CLACKAMAS COUNTY

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July 7, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

Adoption of Revisions to County Code Chapters: Amending Chapter, 2.07, Compliance Hearings Officer; Amending Appendix B: Fines; Amending Chapter 2.09, County Administrator; Amending Chapter 6.03, Emergency Regulations; Amending Chapter 6.08, Chronic Nuisance; Adding Chapter 6.13, Exclusion of Persons from County Buildings and Property; and Amending Various Chapters of the Clackamas County Code to Eliminate Bias and Gender Specificity and Declaring an Emergency.

Purpose/Outcomes	First Reading of County Code Revisions and Amendments. Approval of Ordinance for Adoption of County Code Revisions and Amendments if emergency is declared.
Dollar Amount and Fiscal Impact	None
Funding Source	N/A
Duration	Effective upon adoption if emergency declared, or after 90 days if adopted after second reading.
Strategic Plan Alignment	Building trust through good government.
Previous Board Action	Policy Session June 15, 2022.
County Counsel Review	Counsel has reviewed the draft revisions to the County Code.
Procurement Review	Not Required, item is a First Reading of an Ordinance for Revisions and Amendments.
Contact Person	Scott Ciecko, Assistant County Counsel; and, Jeffrey D. Munns, Assistant County Counsel, 503-742-5984

BACKGROUND:
The portions of the County Code proposed to be revised or amended are: Amending Chapter, 2.07, Compliance Hearings Officer; Amending Appendix B: Fines; Amending Chapter 2.09, County Administrator; Amending Chapter 6.03, Emergency Regulations; Amending Chapter 6.08, Chronic Nuisance; Adding Chapter 6.13, Exclusion of Persons from County Buildings and Property; and Amending Various Chapters of the Clackamas County Code to Eliminate Bias and Gender Specificity and Declaring an Emergency.

Chapter, 2.07, Compliance Hearings Officer:

This chapter is proposed to be amended to revise the process for enforcement of County Code, assessment of administrative compliance fees and issuance of citations. The revised process description is intended to be easier to understand and to change descriptions to align with the letters that staff send to respondents.

The following sections are proposed to be revised or added:

- The Statement of Facts section, 2.07.030 A(1), is changed to be called "Allegation Letter" which is the first notice a respondent receives that a complaint has been made. This section is also revised to ensure a respondent is notified of the facts and code sections violated.
- The Sufficiency of Evidence section, 2.07.030 A(2), is changed to allow for the BCC to adopt different enforcement priorities. If not all priorities are to be enforced the doctrine of discretionary immunity may provide protection from liability for not enforcing some violations.
- The Violation Letter section, 2.07.030 A(3), is added to clarify the current practice for imposing the administrative compliance fee.
- The Administrative Compliance fee section, 2.07.030 E, is amended to clarify that the administrative compliance fee will end when the County verifies abatement of the violation. This is necessary to avoid situations where the respondent could claim they had previously abated a violation and County staff is unable to verify. The change puts the responsibility on the respondent to notify the County when the violation is abated. A challenge provision is also added for better process should the respondent dispute County staff's determination of violation status.
- The Citation and Forfeiture section, 2.07.030 D(5) is amended to include an enabling provision for the citation forfeiture amounts and a method for any challenge to better comply with process requirements.

Appendix B: Fines:
Appendix B is proposed to be amended to include the forfeiture amounts for Citations issued under 2.07.030 D. These are the same amounts as adopted by the BCC in Resolution 2003-34.

Chapter 2.09, County Administrator:
This chapter is proposed to be amended to clarify the County Administrator's authority to "Direct the use… and locations of any parking facilities, lighting, signage, flags, banners, displays, and implementation of any security protocols."

Chapter 6.03, Emergency Regulations:
This Chapter is proposed to be amended to add language to the list of county offices the Chair of the Board is authorized to assume centralized control of in an Emergency Declaration. The amendment clarifies that elected offices are now explicitly included in the list. The authority is authorized under this chapter in the event of malfeasance in office or willful or wanton neglect of duty of a County public official, or inability of County public official to perform duties in a timely or competent manner.

Chapter 6.08, Chronic Nuisance:
This chapter is proposed to be amended to clarify that a violation for unlawful use of controlled substances remains a "nuisance activity". This is necessary in light of recent legislation that reduced possession and use of personal amounts of many illegal controlled substances from a crime to a violation.

Another proposed change is to include the Building Official as someone who may enforce this section of the County Code. There have been organizational barriers to having the Sheriff's Office alone tasked with enforcement of this Chapter because some chronic nuisance properties contain primarily or exclusively County Code violations rather than criminal law violations.

The notice section, 6.08.030 (A)(4), is proposed to be changed from a mailing to be completed by "return receipt requested" (ambiguous – should be either certified or registered) to just be first class mail. This is consistent with Chapter 2.07. Also Chronic Nuisance respondents often refuse a certified or registered letter.

Other sections proposed to be revised are as follows:

- The Summary Closure section, 6.08.050, is changed to provide clearer criteria for proceeding directly into Circuit Court and seeking a temporary restraining order.
- The Entering Closed Property section, 6.08.060, is changed to authorize criminal trespass as a remedy to violation of an Order to close property.
- Finally section, 6.08.090, the Attorney fee clause removed. Courts rarely award them to the government, removing this section removes the risk that a court could award them to a respondent.

Chapter 6.13, Exclusion of Persons from County Buildings and Property:
This chapter is proposed to be added to the County Code to provide authority to designated County staff to exclude persons from County buildings and property who engage in disruptive behavior. It is proposed that this chapter will apply to all County buildings, property, and those of County Service Districts, except for County Parks and County Libraries, each of which already have their own exclusion process already codified in the County Code.

This County Code chapter defines disruptive behavior, designates those County officials who may exclude persons, and determines the duration of the exclusions. This proposed chapter also provides a process to notify persons of an exclusion and a process to challenge the determination so as to comply with due process requirements.

Various Chapters of the Clackamas County Code to Eliminate Bias and Gender Specificity:
On June 18, 2020, the Board of County Commissioners passed Resolution No. 2020-40, which, amongst other things, directed that the County review all policies and the County Code for any bias or discriminatory impacts and practices. In response to that resolution the Office of County Counsel, in consultation with other departments, made recommendations to Cindy Becker and Martine Coblentz that certain changes be made to the County Code to eliminate bias and gender specificity that appears in the plain text. Ms. Becker and Ms. Coblentz conducted further review and outreach to community partners, and the current proposed changes reflect the work and suggestions of all of these individuals.

It should be noted that, although the Zoning and Development Ordinance was reviewed for facial bias including gender neutrality, the process to amend the ZDO is a separate land use amendment process. Changes to that portion of the County Code will need to occur separately, likely sometime next year.

In addition to the changes that are currently recommended to cure facial bias, staff also identified some provisions of the County Code could that potentially result in disparate impacts on some groups of individuals. Currently, there is not sufficient data available to determine with any certainty whether such disparate impacts are actually occurring. If the Board determines that it

would like further evaluation of possible disparate impacts from the County Code, it is recommended that the Board direct staff from County Departments involved in administering County Code chapters be called upon to collect data about the impacts from the County Code on protected and sensitive groups. From that data, it will be possible to determine whether additional changes to the County Code are needed to address unintended impacts.

Declaring an Emergency:
Staff requests that an emergency be declared to allow for the County Code changes to take immediate effect following the first reading of the Ordinance pursuant to ORS 203.045(4).

RECOMMENDATION:
Staff recommends the Board adopt the ordinance as written in Exhibit A.

Sincerely,

Jeffrey D. Munns
Assistant County Counsel

ORDINANCE NO. _____

An Ordinance Amending Chapter, 2.07, Compliance Hearings Officer; Amending Appendix B: Fines; Amending Chapter 2.09, County Administrator; Amending Chapter 6.03, Emergency Regulations; Amending Chapter 6.08, Chronic Nuisance; Adding Chapter 6.13, Exclusion of Persons from County Buildings and Property; and Amending Various Chapters of the Clackamas County Code to Eliminate Bias and Gender Specificity and Declaring an Emergency.

WHEREAS, as to Chapter 2.07, Compliance Hearings Officer, the Board finds it necessary to clarify the County's authority and procedure for issuing citations and imposing fees and fines; and

WHEREAS, as to Appendix B: Fines, the Board finds it necessary to add the Citation amounts as previously adopted in Board Resolution 2003-34;

WHEREAS, as to Chapter 2.09, County Administrator, the Board finds that the authority of the County Administrator should be amended to include control of flags, signs and banners on County property; and

WHEREAS, as to Chapter 6.03, Emergency Regulations, the Board finds that it is in the public's interest in to amend this chapter to clarify that elected offices are now explicitly included in the list of County offices the Chair of the Board may assume centralized control of pursuant to an Emergency Declaration. Such authority is authorized under this chapter in the event of malfeasance in office or willful or wanton neglect of duty of a County public official, or inability of County public official to perform duties in a timely or competent manner.

WHEREAS, as to Chapter 6.08, Chronic Nuisance, the Board finds it is in the public's interest to confirm that unlawful possession of de-criminalized drugs are a nuisance activity, that the County Building Official has authority to commence Chronic Nuisance proceedings, and that the Board may direct staff to proceed directly into Circuit Court in certain instances; and

WHEREAS, the Board finds it is in the public's interest to add Chapter 6.13, Exclusion of Persons from County Buildings and Property to the Code to designate certain County officials with the authority to exclude individuals from county property due to certain disruptive behavior; and

WHEREAS, the Board finds that it is in the public's interest to amend the Code so that it is gender neutral and potential facial biases are eliminated; and

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

Section 1: The Clackamas County Code is hereby amended as shown on Exhibit "A" which is attached hereto and incorporated herein by this reference.

Section 2: Emergency Clause: The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this Ordinance shall be effective upon its adoption.

ADOPTED this _____ day of _____, 2022.

BOARD OF COUNTY COMMISSIONERS

_____
Chair

_____
Recording Secretary

TITLE 2

GOVERNMENT ADMINISTRATION

Table of Contents

Chapter 2.01

2.01 ACCELERATION OF REDEMPTION FOR WASTE OR ABANDONMENT

2.01.010 Purpose

The Clackamas County Board of Commissioners ("Board") has determined that the County is in need of a remedy to prevent the hazards, detrimental effects, and devaluation of property sold to Clackamas County in tax foreclosure actions that is subjected to waste and abandonment. This chapter is enacted under the authority of ORS 312.122 to provide such a remedy, through acceleration of the tax foreclosure redemption process and imposition of fines for waste of such properties.

The tax foreclosure statutes provide for a two-year redemption period between the time that tax delinquent property is sold to the County and the time a deed can be issued to the County. During the two-year redemption period, the former owner of the tax delinquent property retains the right to possession of the property under ORS 312.180, so long as no waste of the property is committed. If waste of the property is committed, or if the property is abandoned, however, and no one with a financial interest in the property chooses to redeem it from tax foreclosure, then the deed ultimately conveyed to the County can be wrongly and seriously devalued. Further, the County constituents who own and occupy neighboring properties can be wrongly subjected to health hazards and other detrimental impacts because of their proximity to the wasted or abandoned property over the extended length of the redemption period.

Under this chapter, if the Board has reason to believe that a tax foreclosed parcel of real property is being subjected to waste or abandonment, the Board shall set a public hearing date to determine whether to forfeit the right to possession of the property during the redemption period to the County under ORS 312.180, order a fine of not less than twice the value so wasted under ORS 312.990, and reduce the redemption period to accelerate the conveyance of the deed to the County under ORS 312.122. The legislature has specifically delegated to Clackamas County the authority to enact legislation providing for these remedies, through the statutes identified above. Enacting such local legislation would enable Clackamas County to reduce the detrimental impacts of wasted or abandoned tax foreclosed property on neighboring property owners and possessors, and preserve the value and marketability of tax foreclosed property to maximize its benefit to the taxing district upon resale. Therefore, the Board finds it in the best interests of the public and the taxing districts to enact such local legislation.
[Codified by Ord. 05-2000, 7/13/00]

2.01.020 Definitions

A. ABANDONMENT occurs when property is not occupied by the owner or any

person or entity that appears in the records of the county to have a lien or other interest in the property for a period of six consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

B. BOARD means the Clackamas County Board of Commissioners.

C. FORMER OWNER means the person or entity who appears in the records of the County and who, by a judgment and decree issued by a Circuit Court pursuant to the foreclosure process foreclosing delinquent taxes under ORS Chapter 312, sold property to the County for the amount of the delinquent taxes stated in the judgment and decree. Former owner includes any person or entity rightfully in possession of the property, and any person or entity acting under the permission or control of such former owner.

D. OWNER means Clackamas County for all properties shown in a judgment and decree executed by the Clackamas County Circuit Court in a proceeding to foreclose delinquent taxes under ORS Chapter 312.

E. PARTIES when used in the context of the public hearing provided for in this Ordinance, means Clackamas County and any person or entity entitled to notice of that public hearing.

F. PROPERTY means the property of the former owner listed in a judgment and decree executed by the Clackamas County Circuit Court in a proceeding to foreclose delinquent taxes under ORS Chapter 312.

G. A RECORD OF THE COUNTY has that meaning given in ORS 312.125(7).

H. TAX COLLECTOR means the Clackamas County Tax Collector.

I. WASTE means any act with the potential to adversely affect the property's condition or value, whether caused by the former owner or by anyone acting under the former owner's permission or general control. Waste includes, but is not limited to, deterioration, destruction or material alteration of land or improvements, removal of agricultural or mineral assets, and violation of any provision of Clackamas County's Solid Waste Ordinance or any rule appearing in a state or local building code.

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

2.01.030 Forfeiture for Waste; Penalty

Any waste of property, as defined in this Chapter, shall forfeit to the County the former owner's right to possession of the property during the redemption period, and in addition, the former owner shall be punished as provided in Section 2.01.120.
[Codified by Ord. 05-2000, 7/13/00]

2.01.040 Acceleration of Redemption Period Authorized

A. If the county determines, after the hearing provided for by this chapter, that either the property is subject to waste resulting in a forfeiture to the County of the former owner's right to possession of the property during the redemption period, or the property is subject to abandonment, the Board shall:

1. Provide that any rights of possession the former owner may have in the property are forfeited to the County;

2. Direct that the redemption period on the property will end 30 days after the date of the Board's decision; and
3. Direct that after the expiration of the accelerated redemption period, the property shall be deeded to the County by the tax collector if the former owner or anyone else having a right to redeem under ORS Chapter 312 has not redeemed it.

All rights of redemption held by any person or entity who appears in the records of the County to have a lien or other interest in the property shall terminate on the execution of the deed to the County.

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

2.01.050 Hearing Required

A. Whenever the Board determines that real property sold to the County under ORS 312.100 may be subject to waste resulting in a forfeiture to the County of the former owner's right to possession of the property during the redemption period, or may be subject to abandonment, the Board shall set a date, time and place within the County for a hearing to determine whether the property should be deeded to the County as described in Sections 2.02.040 and 2.02.100.

B. The former owner and any person or entity that appears in the records of the County to have a lien or other interest in the property shall be given an opportunity to be heard at the hearing set pursuant to Section 2.02.060.

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

2.01.060 Notice of Hearing

A. Not less than thirty (30) days prior to the hearing, the County shall direct notice of the hearing to the former owner, the current occupants, and any person or entity appearing in the records of the County to have a lien or other interest in the property. The Notice of Hearing shall contain the following information:
   1. The date, time and place of the hearing;
   2. The date of the Judgment and Decree issued pursuant to ORS 312.100;
   3. The normal date of expiration of the period of redemption under ORS 312.120;
   4. The legal description and tax account number of the property;
   5. The name of the former owner as it appears on the latest tax roll;
   6. A warning that if the County determines that the property is subject to waste or abandonment, the redemption period associated with the tax foreclosure will be shortened to thirty (30) days from the date of the County's decision, and if the property is not redeemed before the end of this accelerated redemption period, the property shall be deeded to the County by the tax collector and every right or interest of any person in the property will be forfeited forever to the County;
   7. A warning that if the County determines that the former owner or persons acting under the former owner's permission or control have committed waste on the property, the former owner will be subjected to a fine of not less than twice the value so wasted; and

8. A warning that any persons or entities remaining on the property after the property is deeded to the County may be subject to civil or criminal prosecution for trespass or to other lawful action that would remove the persons or entities from the property.

B. The required notice shall be given in any manner reasonably calculated, under all the circumstances, to apprise the former owner and other interested persons of the existence and pendency of the action and to afford them a reasonable opportunity to appear and be heard. This shall always include mailing of the notice to the interested persons' last known address by both certified mail and by regular first class mail. The required notice shall be directed to interested parties using the following guidelines:

1. *Notice to Former Owners:* Notice sent to a former owner shall be addressed to the former owner or former owners, as reflected in the County records of deeds, at the true and correct address of the former owner(s) appearing on the instrument of conveyance under ORS 93.260 or as furnished under ORS 311.555, or as otherwise ascertained by the Clackamas County Tax Collector pursuant to ORS 311.560, and;
2. *Notice to Other Financially Interested Persons:* Notice sent to persons or entities other than the former owner who have a recognized interest in the property shall be addressed to that person or entity at the address which the County knows or after reasonable inquiry, has reason to believe, is the address at which such person or entity will most likely receive actual notice.
3. *Notice to Corporations or Limited Partnerships:* If a person or entity with a right to notice is a corporation or limited partnership, the notice shall be mailed to the registered agent or last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Oregon Corporation Commissioner. If the corporation or limited partnership is not authorized to transact business in Oregon, then notice shall be mailed to the principle office or place of business of such corporation or limited partnership, if known.
4. *Notice to Occupants.* Notice to the occupant(s) of the property shall be addressed to "Occupants" at the property address, and if reasonably possible, shall also be posted on the property.

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

2.01.070 Conduct of Hearing

A. Statements of Rights

1. The Board shall open the public hearing by informing the parties about the following matters:
   a. A general description of the hearing procedure, including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made, and an explanation of the burdens of proof or burdens of production of evidence;
   b. That a record shall be made of the proceedings and the manner of

making the record and its availability to the parties;

c. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal of the Board's decision;

d. That the parties have a right to be represented by an attorney at their own expense; and

e. That the Board's decision may be appealed pursuant to ORS Chapter 34, and that the appellant shall pay all costs on appeal, including costs for preparation of a transcript.

2. The failure to give notice of any item specified in Subsection 1 of this Section shall not invalidate any decision of the Board unless on review a court finds that the failure affects the substantive rights of one of the parties. In the event of such a finding, the court shall remand the matter to the Board for a reopening of the hearing and shall direct the Board as to what steps shall be taken to remedy any prejudice to the rights of any party.

B. Witnesses and Testimony

1. After the Board opens the public hearing, the Tax Collector or the Tax Collector's designee shall be placed under oath, and shall present evidence or testimony relevant to explain the County's position on the following:

a. What information indicates that the property is subject to waste or abandonment and should therefore be deeded to the County; and

b. If the property is subject to waste, how the value so wasted should be quantified, including, when appropriate, the approximate anticipated cost the County will incur in cleaning up the property;

2. Adverse parties shall have the right to cross-examine the Tax Collector or the Tax Collector's designee.

3. If there are additional witnesses present to testify in support of the County's position, they shall be placed under oath, one at a time, and shall present evidence or testimony relevant to the questions listed in Subsection 1(a) and 1(b) above. Adverse parties shall have the right to cross-examine these witnesses.

4. Following testimony by the Tax Collector or the Tax Collector's designee and all other witnesses testifying in support of the County's position in the matter, the Board shall allow any person or entity entitled to notice to be placed under oath in order to present or challenge evidence or testimony. Evidence presented must be relevant to one of the following two questions:

a. Has the property been subject to waste or abandonment? and

b. If the property is subject to waste, how can the Board quantify the value so wasted?

5. The Tax Collector or the Tax Collector's designee shall have the right to cross-examine the other parties who testify.

6. The parties may present rebuttal evidence, if any.

7. The Board shall have the right to question any witness at any time.

8. The Board may set reasonable time limits for oral presentation and testimony and shall exclude or limit cumulative, repetitious or immaterial evidence.
9. After all parties have been given the opportunity to present evidence, and to respond and reply to one another's evidence, the Board shall close the hearing and return the matter to the table for deliberation and decision.

C. Procedure in Hearings.
1. In hearings held under this chapter, the County must prove the allegations by a preponderance of the admissible evidence.
2. If the only party who appears at the hearing is the County, a default order may only be issued upon a prima facie case made on the record before the Board.
3. Testimony shall be taken upon oath or affirmation of the witnesses. Any member of the Board may administer oaths or affirmations to witnesses.
4. The Board members presiding over the hearing shall place on the record a statement of the substance of any written or oral ex parte communications made on a fact in issue during the pendency of the proceedings. The Board members shall notify the parties of the communications and of their right to rebut such communications.
5. The record of the hearing shall include, if applicable:
   a. Proof that notice was appropriately given under Section 2.01.060 of this Chapter;
   b. Motions and intermediate rulings;
   c. Evidence received;
   d. Stipulations;
   e. Questions and offers of proof, objections and rulings thereon;
   f. A statement of any ex parte communications on a fact in issue made to a member of the Board during the pendency of the proceedings; and
   g. A Board Order in accordance with the provisions of Section 2.01.080.
6. A verbatim, written or mechanical record shall be made on all motions, rulings, and testimony. The record need not be transcribed unless requested for purposes of court review. The Board shall charge the party requesting transcription the cost of a transcript, and shall require that party to pay a deposit in advance to cover the approximate cost in advance. Failure to pay the advance deposit or transcription fees shall constitute a separate ground for denial of review of the decision of the Board.

D. Rules of Evidence
1. All evidence, including hearsay evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs, will be admissible.
2. Irrelevant, immaterial or unduly repetitious evidence shall be excluded at the discretion of the Board, and objections to such evidence may be sustained. Erroneous rulings on evidence shall not preclude action by the

Board unless shown on the record to have substantially prejudiced the rights of a party.

3. The Board shall give effect to the rules of privilege recognized by law.
4. All evidence offered but not objected to, will be received, subject to the Board's power to exclude irrelevant or unduly repetitious evidence.
5. Evidence objected to may be admitted at the discretion of the Board. Rulings on the admissibility or exclusion of evidence will be made at hearing or at the time the order is issued.
6. The Board may take notice of judicially recognizable facts, and the Board may take official notice of general, technical, or scientific facts within the specialized knowledge of County employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.

E. Recording the Proceedings. The proceedings shall be electronically recorded. The recording shall be retained for two years after the date of the Board's order.

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

2.01.080 Board Order; Findings and Conclusions

A. The Board's Order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Board's order. If the Board concludes that the property is subject to waste or abandonment and should be deeded to the County, the Board shall adopt an order so finding. The order shall state:

1. That any rights of possession the former owner may have in the property are forfeited to the County;
2. That the former owner, or any person or entity that then appears in the records of the County to have a lien or other interest in the property, may redeem the property; and
3. That if the property is not redeemed before the expiration of thirty (30) days from the date of the Order:
   a. The Tax Collector shall deed the property to the County; and
   b. All rights of redemption shall terminate upon execution of that deed to the County.

B. If the Board concludes that the former owner, or those under the former owner's permission or control, have committed waste on the property as described in ORS 312.180, the Board shall adopt an order so finding. The order shall state:

1. That a fine of not less than twice the value so wasted must be imposed under ORS 312.990 and Section 2.02.120;
2. That the fine is intended, in part, to reimburse the County for the expenses associated with notice and hearing under this Ordinance;
3. What method is being used to quantify the value so wasted, and what evidence was presented to support the value relied upon by the Board;
4. That a fine is imposed in the amount of twice the value so wasted; and,

5. That, if the property is redeemed before the expiration of the accelerated redemption period, a lien in the amount of the fine shall attach to the property, unless and until the fine is paid; and
6. That, if the former owner owns any other real property, a lien in the amount of the fine shall also attach to those other parcels, unless and until the fine is paid.

The Board shall notify the parties of the final order by delivering or mailing a copy of the Order and any accompanying findings and conclusions to the parties or, if applicable, the parties' attorneys. A final order shall be issued by the Board within 14 days of the conclusion of the hearing. A final order shall become effective when signed by the Chair of the Board.

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

2.01.090 Judicial Review

Review of the Board's decision provided in Section 2.02.080 shall be by writ of review, pursuant to ORS Chapter 34.
[Codified by Ord. 05-2000, 7/13/00]

2.01.100 Tax Collector's Deed

Upon failure of any party having the right of redemption to redeem the subject property within 30 days after adoption of the Board Order pursuant to Section 2.02.080, the Tax Collector shall issue a deed to the County, which shall terminate all redemption rights and cancel all taxes and special assessments.
[Codified by Ord. 05-2000, 7/13/00]

2.01.110 Removal of Occupants

After issuance of a deed pursuant to this chapter, the County may remove in any manner provided by law any persons still in possession of the property.
[Codified by Ord. 05-2000, 7/13/00]

2.01.120 Penalties

The commission of waste by the former owner, or anyone under the permission or control of the former owner, on property sold to the County pursuant to ORS Chapter 312 is punishable, upon conviction, by a fine of not less than twice the value so wasted.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 2.02

2.02 UNCLAIMED PROPERTY

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 03-2009, 5/7/09]

Chapter 2.03

2.03 HOSPITAL FACILITY AUTHORITY

2.03.010 Declaration of Public Need

After due consideration, and deeming it necessary, in the public interest for the health and general welfare of the state, and the community, and the purpose of increasing bed capacity, adding major new facilities, categories of medical service and combining medical specialties, supporting a regional health care concept in compatibility with the general health care development in the community, adding to inpatient and outpatient care, administration service and support, providing for health care and housing for seniors ~~citizens~~ including, without limitation, adult congregate living facilities, granting savings to the community, as a result of centralization of services and to provide health care to the community in a manner which is economically practicable to help maintain high quality standards which are appropriate to the timely and economic development of adequate and effective health services in the area, the Board of County Commissioners for Clackamas County determines that it is wise and desirable to create a Public Hospital Facility Authority.
[Codified by Ord. 05-2000, 7/13/00]

2.03.020 Creation of Hospital Authority

There is hereby created, pursuant to ORS Chapter 441, and a public authority to be known as "Hospital Facility Authority of Clackamas County, Oregon." [Codified by Ord. 05-2000, 7/13/00]

2.03.030 Board of Directors; Composition; Terms

The authority shall be managed and controlled by a Board of Directors composed of seven members. The future term of office of the Board members shall be four years. Any vacancy in said Board of Directors shall be filled by appointment made by the Board of County Commissioners for Clackamas County for the unexpired portion of the term. The members of this Board shall receive no compensation, except that they may be reimbursed for travel and other out-of-pocket expenses they incur as members of the Board of Directors.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2005, 5/5/05]

2.03.040 Powers and Duties of Board

The Board of Directors shall have all those powers and duties set forth and provided for in ORS Chapter 441, as amended from time to time.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 2.04

2.04 ESTABLISHMENT OF LOCAL CONTRACT REVIEW BOARD

2.04.010 Introduction

The Board of County Commissioners of Clackamas County is hereby created as the Local Contract Review Board pursuant to Chapter 771, Oregon Laws 1975, with all the powers of the Public Contract Review Board.
[Codified by Ord. 05-2000, 7/13/00]

2.04.020 Authority and Process To Adopt Rules

The Board of County Commissioners, in its capacity as the Local Contract Review Board, shall adopt, amend, or repeal local contract review board rules by Board Order, upon a single reading. The reading may be by title only, if no member of the Board requests a reading in full. Such rules shall take effect immediately upon adoption.

The rules presently adopted are in APPENDIX C of this code.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 2.05

2.05 PERSONNEL POLICIES AND PROCEDURES FOR CLACKAMAS COUNTY EMPLOYEES

2.05.010 Responsibilities

A. The Board of County Commissioners reserves the right to make changes in the Personnel Chapter 2.05 at any time. These changes will become effective only when made in writing.

B. The Department of Employee Services shall provide supervisory staff with a copy of the Personnel Chapter 2.05 and any subsequent updates.

C. It is the responsibility of each elected official and Division/Department Director to be familiar with and administer these policies in a consistent and impartial manner.

D. It is the responsibility of each Department to maintain an updated Personnel Chapter 2.05 in a location easily accessible to all employees. Chapter 2.05 will be available to all employees on the County internet and intranet.

E. It is the responsibility of all employees to familiarize themselves with and follow the policies in this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.020 Intent Of Document

The Clackamas County Personnel Chapter does not establish a property right or contractual right of employment to any Clackamas County employee.

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

2.05.030 Definitions

A. ADVERSE IMPACT means a substantially different rate of selection in any phase of the employment process which works to the disadvantage of members of a protected class.

