Is it a _____ Public, _____ County or _____ Local Access road? Road No. _____, if applicable.

5. Is it feasible to open the road to general public use? Yes _____ No _____

6. Have you talked to other property owners having property adjacent to the road?

Yes _____ No _____

Comments _____

7. Purpose for requesting the gate _____

NOTE: A REQUEST TO GATE A ROAD RIGHT OF WAY IS PROCESSED IN ACCORDANCE WITH CLACKAMAS COUNTY CODE 7.03.090 (K). (See back of page)

*Applicant employs such attorneys, surveyors, title companies, etc., as necessary, to submit completed documents. Application fee is expected cost for County to complete the process.

Gate application (unopposed by interested parties): \$ 695.00

Gate application (opposed by any interested parties): \$ 1695.00

=====

Clackamas County acceptance of this application for gating a roadway and fee payment does not guarantee that the Board of County Commissioners will approve the gate.

I hereby submit this application on behalf of adjacent property owners for a gate as indicated above.

Please Print:

(Name)

(Daytime Telephone Number)

(Mailing Address)

(City) (Zip)

(Signature)

Date: _____

=====

Date Received: _____

By: _____

PETITION FOR A GATE

To the Board of County Commissioners
of Clackamas County:

In the Matter of the Gating of:
Road Name _____

Legal Road Number _____ DTD Road Number _____

Section _____ Township _____ Range _____

I, _____ being a fee holder, or an abutting property
owner of record as shown in the Deed Records of Clackamas County of the property sought to
be gated, do hereby petition the proceeding to gate _____
more particularly described as follows:

If the gate is to be locked, describe the extraordinary circumstances that justify granting the
gating of the described property are: (attach extra page if necessary)

EXISTING AND FUTURE USE OF THE PROPERTY:

PHYSICAL CONDITION OF PROPERTY:

REASONS FOR GATING:

Is any portion of the property proposed to be gated situated within the corporate limits of any city?
_____ Yes ___ No

Is any part of the road to be gated developed and/or in use by the traveling public? _____ Yes _____ No

Will the gating deprive an owner of a recorded property right of access necessary for the exercise of that property
right?
_____ Yes _____ No

CONSENT TO GATE

(This Consent to Gate shall be submitted along with and in conjunction with the Gate Application)

I, _____
(Name)

property owner of _____
(Address)

(City) (State) (Zip)

(Telephone Number: () _____)

being the owner of real property adjoining _____
(Proposed Road to be Gated)

said real property described as follows, to wit:

Township _____, Range _____, Section _____, Tax Lot _____,

do hereby state that I have read the attached petition and consent to gating of the aforementioned road or portion thereof.

(Owner)

(Owner)

(Owner)

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public for the State of Oregon

My Commission Expires _____

The following is a complete list of:

- A. The names and addresses of all persons holding any recorded interest in the property proposed to be gated.
- B. The names and addresses of all persons owning any real property abutting public property proposed to be gated.

NAME	ADDRESS	TAX LOT NUMBER	STATUS (A,B)

Signatures, acknowledged by a person authorized to take acknowledgements of deeds, of 100 percent of the land abutting the property proposed to be gated shall be submitted along with and in conjunction with the petition by use of the CONSENT TO GATE form.

GATE PERMIT

CLACKAMAS COUNTY, OREGON, hereby authorizes _____, herein after called permittee, his heirs, executors, successors, and assigns, to enter onto _____ and /or occupy that portion of the county road right-of-way, located in Township _____, Range _____, Section _____, County Road Number _____, Road Maintenance Number _____, for the purpose of the construction, installation and maintenance of a gate across the road right-of-way.

In consideration of the granting of this right to enter onto and/or occupy the aforementioned right-of-way, the Permittee agrees to release and discharge Clackamas County, its officers, employees and agents from all claims, actions and demands which the undersigned Permittee may have or which may have resulted from the use and occupancy of County right-of-way. Further, the Permittee agrees to indemnify, hold harmless and defend the county, its officers, employees and agents against all claims, actions and demands, and all expenses incidental to investigation and defense, arising from the permittee's use or occupancy of county right-of-way.

The undersigned further states that he accepts the following special conditions as a condition of this permit.

1. Alteration, expansion, relocation or removal of the permitted gate shall not be undertaken by the permittee without notice to Clackamas County through the Road Official or his Designee.
2. The Permittee shall be responsible for any and all personal or property damage resulting from construction, repair or reconstruction of facilities covered in this permit and shall save the County harmless from any and all claims and expenses arising out of the work.
3. The County Commissioners and the County Road Official or his Designee, reserve the right to order the change or removal of any construction authorized by this permit at any time when the public safety or the public convenience and general welfare of the public requires such action.
4. The permittee shall assume all costs of necessary alteration, expansion, relocation, removal, repair and maintenance, whether or not that work is required by the County.
5. If the work done under this permit interferes in any way with the drainage of a Public, Local Access or County road, the owner shall make such corrections as are necessary to take care of the drainage problem to the County's satisfaction, wholly at his own expense and without financial contribution from the County.
6. A surety must be provided to the County in the amount of \$ _____ to ensure proper installation and construction of required elements of this project. A \$500,000 General Liability Certificate naming Clackamas County as additional insured must be on file.
7. All emergency agencies shall have access at all times to all areas surrounding the construction site, and shall have access to all areas on all sides of the gate at all times after its construction is completed.

Permittee Date
Subscribed and sworn to before me this _____
_____ day of _____ 20 _____

Notary Public
My Commission expires _____

Clackamas County
Department of Transportation and Development

By _____
Date _____