B. AFFIRMATIVE ACTION means identifying existing or potentially discriminatory conditions and making specific goal oriented corrective actions to eliminate and prevent unlawful discrimination.

C. ALLOCATED POSITION means a position which is specifically identified in the budget.

D. APPEAL means a request for a hearing before the Hearings Officer as provided by this chapter.

E. APPOINTING AUTHORITY means any person vested with the authority to appoint individuals to County positions. Such authority will be vested in elected officials and department directors, and may be delegated to supervisory employees within a department or division.

F. APPOINTMENT means the offer and acceptance of a job made in accordance with these rules.

G. BONA FIDE OCCUPATIONAL QUALIFICATIONS means attributes that are job related and necessary for the safe and efficient operation of a business.
H. CAUSE is defined in section 2.05.190.3.
I. CLASSIFICATION means a group of positions sufficiently similar in duties, authority and responsibility to permit grouping under a common title and which call for similar qualifications and the same schedule of pay.
J. CLASSIFICATION PLAN means a document which embodies all classifications that have been established, and the specification or descriptions of these classes.
K. CLASSIFICATION SPECIFICATION means a written description of a classification containing a title, the general characteristics of the kind and level of work, description of typical duties, responsibilities, skills and knowledge required; other qualifications which may include requirements of training and experience; EEO category designation; and other pertinent information.
L. CLASSIFIED EMPLOYEE means a person who has been appointed to a position in the classified service.
M. CLASSIFIED SERVICE means those County positions which are not specifically exempt under 2.05.040.3 (B).
N. DEMOTION means changing an employee's position to a classification that has a lower salary grade than the employee's present classification.
O. DEPARTMENT means a County organizational unit under the direction of a single appointing authority.
P. DIRECTOR OF EMPLOYEE SERVICES means a person appointed as the Director of the Department of Employee Services or a staff person, which the Director has designated as a representative.
Q. DISCIPLINARY ACTION means any action taken by an appointing authority which reprimands the employee, or reduces temporarily or permanently, an employee's pay status, benefits, or other incidents of employment.
R. DISCRIMINATION means illegal discrimination on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, or other protected status as those terms are understood under Oregon and federal law.
S. DOMESTIC PARTNER means persons who are eligible for County employee benefits domestic partner coverage.
T. DOWNGRADING means a reclassification of a position where the newly assigned classification has a lower salary grade.
U. EEO OCCUPATIONAL CATEGORY means a group of occupations deemed to be similar in duties, authority or responsibility as determined by the Equal Employment Opportunity Commission.
V. ELIGIBLE REGISTER means a list of applicants for County employment or advancement in County employment who have successfully completed the selection process. In a banded recruitment, the eligible register consists of bands A, B and C, (if applicable) but not band D.
W. EQUIVALENT CLASSIFICATION means a classification that requires both the same kind of knowledge and the same degree of skills.
X. FRAUD means conduct which meets all of the following elements of fraud as defined in the common law of the State of Oregon: (1) a representation is made; (2) the representation is false; (3) the representation is material; (4) the

representation is made by the speaker with knowledge of its falsity or ignorance of its truth; (5) the speaker intends that the hearer should act upon the representation and do so in the manner reasonably contemplated; (6) the hearer is ignorant of the falsity of the representation; (7) the hearer relies on the truth of the representation; (8) the hearer has a right to rely on the truth of the representation; and (9) the hearer is injured as a consequent and proximate cause of reliance on the representation.

Y. GRIEVANCE means a complaint filed pursuant to a collective bargaining agreement.

Z. HEARING means a hearing that is established as a result of an appeal to the Hearings Officer to resolve employment disputes.

AA. HEARINGS OFFICER means a person who is not an officer or employee of the County and is designated by the Board of County Commissioners to preside at hearings regarding employee appeals.

BB. HIGHER SALARY GRADE means a minimum of 4.0% difference when comparing the maximum hourly rates of pay of the salary grades.

CC. JOB SHARE means a situation in which two people share duties and responsibilities of one full-time position.

DD. LAYOFF means a separation from the County service due to a shortage of funds or materials, elimination of position, material change in duties, changes in an organizational unit, inability to perform assigned duties due to a medical condition, or for any other reasons not reflecting discredit on an employee and outside of the employee's control.

FF. LOWER SALARY GRADE means a minimum of 4.0% difference when comparing the maximum hourly rates of pay of the salary grades.

GG. NONREPRESENTED EMPLOYEE means an employee whose position is not included in one of the recognized County collective bargaining units.

HH. OPEN REGISTER means an eligibility register consisting of all persons who have successfully completed an open competitive selection process. An open register may be a ranked open register, an unranked open register, or a banded open register.

II. PERSONNEL ACTION means any action taken with reference to appointment, compensation, promotion, transfer, layoff, dismissal or any other action affecting an employee's status.

JJ. PERSONNEL FILE means the official record of each employee in the County service as established and maintained by the Department of Employee Services.

KK. POSITION ALLOCATION means the number of positions budgeted in a classification within each department.

LL. POSITION CONTROL means the process for obtaining budgetary approval for the allocation and filling of a position.

MM. POSITION REQUISITION means a Department of Employee Services form used to request the budgeting or filling of a position.

NN. PROBATION means a working test period during which a classified employee is required to demonstrate fitness by actual performance of the duties of the position to which the employee is appointed.

OO. PROMOTION means the appointment of an employee to a position in a classification that has a higher salary grade.

PP. PROMOTIONAL/INTERNAL REGISTER means an eligible register consisting only of County employees who have regular status with the County or who have completed six (6) months of continuous service in a classified position and who have successfully completed an internal selection process.

QQ. PROTECTED CLASS means members of groups of persons afforded protection under State and/or Federal law.

RR. PROVISIONAL means an appointment of a person not on an eligible register to a classified position, for a limited duration of time not to exceed three (3) months.

SS. RATERS means representatives of departments, the public, interested organizations or other public jurisdictions who have been designated to administer and score selection procedures.

TT. RECLASSIFICATION means a change in allocation of an individual position by raising it to a higher classification, reducing it to a lower classification or moving it to another classification at the same level on the basis of significant changes in the kind, difficulty or responsibility of the work performed in such a position.

UU. RED CIRCLE means a process authorized by the Board of County Commissioners and used to continue the same salary rate as an employee received prior to a downgrading of the position or prior to the reduction of the salary grade for the classification.

VV. REFERRAL OF ELIGIBLES means the process by which eligible applicants are referred by the Department of Employee Services to the appointing authority for selection.

WW. REGULAR EMPLOYEE means a classified employee who has been appointed to an allocated position and who has successfully completed a probationary period for the position.

XX. REGULAR STATUS means the status a classified employee acquires after successful completion of a probationary period for the particular allocated position to which the employee was appointed.

YY. RULES OF PRIVILEGE means the definition found in ORS 40.225 - 40.295.

ZZ. SALARY GRADE means the number assigned by the County to a particular employee group and pay range in the County compensation plan. A salary grade will have a maximum and minimum pay rate, and may or may not have specific pay steps between the maximum and minimum pay rates, depending on the employee group to which the salary grade pertains.

AAA. SELECTION PROCEDURE means a reasonable and impartial method of systematically and fairly evaluating an applicant's fitness for performing the requirements of a position.

BBB. SENIORITY means the definition found in the applicable collective bargaining contract will apply. If no such definition exists, then seniority will be defined as length of continuous years of service with the County.

CCC. TEMPORARY POSITION means an unallocated position. Temporary positions are subject to an annual limit on hours worked as provided in Section 2.05.040.5.

DDD. TRANSFER means the movement of an employee to a different position in the same classification.

EEE. UNALLOCATED POSITION means a position which is not specifically identified in the budget. Unallocated positions are funded by a budget entry for "temporary workers" or similar entry. Unallocated positions are subject to an

annual limit on hours worked as provided in Section 2.05.040.5.

FFF. UNCLASSIFIED SERVICE means those County positions which are exempt under 2.05.040 3B.

GGG. UNRANKED OPEN REGISTER means a register that is created when there are ten (10) or fewer applicants qualified for an open register for a single recruitment, and there are no names on the layoff or promotional/internal register for the position.

HHH. UPGRADING means a reclassification of a position in which the newly assigned classification has a higher salary grade.

III. VOLUNTARY DEMOTION means a demotion approved by the County and requested by an employee in order to retain employment when layoff is imminent or for other reasons where the action is still entirely voluntary on the part of the employee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2004, 11/18/04; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2007, 6/7/07; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28/11; Amended by Ord. 05-2014, 9/25/14; Amended by Ord. 02-2020, 2/20/20]

2.05.040 Purpose And Application Of This Chapter

2.05.040.1 Purpose Of The Personnel Chapter

It is the purpose of this chapter to establish a system of uniform and appropriate personnel policies and procedures which will provide County government with a productive, efficient, stable and representative work force by incorporating the following principles:

A. Recruiting, selecting and advancing employees on the basis of their relative ability, education, training, knowledge and skills relevant to the work to be performed and providing progressive employment programs which encourage and support employee development.

B. Establishing and maintaining a uniform plan of classification and compensation based upon the relative duties and responsibilities of positions in the County service.

C. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

D. Assuring fair treatment of applicants and employees in all aspects of personnel administration without discrimination based on race, color, sex, age, religion, national origin, political affiliation, marital status, family relationships or disability and with proper regard for their privacy and constitutional rights ~~as citizens~~.

E. Establishing ethical standards of conduct required of employees which will promote the proper operation of County government and the faith and confidence ~~of citizens~~ in their government.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.040.2 Scope Of The Personnel Chapter

This chapter shall govern and affect personnel administration for all employees of Clackamas County, unless otherwise specified. This Personnel Chapter is not intended to supersede provisions of collective bargaining agreements to which Clackamas County is a party. The Personnel Chapter shall also not supersede any local, state, or Federal statutes, rules and regulations, which take precedence in the government of employment at the County.

It is the intent of this chapter that it be interpreted broadly as a fair and reasonable approach to specific problems and situations; that it be considered as a total rather than each phrase being interpreted in isolation and out of context; and that the general principles stated herein will serve as a basis for the personnel policy for Clackamas County.
[Codified by Ord. 05-2000, 7/13/00]

2.05.040.3 Application Of Personnel Chapter

All positions within the County government shall be divided into the classified or unclassified service.

A. Classified Services: The classified service shall include all positions that are not included in the unclassified service. Positions in the classified service are subject to all of the provisions in this Personnel Chapter.

B. Unclassified Service: The unclassified service shall include the following offices and positions:
   1. Any officer, chosen by popular election or appointed to fill a vacancy caused by death, resignation or removal of any officer chosen by election.
   2. Any special Deputy Sheriff or peace officer appointed to act without compensation from the County.
   3. Any Deputy District Attorney, the District Attorney Office Manager, the District Attorney Victim Assistance Manager, and the District Attorney Senior Administrative Services Manager.
   4. Any member of a board or commission whose principle vocation is other than as a County employee.
   5. Persons employed as on-site property managers residing in County-owned or County-provided facilities.
   6. Persons employed in unallocated positions (also known as temporary positions).
   7. Any part-time employee working less than half time.
   8. Persons employed under a limited term appointment status.
   9. The County Administrator, under employment contract with the Board of County Commissioners.
   10. Department directors under employment contract with the County Administrator.
   11. Persons holding positions designated by the County Administrator as appropriate for unclassified status, who hold positions under employment contract with the County Administrator.
   12. Persons employed in the Sheriff's Office as a Captain or Undersheriff.
   13. The County Counsel, under employment contract with the Board of County Commissioners.

14. Employees of the Office of County Counsel, under employment contracts with the County Counsel.
15. Persons appointed by the Governor or chosen by popular election as Justice of the Peace.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 13-2003, 7/13/03; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 04-2007, 4/26/07; Amended by Ord. 01-2009, 2/5/09; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 02-2012, 1/5/12; Amended by Ord. 05-2014, 9/25/14; Amended by Ord. 03-2016, 8/11/16]

2.05.040.4 Special Conditions - Unclassified Service

A. Employment in the unclassified service is not subject to the terms of this Chapter, except for the following:
   1. Unclassified employees designated in 2.05.040.3 B3, B5, B6, B7, B8, B9, B10, B11, B12, B13, and B14 are subject to :

Ethical Standards	(Code § 2.05.170),
Employee Responsibilities	(Code § 2.05.180),
Equal Employment Opportunity	(Code § 2.05.240),
Harassment	(Code § 2.05.250),
Employment Related Physical Assessments	(Code §2.05.100.4)
Personnel Records	(Code §2.05.260)

   2. Unclassified employees designated in 2.05.040.3 B3, B8, B9, B10, B11, B12, B13, and B14 are subject to:

Classification	(Code § 2.05.050)
Compensation Plan	(Code § 2.05.060)
Status Changes	(Code § 2.05.140)
Leave of Absence	(Code § 2.05.150)
Holidays, Vacation, and Sick Leave	(Code § 2.05.160)

   3. Unclassified employees are not subject to the following Employment Policies and Practices (EPP's) established by the Department of Employee Services:
      EPP 16 - Transfer Policy;
      EPP 19 - Classification/Compensation Review Panel;
      EPP 36 - Disciplinary Procedures;
      EPP 37 - Layoff Procedures.

      Other EPP's may or may not apply to an Unclassified employee depending on type of position and the terms of the EPP. Application will be governed by the terms of the EPP.

B. Before filling a vacancy in any position in the unclassified service, the appointing authority, in consultation with the Department of Employee Services, and with the approval of the Board of County Commissioners, shall establish the qualifications for the position. Such qualifications shall be filed with, and enforced by, the Department of Employee Services.

C. The Department of Employee Services, with the approval of the Board of County Commissioners, may prescribe regulations governing employment and compensation schedules for unclassified positions.

D. Persons qualified to be employed in a sworn law enforcement position may be employed by the Sheriff as a Captain or Undersheriff. Employment as a Captain

or Undersheriff is held at the will and pleasure of the Sheriff. A person who was employed in a classified position in the Sheriff's Office immediately prior to employment as a Captain or Undersheriff, and who is removed by the Sheriff from a position as a Captain or Undersheriff for reasons unrelated to misconduct, may resume employment in the classified position held prior to employment as a Captain or Undersheriff. A person who resumes a classified position as provided in this paragraph shall receive benefits and pay corresponding to the classified position, at the maximum pay rate within the range for classification.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 04-2007, 4/26/07; Amended by Ord. 01-2009, 2/5/09; Amended by Ord. 05-2009, 10/29/09]

2.05.040.5 Annual Hours-Worked Limit for Unallocated Positions

Employees working in unallocated positions (also known as temporary positions) are limited to working 1560 hours annually (in divisions using 40 hours/week schedules), or 1462.5 hours annually (in divisions using 37 ½ hours/week schedules). The annual work-hour limit is applied for the 12 month period starting from the employee's first day of work. When the employee has reached the annual hour limit, they will be dismissed from employment. Unallocated employees who have been dismissed because they have reached the annual hours limit cannot be rehired for an unallocated position until the employee's next 12 month cycle begins. Unallocated employees dismissed and then rehired will continue to retain their 12 month cycle based on the original date of their first day of work. Work hours include regular hours and overtime hours worked.

[Adopted by Ord. 05-2009, 10/29/09]

2.05.050 Classification Of Positions

2.05.050.1 Classification Plan

The Department of Employee Services shall prepare and maintain a classification plan based on an analysis of organization of departments and the duties and responsibilities of each position in the County service. A classification is a group of positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title and which would call for similar qualifications and the same schedule of pay. Positions within the same occupational family are grouped together according to organizational structure and the responsibility and difficulty of tasks assigned to the positions.

The classification title shall be the official title of every position allocated to the classification for the purpose of personnel actions and shall be used on all payrolls, budget estimates and official records and reports relating to the position. Any other working title desired and authorized to be used by the appointing authority may be used as a designation of any position for the purposes of internal administration or in contacts with the public.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.050.2 Classification Specifications

Classification specifications shall be written and maintained for each classification in the County service. The specifications shall include an appropriate title; identify the general

characteristics of the kind and level of work, description of typical duties, responsibilities, skills and knowledge required; other qualifications, which may include requirements of training and experience; EEO category designation; and other pertinent information.

The definitions in classification specifications are descriptive and not restrictive. They are intended to outline the general duties and are not intended to prescribe the specific duties of a given position. Nothing in the classification specification is to be interpreted as limiting the power of an appointing authority to modify or alter the detailed tasks involved in the duties of any position, as long as they remain within the general definition of the classification. The Department of Employee Services may modify qualification requirements or task statements for a given job announcement to include substitute equivalent requirements for selective recruitments, or to more clearly identify necessary qualifications.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.050.3 Classification Review
The Department of Employee Services shall review positions in the County service to ensure their appropriate classification.

The Department of Employee Services shall consult with department or major division directors prior to the recommendation of any classification changes.

Classification reviews may include but are not limited to: reviews of new positions, reviews resulting from organization changes, reviews directed by the Board of County Commissioners or as initiated by the Director of Employee Services, and approved reviews initiated by employee requests.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.050.4 Classification Upgrading
Classification upgrading occurs when a position is assigned to a different or new classification that carries a higher salary grade. “Higher salary grade” for these purposes means a minimum of 4.0% difference when comparing the maximum hourly rates of pay of the salary grades. Whenever a position is upgraded, the recruitment and selection process will be waived and the incumbent moved to the upgraded position’s classification if: 1) the upgrading has resulted from an incremental change in duties; 2) the incumbent has been in the position performing the higher level duties and responsibilities for a minimum of six (6) months; and 3) the appointing authority and the Department of Employee Services agree that the incumbent possesses the minimum qualifications of the higher level position.

If the position held by an employee with regular status is upgraded, and the employee does not possess the minimum qualifications of the higher classification, the employee shall remain in the original classification if a vacant position is available. If no vacant position is available, the employee may be placed on the layoff register, in order of

seniority, for referral to the original classification. The salary of an employee who retains regular status in an upgraded position is determined by sections governing compensation for reclassification.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.050.5 Classification Downgrading

Classification downgrading occurs when a position is assigned to a different or new classification that carries a lower salary grade. "Lower salary grade" for these purposes means a minimum of 4.0% difference when comparing the maximum hourly rates of pay of the salary grades. An employee whose position has been downgraded shall be placed in the position without competing for the position. An employee whose position has been downgraded shall be placed on the layoff register for their former classification or any equivalent classification for a period of two (2) years from the date of downgrading. Placement on the layoff register will allow referral and consideration for other positions within the same or equivalent classifications as the position held prior to classification downgrading. The order in which names will be placed on the layoff register shall be based upon seniority. An "equivalent classification" is defined as one requiring both the same kind of knowledge and the same degree of skills. Demonstration of the employee's skills and knowledge in appropriate selection procedures may be required by the Department of Employee Services or appointing authority prior to being placed in another position in the former or equivalent classification.

A downward reclassified employee will have no changes made to salary increase eligibility date or to an existing probationary period. At the request of the Department Director, the County Administrator may authorize continuation of the same salary rate as an employee received prior to a downgrading of the position (a "red circle"). The employee receiving a red circle pay rate shall receive no future salary increases until the salary grade of the position exceeds the "red circle" rate.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 03-2016, 8/11/16]

2.05.050.6 Classification Review Of New Positions

When a new, regular position is approved by the County Administrator, a position requisition and position classification questionnaire shall be submitted to the Department of Employee Services. The Department of Employee Services shall review the proposed duties and responsibilities of any new position added to the Classified Service and determine the appropriate classification and compensation. At the request of the County Administrator, the Department of Employee Services shall also review position requisitions with regard to the need for the position. A new position shall not be filled until the Board of County Commissioners approves the position requisition, and budgetary allocation for the new position.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 03-2016, 8/11/16]

2.05.050.7 Classification Review Resulting From A Reorganization Of A Department Or Unit

Whenever a department or a unit is reorganized, the Department of Employee Services and the appointing authority shall review the potential impact of the reorganization to the employees' classification and compensation in order to determine if approval is required by the County Administrator. In any reorganization, regular employees shall be placed in classifications with equivalent salary grades, if such positions are available and appropriate. Whenever positions are transferred from one appointing authority to another without significant change in duties, employees with regular status shall retain rights to such positions.

A position may be upgraded as a result of a department or division reorganization. When this occurs, the Department of Employee Services in consultation with the appointing authority, shall determine whether a reclassification or a selection procedure is appropriate for filling the position. In determining if the recruitment shall be promotional only or open-competitive the following shall be considered: analysis of job duties, availability of internal applicants and occupational standards.

Employees who successfully compete in a recruitment and selection process and are appointed to a higher level classification shall be subject to the policies governing compensation and probationary periods for promotion. Employees who are unsuccessful in completing the required probationary period shall be demoted to the previously held classification if positions are open and available. If no such positions are available, the employees may be removed from the upgraded position and placed on the layoff register in order of seniority for referral to their previously held classification. If employees return to the classifications held prior to upgrading, their salary grade and step shall return to those that would have applied had the employees not been upgraded. Rules of layoff shall apply when reorganization results in a surplus of employees.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.050.8 Other Requests For Classification Review

An employee may initiate a request for a classification review. Such a request must be made via the appropriate form, typically a position classification questionnaire, provided by the Department of Employee Services. The form shall be submitted through the employee's immediate supervisor and appointing authority, and submitted to the Department of Employee Services. The Director of Employee Services shall consider comments from the employee, the supervisor and the appointing authority and determine if there is a need to conduct a classification review. Within fourteen (14) working days of receipt of a completed document, the Department of Employee Services shall notify the employee and appointing authority whether or not a classification review is to be conducted. If a review will be conducted, the Department of Employee Services shall make a status report to the appointing authority and the employee within sixty (60) calendar days.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.050.9 Notification Of Classification

Upon completion of any position review or classification review, the Department of Employee Services shall notify the employee and the appointing authority in writing of

the final recommendation. Such final notification shall not be made until the Department of Employee Services has consulted with the appointing authority.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07.2005, 11/3/05; Amended by Ord. 10/29/09]

2.05.050.10 Requests For Review Of Classification Determination
An employee, appointing authority or recognized bargaining group shall have fourteen (14) calendar days from the date the final recommendation regarding a position review or classification review is mailed to the employee and appointing authority to file any objections of the recommended allocation with the Director of Employee Services as provided in 2.05.230.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.050.11 Trainee Classifications
The Director of Employee Services may designate a classification in an occupational field as a trainee or apprentice classification. A trainee classification shall have an outline of the training criteria which an employee is expected to meet as well as a class specification.

The training criteria shall include additional experience, education, mandated certification and licensing. Training criteria shall also specify the level of knowledge, skills and abilities that must be demonstrated to be advanced to the higher level classification within a specified time frame. Upon successful work performance evaluation, or successful completion of appropriate selection procedures as outlined in 2.05.070, the incumbent may be promoted to the higher level classification.

Individuals who are unsuccessful in completing a trainee program and who were regular status employees prior to participating in a trainee program shall be returned to their previous positions if the positions are available. If the positions are no longer available, the employees shall be placed on the layoff register for their previously held classifications. Employees who are unsuccessful in completing a trainee program and were not regular status employees immediately prior to participation in the trainee program shall be dismissed.
[Codified by Ord. 05-2000, 7/13/00]

2.05.050.12 Promotive Classifications
The Director of Employee Services may designate a classification, or classification series, as promotive. A classification designated as promotive must have a written training and development program, approved by the Director of Employee Services, which shall establish the training criteria which an employee is expected to meet prior to advancement. The training criteria shall include the knowledge, skills and abilities that an individual is required to demonstrate in order to be eligible for a promotion to the higher level position. An employee who successfully completes the training and development program and is deemed qualified through a promotional appraisal may be placed on the promotional/internal eligibility register for the higher level classification.
[Codified by Ord. 05-2000, 7/13/00]

2.05.050.13 Unallocated (Temporary) Employment Classifications

Positions classified as unallocated (also known as temporary positions) shall be evaluated against the duties and responsibilities of regular positions. When a temporary position has the same duties and responsibilities of a regular classification, the temporary position shall be paid within the salary grade established for the regular classification. Temporary positions not falling within a current classification may be paid at temporary rates established by the Department of Employee Services and the department and negotiated with the recognized bargaining group, if applicable. Unallocated employees must compete through the competitive selection process in order to be considered for open, regular positions.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.060 Compensation Plan

2.05.060.1 Maintenance Of Compensation Plan

The Department of Employee Services, under direction of the County Administrator, shall maintain a compensation plan. It is the responsibility of the Department of Employee Services to keep the County Administrator informed of the adequacy of the County's compensation plan. The plan shall include for each classification a minimum and a maximum pay rate and such intermediate rates as are considered necessary or equitable. The salary grades shall reflect the relative responsibilities of the classification, availability of labor, prevailing rates of pay and financial conditions of the County. The County Administrator shall assign the compensation of all classified and unclassified positions except for those positions whose salaries are determined under state laws. In determining the amount of compensation thereof, the County Administrator shall give due consideration to the recommendations of the Department of Employee Services and the appointing authority.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.060.2 Administration Of Compensation Plan

A. Rates of Pay: Classified employees shall be paid at a rate established within the salary grade for the classification in which they are employed, unless otherwise authorized by the County Administrator.

B. Entrance Salary: An employee will be appointed at the entrance rate for each classification. The entrance rate shall be the first step or minimum pay rate in a salary grade established by a collective bargaining agreement or for nonrepresented employees it shall be any rate from minimum to midpoint in the established salary grade. If an appointment or reinstatement above the entrance rate ("upper-step") is requested, authorization must be by the Department Director. In determining such requests, the Department Director shall give consideration to qualifications of the candidate, availability of applicants and the resulting salary relationship with other positions.

C. Salary Increases: Salary increases are not automatic. Appointing authorities shall recommend to the County Administrator salary increases only for those employees who have demonstrated high standards of work performance. Work performance should be reviewed periodically to determine whether increases have been earned. (Refer to Performance Evaluation 2.05.120.)

1. Eligibility for Salary Increases: New employees or promoted employees shall be eligible for advancement to the next step or applicable percentage increase within the salary grade for their classification six (6) months from the first of the month following their first day of work in the position. Thereafter, employees are eligible for a salary increase at the conclusion of twelve (12) months of continuous service since their last in-grade salary adjustment other than an exceptional increase. Eligibility for salary increases shall continue until employees reach the last step in their respective salary grade.
2. Exceptional Increases:
   a. An appointing authority may request an exceptional increase for any employee when:
      i. The employee's performance is outstanding in relation to other employees in the same department, and the employee's outstanding performance is documented according to an approved performance evaluation program; or
      ii. Other factors exist, such as compression of pay rates, which justify an exceptional increase; and;
      iii. Funds for such "special" increases are budgeted; and,
      iv. At least six (6) months have passed since the last "salary" or "step" increase, or last promotion.
   b. Exceptional increases must be approved by the Department Director and will be limited to the maximum amount of a regular merit increase or one step. An amount greater than this must be authorized by the County Administrator. Exceptional increases will not affect an employee's established salary increase date.
3. Interim Increases: An employee whose salary increase is denied may be eligible for an increase following an additional six-month period during which successful performance is monitored and documented. If such a salary increase is granted, the employee's new date of eligibility for a salary increase shall be one year from the date of the last salary increase.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 05-2014, 9/25/14; Amended by Ord. 03-2016, 8/11/16]

2.05.060.3 Salary Grade Adjustments

A. General: The compensation plan for County personnel shall provide reasonably competitive grades of pay for each classification. The County Administrator may make adjustments in salary grade(s) as necessary to attract and retain competent personnel and to provide equity between the various classifications. Such salary grade adjustments are to be distinguished from salary increases. Salary grade adjustments are not intended to give recognition to length or quality of service; rather they are based solely on prevailing rates of pay for the various classes of work in the County service.

B. Effect of Salary Grade Adjustments: For Non-Represented employees, when the salary grade for classification is adjusted upward, the pay rate of an incumbent employee is not impacted if their pay rate falls within the new salary grade. If an

employee's pay rate falling below the minimum of the new salary grade, it shall be increased to the minimum of the grade. If an employee has been at the top of their salary grade for greater than one year, the employee shall receive the equivalent of one merit increase effective the first of the month following implementation of the new salary grade, and be eligible for merit increases annually thereafter until the top of the grade is reached. When the salary grade for a classification is adjusted downward, the pay rate of an incumbent employee is not impacted if their pay rate falls within the new salary grade. If an employee's pay rate falls above the maximum of the new salary grade, the employee's pay rate shall be red-circled. This method for determining individual employee pay rate changes shall be applied consistently to all employees within the affected classification, unless otherwise negotiated with recognized bargaining groups.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 03-2016, 8/11/16]

2.05.060.4 Request For Review Of Salary Range Recommendations

An employee, appointing authority or recognized bargaining group shall have fourteen (14) calendar days from the date the salary grade recommendation is mailed by the Department of Employee Services to request a review as provided in 2.05.230. Any review of a salary grade recommendation shall occur prior to the County Administrator's final determination of a salary grade.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.060.5 Salary Increases For part-time Positions

Eligibility for salary increases for part-time or job share regular status employees shall be provided under 2.05.060.2 (C) of this section.

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

2.05.060.6 Hourly Rates

Hourly rates of pay shall be used for temporary and part-time regular positions. Rates set by such actions shall be based on the established rates for the classification involved.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.060.7 Overtime

A. Overtime Policy: It is the policy of the County to reduce to a minimum the necessity for overtime work. All overtime shall be pre-approved by the employee's supervisor and reported to Payroll.

Nonrepresented full time employees who are exempt from coverage by the federal Fair Labor Standards Act (FLSA) are not paid for overtime and do not accrue compensatory time for work in excess of their regularly scheduled workday or workweek. Employees who work such uncompensated overtime may take time off from work with prior approval from their supervisor, not to exceed one-half day, without deducting such leave from their leave accrual balances. The County Administrator may approve exceptions allowing overtime compensation for certain non-represented employees. Overtime pay may also be authorized by the

President of the United States which may qualify for cost reimbursement through the Federal Emergency Management Agency. Part-time regular employees are not covered by this uncompensated overtime policy, and are paid for actual hours worked.

B. Definition of Overtime: For all employees who are members of a bargaining unit, the conditions governing overtime compensation in the respective collective bargaining agreement shall apply.

Nonrepresented employees who are not exempt from coverage by the FLSA shall be allowed overtime pay or compensatory time for employment in excess of forty (40) hours in any one week.

Nonrepresented employees who are allowed overtime compensation by an exception approved by the County Administrator shall be allowed overtime according to the terms of that exception.

C. Compensation: For those nonrepresented employees who are not exempt from coverage by the Fair Labor Standards Act, the rate of compensation for overtime worked shall be paid at one and one-half times the employee's regular rate of pay. A covered employee may receive cash compensation or compensatory time or a combination of both with prior mutual agreement in writing by the employee and appointing authority.

The payment of cash compensation for overtime or the use of compensatory time is at the discretion of the appointing authority based upon budgetary considerations. It shall be the responsibility of the appointing authority to establish appropriate policy to be implemented throughout the department, which provides equitable treatment of all employees.

D. Compensatory Time: Unless otherwise specified in the collective bargaining agreements, compensatory time shall be allowed to accumulate to a maximum of 240 hours and must be reduced to no more than eighty (80) hours at the end of each fiscal year. Such reduction may be accomplished through time off or authorized payment by the appointing authority.

E. Effect of Overtime on Benefits: Time worked as overtime shall not be used to serve out probation, salary increase periods or earn employee benefits, except as required by law. Compensatory time off may be used as part of the established workweek to earn employee benefits and to serve out probation and salary increase periods.

F. Policy of Compliance with “Salary Basis” Requirements: An exemption from overtime wage provisions of the FLSA is provided for employees employed as bona fide executive, administrative, professional, or computer employees. To qualify for exemption, employees must meet certain tests regarding their job duties and be paid on a fee basis or “salary basis”. Deductions from pay may be

made for certain reasons without losing the "salary basis" exemption, including (1) for absences from work for one or more full days for personal reasons, (2) for absences from work for one or more full days for sickness or disability, (3) for penalties imposed for violation of safety rules of major significance, (4) for unpaid disciplinary suspensions of one or more full days for violation of workplace conduct rules, (5) for leave under the Family and Medical Leave Act, or (6) for absences of less than one work-day according to a practice established pursuant to principles of public accountability.

It is the County's policy to comply with the "salary basis" requirements of the FLSA. Therefore, the County prohibits any improper deductions from the salaries of exempt employees. If an employee believes that an improper deduction has been made to the employee's salary, ~~he or she~~ they should immediately report that information to the Director of Employee Services. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction from an exempt employee has occurred, the employee will be promptly reimbursed for any improper deductions made.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 13-2003, 7/3/03; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.070 Selection

2.05.070.1 Purpose Of Selection Process

The purposes and goals of the selection process are:

A. To provide a competitive system of filling positions in the County classified service with the best-qualified persons possible, based on job related factors;

B. To provide qualified persons for County employment and promotions ensuring equal employment opportunity;

C. To ensure that all selection procedures are valid, impartial and free from personal and political considerations; and

D. To comply with the Federal Uniform Guidelines on Employee Selection Procedures.

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

2.05.070.2 Job Announcements

When establishing eligibility registers, the Department of Employee Services shall post job announcements in the office of the Department of Employee Services, County departments and other public places. The notice may include special requirements of the position and shall include:

A. The title of the position;

B. A brief statement of the duties;

C. The salary grade or rate of pay;

D. Minimum qualifications or requirements;

E. Nature of the selection process; and

F. Closing date for applications.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.070.3 Selection Procedures

The Department of Employee Services shall determine appropriate selection procedures in consultation with the department representative. In determining selection procedures, the Department of Employee Services shall consider:

A. Analysis of job duties;
B. Availability of applicants;
C. Special problems of protected classes related to effective competition;
D. Occupational standards;
E. Professional selection procedures; and
F. Supportable job related experience.

Selection methods shall be confined to the measurement of knowledge, skills and abilities necessary to perform the defined duties of the position. Any pertinent factor or trait which affects job performance may be included.

The Department of Employee Services shall appoint, as needed, special raters to assist in selection procedures. Raters may be representatives of departments, the public, interested organizations, or other public jurisdictions who have been designated to administer and score selection procedures.

All selection procedures shall be subject to continuous analysis for fairness and job relatedness in accordance with appropriate Federal and State regulations and professional standards. An appointing authority may request of the Director of Employee Services that a selection procedure be reviewed for fairness, job relatedness, or other defect. The Director of Employee Services may cancel or modify any part of the selection procedure or materials which he/she determines is not job related, is unfair, is confusing or otherwise is materially defective. The Director of Employee Services may at any stage of the selection procedure set the minimum passing score at a level designed to provide a sufficient number of candidates for further consideration.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.070.4 Types of Recruitments and Selection Procedures

The use of an open and/or promotional/internal recruitment shall be determined by the Director of Employee Services in accordance with the provisions of these rules:

A. Open: A recruitment in which any interested person may submit an application for employment.
B. Open Continuous Recruitment: These recruitments will remain open and are not of a limited duration. An individual's name shall be removed from the eligibility register after a designated period of time, normally not less than six (6) months or more than one (1) year. Open continuous recruitments may be used when practical, as determined by the Director of Employee Services based on an assessment of the anticipated number of positions to be filled from the register and/or consideration of current labor market conditions.
C. Promotional/Internal: Only employees of the County in the classified service may submit an application. A promotional/internal recruitment may be limited to a particular agency, or department, or part thereof. Such limitations shall be used only when justified by the presence of a number of qualified competitive

candidates or by the specialized unique nature of work performed. Such limitations require approval by the Director of Employee Services. Promotive classifications established in conformance with 2.05.050.12, may require completion of the training and development criteria and time periods before becoming eligible to submit an application.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.070.5 Need For Recruitment

All vacancies in the Classified Service shall be filled by persons who have been qualified through the recruitment and selection process, except as otherwise provided by these rules. Departments have the responsibility to notify the Department of Employee Services as soon as a vacancy is anticipated and to provide them with a complete description of the duties of the position. Recruitments may be held when deemed appropriate by the Director of Employee Services. A recruitment need not reflect an immediately available vacant position.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.070.6 Publicity And Recruitment

The Department of Employee Services shall administer a program of recruitment which will attract qualified persons to County employment including members of protected classes. Recruitment efforts will include contacts with community groups, agencies, councils and individuals for purposes of soliciting applications from all segments of the population.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.070.7 Minimum Requirements

Minimum requirements established for a position shall be determined in accordance with legal requirements, classification specifications, duties of the position, occupational standards, the labor market and relevant past work experience. Such requirements shall be based upon an evaluation of the knowledge, skills and standards required for the position. Applicants may be required to submit additional information about their backgrounds, completion of courses of study or training or evidence of their possession of licenses or certificates. Applicants may be required to qualify in an employment related physical assessment tailored to job requirements.

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

2.05.070.8 Disqualification Of Applicants

All applications shall be reviewed by the Department of Employee Services for eligibility and admission to the selection process. A person shall be disqualified from consideration:

A. Who is not eligible under the provisions of these rules;
B. Whose application was received after the closing date and time for accepting applications as specified in the job announcement, unless waived by the Director of Employee Services;
C. Who does not meet the minimum qualifications as prescribed in the job announcement;
D. Who does not meet the legal requirements as set forth in Federal, State or County

law; or,

E. Who has knowingly made a false statement in any material fact or has practiced or attempted to practice any deception or fraud in the application or selection process.

Who did not complete the required elements of the employment application or supplemental application materials.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.070.9 Modification Or Suspension Of Selection Procedures

A. If there are five (5) or fewer eligible competitors in any part of the selection process, subsequent parts may be modified or suspended. In such a case, referral may be made, provided that there is no existing eligible register and all eligible applicants are to be referred and interviewed by the appointing authority.

B. If there are ten (10) or fewer applicants qualified for an open register following review by the Department of Employee Services, and there are no names on the layoff or promotional/internal register, an unranked open register may be developed. Except as provided below in this section, all applicants on the unranked open register will be referred and interviewed by the appointing authority.

C. An unranked open register will not be used if it conflicts with the terms of applicable collective bargaining agreements.

D. An unranked open register will not be used if, prior to the job announcement open date, a department director specifically requests a ranked open register for that recruitment.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2004, 11/18/04; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28/11; Amended by Ord. 05-2014, 9/25/2014]

2.05.070.10 Consideration Of Qualifications

The selection procedure(s) may be composed of one or several selection processes, which may be considered independently or jointly. Candidates may be required to be competitive at a prescribed level in the initial screening to advance in the selection process.

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

2.05.070.11 Reapplication and Retesting

Applicants may not reapply or retest for the same position more than once within a six, (6) month period. The Director of Employee Services may waive this restriction when warranted.

[Codified by Ord. 05-2000, 7/13/00; amended by Ord. 05-2009, 10/29/09]

2.05.070.12 Written Exams

Applicants may register objections to any question or answer which they believe unfair or incorrect within three (3) working days of the applicant completing the written test. Such objections shall be made to the Director of Employee Services. Items may be deleted on

the basis of item analysis, administrative or clerical errors, and incorrect keying and valid objections of applicants prior to computing scores. Any such deletions shall be recorded together with the reasons for such deletion. The Director of Employee Services may remove such questions or make such alterations in the answer key. Any alterations made to the answer key shall be applied to the scoring of all applicable tests.
[Codified by Ord. 05-2000, 7/13/00]

2.05.070.13 Review Of Selection Results
Applicants may review their results within fourteen (14) calendar days from the date on which the notice of results was mailed. The selection materials of applicants are not open to inspection by the public or by other applicants except as provided by law.
[Codified by Ord. 05-2000, 7/13/00]

2.05.070.14 Requests For Review Of Selection Procedures
Requests for review may be made by any applicant to the Director of Employee Services on any part or process of the selection procedure as identified in 2.05.070.13 above. An applicant has fourteen (14) calendar days from the date selection results were mailed to file a Request for Review. The Director of Employee Services shall investigate the circumstances surrounding the request and take appropriate administrative action to resolve any complaints within the time frames set forth in 2.05.220.5.
[Codified by Ord. 05-2000, 7/13/00]

2.05.070.15 Appeals Of Selection Procedures In The Selection Process
Written appeals of the Director of Employee Services' decision resulting from a claim of fraud or illegal discrimination in the selection process may be made to the Hearings Officer. Appeals to the Hearings Officer must be made in writing within thirty (30) calendar days from the date the Director of Employee Services mails the determination of the matter to the applicant. (See 2.05.210 for Appeals Procedures.)
[Codified by Ord. 05-2000, 7/13/00]

2.05.070.16 Waiver Of Selection Process
The selection process may be suspended and appointment made if transition to probationary/regular employment from a specially funded program is involved and the Director of Employee Services finds that competition is impractical. Such exception shall be requested in writing from the appointing authority stating the reasons for the suspension of the selection procedures.
[Codified by Ord. 05-2000, 7/13/00]

2.05.070.17 Veterans Preference
Qualified veterans shall be granted veterans preference in conformance with Oregon Revised Statutes 408.230.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.080 Eligible Registers

2.05.080.1 Types Of Eligible Registers

Eligible registers are maintained in accordance with the County's classification of jobs. The types of eligible registers are:

A. Open: A register which shall consist of persons who have successfully completed an open competitive selection process. The period of eligibility will normally be not less than three (3) months (unless the registers are exhausted) nor more than one (1) year. An open register may be a ranked open register, an unranked open register, or a banded open register

1. Ranked Register: A ranked register consists of applicants who have successfully completed an open competitive selection process and are listed in order of eligibility for hiring, with the highest scoring applicant at the top of the list, and other applicants ranked below in order of decreasing scores.
2. Unranked Register: An unranked register consists of 10 or fewer qualified applicants as described in section 2.05.070.9.
3. Banded Register: A banded register consists of applicants who have completed an open competitive selection process and are listed in up to four groups: band A, band B, band C, and band D. Applicants eligible for hiring consideration are listed in bands A, B or C. Applicants not eligible for hiring consideration are listed in band D.
    a. “Band A” applicants are the top applicants for first referral to the appointing authority for hiring consideration, based on the job-related criteria and preferences established at the time of the solicitation. Band A applicants meet the minimum qualifications and also possess the job-related preferences expressed in the solicitation, such as additional relevant education, training, skills, professional certifications, or experience (especially experience with the particular type of job duties expected for the position, and recent experience).
    b. “Band B” applicants are the next group of applicants for secondary referral to the appointing authority for hiring consideration, based on the job-related criteria and preferences established at the time of the solicitation. Band B applicants meet the minimum qualifications and have some of the job-related preferences expressed in the solicitation, such as additional relevant education, training, skills, professional certifications, or experience (especially experience with the particular type of job duties expected for the position, and recent experience).
    c. “Band C” applicants are the last group of applicants for referral to the appointing authority for hiring consideration, based on the job-related criteria and preferences established at the time of the solicitation. Band C applicants meet the minimum qualifications and have a lesser level of the job-related preferences expressed in the solicitation, such as additional relevant education, training, skills, professional certifications, or experience (especially experience with the particular type of job duties expected for the position, and recent experience.
    d. “Band D” applicants are those who are not competitive at the level

required to advance in the selection process. This group will not be eligible for hiring consideration, based on the job-related criteria and preferences announced at the time of the solicitation.

e. Banded registers will be used only upon request of the appointing authority and approval by the Director of Employee Services. Such approval will be granted only where sufficient job-related hiring criteria and job-related preferences have been developed to assure the job-related validity of the selection process. The hiring criteria and preferences must be established at the time the solicitation is made.

f. When a banded register is developed, the Department of Employee Services will refer eligible candidates to the appointing authority only by referring all names within a band (whether band A, band B or band C). A single band or multiple bands may be referred at one time. An appointing authority must apply the same selection process in the consideration of all applicants within the band (whether band A, band B or band C) when considering applicants from a banded register for hiring.

g. Veterans' preference as provided in section 2.05.070.17 will be applied to a banded register by moving an eligible veteran in band C or band B up one band, or by moving an eligible disabled veteran in band C up two bands. As provided in ORS 408.230, veterans' preference is not a requirement that a veteran be appointed, but if the selection process applied by an appointing authority to members of a band after the preference has been applied results in an equal evaluation for a veteran and non-veteran, then the veteran shall be appointed.

h. Affirmative action as provided in 2.05.090.2(B) will be applied to a banded register, where there is a hiring goal contained in the current County Affirmative Action Plan for the category in which the job vacancy exists, by moving up by one band all applicants who are from that group for which hiring goals exist and who are in band C or band B; provided however that no applicants will be moved up into a band if there are already at least 5 applicants from that group present in that band.

B. Promotional/Internal: A register which shall consist of employees who have successfully completed a promotional/internal selection process. Promotional/internal registers shall remain in effect for not less than eighteen (18) months or more than twenty-four (24) months. Promotional/internal registers for non-represented positions shall remain in effect a minimum of six (6) months and may be extended for up to twenty four (24) months upon approval of the Director of Employee Services.

C. Layoff: A register which shall consist of previous employees who had attained regular status with the County and were displaced from their position due to layoff or reduction in force, current employees who exercised voluntary demotion in lieu of layoff, or employees who failed to pass the probationary period for a higher level position as a result of reclassification or trainee program. The period

of eligibility will be two (2) years from the effective date of the action which placed the individual on the layoff register.

[Codified by Ord. 05-2000, 7/13/00; Subsection A amended by Ord. 10-2004, 11/18/04; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 01-2011, 4/28/11]

2.05.080.2 Placement Of Names On Eligible Register

The name of any person who has qualified for County employment or advancement must be placed on an appropriate eligible register, unless otherwise stated by these rules.

Persons who have completed six (6) months of continuous service in a classified position and are on an open register for a higher classification may be transferred, on request of the applicant, to an existing promotional/internal register for the higher level classification. The period of eligibility shall not be extended by such transfer.

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

2.05.080.3 Removal Of Names From Open Eligible Register

Names shall be removed from any eligible register after appointment, or at the end of the eligibility period. The acceptance of temporary work by persons on eligible registers shall not affect their referral for regular positions. The Director of Employee Services may remove from an open eligible register the names of persons:

A. Who have declined three (3) appointments from any one eligible register;
B. Who are considered, but not appointed after one(1) referral, provided however that the person shall only be removed from the particular eligibility register sent to the requesting appointing authority and shall remain on the master eligibility list for that job classification (if applicable) with respect to other appointing authorities;
C. Who fail to respond to the referral notice within seven (7) calendar days from date notifications were mailed;
D. Who fail to appear for a job interview;
E. Who have failed to answer an availability inquiry within seven (7) calendar days;
F. Who have failed to keep the Department of Employee Services informed of their address;
G. Whose reasons for waiving referral or appointment are not satisfactory as determined by the Director of Employee Services;
H. Who are determined to be unqualified by the Director of Employee Services based on their previous employment record;
I. Who fail to meet minimum requirements, employment related physical standards, background/criminal history check or for any valid cause relating to their character and ability to perform satisfactorily on the job; or,
J. Who have failed to comply with conditions of employment as a County employee.

All persons whose names are removed from an open eligible register for cause shall be so notified in writing and shall have the right of review by the Director of Employee Services.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07.2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28, 2011]

2.05.080.4 Removal And Replacement Of Names From Promotional/Internal Eligible Register

A. Names shall be removed from the promotional/internal eligible register upon resignation or termination of the employee from County employment. The Director of Employee Services may also remove names of persons:
   1. Who have declined three (3) appointments from any one promotional/internal register;
   2. Who are considered, but not appointed after three (3) referrals;
   3. Who fail to respond to the referral notice within seven (7) calendar days from date of notification;
   4. Who fail to appear for a job interview;
   5. Who have failed to answer an availability inquiry within seven (7) calendar days; or,
   6. Who have failed to keep the Department of Employee Services informed of their address.

B. Persons who have been referred and fall into one of the following categories shall remain on the promotional/internal eligible register for future referrals, but shall have their name replaced on the current referral list:
   1. Whose reasons for waiving referral or appointment are not satisfactory as determined by the Director of Employee Services;
   2. Who are determined by the Director of Employee Services to be unqualified based on their previous employment record;
   3. Who fail to meet minimum requirements, medical standards, or for any valid cause relating to their character and ability to perform satisfactorily on the job; or,
   4. Who have failed to comply with conditions of employment as a County employee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.080.5 Restoration To Eligible Register

The Director of Employee Services may restore the name of a person to the eligible register. Any restoration shall not extend the period of eligibility.
[Codified by Ord. 05-2000, 7/13/00]

2.05.080.6 Extension Of Eligibility

The Director of Employee Services may extend, renew or reactivate the eligibility of persons qualified for a period not to exceed two (2) years from the first date of eligibility, provided however that eligibility may be extended for a period not to exceed five (5) years for an applicant who is a member of the U.S. Armed Forces, National Guard or Reserves who is deployed for military service, and is released from service under honorable conditions.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.080.7 Inactive Status

Applicants whose names are on the eligible register may request inactive status and their names shall be removed from the active eligible register. Upon notification, such names

may be restored to the active eligible register for the remaining period of eligibility. Eligibility shall not be extended by reason of such inactivity.
[Codified by Ord. 05-2000, 7/13/00]

2.05.090 Referral Of Eligibles

2.05.090.1 Referral Process
The appointing authority shall request referral by submitting a position requisition which contains information necessary for the proper and prompt filling of positions. Upon receipt of the requisition, the Director of Employee Services shall order referral of persons from the appropriate eligible register in accordance with the provisions of this chapter and position control. The appropriate eligible register shall be determined by the classification of the position and special qualifications required to perform the duties of the position. If Eligibles fail to respond to a contact letter by either phone or mail within seven (7) calendar days of the County's mailing of the notification, they may be considered to have declined the position.
[Codified by Ord. 05-2000, 7/13/00]

2.05.090.2 Referral From Eligible Registers

A. The order in which eligible registers shall be used for referrals is as follows:
   1. Layoffs register;
   2. Promotional/internal register;
   3. Open register.

   The combined number of names referred from all registers shall not exceed the number of vacancies plus four (4), except as provided in subsection B of this section.

B. Any regular employee who has submitted a written request for transfer or demotion may be referred for all regular openings, in addition to those normally referred.

   When tied scores exist between persons referred and those remaining on the eligible list, all persons with tied scores shall be referred.

   If eligibles fail to respond within seven (7) calendar days from notification, the appointing authority may request additional names to be referred.

   The appointing authority may specify requirements of particular experience, education, skill or ability, when it is deemed that such requirements are necessary for the position. If, after a review of the duties and responsibilities of the position, the Director of Employee Services finds the requirements essential for successful performance, only the names of individuals possessing those qualifications will be referred.

   Up to ten (10) names will be referred when an unranked open register is used pursuant to §2.05.070.9.

The Director of Employee Services will refer additional qualified applicants to be considered for employment if there is a required hiring goal(s) contained in the current County Affirmative Action Plan for the category in which the job vacancy exists, and there are no names on the layoff register or promotional/internal register for the position. In such cases, the Director of Employee Services shall refer enough names (if available) in addition to those referred according to normal register procedures to result in a referral of a total of five (5) applicants from all the protected groups collectively for which required hiring goals for that category exist. Referral of additional qualified applicants will not occur if it would conflict with the terms of applicable collective bargaining agreements.

If a banded register has been requested by the appointing authority and approved by the Director of Employee Services, names may be referred from the banded eligibility register as provided in section 2.05.080.1(A)(3).

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2004, 11/18/04; Amended by Ord. 07.2005, 11/3/05; Amended by Ord. 01-2011, 4/28/11]

2.05.090.3 Referral For Trainee Purposes

The appointing authority and the Director of Employee Services may consent to use an eligible register for a lower grade classification in order to fill the higher level position with a trainee if the rationale to do so is consistent with the County approved Affirmative Action Plan. Any "trainee appointment" shall be documented by identifying the proposed length of the training period prior to the employee's advancement to the full job level.

Those individuals appointed as trainees under 2.05.090.3 shall receive a copy of said documentation.

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

2.05.090.4 Insufficient Names

When the total number of names on the available eligible register is fewer than five, (5), or a banded register has fewer than five (5) names on the A, B, and C bands, the appointing authority may elect to:

A. Make a probationary appointment from those referred, or
B. Accept referral of additional names from the most nearly appropriate eligible register as determined by the Director of Employee Services, or
C. Request a provisional appointment, pending establishment of a new eligible register, and call for a new recruitment.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2011, 4/28/11; Amended by Ord. 05-2014, 9/25/14]

2.05.090.5 Acceptance Of Referral In Lower Classification

The Director of Employee Services may refer an eligible candidate to a position in a lower or parallel classification. Such a position must have similar duties and responsibilities. A lower classification referral shall not deprive an eligible candidate of referral rights on the eligible register for the higher classification.

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

2.05.100 Appointments

2.05.100.1 Types Of Appointments

Any offer for employment must be made by the appointing authority or authorized representative to a person eligible under these rules. The types of appointments are:

A. Probationary/Regular: All regular positions in the Classified Service when vacant shall be filled by appointment of an eligible applicant referred from an appropriate eligible register, except as otherwise provided in these rules. No regular appointment shall be complete until the applicant has successfully passed the probationary period.

B. Unallocated (also known as "Temporary"): Selection procedures for unallocated appointments shall comply with the Federal Uniform Guidelines on Employee Selection Procedures. The appointing authority may make such an appointment with the authorization of the Director of Employee Services and a screening of the applicant's qualifications. However, when it is possible and practical, eligible registers shall be used in the appointment of unallocated employees.

   Unallocated employees may be discharged at any time by the hiring manager and shall have no appeal rights within the County except for those involving allegations of illegal discrimination.

   Employees working in unallocated positions are limited to working 1560 hours annually (in divisions using 40 hours/week schedules), or 1462.5 hours annually (in divisions using 37 ½ hours/week schedules), as provided in Section 2.05.040.5.

C. Provisional: Unless otherwise provided by these rules, appointment of a person not on an eligible register to a classified position for a limited duration is provisional. A provisional appointment is eliminated after ninety (90) calendar days or when the Department of Employee Services establishes an appropriate eligibility register, refers eligibles, or an appointment is made for the position, whichever occurs first. Provisional appointments may be renewed or extended by the Director of Employee Services prior to the appointment of a probationary status employee. A provisional appointment may be made under either of the following conditions:
   1. There is not an existing eligible register for the classification; or
   2. The eligible register contains less than five (5) names.

   The appointing authority may make such a provisional appointment with the authorization of the Director of Employee Services and a screening of the applicant's qualifications.

D. Unclassified. Employment in the unclassified service is not subject to the terms of Chapter 2.05 except as specifically provided in section 2.05.040.4.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28/11; Amended by Ord. 02-2020, 2/20/20]

2.05.100.2 Nepotism

Appointments and promotions to positions in the classified service shall be based on merit as determined by a comparison of job related qualifications. Discrimination based on nepotism for or against applicants or employees is prohibited except that an appointing authority shall not approve the appointment, promotion, or transfer of an eligible candidate or employee to a position in which such employment shall result in an employee directly supervising a member of their family. For purposes of this rule, family consists of the employee's spouse or domestic partner and the , children, parents, grandparents, grandchildren, brothers, sisters, nephews, nieces and first cousins of the employee, spouse or domestic partner. For purposes of this rule, “domestic partners” mean persons who are eligible for County employee benefits “domestic partner coverage”. If a violation occurs due to marriage, or the creation of a domestic partnership, steps shall be taken as soon as practical to correct the situation through transfer or other means.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.100.3 Medical Standards

Successful completion of employment related physical assessments are valid criteria only for positions in which physical standards are determined to be a bona fide occupational criteria. These physical standards shall be established which do not unlawfully discriminate against job candidates. Federal law mandates that any employment practice that adversely impacts employment opportunities of a protected group is lawful only when the employment practice is a "business necessity”, i.e. the practice is necessary for the safe and efficient operation of the business or the employment practice is "job related".

In order to utilize employment-related physicals as an employment criterion, the job related medical standards must first be established for jobs or groups of jobs. The job analysis system must include an on-site observation and measurement of factors critical to the physical performance of the job. Typical ways that this is achieved include direct observation of work performed and structured group interviews soliciting critical performance factors.

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

2.05.100.4 Employment Related Physical Assessments

An employment related physical assessment may be developed which addresses the job related medical standards that have been identified for the position. Employment related physical assessments may include a medical history interview, physical examination and/or a job related standardized performance test. The medical examination shall be conducted by a physician identified by the County for this purpose. The applicant may be required to pay the cost of the medical examination. The department requiring the employment related physical assessment will pay for the process where possible.

When an employment related physical assessment is used as an employment criterion, a job offer may be made on the condition that the applicant successfully passes a medical examination. An offer of employment must be extended which clearly states the offer is

contingent on the results of the examination. The appointing authority shall not act on the outcome of the examination until receipt of the written recommendation from the physician. A copy of the physician's recommendation shall be immediately sent to the Department of Employee Services for review.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.110 Probationary Period

2.05.110.1 Purpose Of Probationary Period
The probationary period is a working test period during which classified employees are required to demonstrate fitness by actual performance of the duties of the position to which they are appointed. The probationary period is an integral part of the selection process. It provides the hiring manager with the opportunity to observe the employee's work, to train, and to aid the employee in adjustment to the position, and to reject any employee whose work performance fails to meet required work standards.
[Codified by Ord. 05-2000, 7/13/00]

2.05.110.2 Duration Of Probationary Period
Every person who receives an initial appointment to a position in the classified service shall serve a probationary period of twelve (12) calendar months. The probationary period begins on the first day of work in the position. An employee who is promoted and was a regular status employee prior to receiving such promotion shall serve a six (6) month probationary period, provided however that if the promoted employee is required to undertake additional training at the Oregon Department of Public Safety Standards and Training, the promotional probationary period shall be twelve (12) calendar months. An employee's probationary period shall not be extended except when an employee has taken an authorized leave or been placed on leave by the County (paid or unpaid) that exceeds thirty (30) days during the probationary period. When the employee has taken or been placed on such leave, the probationary period will be extended by the amount of leave.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.110.3 Performance Evaluation During Probationary Period
Progress reports shall be completed by the appointing authority on all employees serving a probationary period. An evaluation of the employee's work performance and ability to satisfactorily perform the duties of the position shall be made by the end of six (6) months' employment and at least thirty (30) days prior to the completion of the probationary period. An evaluation shall also be conducted within the six (6) month period following a promotion or demotion.

If the work or conduct of a probationary employee is found to be unacceptable to the appointing authority, the appointing authority may dismiss, demote or suspend the probationary employee. Every such action shall be accompanied by written documentation stating the reasons for such action. A probationary employee may request a review of such action by the Director of Employee Services. The Director of Employee Services shall conduct a review of such actions and uphold the action of the appointing

authority unless the Director of Employee Services finds that the action was taken for arbitrary, capricious, or discriminatory reasons. The decision of the Director of Employee Services is final and not subject to appeal.

Probationary employees serving as a result of appointment from a promotional/internal register, who fail to qualify in the new position for reasons other than misconduct or delinquency, and who were regular employees immediately prior to this promotional appointment, shall be reinstated to their former position, if such position is vacant and available. If their former position is no longer vacant and available then they shall be placed on the layoff register for their former classification for a period of two (2) years. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.120 Performance Evaluation

2.05.120.1 Purpose Of Evaluation

It is the policy of the County to periodically review the work of each employee to assure that the employee is meeting the performance standards of that particular position. The review shall include the following: a) an evaluation of the employee's quality and quantity of work, b) a review of exceptional employee accomplishments, c) establishment of a goal for career development and job enrichment, d) a review of the areas which need improvement, and e) setting of performance goals for the employee for the ensuing year. [Codified by Ord. 05-2000, 7/13/00]

2.05.120.2 Evaluation System

The Director of Employee Services in consultation with the appointing authorities shall establish and make effective a system of performance evaluations designed to give a fair review of the work performed and an outline of ways in which performance may be improved. Such evaluations shall be prepared, discussed, and recorded for all employees at least once a year.
[Codified by Ord. 05-2000, 7/13/00]

2.05.120.3 Evaluation Procedure

A. Supervisor Review: At least once each year, supervisors shall meet individually with their employees to review their evaluation of the employee. A copy shall be made available to the employee at the time of the performance review. Preparation of the evaluation shall follow the procedures outlined in the "Supervisor's Guide to Performance Evaluations."

B. Appointing Authority Review: The appointing authority shall review all performance evaluation forms, and when necessary, meet with the employee and/or supervisor to discuss concerns about the evaluation. Any comments made by the appointing authority shall be included on the form and a copy thereof supplied to the supervisor and employee.

Appointing authorities and supervisors shall make every effort to complete the evaluation during the month prior to the calendar month in which the performance evaluation date occurs. If the employee is also eligible for a salary increase, a notice of eligibility for salary increase shall be returned to the Department of Employee Services together with

the evaluation form.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.120.4 Employee Disagreement With Evaluation
Employees who disagree with a performance evaluation may submit a written response with reasons for disagreement to be reviewed by their immediate supervisor and appointing authority. The employee's response shall be filed with the employee's performance evaluation in the employee's personnel file. Such response must be filed not later than thirty (30) days following the date the performance evaluation was received.
[Codified by Ord. 05-2000, 7/13/00]

2.05.120.5 Use Of Evaluations
Evaluations of work performance shall be considered for all pertinent personnel actions including promotions, demotions, transfers, layoffs, salary increases, disciplinary actions and satisfactory completion of the probationary period. Performance evaluations shall also be reviewed for training and other personnel management needs.
[Codified by Ord. 05-2000, 7/13/00]

2.05.120.6 Records
Performance evaluations, documents of commendation or discipline, and other related items that may have a bearing on employment status, shall be immediately forwarded to the Department of Employee Services for inclusion in the employee's official personnel file.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.120.7 Confidentiality
The performance evaluation is a confidential document. As a confidential document it shall be available only to the employee, the department official(s) completing or signing the evaluation, County employees required to handle the document as part of their official duties, or as otherwise required by law.
[Codified by Ord. 05-2000, 7/13/00]

2.05.130 Training

2.05.130.1 Statement Of General Policy
Clackamas County recognizes that it is essential to train employees so that they can render the best possible service as they perform their jobs. To this end, and within priorities and resources, it is the policy of Clackamas County that employees receive the training they need to successfully perform their jobs to standard. Learning is a part of work; therefore, the County shall provide employees with a work environment that encourages and supports learning and growth.

The responsibility for training shall be a shared responsibility between the employees, managers and supervisors, County departments and the Department of Employee Services. Methods for selecting employees for training programs will comply with the County's policy to provide equal employment opportunities. Training required by the County will be paid for by the County.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.130.2 Orientation Of New Employees

The County shall provide an orientation to familiarize new employees with County policies, their obligations and rights, and to inform new employees about the general function of County government.
[Codified by Ord. 05-2000, 7/13/00]

2.05.130.3 Time Of Training Periods

Training programs may be conducted either during and/or after regular working hours. Employer required training sessions conducted after regular working hours shall be included in the employee's hours worked for the week and compensated in compliance with County policy, the law and collective bargaining agreements.
[Codified by Ord. 05-2000, 7/13/00]

2.05.140 Status Changes

2.05.140.1 Promotion

When an employee is promoted to a classification with a greater salary grade, the employee shall receive the rate of pay within the new grade that most closely approximates a five (5) percent increase, effective on the date of promotion. When an employee is promoted to position that is nonrepresented, the appointing authority will have greater latitude as to the new pay rate. The appointing authority may grant a pay rate higher than 5% but limited to the midpoint of the salary grade. Upper step appointment rules shall apply if the appointing authority requests a rate above midpoint. Rules governing probationary periods and salary increases shall apply to the new position.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.140.2 Demotion

An employee with regular status may be demoted only upon the written order of the appointing authority and the concurrence of the Director of Employee Services. An employee demoted for disciplinary reasons will receive the rate of pay in the lower salary grade specified as a part of the disciplinary action. At the time of demotion, no demoted employee shall receive an increase in pay. The employee’s anniversary date for salary increases will be the effective date of demotion.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.140.3 Voluntary Demotion

An employee may be demoted within a department upon an employee request and with approval from the appointing authority. Employees may request a voluntary demotion to a lower classification in the same classification series or to a classification previously held by submitting a written request to the Department of Employee Services. Employees may be placed on a transfer list for such lower level positions and be referred in addition to those included on the referral list. Employees may be referred from the transfer list for a period of one year from placement on the list or when they request removal of their name, whichever occurs first. A voluntary demotion shall only be

granted to a vacant position and shall not displace any employee currently occupying a position.

When employees elect to voluntarily demote for reasons other than to avoid layoff, and have had successful work performance in the higher classification, their name may be placed at the top of the promotional eligibility register in order of seniority for that higher classification. The employee's name will remain on the register for a period of twelve (12) months from the date of demotion, or until appointment from that register, whichever occurs first. (For voluntary demotions in lieu of layoff see 2.05.200.5.)

If employees are demoted for reasons which do not reflect discredit on their employment record, the employee's salary rate may remain the same if it is within the salary grade of the lower classification. If the employee's salary exceeds the grade of the lower classification, the employee's salary will be the rate that causes the least reduction in salary. The demoted employee's appointing authority may request red circling the employee's salary subject to review by the Director of Employee Services and the approval of the Board of County Commissioners. The employee's anniversary date for salary increases shall be the effective date of demotion.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.140.4 Transfer

The transfer of an employee to a different position in the same classification may occur either within the same department (intradepartmental) or to another department under a different appointing authority (interdepartmental).

A. Intradepartmental Transfer: An intradepartmental transfer may be either voluntary or involuntary. An appointing authority may transfer employees within their department without the employees' consent, but must give the employees ten (10) working days notice of this action. The employee may request that the Department of Employee Services investigate the transfer as provided in 2.05.220, if the employee believes the transfer was carried out improperly.

B. Interdepartmental Transfer: Interdepartmental transfers require the written approval of the appointing authorities and the Department of Employee Services. Employees wishing to voluntary transfer either within their department or to another department must request in writing to the Department of Employee Services to be placed on a transfer list. Employees may be placed on a transfer list for a classification in which they are an incumbent, for a lower level position in the same classification series or a lower level classification previously held. A move to a position in a classification that carries a lower salary grade in the same series is a voluntary demotion and is subject to the provisions governing voluntary demotions. Employees will be removed from the transfer list one year after they have requested placement, when they request removal of their name from the list, or after rejecting three (3) job offers, whichever occurs first. The Department of Employee Services will review the qualifications of the employee prior to transfer approval.

   Normally, when an employee is transferred the rate of pay remains the same. The

appointing authority has the discretion to pay another step in the salary grade with the approval of the Director of Employee Services.

C. A transferred employee retains all benefits and privileges earned as of the date of transfer. Compensatory time may be transferred with the employee, paid by the appointing authority prior to transfer, or used prior to transfer, as agreed upon by the two appointing authorities. The anniversary date for salary increases may be adjusted to six (6) months from the date of transfer for interdepartmental transfer. The transferred employee may be required to serve a new probationary period.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.140.5 Reclassification

When a position is reclassified to a classification with a higher salary grade under the provisions of classification upgrading, the incumbent shall be advanced to the minimum or first step in the new grade or to the rate of pay that most closely approximates a five (5) percent increase from the employee's regular rate of pay, whichever is higher. The salary adjustment will take place on the effective date of reclassification. The employee's salary increase date will be adjusted to the first of the month following twelve (12) full months from the date of a classification upgrading.

When a position is reclassified downward, the incumbent's salary may remain the same if it is within the new salary grade. The employee's salary increase date will not be affected as a result of reclassification downward. If the position is downgraded to a classification that has a pay grade lower than the employees' current rate of pay, the salary rate may be red circled.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 03-2016, 8/11/16]

2.05.140.6 Temporary Out-Of-Class

Employees may be temporarily assigned higher or lower compensated duties without a change in pay, where periodic or regular variations in assignments occur because of seasonal needs or because of the nature of the duties or the work schedule. Such variations shall be considered as incidental to the position.

Unless otherwise specified in the collective bargaining agreement, an employee directed to continuously perform duties of a higher level classification shall be entitled to compensation at the higher level for the time worked in excess of thirty (30) consecutive days, providing such assignment clearly encompasses the full scope of duties and responsibilities normally associated with the higher level classification as confirmed and pre-approved by the appointing authority. Requests for such additional compensation shall be made by the appointing authority to the Department of Employee Services. Temporary out-of-classification pay is awarded as 5% of base pay or to the minimum rate of the higher level classification salary grade, whichever is greater.

The Director of Employee Services has the authority to approve temporary out-of-classification pay for extenuating circumstances where an appropriate classification at a higher salary grade does not exist. Such circumstances may include when a classification at a higher salary grade is in the development or approval stages, or when an employee is performing additional duties for a specific duration of time such as during a reorganization, etc. Approval of temporary out-of-classification pay shall not be retroactive unless approved by the Director of Employee Services.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 03-2016, 8/11/16]

2.05.140.7 Resignation

A regular employee wishing to resign is requested to give at least two (2) weeks written notice to the appointing authority. The written resignation shall be immediately forwarded to the Department of Employee Services. With the approval of the appointing authority an employee may rescind the resignation up to the effective date provided in the employee's written notice. At least two (2) weeks written notice of resignation is required for the employee to request reinstatement rights.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.140.8 Reinstatement Procedures

Employees who have attained regular status may request reinstatement to a position in their former classification and department within six (6) months of their effective date of resignation if they resigned with at least two (2) weeks notice, and the request is approved by the appointing authority. A former employee may be considered for vacancies for a period not to exceed six (6) months from date of resignation.

A former employee granted reinstatement shall be paid at the same step in the salary grade that was being paid at the time of resignation. Employees who are reinstated within ninety (90) days of the effective date of resignation shall regain all previously accrued seniority, time toward salary increases, longevity, vacation and sick leave accrual. Employees who are reinstated within one hundred eighty (180) days of the effective date of resignation shall regain all previously accrued sick leave accrual. Employees reinstated after ninety (90) or more days shall not regain previous service time toward seniority, salary increases, longevity, vacation and sick leave accrual.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 10-2015, 12/10/15]

2.05.150 Leave Of Absence

2.05.150.1 General Procedure For Leaves Of Absence

Consistent with the needs of the County, leaves of absence with or without pay for a limited period not to exceed ninety (90) days, or that which is stated in the applicable collective bargaining agreement, may be requested for any reasonable purpose. Leaves of absence shall be documented and processed in accordance with County administrative procedures and shall be subject to approval by the appointing authority. Leaves of absence in excess of ninety (90) days must be approved by the Board of County Commissioners.

Unless otherwise specified in the applicable collective bargaining agreement, seniority will continue to accrue during all approved leaves of absences whether with or without pay. Credit toward longevity, salary increases, sick leave, and vacation will accrue only if an employee is in paid status for at least eleven (11) days in any month.

An employee who fails to return to work the first work day after the expiration of a leave of absence, shall be deemed to have resigned, unless the employee, prior to the expiration of the leave of absence, has made application for and has been granted an extension of the leave of absence.
[Codified by Ord. 05-2000, 7/13/00]

2.05.150.2 Types Of Leave

A. Military Leave:

In accordance with State and Federal law, employees are entitled to a cumulative five (5) year length of time in which they may be absent for military duty. Employees taking leave, either voluntarily or involuntarily, shall have a right to be restored to their former position or an equivalent position. The leave of absence shall be without pay and will not count towards monthly vacation, sick leave or longevity payments. However, seniority and employment credit towards vacation, salary increases, and longevity do accrue while on military leave. Employees returning from military leave shall be re-employed at the salary and service accrual level they would have achieved had they not left on military leave. To be eligible for such reinstatement the employee must be discharged under honorable conditions from the military and register an intent to return to County employment within timelines specified by State and Federal law.

Any employee, who has served in the County service for six (6) months preceding notification of duty and is a member of the National Guard, National Guard Reserve or any reserve component of the Armed Forces of the United States or of the United States Public Health Service, is entitled to an annual paid leave of absence for training for a period not exceeding fifteen (15) calendar days in any one training year. In the case of an employee on a five, (5) day workweek, this is equivalent to eleven (11) paid workdays in each training year. An employee on a four, (4) day workweek is entitled to a leave of nine (9) paid workdays per training year. The training year is defined as the Federal fiscal year commencing on October 1st and ending on September 30. Days for annual military reserve duty may be taken either consecutively or intermittently.

An employee taking military leave may be required to show proof of military service to have time credited toward leave of absence for military duty. If the employee does not show proof of military service either in advance or upon return to work, the employee may choose to utilize vacation or leave without pay during time away from work.

B. Family and Medical Leave:

In accordance with Federal and State law, an employee may be entitled to take up to 12 weeks family and medical leave within any 12 month period of time.

Family and medical leave shall be for the purpose of caring for serious medical conditions of the employee or an immediate family member of the employee, pregnancy-related disability, or for parental leave following the birth or adoption of a child. Also, Oregon law allows additional family and medical leave to care for a child with a non-serious health condition, and may allow a woman to take up to 12 weeks each for pregnancy-related disability, parental leave and sick child leave.

For purposes of granting family and medical leave a family member shall be defined as: a spouse, domestic partner, or child or parent of the employee, spouse or domestic partner, or someone with whom the employee has an "In Loco Parentis" relationship. A serious health condition is defined as one which requires either inpatient care or continuing treatment by a health care provider.

In situations where the leave is to care for the employee's own illness including disability related to pregnancy or childbirth, or the illness of a family member, the employee is required to use all accrued sick leave. When all accrued sick leave has been exhausted, an employee may elect to use other paid leave or leave without pay. When an employee chooses to use accrued paid leave, such leave must be used prior to the commencement of unpaid leave.

Requests for family and medical leave must be made in writing at least thirty (30) days prior to the effective date of the leave if the leave is anticipated. In cases of sudden illness or injury, or unexpected birth or placement for adoption, an employee may make an oral request to their supervisor as soon as practicable, but must complete a written request form within fifteen (15) days. When the leave is for a serious health condition, the request for leave must include certification from the attending health care provider that the employee or family member qualifies for leave.

A female employee who has taken Family Medical Leave for disability due to pregnancy and childbirth is eligible to begin her parental leave entitlement on the date her health care provider certifies she is no longer disabled. Parental Leave must be taken in a consecutive period of time, unless the employee's supervisor approves leave to be taken in two or more non-consecutive periods.

Employees who report for work at the expiration of a family and medical leave of absence shall be reinstated to their last held position at the prevailing salary rates, without loss of seniority. If their former position no longer exists, the employee shall be reinstated to an equivalent position. An employee who fails to report for work at the expiration of a family medical leave of absence and does not have any additional leave approved by the appointing authority shall be deemed to have resigned.

C. Bereavement or Funeral Leave:
Two types of bereavement leave are available, paid or unpaid.

Paid bereavement leave may be granted in each case of bereavement due to the

death of a member of the immediate family (see Sick Leave, 2.05.160.3, for definition of immediate family). A request to use paid bereavement leave for the death of an individual outside of the immediate family is subject to approval by the appointing authority. The purpose of such leave shall be to allow time to attend a funeral and make necessary funeral and household adjustments. Paid bereavement leave shall not exceed the equivalent of three (3) days, including all travel time. Paid bereavement leave will not be counted against accumulated sick or vacation leave balances, but will be counted under the Oregon Family Leave Act (OFLA).

Unpaid bereavement leave is established by the Oregon Family Leave Act (OFLA) and is available in the event of death of a family member up to a maximum of 2 weeks in a 12-month period. Unpaid bereavement leave may be used to attend the funeral or memorial service, make arrangements related to the death of the family member, and/or grieve the death of the family member. All bereavement leave (whether paid or unpaid) counts towards the employee's OFLA entitlement and must be completed within 60 days after the date the employee receives notice of the death. If the employee is using bereavement leave, they must first use any paid bereavement leave as contained within the appropriate collective bargaining agreement, unless such agreement allows for the use of bereavement leave in a time period in excess of 60 days, or the County Code prior to using vacation or sick leave or unpaid time. Leave without pay may not begin until all required or requested paid leave is used. Any remaining paid leave may not be used for the duration of the leave once unpaid leave has begun.

D. Workers' Compensation Leave:
If an employee is injured on-the-job and is unable to work, supervisors should immediately contact the Risk and Benefits Division and complete the appropriate Workers' Compensation forms. If the employee's Workers' Compensation claim is accepted, the County will place the employee on Worker's Compensation leave with pay with full benefits (unless prohibited by law or provider contact) for up to six (6) months, or as extended by the Board of County Commissioners or designee. Procedures for Workers' Compensation will conform to ORS regulations and County policy.

E. Disability Leave:
If an employee is disabled as result of non-job-related reasons, the employee shall apply for Family and Medical Leave, utilize sick leave and file a disability insurance claim with the Risk and Benefits Division. When an employee has used the twelve (12) week Family and Medical Leave entitlement and has a continuing need for leave, the employee may use available paid leave or request a leave of absence without pay. Leave without pay is subject to the appointing authority's approval. Employees who return to their former positions following a disability leave will have all unused previously accrued sick, vacation, seniority and longevity credit restored.

F. Compulsory Leave:
If, in the opinion of the appointing authority, an employee is incapacitated for work, a medical examination by a psychologist or physician may be required. If

the appointing authority disagrees with the medical report, the appointing authority may require the employee to be examined by a psychologist or physician designated or approved by the Director of Employee Services. If the medical report does not show the employee to be in a fit condition required to perform the duties of the position, the appointing authority shall have the right to compel such employee to take sufficient leave of absence with or without pay until medically qualified to perform the duties of the position.

G. Jury Duty:

When an employee with regular or probationary status is called for jury duty, or subpoenaed as a witness by proper authority for cases in which the employee is not a party, the employee shall be granted a leave of absence with pay. All jury duty and witness fees other than mileage reimbursement shall be surrendered to Clackamas County. Employees who are excused from jury service or court appearance before the end of their workday shall immediately report their availability for assignment to their supervisor. Employees scheduled to work on shifts other than day shift shall be considered to be on day shift for the duration of jury duty.

H. Administrative Leave:

Employees may be placed on administrative leave, with pay, if the appointing authority feels they should be relieved of their duties or removed from the workplace pending a job-related investigation. Administrative leave, while not considered discipline, is commonly used during a discipline-related investigation prior to discipline being administered. No administrative leave shall extend beyond thirty (30) days unless approved by the Director of Employee Services.

I. Special Leave Without Pay:

A special leave without pay for a period not exceeding one (1) year may be granted to an employee who:

1. Desires to engage in a relevant course of study which will enhance the employee's value to perform the duties of the position; or
2. Is a candidate for a public office and requests a leave of absence for a reasonable period to campaign for the election; or

   Has any reason considered appropriate by the appointing authority and the Director of Employee Services and is approved by the Board of County Commissioners.

J. Criminal Charges/Indictment Leave:

1. Felony Charges. An appointing authority may place an employee on leave without pay, if the employee has been charged with a felony by grand jury indictment or other formal filing. The foregoing applies only to felonies that (1) are related to an employee's position or (2) that may affect an employee's effectiveness in performing the duties of their position, as determined by the appointing authority.
2. Hearing. An employee placed on leave has the right to a prompt hearing with the appointing authority.
   a. The employee must submit a request in writing to the Director of DES within 7 calendar days of the date the leave commences. If a hearing is requested by the employee, the County must set the date of the hearing within 14 calendar days of the request, unless the

employee requests a later hearing date (but in no case will the hearing date be longer than 30 calendar days after the employee's request).

b. The purpose of the hearing is to allow the employee or the employee's representative to show that there are no reasonable grounds to believe that the charges are true, to otherwise refute the charges, or to challenge the appropriateness of the leave decision.

c. Following such a hearing, the County must issue a decision as to whether the leave without pay will continue. The decision must be issued within 20 calendar days of the haring, unless additional time is required for reasons articulated by the County in writing, and in any event within 40 calendar days of the hearing. If the determination is made by the appointing authority following the hearing that the leave without pay will not continue, the employee shall be paid any salary and reinstated to any benefits lost during the time after being placed on leave and before the determination by the appointing authority. If the employee is found not guilty or charges against the employee are dismissed, the employee will be paid any salary and/or reinstated to any benefits lost during the leave time, *unless* disciplinary action is taken, as stated in the Reservation of Rights.

3. Duration. Criminal trial leave without pay may continue only during the pendency of criminal charges, during sentencing proceedings, and for 55 days after the entry of judgment (the time allowed for granting a motion for new trial under ORS 136.535).

4. Reservation of Rights. Nothing in this provision prevents an appointing authority form disciplining an employee or exercising management rights under any applicable collective bargaining agreement to discipline an employee in accordance with the applicable agreement.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2014, 9/25/14]

2.05.160 Holidays, Vacation And Sick Leave

2.05.160.1 Holidays

A. Paid Holidays:

The following days shall be recognized and observed as paid holidays for regular and probationary employees with the County service unless the applicable collective bargaining agreement states otherwise.

New Year's Day (January lst)
Martin Luther King Jr. Day (Third Monday in January)
President's Day (Third Monday in February)
Memorial Day (Last Monday in May)
~~Junteenth~~Juneteenth (June 19th)
Independence Day (July 4th)
Labor Day (First Monday in September)

Veteran's Day (November 11th)
Thanksgiving Day (Fourth Thursday in November)
Christmas Day (December 25th)
*One (1) Floating Holiday

*Floating Holiday: Regular full-time employees who have been employed for a minimum of ninety (90) days are entitled to one (1) floating holiday during each calendar year. Such holidays are to be taken during the calendar year in which the holiday is earned and may not be carried forward into the following calendar year. The floating holiday shall be scheduled in the same manner as paid vacation leave.

B. Weekend Holidays:
Whenever a holiday falls on Sunday, the succeeding Monday shall be observed as the holiday. Whenever a holiday falls on Saturday, the preceding Friday shall be observed as the holiday.

C. Holiday Pay:
Regular full-time employees shall receive one (1) day's pay for each of the holidays listed above on which they perform no work. Regular part-time employees will receive a prorated portion of one day's holiday pay based on the hours worked in the pay period in which the holiday occurs. Job share employees shall share a prorated portion of each holiday pay based on their full-time equivalency of the position which is shared.

Regular employees who are requested to perform work on a scheduled holiday will be compensated at a rate equal to their normal rate of pay for hours worked, in addition to their regular holiday pay, unless otherwise provided in the applicable collective bargaining agreement.

D. Holiday During Leave:
If an employee is on an authorized leave with pay when a holiday occurs, the holiday shall be paid and time shall not be charged against sick or vacation leave accumulation. To receive pay for a holiday, the employee must be in a paid status on the last working day immediately preceding the holiday and the next working day immediately following the holiday. Holidays occurring during a leave without pay shall not be compensated.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.160.2 Vacation Leave

A. Vacation Accrual for Non-Represented Employees hired prior to January 1, 2001 who have elected not to participate in the vacation sell-back program shall be as follows:

(Continuous Service)	
Less than 5 years	= 12.7 hours/month
5 years, but less than 10 years	= 14.0 hours/month
10 years, but less than 15 years	= 16.0 hours/month
15 years, but less than 20 years	= 18.0 hours/month
After 20 years of service	= 19.3 hours/month

B. Non-represented employees hired on or after January 1, 2001, and employees

hired prior to that date who elected to enroll in the vacation sellback program when that program was first made available, accrue vacation leave, and may sell back vacation leave, as follows:

1. Vacation leave shall be accrued at the rate of sixteen (16) hours vacation leave per full month of service, regardless of years of service.
2. Such employees who have used at least forty (40) hours of vacation time in a calendar year may elect to sell back 40 hours vacation during that same calendar year. To receive compensation in lieu of time off, the employee must submit a completed "request to sell vacation" form to the payroll office no later than December 31st of that calendar year.

C. The maximum vacation accrual shall be 280 hours. Vacation accrual may be accumulated beyond 280 hours during the calendar year (January 1 through December 31) but will be reduced to 280 hours as of January 1. Vacation accrual exceeding 280 hours on January 1 will not be compensated.

D. Probationary and regular part-time employees and job share employees shall receive a pro-rated amount of the appropriate vacation accrual schedule based on their FTE percentage. Represented County employees shall accrue vacation according to the terms of the applicable bargaining group contract.

E. Continuous Service:
Continuous service, for the purpose of determining eligibility for accelerated vacation accrual rates and longevity pay, shall be service unbroken by separation from County employment. However, time spent by an employee on military leave, on an authorized leave of absence with pay, or on a leave with pay resulting from a job-incurred injury shall be included as continuous service. Time spent on other types of authorized leave without pay will not count as part of continuous service; however, employees returning from such leave, or employees who were laid off, shall be entitled to credit for service prior to the leave. Employees who resign or are discharged from County service for a period of time exceeding ninety (90) days shall not regain previously accrued service years to count towards accelerated vacation rates and longevity pay.

F. Requesting Vacation Leave:
Employees shall make a request for vacation leave to their immediate supervisor. The request shall be approved unless it is contrary to the needs of the County. Conflicts in scheduling shall be resolved by the appointing authority usually using seniority in the department as the determining factor. Collective bargaining agreements for vacation scheduling procedures shall take precedence. Vacation hours paid during any work week will always be paid at a straight time rate and those hours will not be considered in computing overtime hours worked in that work week.

If an employee becomes ill while on vacation, the employee will not be allowed to charge that time to accrued sick leave, unless procedures regarding use of sick leave are initiated.

Employees who are separating from service may not use vacation time to extend their period of employment for the purpose of gaining additional leave accruals and /or employee benefits.

G. Transfer of Vacation Leave:
When an employee is transferred to a position in a new department, vacation leave shall be transferred to the new department.

H. Payment of Vacation upon Termination, Layoff or Death:
If the employee is terminated, laid off or dies, the employee or employee's heirs shall receive cash compensation for all granted and accrued vacation leave, at the employee's current rate of pay.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 13-2003, 7/3/03; Amended by Ord. 05-2009, 10/29/09]

2.05.160.3 Sick Leave

A. Use of Sick Leave:
Employees may use their sick leave when unable to perform their work duties by reason of illness, injury, pregnancy, necessity for medical or dental care, exposure to contagious disease of the employee or to attend to the care of the employee's immediate family. Employees may also use their sick leave under the provisions of parental leave, family medical leave, and under other applicable state law. Immediate family is defined as an eligible employee's grandparents, grandchildren, brothers, sisters, spouse or domestic partner, and domestic partner's parents, children; the employee's biological, adoptive, or foster parent or child; the employee's stepchild, parent-in-law, or person with whom the employee was or is in a relationship of in loco parentis or with whom the employee was or is related by blood or affinity whose close association with the employee is the equivalent of a family relationship. For exceptional circumstances, in relationships other than those stated above, sick leave may be granted by the appointing authority.

B. Sick Leave Accrual:
Full-time employees shall accrue sick leave at the rate of eight (8) hours per month commencing with the first full month of employment. Part-time employees and job share employees shall accrue sick leave at a prorated portion of eight (8) hours per month based on their hours worked in each pay period. Temporary and seasonal employees shall accrue sick leave at the rate of one (1) hour per thirty (30) hours worked. Earned sick leave may be used as it is accrued. Sick leave hours paid during any work week will always be paid at a straight time rate and those hours will not be considered in computing overtime hours worked in that week.

C. Procedures Governing Sick Leave:
The appointing authority or immediate supervisor must be notified of an illness or injury on the first day of absence. Failure to do so may result in the denial to use sick leave with pay. The appointing authority may require the employee to furnish a certificate issued by a licensed physician or practitioner documenting proof of illness or injury. Proven abuse of sick leave shall be cause for disciplinary action. Unused sick leave shall not be payable upon layoff or separation of employment from the County, but will be reported to the PERS retirement system.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 10-2015, 12/10/15]

2.05.160.4 Extended Sick Leave

Upon application of an employee, sick leave without pay for up to ninety (90) calendar days may be granted by the appointing authority for the remaining period of a disability after earned sick leave has been exhausted. In the event such unpaid sick leave exceeds ninety (90) days, the extension must be approved by the Board of County Commissioners or designee. The appointing authority shall require the employee to furnish a certificate issued by a licensed physician or practitioner or other satisfactory evidence of illness. (See 2.05.150 G, Disability Leave.)

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.170 Ethical Standards Governing Employee Conduct

All employees and public officials shall strive to uphold the County's Code of Ethics, as adopted by the Board of County Commissioners. The Code of Ethics states that employees of Clackamas County shall strive to:

A. Demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in all public activities, in order to inspire public confidence and trust in Clackamas County;

B. Serve in such a way that does not realize undue personal or financial gain from the performance of official duties;

C. Avoid any activity which is in conflict with the conduct of official duties;

D. Approach the Clackamas County organization and the duties of their position with a positive attitude and constructively support open communication, teamwork, creativity, dedication, and compassion;

E. Maintain professional excellence, accept the responsibility to keep up-to-date on emerging issues and conduct the public's business with competence, fairness, efficiency, and effectiveness;

F. Support the values of the County organization and help make these values the norms of the organization. Support and strive to achieve the goals and visions for Clackamas County;

G. Be knowledgeable and support the code of conduct, quality, ethical, and performance standards of their respective professions;

H. Refrain from engaging in political activities during working hours if the employee is a non-elected County employee. Elected and non-elected County employees must not solicit participation of non-elected County employees in political activities during working hours;

I. Be objective in the selection of employees, contractors, goods and services, basing decisions on merit and value to the County;

J. Eliminate all forms of illegal discrimination, fraud, and mismanagement of public funds; support co-workers if they are in difficulty because of responsible efforts to correct such discrimination, fraud, mismanagement or abuse;

K. Serve the public with respect, courtesy, concern, and responsiveness, recognizing that service to the public is beyond service to oneself or any special interest group; and

L. Respect, support, study and when necessary, work to improve regulations,

ordinances, laws, and policies which govern work at Clackamas County. [Codified by Ord. 05-2000, 7/13/00]

2.05.180 Employee Responsibilities

2.05.180.1 Purpose

The orderly and efficient operation of the County government requires that employees accept certain responsibilities. Work rules covering personal standards of conduct and standard operating procedures are necessary to protect the health and safety of all employees, to maintain uninterrupted service, and to protect the County's property. [Codified by Ord. 05-2000, 7/13/00]

2.05.180.2 Work Rules

The following work rules shall apply to all County employees. The environment, context, or particular circumstances will be taken into consideration in applying these work rules. These rules are not intended to be all-inclusive. Additionally, County departments may, consistent with the provisions of applicable collective bargaining agreements, establish other rules to ensure the effective operation of the County government, besides:

A. Employees shall be at their designated work area on time and ready to work; employees shall report to and remain at their work area, at work, until the scheduled quitting time consistent with department policy;
B. Where operations are continuous, employees shall not leave their position until replaced by the next shift employee or until relieved by their supervisor;
C. Employees shall follow all safety regulations including the wearing of safety articles and the use of protective equipment, when appropriate; employees shall immediately report safety hazards, accidents, or injuries to their supervisor;
D. Employees shall be responsible for, and not misuse County property, records or other materials in their care, custody and control;
E. Employees shall deal with the public and other employees in a courteous and professional manner;
F. Employees shall immediately report to their supervisor any inability to work and the reason therefore;
G. Employees shall notify their supervisor whenever there is a change in their personal data affecting their personnel or payroll records;
H. Employees shall not restrict, interrupt or interfere with the work of other County employees outside their assigned duties or authority;
I. Employees shall report for and remain at work only in a condition which will enable them to perform their regular duties;
J. Employees shall perform all work assigned unless performance of such work will constitute a safety hazard which violates established safety standards or law;
K. Employees shall not engage in conduct that reflects discredit on the County while on duty or while conducting County business;
L. Employees shall not engage in unauthorized political soliciting or political activity while on duty or while conducting County business;
M. Employees shall not use their position, or County property, or County-paid work time, for personal or financial gain, other than official salary and benefits.

Employees shall not use their position, or County property, or County-paid work time, as a means to solicit or conduct personal business, including but not limited to sales of products or services;

N. Employees shall not use their position to coerce other employees;

O. Unless required or permitted by an employee's job classification, employees shall not possess or use firearms, weapons, illegal drugs, controlled substances (other than those lawfully prescribed), or intoxicating beverages during an employee's work shift (including breaks in which the employee remains on County premises);

P. Employees shall not falsify any reports or records; all reports, records and claims completed by employees shall be true and accurate, to the best of their knowledge;

Q. Employees shall not remove County property or the property of other employees without express approval of their supervisor or the owner of such property;

R. Employees shall not violate any of the laws, statutes, or ordinances of Federal, State or local government while on duty, while on County premises, or while conducting County business.

S. Employees shall not retaliate against another employee because of (1) the other employee's exercise of rights provided by law, such as but not limited to the right to file a discrimination complaint with the Director of Employee Services under 2.05.240.3, or (2) because the other employee participated in an investigation or personnel matter;

T. Employees shall not use abusive or profane language (including ethnic slurs), directed at other employees or County visitors that is offensive;

U. Employees shall not use county computers or work time to access the internet for personal reasons in violation of the County's "appropriate use" policy (EPP 59);

V. Employees shall not engage in employment-related transactions with any business entity in which the employee has a financial interest;

W. Employees shall inform their department head (or designee) of any outside employment or outside affiliation that could potentially affect their independence of judgment in the performance of work duties, or create a conflict of interest in the performance of work duties;

X. Employees shall not engage in any outside affiliation or outside employment that would affect the employee's independence of judgment in the performance of work duties, or otherwise create a conflict of interest in the performance of work duties.

Y. Employees shall report to their supervisor any lapse of certification or licensure which is required for the performance of their duties.

Z. Employees shall not solicit, receive or exchange personal favors, compensation, or gifts from clients of their department, where such action could financially impact the employee (or the employee's relative) or where the appearance of such action would decrease the public's confidence in the employee or department; (Any questions or uncertainty regarding employee ethics or conflicts of interest should be directed to DES.)

AA. Employees shall not engage in sexual or exploitive relationships with clients of their department where an employee has the authority to control (improve, increase, decrease, etc.) County services or benefits that the other individual receives;

BB. Employees shall not consume alcoholic beverages on county premises, nor between the time between starting work and quitting work each day (including during breaks and lunch).

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 05-2014, 9/25/14]

2.05.190 Disciplinary Actions

2.05.190.1 Employee Conduct

All employees, regardless of status or duration of employment, are required to meet and maintain County standards for job performance and behavior. The expected standard of conduct for all employees in the service of the County shall be the public interest as opposed to individual interests. High standards of conduct are deemed essential in order to render the best possible service to the general public and to reflect credit on County service. The tenure of every employee shall be conditioned on good conduct and satisfactory performance of duties. 2.05.190 serves only as a guideline in determining the appropriate action needed in a particular situation and shall not be implied as a contract.

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

2.05.190.2 Discipline Policy

The Discipline Policy and Procedures included in 2.05.190.2 through 2.05.190.6 shall apply to all regular status employees. Probationary employees are governed by procedures outlined in 2.05.110.

It is the policy of the County that disciplinary measures shall be corrective, progressive, lawful and proportionate to the nature of the offense. Appointing authorities shall take appropriate disciplinary action in dealing with employee misconduct. Disciplinary action shall be for cause as it relates to job performance.

A. Corrective: The supervisor shall attempt to determine why the employee is deficient and attempt to correct those deficiencies and restore the employee to a productive and positive employment status. Excepting dismissal, disciplinary measures shall be for the purpose of correcting employee conduct.

B. Progressive: The discipline will usually begin with passive or persuasive discipline (an oral reprimand or warning, etc.) and will increase in severity with subsequent offenses. When circumstances warrant, discipline may begin with active discipline such as: written reprimand, suspensions from work, demotion or discharge from employment with the County.

C. Lawful: The discipline and the procedure by which it is administered shall not violate the County's contracts with the unions nor violate the employee's civil rights.

D. Proportionate: Violating County standards of conduct will result in disciplinary action appropriate to the nature of the offense as determined by the appointing authority. The severity of disciplinary action will be determined by considering such things as the impact of the offense on County operations, the extent of damage caused, the circumstances of the offense, past disciplinary actions and the employee's work record.

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

2.05.190.3 Cause For Disciplinary Action

Any action which the appointing authority deems to reflect discredit upon the County, or is a hindrance to the effective performance of the County functions, shall be considered cause for disciplinary action. Improper action by an employee in an official County capacity which tends to bring the County into discredit, affects the employee's ability to perform, or is for personal advantage, shall also be judged cause for disciplinary action. In addition, cause includes but is not limited to the following:

A. Conviction of a felony, or a misdemeanor which is related to the position held by the employee;
B. Violation of any of the established work rules set forth in this chapter;
C. Use of alcoholic beverages or controlled substances which affects the performance in the position held by the employee;
D. The use of intoxicating beverages or non-prescribed controlled substances while on duty;
E. Insubordination;
F. Refusal or failure to perform to job standards;
G. Inattention to duty, tardiness, carelessness, damage to or negligence in the care and handling of County property;
H. Improper or unauthorized use of County property or services;
I. Claim of sick leave under false pretense or misuse of sick leave;
J. Absence from duty without authorized leave;
K. Misconduct in the performance of duties as an employee;
L. Violation of the County safety policy or department safety rules;
M. Willful giving of false information, or withholding information with intent to deceive, including when making application for County employment;
N. Violation of the County Affirmative Action Policy or Sexual Harassment Policy; or
O. Violation of any provisions of this chapter or rules adopted by the Board, or any provisions of departmental rules.

Any standard of conduct that is not addressed above may be subject to disciplinary action as deemed appropriate by the appointing authority.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.190.4 Kinds Of Disciplinary Action

A. Oral Reprimand: This is a warning procedure rather than a punitive action. The oral reprimand should serve to forestall the employee from being in such a position that a more severe form of action must be used.
B. Written Reprimand: The written reprimand is also a warning procedure. The written reprimand is used to place an employee on official notice that failure of the employee to take corrective action will result in a more severe form of action. The written reprimand will list the unacceptable behavior, the time it occurred, the rule/procedure violated and an outline of improvement that is needed. The reprimand is to be included in the employee's official personnel file.
C. Suspensions: Suspensions are an ordered absence from duty, other than administrative leave, and may be with or without pay, for an established length of time. The period of suspension shall not exceed thirty (30) consecutive calendar

days at any one time. No service accruals may be given to an employee during a period of suspension without pay regardless of the length of suspension. Disciplinary suspensions without pay of nonrepresented employees who are exempt from coverage under the federal Fair Labor Standards Act must be for a period of one full work week or multiples of one work week unless: (1) the reason for the suspension is violation by the employee of a safety rule of major significance, or (2) the suspension is for a violation of workplace conduct rules and is for a period of one or more full days.

D. Demotion: Demotion, both in pay and to a lower classification, may be used as a form of discipline when discharge is not warranted or when the appointing authority believes that the employee has the potential for corrective conduct. Such action shall be subject to 2.05.140.2, and shall not cause the displacement of another employee.

E. Dismissal: An appointing authority may dismiss for cause any regular employee under the appointing authority's jurisdiction. In carrying out such actions, the appointing authority shall consult with County Counsel and the Director of Employee Services.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2014, 9/25/14]

2.05.190.5 Procedures For Taking Disciplinary Action

When an appointing authority believes there is a cause for disciplinary action, the appointing authority shall make a reasonable effort to administer the discipline in a manner that will not unduly embarrass the employee. If anything other than oral reprimand is administered, the original or a copy of the reprimand shall be forwarded to the Department of Employee Services for inclusion in the employee's personnel file. Unless otherwise stated in the collective bargaining agreement, the following procedures shall be followed when discipline is administered:

A. Discipline Without Economic Loss to the Employee: When an appointing authority believes there is cause for disciplinary action without economic loss to the employee, the appointing authority shall confront the employee with the reason for the belief that there is cause for such discipline, the investigation made or to be made, and the disciplinary action considered. The employee shall be given a reasonable opportunity to offer facts in explanation or mitigation.

B. Discipline With Economic Loss to the Employee: When an appointing authority believes there is cause for disciplinary action with economic loss to the employee, the appointing authority shall so notify the employee in writing. The written notification shall state the reasons for that belief, the investigation made or to be made, and the disciplinary action with economic loss being considered. The employee shall be given a reasonable opportunity to offer facts in explanation or mitigation. If, after the employee has responded or been given a reasonable opportunity to respond and the appointing authority has completed the investigation, the appointing authority believes the disciplinary action with economic loss to the employee is appropriate, the appointing authority shall prepare a letter to the employee outlining the disciplinary action and the reasons for such action. A copy of the disciplinary letter shall be sent to the Department of Employee Services. If the economic loss is suspension without pay, such suspension shall not exceed thirty (30) calendar days.

C. Dismissal: When an appointing authority believes that there is cause for dismissal, the appointing authority shall give the employee written notice of proposed dismissal prior to the effective date of dismissal. The written notification shall state the reasons for the belief that there is cause for dismissal. The employee shall be given a reasonable opportunity to offer facts in explanation or mitigation at a pretermination meeting with the appointing authority. The employee shall be entitled to have a representative of their choice at the pretermination meeting for the purpose of providing counsel and advice to the employee. The employee may be granted additional reasonable time at the appointing authority's discretion to prepare for said meeting. If, after the employee has responded or been given a reasonable opportunity to respond, the appointing authority has completed the investigation and believes that dismissal is appropriate, the appointing authority shall prepare a letter to the employee affirming the dismissal. A copy of that letter shall be sent to the Department of Employee Services. If the appointing authority believes that circumstances require the separation of an employee from their work assignments following completion of an investigation but preceding the effective date of dismissal, an appointing authority may suspend the employee with or without pay during the time between the completion of the investigation and the effective date of dismissal.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.190.6 Appeal Of Dismissal, Demotion Or Suspension

An employee with regular status in the classified service who does not have available a grievance procedure pursuant to a collective bargaining agreement may appeal dismissals, or discipline with economic loss to the Hearings Officer appointed under this chapter.

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

2.05.200 Layoff And Seniority

2.05.200.1 Grounds For Layoff

An appointing authority may lay off an employee because of abolition of position, shortage of funds or work, a material change in duties, inability to perform assigned duties, changes in an organizational unit, or for a reason which does not reflect discredit on the service of the employee.

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

2.05.200.2 Layoff Procedures

Whenever the appointing authority anticipates a need to lay off employees in classified positions, the Director of Employee Services shall be immediately notified. The notification shall include the anticipated number and classifications of employees to be laid off and a plan for conducting an orderly layoff.

Layoffs will be identified by classification within the affected department. Employees holding positions within the affected classifications may be subject to demotion, transfer or layoff in inverse order of seniority.

An employee who may be subject to layoff or demotion in lieu of layoff shall be notified in writing at least ten (10) calendar days prior to such action. The bargaining unit representative, if any, shall be sent a copy of such notice at least ten (10) calendar days prior to the action. The notice shall state the reason for the action and shall further state that the action does not reflect discredit on the employee. An employee notified of proposed layoff will be allowed, at their request, an opportunity for a meeting at which they will be allowed to present information that the employee wants to have considered before a final decision is made regarding the proposed layoff of the employee. If such a meeting is held at the employee's request, the employee will be notified after the meeting whether the proposed layoff will proceed. An employee who is subject to layoff and is offered options shall elect an option within three (3) working days of notice of the options. Failure to elect one of the offered options will be deemed a refusal of the options and will result in layoff.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.200.3 Layoff Order
Layoff order shall be established within the department on the basis of the retention of employees with the skills or performance abilities that are necessary for the efficient operation of the department. Seniority is a secondary consideration. The judgment of the appointing authority shall be sustained unless the Director of Employee Services finds the judgment to be arbitrary or capricious.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.200.4 Bumping Procedure
When an employee is laid-off due to a reduction in the work force, the employee shall be permitted to exercise bumping rights by displacing a classified employee with less seniority in a different classification with the same salary grade or lower in the department, provided that the bumping employee is qualified to do the work as determined by the appointing authority and the Director of Employee Services. For bumping purposes, seniority will be defined as length of continuous service within the County. This provision does not apply to non-represented employees.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 04-2007, 4/26/07; Amended by Ord. 04-2020, 5/21/20]

2.05.200.5 Layoff Rules
Within a classification and department, temporary, probationary and other employees who do not have regular status, will be laid off before employees with regular status. Employees who have never attained regular status with the County and who are laid off, will not be placed on layoff registers and do not have displacement rights.

A. An employee who has not completed a probationary period following promotion or reclassification as a result of department reorganization, is subject to layoff rules at the previously held position.
B. Regular employees who have been given a temporary or unclassified appointment

and are subject to layoff, shall be entitled to have their seniority considered under these rules.

C. Employees in a job share position shall be considered as one full-time equivalent.

D. Employees cannot bump to a classification with a higher salary grade. This is a promotion and shall be accomplished only by normal appointment procedures.

E. A regular employee who is subject to layoff may voluntarily demote to a lower classification in the same promotional line or to a classification previously held in the same or different department, provided a vacancy exists after all bumping procedures have been exercised by qualified employees.

F. No employee shall have any bumping rights over another employee working under regular appointment in another department.

G. Employees may be denied bumping or demotion rights otherwise available under these rules, only if they lack knowledge, skills or abilities required for the position which are not easily learned on the job within the normal orientation period. Employees may be required to participate in qualifying selection procedures in order to establish their right to a position.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.200.6 Layoff Registers And Recall

Employees who are laid off, demoted in lieu of layoff, or who have exercised bumping themselves to a lower level classification, will be placed on layoff registers according to seniority for the classification(s) held during the displacement and layoff process. Employees placed on a layoff register will be referred in order of seniority. The duration of such placement on the layoff register shall not exceed two (2) years. An individual who is appointed from a layoff register to a position in the same classification in which the person was previously employed will not be required to serve a probationary period. An employee who accepts a transfer or elects to retire, will not be placed on a layoff register for recall.

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

2.05.200.7 Rate Of Pay Following Appointment From Layoff Registers

When an individual is appointed from a layoff register to a position in the same class in which the person was previously employed, the employee shall be paid at the same rate of pay, plus cost of living or other salary grade adjustments, as the employee was being paid at the time of layoff.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.200.8 Seniority

Where seniority applies as a method of layoff, the definition of seniority is that found in the applicable collective bargaining agreement. If a collective bargaining agreement does not contain a definition of seniority, seniority shall be defined as length of continuous service within the County. If it is found that two (2) or more persons within the same classification have equal seniority, seniority for these individuals shall be determined by the date the employees were appointed by the department. In computing seniority, the following factors will be taken into account:

A. Part-time work and job share in a regular status position will count on a prorated basis of full-time employee status, (i.e.: 0.5 or half-time status for twelve (12)

months will count as six (6) months towards seniority);
B. Time spent on all authorized leaves of absences, including leaves without pay, will count;
C. Time spent in unclassified appointment status will not count;
D. Initial time spent in temporary or provisional status in the same classification will not count;
E. Time spent on layoff will not count; however employees recalled from layoff within two (2) years shall regain previously accrued seniority;
F. Time spent in previous government service will count if the employee transferred in accordance with ORS 236.610 through 236.650; and
G. Seniority shall be forfeited by discharge for cause, voluntary termination exceeding 90 (ninety) days, or involuntary termination due to expiration of a layoff register.

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

2.05.210 Appeals And Hearings

2.05.210.1 Appeals

All appeals to a Hearings Officer shall be subject to the requirements of this section.
[Codified by Ord. 05-2000, 7/13/00]

2.05.210.2 Filing A Notice Of Appeal

A notice of appeal must:
A. Be made in writing;
B. Name the appellant and include the appellant's address and phone number;
C. Be signed by the appellant or the appellant's authorized representative;
D. Be addressed and delivered to the Director of Employee Services;
E. Contain a reference to the action(s) complained of and date(s) of the alleged action(s);
F. Contain a statement of the provision of this chapter thought to have been violated; and
G. Contain a statement of the remedy desired.

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

2.05.210.3 Matters That Can Be Appealed

A. Regular employees may appeal their dismissal, subject to 2.05.190.6. Regular employees may appeal their discipline with economic loss subject to 2.05.190.6.
B. Applicants may appeal alleged fraud and discrimination against them in the selection process, subject to 2.05.070.15.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.210.4 Timelines For Filing A Notice Of Appeal

A regular status employee has fourteen (14) calendar days from the date of dismissal or the date discipline with economic loss occurred in which to file a notice of appeal. An applicant has thirty (30) calendar days from the date the Director of Employee Services

mails the results of an investigation of selection procedures in which to file a notice of appeal based on alleged fraud or discrimination in the selection process.
[Codified by Ord. 05-2000, 7/13/00]

2.05.210.5 Time For Hearing
The Hearings Officer shall schedule a hearing and mail notice thereof to the appellant and the Director of Employee Services within fourteen (14) calendar days of receipt of the notice of appeal from the Director of Employee Services. The Hearings Officer shall set a date for the hearing, if any, not less than ten (10) calendar days from the date the notice of the hearing was mailed to the appellant and Director of Employee Services. If the Hearings Officer determines that the statements in the appeal, even if true, would not entitle the appellant to relief, then the Hearings Officer shall dismiss the appeal without a hearing and offer the appellant an opportunity to amend the appeal. The Hearings Officer may extend the time if necessary.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.210.6 Subpoenas And Records
In the course of a hearing, the Hearings Officer may administer oaths, subpoena witnesses and compel the production of books, papers, documents and accounts pertinent to the hearing. Attendance of witnesses, either with or without books, papers, documents or accounts may not be compelled unless such witnesses are personally served with a subpoena. The Hearings Officer may cause the deposition of witnesses residing within or outside the State to be taken in the manner prescribed by law for like depositions in civil suit and actions. If a person refuses to attend, to give testimony, or to produce books, papers, documents or accounts pursuant to a subpoena issued under this section, the Circuit Court of Clackamas County, upon petition from the Hearings Officer, shall compel obedience to the subpoena. The Circuit Court shall punish refusal to obey or to testify in the same manner as a refusal to obey a subpoena or to testify pursuant to a subpoena issued from the Circuit Court.
[Codified by Ord. 05-2000, 7/13/00]

2.05.210.7 Rights Of Parties
The employee and the appointing authority shall have the right at the hearing to:
A. Appear personally or by representative; if an employee chooses the assistance of an attorney, it shall be at the employee's own expense;
B. Testify under oath;
C. Have witnesses or documents subpoenaed;
D. Question all witnesses;
E. Present pertinent evidence; and
F. Argue their case.
[Codified by Ord. 05-2000, 7/13/00]

2.05.210.8 Attendance
The employee or the employee's representative and the appointing authority or the appointing authority's representative shall attend the hearing. Unless excused by the Hearings Officer for good cause, failure of the employee or the employee's representative to attend personally, at the time and place set forth for the hearing, shall be deemed a

withdrawal of the employee's appeal. For hearings regarding discipline or discharge, at the request of either party, the Hearings Officer shall make the hearing closed to the public.
[Codified by Ord. 05-2000, 7/13/00]

2.05.210.9 Waiver Of Oral Hearing

If both parties agree, the hearing may be conducted by submission of affidavits, depositions or other documents, mutually exchanged. The Hearings Officer will receive and take action on requests to waive an oral hearing prior to the scheduled hearing date.
[Codified by Ord. 05-2000, 7/13/00]

2.05.210.10 Hearings Procedures

A. Witnesses: At the request of either party, the Hearings Officer may exclude witnesses not under examination. The parties and their representatives shall be permitted to remain in the hearings room at all times, even though they may be called upon to testify as witnesses.

B. Order of Proceedings: The hearing shall be opened by the recording of the place, time and date of hearing, the presence of parties, counsel and representative, if any. In hearings on discharge and discipline with economic loss, the appointing authority shall proceed first with testimony. In hearings on fraud or discrimination in the selection process the person bringing forth the action shall proceed first with testimony.

C. Report of Hearings: The County shall make an audio recording of all hearings. Such tapes shall be kept for three (3) years. The Department of Employee Services shall be the custodian of the tapes. The expense of transcribing such tapes shall be the responsibility of the party requesting the transcript. Either party may have the hearing reported by a court reporter at their own expense. The cost of any subsequent transcripts shall be the responsibility of the requesting party.

D. Exhibits and Witnesses: Exhibits shall be marked and numbered, and when offered by either party, may be received in evidence. The names and addresses of all witnesses and exhibits shall be made a part of the record as herein provided.

E. Oaths: All witnesses shall testify under oath. The oath shall read:
"Do you solemnly swear (or affirm) that the testimony you are about to give in this matter shall be the truth, the whole truth and nothing but the truth."

F. Evidence: Oral evidence shall be taken only upon oath or affirmation. Each party shall have the following rights: 1) to call and examine witnesses; 2) to introduce exhibits; 3) to cross-examine opposing witnesses on any matter relevant to the issues, even though that matter was not covered on direct examination; 4) to impeach any witness regardless of which party first called the witness to testify; and 5) to rebut the evidence against the appellant. If either or both parties do not testify on their own behalf, then that party may be called and examined as if under cross-examination. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Only relevant evidence shall be admitted. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

G. Witness and Deposition Fees: Persons served with a subpoena requiring attendance before the Hearings Officer shall be entitled to the same fees and

mileage as are allowed by law to witnesses in civil suits and actions. The payment of witnesses' fees and mileage shall be the responsibility of the party calling the witness. The cost of a deposition shall be borne by the party requesting the deposition.

H. Continuances: For a reasonable time, the Hearings Officer may, for good cause, continue the hearing, upon request of a party or upon their own initiative.

I. Confidentiality of Records: All records pertaining to an appeal or hearing are confidential unless otherwise required by law.

J. Written Findings and Order: The Hearings Officer shall have the authority to conclude the hearing. The Hearings Officer shall provide the Board of County Commissioners and each party with written findings and an order within thirty (30) calendar days following the conclusion of the hearing.

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

2.05.210.11 Reopening Of Hearing

Prior to the issuance of the final order, the Hearings Officer may reopen the hearing. The Hearings Officer may reopen the hearing only for good cause.

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

2.05.210.12 Scope Of Authority Of The Hearings Officer

A. The scope of authority of the Hearings Officer is to ensure that the appointing authority's action was for cause, was not arbitrary, capricious or discriminatory and that proper procedures prescribed by this chapter were followed. Any violation of any provisions of this chapter which does not substantially prejudice the right of a party, shall not invalidate any action taken under chapter.

B. The Hearings Officer should not substitute personal judgment for that of the appointing authority in either matters of policy or in other matters as long as the appointing authority has acted within the allowable scope of discretion in the management of the appointing authority's proper business.

C. The Hearings Officer may reverse the action of the appointing authority in matters of discharge or discipline involving economic loss where the Hearings Officer finds that the appointing authority's decision was not based on cause, was arbitrary, capricious or discriminatory or was in violation of a provision of this chapter which substantially prejudiced the right of the employee.

D. In the event the Hearings Officer reverses the action of the appointing authority in matters of discharge, the Hearings Officer, upon giving due consideration to the merits of the case and the arguments of the parties, may impose discipline involving or not involving economic loss.

E. In the event the Hearings Officer sustains the finding of the appointing authority that discipline involving economic loss is warranted, the Hearings Officer shall sustain the sanction involving economic loss that was imposed by the appointing authority, unless a finding is made that that sanction was clearly unreasonable, in which case the Hearings Officer may impose a lesser sanction.

F. In cases where the action involving discharge or discipline with economic loss is reversed or a lesser economic loss sanction is ordered by the Hearings Officer, the Hearings Officer shall issue an order not inconsistent with the findings. In cases of discharge or discipline with economic loss, the Hearings Officer shall have the

authority to order reinstatement of the employee with pay, or compensation or special privileges from the date of dismissal or disciplinary action.

G. In cases of fraud and discrimination in the selection process, the Hearings Officer may reverse or sustain or modify the actions taken.

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

2.05.210.13 Final Order

The written findings and order by the Hearings Officer shall be final.
[Codified by Ord. 05-2000, 7/13/00]

2.05.210.14 Hearings Officer

A Hearings Officer shall be appointed by the Board of County Commissioners of Clackamas County to preside at hearings authorized under this chapter. The Hearings Officer shall be a person who is not an officer or an employee of the County in any respect, other than as a Hearings Officer under this chapter. The Hearings Officer shall be paid such compensation as may be set by the Board of County Commissioners. The Hearings Officer shall serve at the pleasure of the Board and shall not have any personal rights of appeal under this chapter.

The functions of the Hearings Officer shall be conducted in an impartial manner. The Hearings Officer shall be excused from the hearing of any appeal in which there is a conflict of interest. The Hearings Officer shall notify the Board of County Commissioners of this decision. The appellant may file an affidavit of personal bias of the Hearings Officer any time up to five (5) days before the scheduled hearing. The affidavit shall be filed with the Hearings Officer. Upon receipt, the Hearings Officer shall cancel the hearing and forward the affidavit to the Board of County Commissioners. The Board shall either appoint a substitute Hearings Officer to hear any such case, or determine that no bias exists and order the hearing scheduled.
[Codified by Ord. 05-2000, 7/13/00]

2.05.220 Administrative Reviews By The Director Of Employee Services

2.05.220.1 Requests For Administrative Reviews

All requests for an administrative review by the Director of Employee Services shall be subject to the requirements of this section.
[Codified by Ord. 05-2000, 7/13/00]

2.05.220.2 Filing A Request For Administrative Review

A request for administrative review must:

A. Be made in writing;
B. Name the employee or applicant and include their address and phone number;
C. Be signed by the party requesting the review or the party's authorized representative;
D. Be addressed and delivered to the Director of Employee Services;
E. Contain a reference to the action(s) to be reviewed and date(s) of the action(s);
F. State why the employee feels the action taken or recommended is incorrect; and
G. Contain a statement of the remedy desired.

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

2.05.220.3 Actions That May Be Reviewed

A. A probationary employee may request an administrative review of a suspension, demotion, or dismissal subject to 2.05.110.3.
B. Applicants may request an administrative review of their selection results subject 2.05.070.14.
C. Applicants or employees may request an administrative review following removal of their name from either an open eligibility register or a promotional/internal eligibility register, subject to 2.05.080.3 and 2.05.080.4.
D. An employee may request an administrative review of an intradepartmental transfer subject to 2.05.140.4.

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

2.05.220.4 Timelines For Filing A Request For Review

A. Probationary employee has fourteen (14) calendar days from the effective date of discipline or dismissal to file a request for an administrative review.
B. An applicant has fourteen (14) calendar days from the date selection results were mailed to the applicant to file a request for an administrative review of the selection results.
C. Applicants or employees have fourteen (14) calendar days from the date a notice was mailed that their name was removed from an open or promotional/internal eligibility register to file a request for an administrative review.
D. An employee has fourteen (14) calendar days from the effective date of an intradepartmental transfer to file a request for an administrative review.

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

2.05.220.5 Response To Request For Administrative Review

Upon receipt of the request for administrative review, the Director of Employee Services shall investigate the circumstances surrounding the request. Within fourteen (14) days of receipt of the request for review, the Director of Employee Services shall render a decision and respond in writing to the party filing the request, with a copy to the supervisor and appointing authority. If the Director of Employee Services cannot complete the investigation within that time frame, the parties will be notified of the status of the investigation and be provided a schedule for completion of the review.
[Codified by Ord. 05-2000, 7/13/00]

2.05.220.6 Scope Of Authority Of Director Of Employee Services

The scope of authority of the Director of Employee Services is to ensure the actions taken were job-related and that proper procedures prescribed by this code were followed. Specifically, the scope of authority of the Director of Employee Services shall be as follows:

A. After a review of discipline or dismissal of a probationary employee, the Director of Employee Services may affirm, disaffirm, or amend the action of the appointing authority;
B. In reviews of the circumstances surrounding an applicant's selection results, the Director of Employee Services shall take appropriate administrative action to

resolve the complaint or uphold the selection results. Such administrative action may include a correction made to the applicant's test scores and appropriate placement on an eligibility register. If a correction is made as a result of such review, any change in selection results shall not affect a referral or appointment having already been made as a result of such examination;

C. In reviews of applicants whose names were removed from an open or promotional/internal eligibility register, the Director of Employee Services shall affirm the action, or disaffirm the action and offer reinstatement of the applicant or employee to the appropriate eligibility register;

D. In instances where the Director of Employee Services reviews intradepartmental transfers, the Director of Employee Services may affirm the transfers made by the appointing authority, disaffirm the transfers as being improper and order the employees be placed in their former positions, or modify the actions taken.

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

2.05.220.7 Written Findings

The Director of Employee Services shall prepare and issue a written finding at the conclusion of each administrative review. An employee or applicant shall have the right to review materials used by the Director of Employee Services in rendering a written finding on any administrative review.

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

2.05.230 Reviews Of Classification Allocations And Salary Grade Recommendations

2.05.230.1 Requests For Review Of A Classification Allocation Or Salary Grade Recommendation

All requests for a review of either an employee's recommended classification allocation, or a new or revised salary grade recommendation for an unrepresented position, shall be subject to the requirements of this section.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05]

2.05.230.2 Filing A Request For Review

A request for review must:

A. Be made in writing;

B. Name the employee and include the employee's address and phone number;

C. Be signed by the party requesting the review;

D. Be addressed and delivered to the Director of Employee Services;

E. Contain a reference to the action(s) to be reviewed and the dates of the action;

F. State why the employee feels the action taken or recommended is incorrect; and

G. Contain a statement of the remedy desired.

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

2.05.230.3 What Actions May Be Reviewed

A. An employee who does not agree with a classification allocation determination made by the Department of Employee Services may request a review of the

allocation subject to 2.05.050.10. Such a review shall be limited to the determination of the appropriate allocation of the position to a classification within the County's classification system. The review of a classification allocation does not extend to a review of the creation, deletion, or change to a classification; the assignment of duties, or the appropriate salary grade for a classification.

B. A nonrepresented employee who does not agree with a new or revised salary grade recommendation made by the Department of Employee Services may request a review of the recommended salary grade, subject to 2.05.060.4. If provided in the applicable collective bargaining agreement, a represented employee may use the request for review process in place of the negotiation process for new or revised salary grade recommendations, subject to 2.05.060.4. Such a review shall be limited to the determination of the appropriate salary grade to recommend for the classification. The review of a salary grade recommendation does not extend to a review of the creation, deletion or change to a classification, or the assignment of duties.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2009, 10/29/09]

2.05.230.4 Process Of The Classification/Compensation Review Panel

An employee has ten (10) calendar days from the date the written response to the request for review was mailed, to submit a written request to the Director of Employee Services to have the matter forwarded to the Classification/Compensation Review Panel. The employee and the employee's representative, the employee's appointing authority and/or the appointing authority's representative, and Personnel staff may present information to the panel in support of their respective positions. The Classification/Compensation Review Panel shall review the reasons for the classification allocation and/or the salary grade recommendation and may ask questions of the parties presenting information. Following the collection of information, the panel shall discuss their opinions with the Director of Employee Services.

A. Final Determination of Classification Allocation: The Director of Employee Services shall consider opinions of the panel when determining the final classification allocation of a position. The Director of Employee Services shall prepare a written report of the final recommendation, issues raised during the request for review and the opinions of the panel. Copies of the report shall be delivered to the affected parties. The Director of Employee Services shall have the final authority for all classification allocation determinations.

B. Final Recommendation of Salary Grades: The Director of Employee Services shall consider the opinions of the Classification/Compensation Review Panel when recommending the final salary grade recommendation to the County Administrator. The Director of Employee Services shall include in this recommendation a summary of issues raised during the request for review process and the opinions of the panel. The County Administrator shall have the final authority for all salary grade determinations.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2014, 9/25/14]

2.05.230.5 Composition Of The Panel
The Classification/Compensation Review Panel shall be chaired by the Director of Employee Services. The panel shall be comprised of three management employees and three bargaining unit members as selected by the Director of Employee Services. Those presenting information are not allowed to be acting members of the panel for that meeting.
[Codified by Ord. 05-2000, 7/13/00]

2.05.230.6 Scheduling Of The Classification/Compensation Review Panel
The review panel will meet at the call of the Director of Employee Services to hear and process requests for review. [Codified by Ord. 05-2000, 7/13/00]

2.05.240 Equal Employment Opportunities

2.05.240.1 Policy Statement
It is the policy of Clackamas County to adhere to the concept of equal employment opportunity and affirmative action as a basic element of human resources management. Discrimination in a personnel action on a basis unrelated to the job is prohibited. Employment and promotion decisions in County service shall be made in accordance with the principles of equal opportunity by utilizing only job-related requirements.
[Codified by Ord. 05-2000, 7/13/00]

2.05.240.2 Affirmative Action Program
The Board of County Commissioners has adopted an affirmative action policy and program which is set forth in a separate document and is available throughout County facilities.
[Codified by Ord. 05-2000, 7/13/00]

2.05.240.3 Complaint And Grievance Resolution Procedure
A. Clackamas County firmly believes that a comprehensive, systematic and equitable process for resolving complaints of discrimination, harassment, unlawful employment practices, or violations of equal employment opportunity, is an essential part of a comprehensive affirmative action plan. The following internal complaint and grievance resolution process will apply to complaints alleging unlawful employment practices violations of equal employment, discrimination, or harassment.
B. Any employee or applicant for employment may file a written complaint alleging discrimination, or an unlawful employment practice(s), or violation of equal employment opportunity, with the Director of Employee Services who will investigate the charge within thirty (30) days. The Director of Employee Services may also initiate an investigation without receiving a written complaint.

At the conclusion of the investigation, the Director of Employee Services shall make recommendations to correct any practices found to be in violation of this chapter. Notice of the recommendation shall be forwarded to the appointing authority. If the finding of the investigation is that there has been a violation of the Personnel Chapter, the Director of Employee Services will attempt to resolve the complaint. Under the law, individuals

are protected from retaliation. Every effort will be made to preserve confidentiality consistent with conducting a thorough investigation.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2007, 6/7/07]

2.05.250 Harassment

2.05.250.1 Policy Statement

It is the policy of Clackamas County to maintain a work environment which is free of harassment. Harassment is defined as verbal or physical conduct that is derogatory or shows hostility towards an employee because of race, color, age, religion, sex, sexual orientation, gender identity, disability, national origin or any other protected status in accordance with applicable law, and:

A. Has the purpose or effect of creating an intimidating, hostile or offensive work environment;

B. Has the purpose or effect of unreasonably interfering with an employee's work performance; or

C. Otherwise substantially and adversely affects an employee's employment opportunities.

This policy is not limited in application to harassment between supervisors and subordinates, it also includes harassment between co-workers.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2007, 6/7/07]

2.05.250.2 Sexual Harassment Policy

The Equal Employment Opportunity Commission guidelines define sexual harassment to include unwelcome sexual advances, request for sexual favors and other offensive verbal or physical conduct of a sexual nature, when:

A. Submission to sexual advances is a condition of employment; or
B. Submission or rejection is the basis of an employment decision (tangible job benefits, promotion, retention, performance evaluation, etc.); or
C. When the conduct unreasonably interferes with the affected person's work performance or creates an intimidating, hostile or offensive work environment.

Clackamas County and its managers are responsible for the acts of their agents and supervisory employees with respect to preventing sexual harassment in the work place. Prevention is the best approach in eliminating sexual harassment; all employees shall take reasonable steps necessary to prevent such harassment from occurring. Department managers and supervisors shall develop methods to sensitize employees on this issue.

Department managers and supervisors, male or female, shall not use their authority to solicit sexual favors, when submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting that individual. Department managers and supervisors shall not allow conduct that creates an intimidating, hostile or offensive work environment. Included in forbidden conduct are lewd gestures, sexually offensive language or sexually offensive behavior. Failure to adhere to this policy will result in disciplinary action up to and including termination.
[Codified by Ord. 05-2000, 7/13/00]

2.05.250.3 Initiating An Investigation Regarding Harassment

Employees or applicants for employment who experience behavior in violation of this policy are urged to contact their supervisor, another Clackamas County supervisor, or the Director of Employee Services. The Director of Employee Services will conduct a thorough investigation in compliance with the complaint and grievance resolution procedure available under 2.05.240, Equal Employment Opportunities. If evidence supports such a complaint, immediate, appropriate and corrective action will be taken. Under the law, individuals are protected from retaliation. Every effort will be made to preserve confidentiality consistent with conducting a thorough investigation.
[Codified by Ord. 05-2000, 7/13/00]

2.05.260 Personnel Records

2.05.260.1 Contents

Individual employee personnel files shall be established and maintained by the Department of Employee Services for all employees. Items shall be submitted to the Department of Employee Services and shall be considered the official record copy. The records will be maintained in accordance with County policies and State of Oregon record retention schedules.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09]

2.05.260.2 Access To Personnel Records

A. The entire contents of an employee's personnel file shall be made available to the employee, except for reference checks from previous employers or where the employee has signed a written waiver of access. Employee personnel files are protected from access by persons other than the following:
    1. employee;
    2. employee's official representative with the employee's signed authorization;
    3. employee's immediate supervisor and higher level supervisors;
    4. Personnel Division or the County's Counsel; or
    5. Persons or agencies authorized by law.

B. Material and information within an employee's personnel file that is considered public includes:
    1. employing agency;
    2. employee classification;
    3. employee's salary rate;
    4. employee's date of hire;
    5. employee's date of separation; and
    6. promotional eligible register (rank only).

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

2.05.260.3 Disclosure Of Information And Dissent

Employees shall be informed of all items being placed in their individual personnel file. Individual employees shall receive copies of these materials and have the right to place

dissenting information into their files. Employees may receive additional copies upon request.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 2.06

2.06 EXPORT OF UNPROCESSED TIMBER FROM LANDS OWNED OR MANAGED BY CLACKAMAS COUNTY

2.06.010 Definitions

A. COUNTY LANDS means lands owned or managed by Clackamas County.
B. COUNTY TIMBER means any timber owned by Clackamas County.
C. COUNTY TIMBER SALE CONTRACT means any timber under contract with Clackamas County that is owned by the County.
D. EXPORT means unprocessed timber loaded on a vessel or other conveyance with a foreign destination, or is present at a facility such as a port or dock with intent to load it on a vessel or other conveyance with a foreign destination.
E. PERFORMANCE BOND means the security required by a County timber sale contract that ensures satisfactory performance of contract requirements by the timber sale purchaser.
F. PERSON means an individual, partnership, a public or private corporation, an unincorporated association, or any other legal entity. The term includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other, or when a third person controls both, directly or indirectly.
G. UNPROCESSED TIMBER or UNPROCESSED COUNTY TIMBER means trees, or portions of trees, or other round wood, not processed to standards and specifications suitable for end product use. The term does not include timber processed into any one of the following:
    1. Lumber or construction timbers, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture;
    2. Lumber, construction timbers, or cants for remanufacture, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on 4 sides, not to exceed 12 inches (nominal) in thickness;
    3. Lumber, construction timbers, or cants for remanufacture, that do not meet the grades referred to in clause b. and are sawn on 4 sides, with wane less than 1/4 of any face, not exceeding 8—3/4 inches in thickness;
    4. Chips, pulp, or pulp products;
    5. Veneer or plywood;
    6. Poles, posts, or piling cut or treated with preservatives for use as such;
    7. Shakes or shingles;
    8. Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp;

9. Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips; or
10. Firewood cut in pieces of 48 inches or less in length.

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

2.06.020 Criteria for Eligibility to Bid on County Timber Sale Contracts

A. In addition to all other requirements of law, any person submitting a bid for the purchase of County timber must certify, in a form and manner specified by the County Forester, that:
   1. The person will not export directly or indirectly unprocessed County timber;
   2. The person has not exported directly or indirectly unprocessed timber originating from County lands in Oregon since September 10, 1990, except to meet contractual obligations made prior to September 10, 1990; and
   3. The person will not sell, transfer, exchange or otherwise convey unprocessed County timber to any other person without obtaining a certification from the person that meets the reporting requirements below.

B. In addition to all other requirements of law, a persons previously not eligible to bid for County timber under subsection A of this section may bid for County timber if the person certifies in a form and manner specified by the County Forester that:
   1. The person will not directly or indirectly export unprocessed County timber; and
   2. Unless exempted by paragraph 3 below, the person has not exported unprocessed timber from County lands for a period of not less than 24 months prior to the date of submission of the bid; and
   3. The person will not sell, transfer, exchange or otherwise convey unprocessed County timber to any other person without obtaining a certification from the person that meets the reporting requirements below.

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

2.06.030 Prohibition of Indirect Substitution

A. In addition to all other requirements of law, no person who is prohibited from purchasing County timber directly from the County may purchase County timber from any other person.

B. Acquisitions of Western Red Cedar, which are domestically processed into finished products to be sold into domestic or international markets, are exempt from this prohibition.

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

2.06.040 Prohibition of Export of County Timber

All unprocessed timber, as defined in 2.06.010 above, which originates from County lands, may not be exported.
[Codified by Ord. 05-2000, 7/13/00]

2.06.050 Surplus Timber

The prohibitions against export contained in this chapter shall not apply to specific quantities of grades and species of unprocessed timber originating from County land which the United States Secretary of Agriculture or Interior has determined by rule to be surplus to the needs of timber manufacturing facilities in the United States.
[Codified by Ord. 05-2000, 7/13/00]

2.06.060 Reporting Requirements

A. Before the Board of County Commissioners executes a timber sale contract or the County in any other manner sells County timber, a purchaser of County timber must:
   1. Notify the County Forester of the delivery destination of all timber purchased. Notification will be made in a form and manner prescribed by the County Forester; and
   2. Deliver to the County Forester a certification of the eligibility to purchase County timber of any person to whom the purchaser intends to sell, trade, exchange, or otherwise convey the purchased County timber, and their intent to comply with the terms and conditions contained in this section. Certification will be made in a form and manner as prescribed by the County Forester. Obtaining certification shall not relieve the purchaser's responsibility to provide the County Forester with an accounting of the delivery destination of that timber.

B. Any performance bond required by a County timber sale contract may be retained by the County Forester until their receives satisfactory notification of County timber delivery destination.

C. Failure to provide the County Forester with a final accounting of the delivery destination of County timber will be considered a violation of this chapter. Violators shall be subject to the penalties contained in 2.06.070 below.

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

2.06.070 Remedies for Violation

A. The County Forester shall keep a written record of all persons whom ~~he or she~~they believe~~s~~ have violated the requirements of this chapter.

B. A person whose name appears on the record for violations as stated in A above, and who again violates the requirements of this chapter, shall be disqualified from bidding on or purchasing County timber for a period of five years following the date of the violation.

C. The County Forester may cease operations on and/or terminate any County timber sale contract entered into with a person who has violated the requirements of this

chapter.

D. The County Forester may assess damages for violations of this chapter according to the following formula:
   1. D = (OSV+AC)-(PR+RSV), where:
      a. D = Damages and Expenses;
      b. OSV = Original Sale Value (timber only does not include project value). The original sale value shall be adjusted to reflect estimated overruns or under-runs on recovery sales;
      c. AC = Administrative Costs--these costs include both the field and office costs required for the preparation of the defaulted parcel for resale; these costs also include rehabilitation or regeneration delay costs, legal service costs, interest, and other costs allowed by law;
      d. PR = Payments Received; and
      e. RSV = Remaining Sale Value. The value of the remaining timber shall be determined using the County Forester's estimate of remaining volume, multiplied by the dollar values stated in the contract.

E. The County Forester shall promptly notify the person in writing of any action taken under B, C, or D, in this section. The notice shall include the nature and date(s) of the violation(s), and where appropriate, the date of contract termination and/or cessation of operations, the period of disqualification, and the amount of assessed damages and how they were calculated. If the person is disqualified, the notice shall also include a statement of the appeal rights and procedure described in paragraph F, below.

F. A person who receives notification from the County Forester of disqualification may appeal the decision to the Board of County Commissioners.
   1. A written request must be received by the County Forester, 902 Abernethy Road, Oregon City, Oregon 97045, no later than 15 days after the date of the County notification.
   2. After a timely appeal request is received, the Board of County Commissioners will schedule a public hearing. The appellant will receive at least 15 days' written notice of the hearing.
   3. Following the hearing, the Board of County Commissioners shall make written findings and issue a written decision. A copy of the findings and decision will be mailed to the appellant. The Board's decision shall be final.

G. If a person does not timely appeal a disqualification notice, then the decision of the County Forester shall be final.

H. The County Forester's decision to cease operations, terminate a timber sale contract, or assess damages shall be final.

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

2.06.080 Log Branding and Marking Requirements

A. All County timber originating from County timber sales shall be branded with an assigned and registered brand before removal from the sale area. Unless

prevented by the size or condition of the wood, both ends of all logs originating from County timber sales shall be hammer branded and both ends shall be painted with a paint type and color determined by the County Forester.

B. If properly marked County timber is subdivided into smaller pieces for any other purpose than immediate processing, each piece must be branded with a County brand specifically used for this purpose and signifying the unprocessed timber is County timber ineligible for export. The County Forester's export restriction branding hammers can be obtained from the County Forester, at cost, upon request.

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

2.06.090 Timber Sale Contracts

All County timber sale contracts shall contain the following provision:

"The Federal Forest Resources Conservation and Shortage Relief Act of 1990 prohibits the export of unprocessed timber originating from County lands. Violations of said Act or of the Clackamas County Log Export Chapter may result in termination of this contract, assessment of damages, disqualification from bidding on or purchasing County timber for up to five years, or federal or state legal action. In any legal action brought by the County to enforce this provision of this contract, the County, if it prevails, shall be awarded its reasonable costs and attorney fees."

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

2.06.100 Enforcement

A. Investigation of suspected violations of this chapter and/or surveillance of unprocessed timber in transit and at port facilities may be conducted by the County Forester, or contracted by the County Forester to other County, state or federal agencies. Any alleged violations of the export prohibition provisions of this chapter will be referred by the County Forester to the appropriate federal or state agency for prosecution or other legal action.

B. Once the County Forester makes a final decision that assesses damages, the full amount of damages shall be immediately due and payable. If payment is not made within 30 days, the County may enforce payment through civil legal proceedings, in which the County, if it prevails, shall be awarded its reasonable costs and attorney fees.

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

Chapter 2.07

2.07 COMPLIANCE HEARINGS OFFICER

2.07.010 Philosophy and Purpose

Clackamas County's philosophy on code enforcement is to first take the approach of voluntary compliance and use an enforcement approach only as a last resort. To implement this philosophy, a protocol has been developed as the basis for the enforcement of the code. The approach is to develop solutions based on individual situations and provide broad-based public education. The assumption of the Board of Commissioners is that education ~~of citizens~~ regarding the requirements of our codes will solve most issues and our public contacts ~~with affected citizens~~ will include ~~be to take~~ an understanding and helpful approach to resolving potential enforcement issues.

The purpose of this chapter is to implement this philosophy and provide the prompt, effective, and efficient enforcement of the Clackamas County Zoning and Development Ordinance and the following chapters of this code: the Clackamas County Solid Waste and Waste Management chapter, the Application and Enforcement of the Clackamas County Building Code chapter, specifically including all administrative rules and referenced provisions of Section 9.02.040 of that chapter, the Excavation and Grading chapter, the Road Use chapter, and the Abatement of Dangerous Buildings chapter, Chronic Nuisance chapter, and the Graffiti chapter. The Office of Compliance Hearings Officer is hereby created. The Compliance Hearings Officer shall act on behalf of the Board of County Commissioners ("BCC") in considering and applying regulatory enactments and policies set forth in this chapter. The Compliance Hearings Officer shall be appointed by the ~~Board of County Commissioners~~BCC to serve at the pleasure of, and shall be paid a fee for service fixed by, the ~~Board of County Commissioners~~BCC.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2000, 10/12/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 07-2008, 12/18/08; Amended by Ord. 04-2016, 9/22/16]

2.07.020 Jurisdiction Of Compliance Hearings Officer

The Compliance Hearings Officer shall have jurisdiction and authority to enforce the chapters cited in Section 2.07.010. In cases filed by the County with the Hearings Officer, the Hearings Officer's decision shall be the County's final determination. Judicial review of the Hearing Officer's decision may be sought before the Clackamas County Circuit Court as provided by Section 2.07.130.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 42003, 3/13/03]

2.07.030 Process for Enforcement of Code

A. Review of Reports - Sufficiency

1. ~~Statement of Facts~~Allegation Letter. When an alleged violation is reported to the County, staff shall evaluate the complaint and conduct a preliminary investigation to identify the priority level, established by policy of the ~~Board of County Commissioners~~BCC, into which the violation falls. Staff shall inform the respondent by letter of the allegation and the code sections that are alleged to be violated. ~~The County shall prepare a statement of the facts and shall review the facts and circumstances surrounding the alleged violation.~~
2. Sufficiency of Evidence. The County shall not proceed further with the matter if it is determined that there is not sufficient evidence to support the allegation, or if the County determines that the investigation finds that the alleged violation is not of a priority to be enforced consistent with policy determined by the BCC~~it is not in the best interest of the County to proceed~~. [Added by Ord. 4-2003, 3/13/03]
3. Violation Letter. Once a violation is verified by the County, staff shall prepare and send a letter to respondent that identifies the code sections violated, the priority of the violation and that the Administrative Compliance fee described in section E below will be imposed.

B. Voluntary Compliance Agreement.
1. The County may enter into a written voluntary compliance agreement with respondent before or after a citation is issued. The agreement shall include the required corrective action, time limits for compliance and shall be binding.
2. The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation for any purpose.
3. The County will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action. The County shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the proceedings against respondent. [Added by Ord. 4-2003, 3/13/03]

C. Failure to Comply with Voluntary Compliance Agreement. Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by this chapter, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The County may also proceed on the alleged violation that gave rise to the voluntary compliance agreement. [Added by Ord. 4-2003, 3/13/03]

D. Citation and Forfeiture; Abatement Requirements.
1. The County may issue respondent a citation, other than in enforcement of the Clackamas County Building Code, for committing the violation and may require the respondent to abate the violation and/or enter into a voluntary compliance agreement within a specified time period. The citation shall contain the same information required to be included in the

complaint by section 2.07.040, and the forfeiture amount to be paid as a result of committing the violation.

2. Respondent may admit the existence of a violation by paying the forfeiture amount and correcting the violation. Payment of the forfeiture does not relieve respondent of the requirement to correct the violation. If the violation is disputed, respondent may request a hearing before the Compliance Hearings Officer, as described in this chapter.

3. Citations may be served by first class U.S. Mail, by personal service on respondent, or by attaching the citation in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.

[Amended by Ord. 01-2020, 1/9/20]

4. ~~4.~~ The County, in its discretion, may proceed directly into the state court system in any matter to secure compliance with the requirements of this Code. [Added by Ord. 4-2003, 3/13/03]

~~4.~~5. The forfeiture amount of the Citation shall be set by ordinance of the BCC and found in Appendix B to this code. The issuance of the Citation and forfeiture amount may be challenged in the manner described in 2.07.040. The county, in its discretion, may waive all or some of the citation forfeiture amount if respondent(s) promptly and voluntarily abate all violations identified on the property.

E. Administrative Compliance Fee

Beginning on the date when the county establishes probable cause that ~~the county verifies~~ a violation exists, it may assess respondent(s) an administrative compliance fee every thirty days, or fraction thereof, until the violation is confirmed to be abated by the county. The county may request that the Compliance Hearings Officer provide that any Order issued include the fees assessed and unpaid at the time the Order is issued, and any Order may provide that the fee continue to be imposed until the violation is confirmed to be abated by the county. The administrative fee shall be set by resolution of the Board of County Commissioners and found in Appendix A to this code. Assessment of this fee may be challenged in the manner described in 2.07.040. The county, in its discretion, may waive all or some of the assessed administrative compliance fees if respondent(s) promptly and voluntarily abate all violations identified on the property. [Added by Ord. 02-2013, 6/6/13]

F. Immediate Remedial Action

If the County determines that the alleged violation presents an immediate danger to the public health, safety or welfare, the County may require immediate remedial action. If the County is unable to serve a citation on the respondent or, if after such service the respondent refuses or is unable to remedy the violation, the County may proceed to remedy the violation by any means available under law. [Added by Ord. 4-2003, 3/13/03; renumbered by Ord. 02-2013, 6/6/13]

G. Administrative Warrants

The County is authorized to enter and inspect property believed to be operating in violation of County Code provisions subject to this Chapter. The Board of County Commissioners has made a policy decision to limit the scope and application of

administrative warrants to those situations involving marijuana-related operations or those properties considered to be chronic nuisances as set forth in Chapter 6.08 of this Code. In order to obtain an administrative warrant, the County will proceed as follows:

1. Prepare an affidavit in support of request for administrative warrant. The affidavit should describe the purpose for the inspection or search and explain why the warrant is necessary. The warrant should describe the property to be inspected, the manner of the inspection, and the timeframe for conducting the inspection.
2. Present the circuit court judge with the affidavit and warrant.
3. If the judge signs the warrant, make a copy and take both the original and copy of the warrant to the property to be entered to execute the warrant.
4. County representatives shall be accompanied by a sworn member of the Sheriff's Office.
5. Upon arrival at the premises to be inspected, the County representative authorized to execute the warrant should tell the resident or person in apparent control ~~his or her~~ their identi~~f~~ty, authority, and purpose for being there.
6. The person executing the warrant should read the warrant out loud and give a copy of the warrant to the person in apparent control of the property. On the original warrant, note the date and time of entry onto the property and sign.
7. If the property is unoccupied or there is no one in apparent control, the person executing the warrant should post a copy of the warrant on the property, note on the posted warrant the date and time of entry, and sign the note.
8. Make copies of the original executed warrant for the County's file.
9. After execution, return the original warrant to the issuing judge along with a Return of Administrative Warrant.

[Subsection G added by Ord. 04-2016, 9/22/16]

2.07.040 Request For Hearing/Initiation of Proceedings

A. Respondent may initiate a proceeding before the Compliance Hearings Officer by providing a written request for a hearing. If a request for a hearing is filed, the County shall file a complaint with the Compliance Hearings Officer. The County may, for any violation, file a complaint with the Compliance Hearings Officer before or after a citation is issued. The complaint shall contain the following: name and address of respondent (s); address or location of the alleged violation; nature of violation, including ordinance provision, County Code provisions, statute or administrative rules section violated; relief sought; and department initiating procedure. Employees of the County's Department of Transportation and Development are authorized to sign and file complaints on behalf of the County.

B. In a case in which a citation has been issued and the respondent does not wish to contest the existence of the violation and there is economic or financial hardship, respondent may appeal only the forfeiture amount imposed by the citation by

initiating a proceeding before the Compliance Hearings Officer. The only issue before the Compliance Hearings Officer in such a proceeding is whether the respondent establishes sufficient economic or financial hardship to justify reduction of the forfeiture amount.

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

2.07.050 Notice of Hearing

A. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 days prior to the hearing date.

B. The County shall cause notice of the hearing to be given to the respondent(s) by:
   i. First Class U.S. Mail; or,
   ii. Personal service; or
   iii. Attaching the hearing notice in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.

C. Notice may be delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.

D. The Compliance Hearings Officer shall disregard technical deficiencies in notice provided the Compliance Hearings Officer finds that the respondent received actual notice in advance of the hearing.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 01-2020, 1/9/20]

2.07.060 Statement of Rights

A. The Compliance Hearings Officer shall inform each party in writing of the following matters:
   1. A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made, and an explanation of the burdens of proof or burdens of production of evidence;
   2. That a record shall be made of the proceedings and the manner of making the record and its availability to the parties;
   3. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the order of the Compliance Hearings Officer;
   4. Whether an attorney will represent the County in the matters to be heard and the respondent's right to be represented by an attorney at their expense;
   5. The title and function of the Compliance Hearings Officer, including the effect and authority of the Compliance Hearings Officer's determination; and,

6. That the decision of the Compliance Hearings Officer may be appealed as described in Section 2.07.130, and that the appellant shall pay all costs of the appeal including costs for preparation of a transcript.

B. The failure to give notice of any item specified in Subsection A of this Section shall not invalidate any order of the Compliance Hearings Officer unless on review a court finds that the failure affects the substantive rights of one of the parties. In the event of such a finding, the court shall remand the matter to the Compliance Hearings Officer for a reopening of the hearing and shall direct the Compliance Hearings Officer as to what steps shall be taken to remedy any prejudice to the rights of any party.

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

2.07.070 Procedure In Compliance Hearings

A. Hearings to determine whether a violation has occurred shall be held before the Compliance Hearings Officer. The County must prove the violation alleged by a preponderance of the admissible evidence.

B. Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.

C. A Party may elect to be represented by counsel at their own expense and to respond to and present evidence and argument on all issues involved.

D. A Party may request that a hearing be held telephonically. The Compliance Hearings Officer has the discretion to grant or deny a request for a telephonic hearing for any reason.

E. A Party may request that an appeal to the Compliance Hearings Officer be conducted solely based on written submissions by the parties, without a hearing. The Compliance Hearings Officer may grant a request for appeal based only on written submissions if, and only if, all parties agree in writing to waive a hearing and to proceed through written submission only.

F. An order adverse to a party may be issued upon default only upon a prima facie case made on the record before the Compliance Hearings Officer.

G. Testimony shall be taken upon oath or affirmation of the witness. The Compliance Hearings Officer may administer oaths or affirmations to witnesses.

H. The Compliance Hearings Officer shall issue subpoenas to any party upon showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the County, shall receive fees and mileage as prescribed by law for witnesses in civil actions from the party requesting their testimony. Any party requesting the issuance of a subpoena shall pay applicable fees and mileage at the time the issuance of a subpoena is requested.

I. If any person fails to comply with any subpoena so issued, or any party or witness refuses to testify on any matters on which he/she may be lawfully interrogated, a judge of the Circuit Court for Clackamas County, on the application of the Compliance Hearings Officer, or of the party requesting the issuance of the subpoena, may compel obedience by proceedings for Contempt as in the case of

disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.

J. The Compliance Hearings Officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the Compliance Hearings Officer on a fact in issue during the pendency of the proceedings. The Compliance Hearings Officer shall notify the parties of the communication and of their right to rebut such communications.

K. The record of the case shall include:
   1. All pleadings, motions, and intermediate rulings;
   2. Evidence received;
   3. Stipulations;
   4. A statement of matters officially noticed;
   5. Questions and offers of proof, objections, and ruling thereon;
   6. A statement of any ex parte communications on a fact in issue made to the Compliance Hearings Officer during the pendency of the proceedings;
   7. Proposed findings and exceptions; and
   8. The final order prepared by the Compliance Hearings Officer.

L. A verbatim, written or mechanical record shall be made on all motions, rulings, and testimony. The record need not be transcribed unless requested for purposes of court review. The Compliance Hearings Officer shall charge the party requesting transcription the cost of transcription in advance. Failure to pay the transcription fees shall constitute a separate ground for denial of review of the decision of the Hearings Officer.

M. Enforcement proceedings before the Compliance Hearings Officer shall be conducted in accordance with the procedure set forth in this Chapter. The Compliance Hearings Officer may promulgate reasonable rules and regulations, not inconsistent with this Chapter, concerning procedure and the conduct of hearings.

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

2.07.080 Presentation of Evidence

A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the Compliance Hearings Officer unless shown on the record to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. The Compliance Hearings Officer shall give effect to the rules of privilege recognized by law.

B. All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in Subsection D of this Section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

C. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

D. The Compliance Hearings Officer may take notice of judicially recognizable facts, and the Compliance Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of County employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.

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

2.07.090 Powers Of The Compliance Hearings Officer

A. The Compliance Hearings Officer shall order a party found in violation to comply within such time as the Compliance Hearings Officer may by order allow. The order may require such party to do any and all of the following:

1. Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;
2. Obtain any and all necessary permits, inspections and approvals;
3. Order compliance as appropriate under the State Building Code, as defined in ORS 455.010(8);
4. Install any equipment necessary to achieve compliance;
5. Pay to Clackamas County a civil penalty, the amount of which shall be determined by the Compliance Hearings Officer within the range established by the Board of County Commissioners pursuant to Section 2.07.120;
6. Reimburse Clackamas County for actual costs incurred in conjunction with the enforcement action;
7. Pay the administrative compliance fee described in Section 2.07.030(E);
8. Order the eviction of any tenant from any property on which there exists a violation. Such an eviction will be performed in compliance with Oregon law;
9. Abate or remove any nuisance;
10. Change the use of the building, structure, or real property involved;
11. Pay a reduced forfeiture amount;
12. Undertake any other action reasonably necessary to correct the violation.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10; Amended by Ord. 02-2013, 6/6/13]

2.07.100 Orders Of The Compliance Hearings Officer

A. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

B. Findings of fact and conclusions of law shall accompany a final order. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Compliance Hearings Officer's order.

C. The Compliance Hearings Officer shall notify the respondent of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to the respondent or, if applicable, the respondent's attorney of record. The Compliance Hearings Officer shall issue a final order within 14 days from the conclusion of the hearing.

D. Every final order shall include a citation of the ordinance or title, chapter and section under which the order may be judicially reviewed.

E. A final order shall become effective ten calendar days after the date it is signed by the Compliance Hearings Officer unless a party makes objections to the form of the order before it becomes effective. If objections are made, the final order shall become effective on the date the Compliance Hearings Officer signs the amended final order, or the date the Compliance Hearings Officer states in writing that the final order will not be amended.

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

2.07.110 Enforcement Of Compliance Hearings Officer Orders

A. Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.

B. The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of Compliance Hearings Officer, including, an action to obtain judgment for any civil penalty imposed by an order of the Compliance Hearings Office pursuant to Section 2.07.090.5 and/or any assessment for costs and administrative compliance fees imposed pursuant to Sections 2.07.090.A.6 and 2.07.090.A.7.

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

2.07.120 Civil Penalty

The civil penalties for this chapter of the Code, that may be imposed by the Compliance Hearings Officer, shall be set by resolution of the Board of County Commissioners
[Added by Ord. 04-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10]

2.07.130 Judicial Review

Review of the final order of a Compliance Hearings Officer under this Chapter by any aggrieved party, including Clackamas County, shall be by writ of review as provided in ORS 34.010 - 34.100, unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

Chapter 2.08, "Oregon Constitution Article I, Section 18 claim Processing Procedure Authorization" [Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 03-2004, 4/14/04]

CHAPTER 2.08

2.08 JUST COMPENSATION FOR LAND USE REGULATION [Amended by Ord. 01-2012, 1/5/12]

2.08.010 Purpose

The purpose of this chapter is to delegate authority to process and authorize claims for just compensation for land use regulation under ORS 195.300 to 195.336.
[Added by Ord. 13-2004, 12/30/04; Amended by Ord. 01-2012, 1/4/12]

2.08.020 Delegation of Authority

The Director of the Department of Transportation and Development (DTD) is authorized to receive claims and to determine the validity of, and grant non-monetary compensation for such claims. The Director of DTD may delegate this authority to ~~his or her~~their designee.
[Added by Ord. 13-2004, 12/30/04; Amended by Ord. 01-2012, 1/4/12]

2.08.030 Decision

A. In accordance with the requirements and procedures in ORS 195.300 to 195.336, after receiving a claim, the Director of DTD, or ~~his or her~~ their designee, shall determine whether the claim is valid and, if so, how the claimant should be compensated.

B. The Director of DTD, or ~~his or her~~ their designee, may forward any valid claim, to the Board of County Commissioners for a determination as to whether to pay monetary compensation or waive the regulation. The Director of DTD, or ~~his or her~~ their designee, shall forward a claim to the Board of County Commissioners if the Director of DTD, or ~~his or her~~ their designee, concludes that the County should pay monetary compensation.

C. The decision of the Director of DTD, or ~~his or her~~ their designee, to forward the claim to the Board of County Commissioners is final and not subject to appeal.

D. The Board of County Commissioners may, summarily and without notice or hearing, elect to return the claim to the Director or ~~his or her~~ their designee for a decision.

[Added by Ord. 13-2004, 12/30/04; Amended by Ord. 01-2012, 1/4/12]

2.08.040 Fees

All fees associated with this chapter shall be adopted by resolution of the Board of County Commissioners.
[Added by Ord. 01-2012, 1/4/12]

CHAPTER 2.09

2.09 COUNTY ADMINISTRATOR

2.09.010 Office of County Administrator Created

The Office of County Administrator is created and the person holding that office shall act as the head of administration for the County and, if delegated by the district board, its service districts.
[Added by Ord. 11-2002, 8/22/02]

2.09.020 Appointment

The County Administrator shall be appointed by and serve at the pleasure of the Board of County Commissioners. The relationship between the County and the County Administrator shall be as set forth in this Chapter and any employment agreement between the County and the County Administrator not inconsistent with this Chapter.
[Added by Ord. 11-2002, 8/22/02]

2.09.030 Qualifications

The County Administrator shall be appointed by the Board of County Commissioners solely on the basis of ~~his or her~~ their executive and administrative qualifications and experience and need not be a resident of the County or the State prior to ~~his or her~~ their appointment. After the time of ~~his or her~~ their appointment the County Administrator shall reside outside the County only by express permission of the Board. ~~He or she~~The County Administrator shall receive a salary fixed by the Board commensurate with the responsibilities of the office. [Added by Ord. 11-2002, 8/22/02]

2.09.040 Vacancy

When a permanent vacancy occurs in the Office of County Administrator, the Board of County Commissioners shall designate an Acting County Administrator until such time as a County Administrator is appointed. Such person, while ~~he or she is~~they are the Acting County Administrator, shall have all powers and duties conferred by this Chapter on the County Administrator.
[Added by Ord. 11-2002, 8/22/02]

2.09.050 Absence or Disability

The County Administrator may designate an administrative officer of the County to exercise and perform ~~his or her~~their powers and duties conferred by the Chapter during ~~his or her~~their temporary absence or disability.
[Added by Ord. 11-2002, 8/22/02; Amended by Ord. 07-2015, 12/3/15]

2.09.060 Authority

A. The County Administrator shall be the Chief Administrative Officer of the County and all County service districts, if that authority is delegated by the board of the district. The County Administrator shall be responsible to the Board of County Commissioners for the administration and management of the County and its service districts and shall have control and supervision of all administrative departments, divisions, offices, districts and agencies subject to ~~his or her~~their jurisdiction, except County Counsel, or as otherwise provided by law.

B. The County Administrator shall exercise no authority over the actions of elected County officials while they are performing the duties of their offices.

C. The Board of County Commissioners hereby delegates to the County Administrator broad authority to perform ~~his or her~~their job functions. The County Administrator is responsible to the Board for the manner of ~~his or her~~their administration. The Board reserves to itself all of its legislative and judicial or quasi-judicial authority, unless expressly delegated.

D. The Board of County Commissioners hereby delegates to the County Administrator contract signing authority for any contract previously approved by the Board of County Commissioners.

E. The Board of County Commissioners hereby delegates to the County Administrator the authority to draft and promulgate administrative rules and establish and implement operational policies.

F. It shall be within the specific authority of the County Administrator to perform all day-to-day functions necessary for the administration and management of County affairs and the affairs of County service districts, if delegated. Such authority includes but is not limited to the following:

1. Provide for the proper administration of all ordinances, orders and resolutions of the County and its service districts, all contracts and franchises entered into by the County and service districts, and provide for the enforcement of all policies, rules, procedures, orders and regulations.
2. Keep the Board informed of pertinent matters related to the administration and management of the County and its service districts.
3. Serve as the Budget Officer for the County and its service districts and in that role prepare and submit to the Board and Budget Committee an annual budget and a long range capital improvement and expenditure program. Administer the provisions of the budget as adopted by the Board.
4. Prepare and submit to the Board an annual report on the finances and administrative activities of the County and its service districts for the preceding fiscal year, together with recommendations for the betterment of the public service.
5. Select, appoint, supervise, discipline or dismiss all County Administration staff and all employees designated as appropriate for unclassified status under Section 2.05.040(3)(B)(11), except the Office of County Counsel

and any elected officers. The County Administrator has the authority to sign employment contracts for such designated unclassified employees, consistent with other employment contracts. The County Administrator shall consult the Board on these matters.

6. Manage and administer the County and service districts personnel programs. Prepare and recommend to the Board employee compensation plans.
7. Coordinate the work and facilities of all offices, departments and agencies, both elective and appointive, and devise ways and means whereby efficiency and economy may be secured in the operation of all offices, departments, districts and agencies.
8. Formulate and present to the Board plans for the implementation for goals adopted by the Board.
9. Administer the risk management program for the County and its service districts.
10. Direct the use, operation, maintenance, control and custody of all County and district property, buildings, works and improvements, including the use and locations of any parking facilities, lighting, signage, flags, banners, displays, and implementation of any security protocols.
11. Furnish the Board with information, proposals and recommendations concerning the operation of County departments, districts, boards and commissions.
12. Unless excused by the Board, attend regular meetings of the Board, participate in the discussions and make recommendations for action by the Board.
13. Conduct such other activities and assignments as may be required by the Board.

[Added by Ord. 11-2002, 8/22/02; Amended by Ord. 01-2009, 2/5/09; Amended by Ord. 07-2015, 12/3/15]

2.09.070 Delegation of Authority

The County Administrator may delegate any authority granted by this Chapter to County department heads or other County or district staff, in a manner consistent with the provisions of the County Code.
[Added by Ord. 11-2002, 8/22/02; Amended by Ord. 08-2015, 12/3/15]

2.09.080 Term

The County Administrator shall be appointed for an indefinite term. The County Administrator is an at-will employee and may be removed at the pleasure of the Board, consistent with any applicable employment agreement.
[Added by Ord. 11-2002, 8/22/02]

2.09.090 Interaction with County Administrator, Employees

In the exercise of their authority as members of the governing body of the County, Board members may individually, or as a group in a public meeting, discuss fully and freely with the County Administrator any matter pertaining to County affairs or the interests of the County. Board members may not direct any County employee, other than the County Administrator or County Counsel, in the performance of their duties. This section shall not be construed to prohibit a Board member from pursuing their role as ombudsman in making inquires of County employees concerning the day to day conduct of County affairs.
[Added by Ord. 11-2002, 8/22/02; Amended by Ord. 01-2009, 2/5/09]

[Chapter 2.10, Community Connections, adopted by Ord. 06-2005, 8/11/05 is hereby repealed and replaced by Chapter 2.10, Hamlets and Villages, adopted by Ord. 03-2007, 2/22/07]

CHAPTER 2.10

2.10 HAMLETS AND VILLAGES

2.10.010 Preamble

A. Policy objectives. The Board of County Commissioners is committed to engaging its ~~citizens~~ community members by encouraging them to participate in decision-making processes that affect their lives. This Chapter is intended to further these policy objectives by creating a legal framework to enhance the connection between county government and its ~~citizens~~community members.

B. This Chapter represents the work of ~~citizens~~ community members, staff, and professional consultants who assisted the county in developing ways to meet these policy objectives. Information was gathered through community meetings and events, random opinion sampling, and mail-back questionnaires. Central to the project were two major phases:

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15]

2.10.020 Purpose, intent, authority

A. This Chapter establishes the organizational structure and process for hamlets and villages, which are intended to provide a forum for ~~citizens~~ community members residing, owning property or having businesses within defined geographic areas. Under this Chapter, ~~citizens~~ community members may form local hamlets or villages for the purpose of considering and making advisory recommendations to the county concerning a broad range of issues affecting the livability and quality of life in their communities. Hamlets and villages are advisory to the Board of County Commissioners, and are not local governments.

B. It is intended that the powers created by this Chapter be interpreted and applied to enable the broadest exercise of the powers granted by this Chapter, to the extent not pre-empted by state or federal law. Hamlets and villages are intended to be a form of participatory democracy to the extent that they promote the active involvement of ~~citizens~~ community members in county affairs and provide an opportunity for greater participation in matters affecting their local communities.

C. It is a matter of local concern and a proper subject for county legislation to promote the active involvement of ~~citizens~~ community members in county affairs so that ~~citizens~~ community members may have a greater opportunity to participate in matters affecting their local communities.

[Adopted by Ord. 03-2007, 2/22/07]

2.10.030 Definitions as used in this Chapter

A. BCC means the Board of County Commissioners.

B. BOARD means the board of directors of a hamlet or village.

C. ~~CITIZEN~~ COMMUNITY MEMBER means:

1. A person domiciled within the boundaries of a proposed or existing hamlet or village; a person who owns real property within the boundaries of a hamlet or village, but is domiciled outside those boundaries; or
2. A business entity that is established under ORS Chapters 56-70, 554, 748, or that qualifies as a Business Trust under ORS Chapter 128 if the entity or trust owns real property or maintains a business located within a hamlet or village.

To participate in formation activities, sign petitions, vote, or serve on the board of directors of a hamlet or village, a ~~citizen~~ community member who is an individual must be at least 18 years of age.

D. COMMUNITY PLANNING ORGANIZATION (CPO), as described in Chapter 2 (Citizen Involvement) of the Clackamas County Comprehensive Plan, means a community organization which acts in an advisory capacity to the Board of County Commissioners, Planning Commission, and Planning Division on land use matters affecting its area. The CPO program is the method Clackamas County uses to meet Goal 1, Citizen Involvement, of the Statewide Planning Goals. A CPO is not considered an agent of the County

E. COUNTY LIAISON means the person designated by the County Administrator to facilitate communications among ~~citizens~~community members, county staff, and the BCC. The liaison will also render advice and assistance to ~~citizens~~community members to accomplish the goals and objectives of this chapter.

F. DOMICILE means the place where individuals have their true, fixed, permanent and principal home.

G. HAMLET means an unincorporated area that is an organized forum for ~~citizens~~ community members to express issues of concern, prioritize activities, and coordinate community-based activities, as may be approved by the Board of County Commissioners. A hamlet is financed primarily through contributions, grants or volunteer fundraising activities.

H. VILLAGE means an unincorporated area that is an organized forum for ~~citizens~~ community members to express issues of concern, prioritize activities, and coordinate community-based activities, as may be approved by the Board of County Commissioners and that, after approval by village ~~citizens~~ community members and the Board of County Commissioners, may be financed through a range of means.

I. TOWN HALL MEETING means a general meeting of the hamlet or village that is open to the community and provides an opportunity to discuss and decide matters of hamlet or village concern.

J. AGENTS OF THE COUNTY means that Hamlet and Village board members acting within the scope of authority granted by the organization bylaws and county policies are advisory to the Board of County Commissioners and shall be

treated as agents of the county for claims against them for purposes of the Oregon Tort Claims Act.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15]

2.10.040 CPO Functions, memoranda of understanding

A hamlet or village may assume the functions of a CPO upon agreement of the existing CPO, the hamlet or village, and the BCC. If a hamlet or village seeks to assume the functions of a CPO, it must first meet with the CPO to discuss the proposed transfer of responsibility. If the CPO agrees to assumption of its functions by the hamlet or village, a memorandum of understanding shall be negotiated between the CPO and the hamlet or village. The memorandum shall outline how the assumption will take place, the scope of responsibility transferred, the ongoing status of the CPO once the transfer occurs, and how the CPO will resume functioning if the hamlet or village is ever dissolved. The memorandum will state that a hamlet or village board shall not be considered an agent of the county when acting in the capacity of a CPO. The memorandum may be signed by a proposed hamlet or village and CPO prior to formation, but must be approved by the BCC at the final formation hearing and signed by the BCC before going into effect.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15]

2.10.050 Formation of a Hamlet or Village

A. Pre-petition process. One or more ~~citizens~~ community members desiring to form a hamlet or village will be known as "chief petitioner(s)" and shall comply with all of the following steps in the formation process:
   1. Chief petitioner(s) must hold a public meeting to discuss the proposed formation. Notice of the meeting may be given by publication in a newspaper of general circulation or by any other means reasonably calculated to provide notice to ~~citizens~~ community members of the affected community.
   2. If the proposed hamlet or village has community support, the chief petitioner(s) shall then meet with county staff to discuss the proposal. Terms to be discussed with county staff include, but are not limited to, preliminary purposes, boundaries, activities, name, projected short and long-term needs, and possible methods of financing.
   3. Hamlet or village chief petitioner(s) shall communicate their proposal to special districts and cities within three miles of the proposed hamlet or village boundaries prior to circulating a petition for formation.
   4. Within 150 days of county staff approval of the proposed hamlet or village, chief petitioner(s) shall complete the hamlet or village application and gather the required number of signatures petitioning for formation of the hamlet or village. Application and petition forms may be obtained from the county staff liaison.

B. Hamlet petition. A petition for formation of a hamlet must be signed by at least 10% of the ~~citizens~~ community members located within the proposed hamlet

boundary (based on the latest U.S. census or most recent county-acknowledged survey) or 100 ~~citizens~~community members, whichever is the lesser number, and shall state the proposed name, preliminary purposes, preliminary boundaries, and proposed activities.

C. Village petition. A petition for a village must be signed by at least 15% of the ~~citizens~~ community members located within the proposed village boundary (based on the latest U.S. census or most recent county-acknowledged survey) or 150 ~~citizens~~community members, whichever is the lesser number, and shall state the proposed name, preliminary purposes, preliminary boundaries, proposed activities, and any proposed methods of financing for the village.

D. Notice of public hearing. When a completed application and petition is received by the county staff liaison, the county shall set a public hearing within sixty (60) days on the question of formation. The county shall provide the appropriate public notice as determined by the county's department of Public and Government Affairs.

E. Public hearing. At the public hearing, any person having an interest in the matter may appear and support or object to the formation of the hamlet or village. The BCC will consider the application and revise it as it deems appropriate.

F. Resolution authorizing organizational process to complete formation. At the conclusion of the public hearing, the BCC may pass a resolution authorizing the chief petitioner(s) to proceed with the organizational steps necessary to complete the formation process as presented, or it may modify or reject the application.

1. The resolution authorizing further organizational steps shall include the hamlet or village name, preliminary purposes, proposed activities, and preliminary boundaries. The resolution may also include the date for a final public hearing on the proposed formation.
2. During the organizational process, the BCC retains discretion to adjust the name, purposes, activities, and boundaries. The BCC may also set or adjust the date of the final public hearing on the proposed formation.

G. CPO status. A vote by the BCC on the formation of a hamlet or village does not affect an existing CPO, unless otherwise provided in an approved memorandum of understanding.

H. Organizational meeting(s). If the BCC passes a resolution authorizing the organizational steps necessary to complete the formation process, the chief petitioner(s) shall schedule one or more organizational meetings. Notice shall be by publication in a newspaper of general circulation in the affected area, or by other means reasonably calculated to provide notice to potential ~~citizens~~community members of the proposed hamlet or village.

1. The chief petitioner(s) shall convene the first organizational meeting no later than sixty (60) days from the date on which the authorizing resolution is signed by the BCC.
2. The chief petitioner(s) shall form one or more work groups for the purpose of developing bylaws, accepting nominations for board of director positions, and conducting other organizational activities, including but not limited to discussion of boundaries, purposes, and activities. Work groups may be formed at any organizational meeting.

3. Candidates for positions on the board of directors of the proposed hamlet or village must be ~~citizens~~ community members of the proposed hamlet or village. Candidates shall complete an application form indicating their eligibility.

I. Bylaws and board members. Bylaws shall define the qualifications, roles and responsibilities of board members, their terms of office, attendance requirements, the manner of filling vacancies, and the grounds and process for removal. A majority of the total number of board members shall constitute a quorum.

1. Bylaws shall also set forth purposes, activities, methods of action, and the process for amending the bylaws. Examples of hamlet or village activities include communications, transportation, CPO functions, and working with other hamlets, villages, cities, CPOs, service providers, other organizations, or the county to achieve community goals.
2. In the case of a village, bylaws shall also expressly address the authority of, and process by which, a recommendation may be made to the BCC for establishment of additional taxes or fees to be paid by ~~citizens~~ community members of the village. A village has no independent authority to levy taxes or fees.

J. BCC preliminary approvals. At least thirty (30) days before a town hall vote, the chief petitioner(s) shall submit proposed bylaws and eligible board candidates to the BCC for preliminary approval at a public work session.

1. Other organizational issues may also be brought to the BCC in public work sessions for discussion and preliminary approvals.
2. Preliminary approvals by the BCC in public work sessions must be ratified at the final public hearing on the question of formation of the proposed hamlet or village.
3. Following preliminary approval by the BCC and prior to final ratification by the BCC, the county shall submit the question of formation of the proposed hamlet or village, the proposed bylaws, and board candidates, to the ~~citizens~~ community members of the proposed hamlet or village for a vote at one or more town hall meetings.

K. Town hall voting. ~~Citizens~~ Community members of a proposed or existing hamlet or village are eligible to vote at a town hall meeting. If a business entity is owned by more than one person, only one person may claim to be a ~~citizen~~ community member because of such ownership. A non-resident owner of multiple parcels of real property may claim to be a ~~citizen~~ community member because of such ownership, but may cast only one vote**.** Multiple non-resident owners of the same real property may claim ~~citizenship~~ community membership because of such ownership but may cumulatively cast only one vote and hold only one board position based on that property. Business entities and trusts are entitled to one representative vote. If more than one person claims to be the authorized representative of a business or real property, the votes cast by those persons shall be made by provisional ballots.

1. The voting process will be conducted by the county. Since the town hall model is designed to encourage ~~citizen~~ community member participation, ~~citizens~~ community members must be present at a town hall meeting to

vote during the formation process. At each such meeting, a written agenda shall be available identifying the issues to be voted on to facilitate ~~citizen~~ community member participation.

2. More than one ~~citizen~~ community member may be a candidate in an election based on joint ownership of a business or property. Where this occurs, only the candidate receiving the most votes may take office.
3. If a majority of ~~citizens~~ community members present at the town hall meeting vote to support formation of the proposed hamlet or village, approve the bylaws and choose the board of directors, the chief petitioner(s) shall recommend the formation, bylaws and board, to the BCC for ratification at the final public hearing.
4. If a majority of ~~citizens~~ community members present at a town hall meeting vote not to support formation of the hamlet or village, the chief petitioner(s) shall so notify the BCC in writing, and the BCC may enter an order rescinding its resolution authorizing formation of the hamlet or village at the final hearing.
5. The outcome of town hall voting is not binding on the BCC. However, the BCC shall consider the voting results as a factor in deciding whether to approve formation of a hamlet or village, or other matters, at the final hearing.

L. Provisional ballots. A provisional ballot is a vote that is conditionally counted, as set forth in this section. Provisional ballots shall be given to attendees at a town hall meeting who cannot provide proof of hamlet or village ~~citizen~~ community member status at the time of the meeting, or in the event there is a dispute as to the authorized representative of a business or property.

1. In the event of a dispute over authorized representative status for a business or property, the burden is on the business or property owners to designate their authorized representative. Until then, the vote will be classified as provisional.
2. To receive a provisional ballot, individuals must provide their name, address, contact telephone number, and basis for their claim of ~~citizen~~ community member status. If available, an email address must also be provided.
3. Provisional ballots will be examined only upon a determination by the county that a sufficient number have been cast to possibly affect the outcome of the vote. In such event, public notice will be posted on the county's website of the intent to verify provisional ballots.
4. If provisional ballots are to be examined, ballot-casters shall be notified of the need to provide proof of identification or other required information that verifies their status as ~~citizens~~ community members of the proposed hamlet or village who are eligible to cast votes. Voters casting provisional ballots will be given five (5) business days from the date of notification to provide proof of ~~citizenship~~community membership.
5. Votes shall be counted by county staff or a designee.

M. Final public hearing on formation and organizational issues. At the final public hearing, persons may present testimony on any matter relevant to the proposed

formation of the hamlet or village. At the conclusion of the public hearing, the BCC shall enter an order approving, approving with modification, or rejecting formation of the hamlet or village. If the Board approves formation, it shall enter an order that includes the approval of the name, purposes, activities, boundaries, initial board members, and bylaws of the hamlet or village.

N. Hamlet and village boundaries. There can be only one hamlet or village in any given geographic area. The boundaries of the hamlet or village shall not overlap the boundaries of another hamlet, village or city. To the extent permitted by law, the BCC will not permit encroachment into the hamlet or village boundaries by other entities.

O. All villages and hamlets must formally acknowledge the strategic plan adopted by the Board of County Commissioners.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15]

2.10.060 Post-Formation Management of Hamlet and Village Affairs

A. Board of Directors. The interests of the hamlet or village are represented by a board of directors. The board is the representative voice of its ~~citizens~~ community members and serves in an advisory capacity to the BCC on issues of concern to the hamlet or village. All Board members must satisfactorily complete training required by the BCC and provided by County staff. Such training may include but not be limited to board rules, procedure and governance, public meetings and public records, elections, and governmental ethics. No Board member may participate in Board deliberations or voting until completing the training required by this section.

B. Code of Conduct for Board Members:
   1. Serve the best interest of the hamlet or village as a whole regardless of personal interests.
   2. Conduct open, fair and well-publicized meetings.
   3. Provide opportunities for the community to comment on decisions facing the hamlet or village.
   4. Perform duties without bias for or against any individual or group.
   5. Act within the boundaries of board authority as advisory to the BCC.
   6. Comply with all other aspects of Oregon law applicable to public officials, including the public records law, public meeting law, ethics law, and election laws.

C. Removal of a Board member.
   1. At a Town Hall. Any member of the Board of Directors of a hamlet or village may be removed by a vote of 2/3 majority of voting members at a town hall meeting. The matter of removal may only be acted upon at a town hall meeting of the hamlet or village. Notice of intent to consider removal shall be given to each Board member and the county staff liaison at least 14 days prior to the meeting at which removal is to be considered and included on the meeting agenda; or
   2. By the BCC. Any member of the Board of Directors of a hamlet or village may be removed by a vote of the BCC. The BCC may enter an Order

removing a Board member of a hamlet or village if the BCC finds any of the following:

a. It to be in the best interests of the ~~citizens~~ community members of the hamlet, village, or the county, to remove the Board member;

b. That the hamlet or village Board member has failed to regularly follow the Board's adopted bylaws; or

c. That the hamlet or village Board member has failed to satisfy the requirements of this Chapter.

D. Meetings, public participation, action. Each hamlet or village board shall meet with members at least quarterly at town hall meetings to identify, discuss, and prioritize community issues. All such town hall meetings shall be open to the public.

1. Members and non-members may attend and speak at town hall meetings.
2. Voting shall be conducted in accordance with Section 2.10.050(K), unless otherwise specified in approved hamlet or village bylaws. Town hall votes by members are advisory to the hamlet or village board, and shall guide the board in setting policy direction in hamlet and village affairs.
3. Official hamlet or village action shall be taken only by a vote of the board. If the hamlet or village board takes action contrary to a town hall vote, that action, and the board's reasoning, shall be presented to the county liaison, and to members at the next town hall meeting.

E. Bylaw amendments. Proposed bylaw amendments shall be presented to the BCC for review and approval at a public work session scheduled at least thirty (30) days prior to a town hall vote on the amendments.

F. Boundary changes. Using the process contained in its bylaws, a hamlet or village may request that the BCC modify its boundaries.

G. Agreements. Upon approval of the BCC, a hamlet or village may enter into memoranda of understanding with neighboring jurisdictions or other organizations. The county may, on behalf of a hamlet or village, enter into an intergovernmental agreement with other governments.

H. Activities, changes. Individual projects to be undertaken within activity areas identified in the hamlet or village bylaws must first be reviewed and approved by the county liaison to ensure consistency with the approved bylaws. Proposed changes to a hamlet or village activity list must first be presented by the board to the BCC for review and approval. If approved by the BCC, the change must also be approved by a majority vote of those ~~citizens~~ community members of the hamlet or village who are present at the town hall meeting at which approval is sought. If the change is approved, the hamlet or village bylaws must also be amended to reflect the change.

I. Annual report. Each hamlet and village shall provide the BCC with an annual report, which will be coordinated by the county staff liaison.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15; Amended by Ord. 07-2016, 11/23/16]

2.10.070 Financing

A. Hamlet. A hamlet shall be financed primarily through contributions, grants, and volunteer fundraising activities. All such funds will be deposited with and administered by the county on behalf of the hamlet.

B. Village. A village may generate revenue through a range of means, including contributions, grants, and volunteer fund-raising activities. All such funds will be deposited with and administered by the county on behalf of the village. A village may enter into agreements for the sharing of revenue with the county. If approved by a vote of the ~~citizens~~ community members at a town hall meeting, the board may also request that the BCC take any of the following actions:

1. Fund proposed activities within the boundaries of the village through the establishment of a tax, fee or other charge. The BCC may implement such a recommendation if the tax, fee or charge is permitted by law, the revenue generated is intended to support the delivery of an enhanced level of service, and the level of service would not otherwise be provided from appropriated county funds.
2. Initiate formation of a county service district with a permanent rate limit for operating taxes. If approved by the BCC, formation will be initiated in accordance with ORS Chapter 451, which includes public hearings and a vote on the question of formation by registered voters within the boundaries of the proposed district.
3. Authorize the village to circulate a petition for the formation of a local improvement district pursuant to Chapter 4.02 of the Clackamas County Code pertaining to construction of public roads, sidewalks, traffic-calming, street lighting, and related facilities.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15]

2.10.080 Dissolution

A. Initiation. Dissolution of a village or hamlet may be initiated by:

1. An Order of the BCC; or
2. Filing a petition with the county staff liaison. The petition must be signed by a majority of a quorum of the Directors present at a properly noticed meeting of the Board of Directors.

B. Process. The BCC may enter an Order dissolving the hamlet or village if the BCC finds any of the following:

1. It to be in the best interests of the ~~citizens~~ community members of the hamlet, village, or the county, to dissolve the hamlet or village;
2. That the hamlet or village board members have failed to regularly follow its adopted bylaws; or
3. That the hamlet or village board members have failed to meet the requirements of this Chapter.

B. CPO status. Dissolution of a hamlet or village does not affect any existing CPO, except to the extent required by a written memorandum of understanding.

C. Disposition plan. An Order for dissolution of a hamlet or village shall include a plan for disposing of assets and for payment of any indebtedness. In the case of a village, the plan must include a recommendation on whether to dissolve or continue any districts formed to serve the village. A BCC Order approving dissolution shall include a plan for dissolution. If the Order requires the dissolution of any districts, the dissolution of such districts shall be conducted in accordance with state and local law.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15; Amended by Ord. 07-2016, 11/23/16]

2.10.090 Public meetings, public records

A. Public meetings. Meetings of hamlet and village boards, including town hall meetings where a quorum of the board is in attendance, are public meetings under the Oregon public meetings law. The requirements for public meetings include, but are not limited to, providing adequate meeting notice, opening the meetings to the public, recording votes, and keeping minutes.

B. Public records. Hamlet and village records are public records subject to disclosure unless exempt. Public record requests must be submitted to the county staff liaison for processing. The hamlet or village shall cooperate with the county in responding to each request.

C. Records retention. All original records shall be retained by each hamlet or village as required by law, with copies provided to the county staff liaison. Copies of all meeting minutes shall be submitted to the county staff liaison within forty-five (45) days from the date of the meeting. Changes to the bylaws and a list of current board members shall be submitted to the county staff liaison within thirty (30) days of any changes in bylaws or board members.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15]

2.10.100 Local budget and audit law, operating and miscellaneous expenditures, contracts

A. Local budget and audit law. Hamlets and villages may receive financial support from the county or other public or private fund sources, and shall cooperate with the county in complying with the requirements of the local budget and audit laws of the State of Oregon.

B. County trust accounts. Working with the county liaison, a hamlet or village shall open a trust account with the County Treasurer to accumulate contributions. The account shall be established according to County Treasurer protocol. Authorized requests for funds held by the county in trust for the hamlet or village shall be made in writing to the county liaison.

C. Imprest petty cash or bank account. A hamlet or village may maintain an imprest petty cash fund or an imprest bank account in an amount authorized by the BCC for operating expenditures, if provided in the hamlet or village bylaws. If the hamlet or village chooses to use an imprest bank account, all banking decisions must be coordinated with the County Treasurer or delegate. In addition, the

County Treasurer or delegate must be an authorized signatory on the account and copies of all bank statements and reconciliations must be forwarded to the County Treasurer's office. Deposits in financial institutions must comply with all requirements of ORS Chapter 295.

1. As used in this section, "imprest" means a petty cash fund or a bank account into which a fixed amount of money is placed for the purpose of making minor disbursements for small, routine operating expenses. As disbursements are made, a voucher is completed to record the date, amount, nature, and purpose of the disbursement. The total of cash and the substantiating vouchers must always equal the total fixed amount of money set aside in the imprest fund or account.

D. County contract authority. Hamlets and villages shall not enter into contracts unless expressly authorized in writing by the BCC or its delegate. All Clackamas County contracts are subject to the Clackamas County Local Contract Review Board rules.

[Adopted by Ord. 03-2007, 2/22/07; Amended by Ord. 03-2015, 2/19/15]

2.10.110 Liability, risk management

A. Agency status. Hamlet and village board members acting within the scope of authority granted by the organization bylaws and county policies are advisory to the BCC and shall be treated as agents of the county for claims against them for purposes of the Oregon Tort Claims Act. When acting in the capacity of a CPO, a hamlet or village board shall not be considered an agent of the county.

B. Fund-raising activities. A hamlet or village board must obtain approval from the county Risk Manager prior to staging public fund-raising activities.

C. Ethical standards. Directors and officers are public officials subject to the Oregon Government Ethics laws (Oregon Revised Statutes Chapter 244), and may be removed from office by the BCC if found to be in violation thereof.

[Adopted by Ord. 03-2007, 2/22/07]

CHAPTER 2.11

2.11 BOARD OF COUNTY COMMISSIONERS

2.11.010 Composition

The Board of County Commissioners shall consist of five commissioners, all of whom shall be elected by a county-wide vote. (Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.020 Designated Offices; Nonpartisan Elections

A. Each commissioner office of the Board of County Commissioners shall be designated. One commissioner office shall be designated as the Chair of the Board of County Commissioners. Each remaining commissioner office shall be designated by numbered position.
B. All Board of County Commissioner offices are designated as nonpartisan offices.
C. The nomination and election of the Chair (Position 1) and Positions 3 and 4 shall be held during one election cycle and the nomination and election of Positions 2 and 5 shall be held during the next election cycle.
(Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.030 Terms

All five members of the Board of County Commissioners shall serve four year terms. (Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.040 Selection

Members of the Board of County Commissioners shall be nominated and elected as provided by the laws of the State of Oregon for the nomination and election of nonpartisan offices.

A candidate for a commissioner office shall designate the commissioner office for which the candidate seeks nomination and election. A qualified elector may cast a single vote for each commissioner office for which a candidate is to be selected.
(Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.050 Qualifications and Vacancies

The qualifications for a member of the Board of County Commissioners shall be governed by the laws of the State of Oregon. If a vacancy in the office of a county commissioner occurs, the vacancy shall be filled using the procedures set forth in the laws of the State of Oregon for filling such vacancies.
(Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.060 Attendance at Board Meetings

The attendance of three members of the Board of County Commissioners shall be necessary to transact business. A vote of approval of at least three commissioners is necessary for the board to take any action.
(Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.070 Duties of Commissioners

The Board of County Commissioners shall serve as the governing body of Clackamas County and shall have all powers and duties granted to the governing body by law. The Chair shall establish the agenda for each meeting of the Board of County Commissioners. Two or more commissioners may place any item on the agenda of a meeting of the Board of County Commissioners over the objection of the Chair.
(Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.080 Severance Clause

If any provision of this Chapter 2.11 is adjudged or declared to be unconstitutional or otherwise held to be invalid by a court of competent jurisdiction, the remaining provisions of this chapter shall remain in full force and effect.
(Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

2.11.090 Transition Provisions and Applicability Dates

A. The Chair position shall be designated Position 1 and may be referred to either as the Chair or as Position 1. The commissioner position that exists on the day before the effective date of this chapter and the term of which expires on January 2, 2011, shall be designated Position 2. The commissioner positions that exist on the day before the effective date of this chapter and the terms of which expire on January 4, 2009, shall be designated Positions 3 and 4. The commissioner position that is not the Chair position and that was not in existence on the day before the effective date of this Ordinance shall be designated Position 5.

B. Notwithstanding section 2.11.030 of this chapter, the term of commissioner Position 5 for the term beginning January 5, 2009, shall conclude January 2, 2011. Thereafter, the term of commissioner Position 5 shall be as prescribed in section 2.11.030 of this chapter.

C. Section 2.11.020 (B) of this chapter, relating to the nonpartisan status of the offices of county commissioners, applies as of the effective date of this chapter. All other provisions of this chapter apply to the nomination and election of members of the Board of County Commissioners and to the operation of the Board of County Commissioners for each board that convenes on or after January 5, 2009.

A. On or after January 1, 2011, and before June 1, 2011, the Board of County Commissioners shall review the governance structure of the Board of County Commissioners and shall determine whether to propose to county electors

changes in the governance structure of the Board of County Commissioners, including but not limited to whether commissioners should serve on a full-time or part-time basis and whether commissioners should be elected on a county-wide basis or by district.
(Adopted by Ord. 07-2007, 8-2-07; Approved by voters 11-6-07)

Chapter 2.12

2.12 COUNTY COUNSEL

2.12.010 Appointment of County Legal Counsel

A. The Board of County Commissioners may appoint a person licensed to practice law in the State of Oregon as the County Counsel. The Office of County Counsel represents the County, and is authorized to provide legal advice and representation to the Board and other County officers, to render services in connection with legal questions of a civil nature arising in the discharge of their functions, to prosecute violations of County law as defined by statute, and to provide such additional services as the Board determines. The County Counsel is the chief legal officer of the County and serves at the pleasure of the Board as an unclassified employee under an employment agreement.

B. The County Counsel will be chosen without regard to political considerations and solely with reference to legal and administrative qualifications. The County Counsel shall serve full-time as the director of the Office of County Counsel, and reports directly to the Board of County Commissioners. Compensation and benefits shall be fixed in an amount determined by the Board of County Commissioners.

[Adopted by Ord. 01-2009, 2/5/09]

2.12.020 Authority

A. The County Counsel shall be the chief legal officer of the County, and oversees all legal matters of a civil nature involving the County. Within broad objectives established by the Board of County Commissioners, the County Counsel will plan, organize, direct and manage all civil legal personnel and activities for the county, work closely with the County Administrator, and keep the Board informed of pertinent matters.

B. When a person licensed to practice law in the State of Oregon has been appointed pursuant to this Chapter they shall have the same civil authority and responsibilities as are otherwise provided for the District Attorney when acting as advisor to the Board of County Commissioners and County officers.

[Adopted by Ord. 01-2009, 2/5/09]

2.12.030 Duties

The County Counsel shall perform all day-to-day functions necessary for the administration and management of the Office of County Counsel. Such duties include but are not limited to the following:

A. Develops and implements policies and procedures for the Office of County Counsel.

B. Provides or oversees legal representation as determined by the Board in civil matters on behalf of the County.

C. Provides legal counsel to the Board of County Commissioners, County officers, the County Administrator, department directors, County employees and various boards and commissions, on matters pertaining to official County operations.

D. Advises County departments on appropriate action for a variety of legal problems and issues.

E. Provides legal advice and analysis of proposed state and federal legislation affecting County operations.

F. Directs the research and preparation of legal opinions, memoranda, ordinances, resolutions, contracts, agreements, deeds and other legal documents.

G. Selects, appoints, supervises, disciplines and dismisses all Office of County Counsel staff and assistant county counsel, including, but not limited to, Legal Counsel and Legal Counsel, Senior. The County Counsel has the authority to sign employment contracts for such employees, as unclassified employees, consistent with other employment contracts. The County Counsel shall consult the Board on these matters.

H. Hires outside legal counsel on behalf of the County, subject to applicable law and County policy, upon such terms and conditions as may be approved by the Board.

I. Conducts such other activities and assignments as may be required by the Board. [Adopted by Ord. 01-2009, 2/5/09]

Chapter 2.13

2.13 DELEGATING AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

2.13.010 Delegation of Authority

A. The Director of the Department of Transportation and Development (the "Director") shall have the authority to accept, on behalf of the County, dedication of interests in land for use as public right of way, for related or appurtenant easements, and for other public purposes as set forth in this Chapter and as the Board may further determine by resolution and order.

B. The Director, in instances when the Director is not present in the Department of Transportation and Development, shall have the power to temporarily delegate the authority under this section by a written statement to the Deputy Director or Transportation Engineering Manager, declaring the delegation, the individual designated, and the duration of the designation.

C. The authority granted in this section shall be in addition to other authority that may be provided to County officers and employees to acquire interests in real property on behalf of the County. Nothing in this section shall be deemed to grant any employee or individual the authority to acquire or accept an interest in real property on behalf of the County except as specifically provided herein, or upon the direction or approval by the Board.

(Added by Ord. 02-2009, 3/5/09)

2.13.020 Authority to Accept

A. In order for the Director to have the authority to accept a dedication or grant of a property interest the Board must have established a policy or directive as shown by one or more of the following examples:
   1. An expansion or realignment of a public road for which the Board has approved acquisition of right of way or declared the necessity of acquiring the same;
   2. An existing or proposed County road;
   3. Any road or related facility shown on a transportation plan adopted or approved by the Board; and
   4. Any public road or easement required by the terms of a final land use approval.

B. The Director's authority to accept, on behalf of the County, offers of dedication includes the following interests in real property:
   1. Deeds and easements securing the right of way, including roads, streets, highways, paths, trails and public ways of whatever kind;

2. Road related easements, including but not limited to temporary construction easements, public utility easements, soundwall easements, slope easements, storm drainage easements, sign easements, sidewalk easements, sight distance easements, and traffic control easements.
3. Other lesser road related property interests, such as temporary rights of entry;
4. Other easements and real property interests granted to the County or to the public pursuant to the terms of a final land use approval.

C. All documents accepted pursuant to this section and submitted for recording shall show evidence of approval as to form by County legal counsel and the signature and title of the person accepting the document on behalf of the County.

(Added by Ord. 02-2009, 3/5/09)

2.13.030 Severance Clause

No other provision of the County Code shall be affected by the amendments herein adopted. A determination by a court of competent jurisdiction that any section, clause, phrase, or word of this chapter or its application is invalid or unenforceable for any reason shall not affect the validity of the remainder of this chapter or its application, and all portions not so stricken shall continue in full force and effect.
(Added by Ord. 02-2009, 3/5/09)

2.13.040 Authority

The authority to grant by this Chapter does not affect the authority granted the County Surveyor as set forth in Chapter 11.02 of the County Code.
(Added by Ord. 02-2009, 3/5/09)

Chapter 2.14

2.14 COUNTY SURVEYOR

2.14.010 Appointment of County Surveyor

The County Administrator or designee shall appoint, as County Surveyor, a person who is registered under the laws of the State of Oregon as a registered professional land surveyor, and who otherwise meets the eligibility requirements of ORS 204.016(1).
[Added by Ord. 02-2012, 1/4/12; Amended by Ord. 03-2016, 8/11/16]

2.14.020 Authority

The County Surveyor has the authority to perform all the duties of a County Surveyor as set forth in ORS Chapter 209 or in the County Code, and such other duties as may be directed by the County Administrator.
[Added by Ord. 02-2012, 1/4/12]

2.14.030 Duties

A. The County Surveyor appointed as provided in this Chapter is responsible for performing the duties of office as set forth by ORS Chapter 209, the duties set forth in the County Code, and such other duties as the County Administrator shall determine.

B. The County Surveyor will report to a person designated by the County Administrator.

[Added by Ord. 02-2012, 1/4/12]

TITLE 4

PUBLIC IMPROVEMENTS

Summary

TITLE 4

PUBLIC IMPROVEMENTS

Table of Contents

CHAPTERS

Chapter 4.01

4.01 RELOCATION PROCEDURE

4.01.010 Policy and Purpose

A. The purpose of this chapter is to establish a procedure for hearing appeals of persons who have been or will be displaced from real property by the construction of public improvements. State and Federal laws require relocation assistance to such displaced persons. State and Federal laws also require the County to establish a procedure for hearing appeals by displaced persons regarding relocation assistance eligibility decisions.

B. Any aggrieved person may appeal the County's or Development Agency's determination in accordance with the procedures set forth in this chapter. These procedures effectuate the County's policy that:
   1. Each person who appeals has the opportunity for oral presentation;
   2. Each appeal will be decided promptly and the applicant will be informed of the decision in writing; and
   3. Each appeal decision will include a statement of the reasons upon which it is based.

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

4.01.020 Definitions

A. AGGRIEVED PERSON means s person who does not agree with a determination of Clackamas County or the Clackamas County Development Agency ("Development Agency") regarding eligibility for relocation assistance or the amount of relocation assistance benefits.

B. DISPLACED PERSON means any person who:
   1. Is in occupancy at the initiation of negotiations for the acquisition of the real property or other real property on which the person conducts a business or farm operation, in whole or in part, or is in occupancy at the time the person is given a written notice by the County, Development Agency, or their agents or representatives that it is their intent to acquire the property by a given date; and
   2. Moves from the real property or moves the person's personal property from the real property or other real property on which the person conducts a business or farm operation subsequent to the earliest date established above; and the real property is subsequently acquired, or if the move occurs after a written order to vacate is issued, the occupant is eligible even though the property is not acquired.

C. NOTICE OF BENEFIT means a notice received by a person from the County, the Development Agency, or their agents or representatives, setting forth or denying

the right to, or amount of, benefits to be awarded pursuant to the Relocation Assistance Act of Oregon (ORS 281.045 to 281.105) and Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Said Notice shall state that any person aggrieved by the determination shall have the right to appeal that determination in accordance with this chapter.

D. PERSON means an individual, partnership, company, association, corporation, or any other legal entity, including any receiver, trustees, assignee or similar representative.

E. PETITIONER means a person who files with the County a timely petition for reconsideration of the Hearing Officer's order.

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

4.01.030 Hearing Officer

A. There is hereby created the position of Relocation Assistance Hearing Officer.

B. The Board of County Commissioners of Clackamas County shall appoint this person.

C. The Hearing Officer shall have the following powers and duties:

1. To hear and determine appeals under the procedure set forth in this chapter; and,
2. To exercise such other powers and perform such other duties that may be necessary to achieve the policies and purposes of this chapter.

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

4.01.040 Appeal Procedure

A. An aggrieved person may file a request for an appeal hearing within 60 days after the County, the Development Agency, or its representative mails a notice of benefit to the aggrieved person.

B. The request for an appeal hearing and all other communications with the County, Development Agency, or Hearing Officer shall be in writing and shall be directed to the following person:

Director
Department of Transportation and Development
9101 SE Sunnybrook Blvd.
Clackamas, OR 97015

C. Hearing shall be held on all requests postmarked no later than 12:00 a.m. of the 60th day following the mailing date of the notice of benefit. The hearing procedures shall be in substantial compliance with ORS Chapter 183 procedures and rules for contested cases.

D. When a person files a request for a hearing, an informal conference shall be scheduled for a date no later than 30 days after the request is received. Said conference shall be between the aggrieved person and the project manager for the construction project involved. The aggrieved person may make an oral presentation and supply the project manager with any information the aggrieved person deems relevant.

E. Within 10 days after the informal conference, the project manager shall mail to

the aggrieved person written notice of the results of the conference, including a statement of the reasons upon which the project manager's decision is based. An aggrieved person, who does not agree with the project manager's decision, may so notify the County in writing within 10 days after the date of the decision is mailed. The County shall then schedule a date for a hearing before the Hearing Officer that shall be within 21 days after the County receives the aggrieved person's written notification that the project manager's decision is not acceptable.

F. The County shall send written notice of the time and place for the hearing to the aggrieved person, the project manager, and the Hearing Officer within 15 days before the hearing date. Notice to the aggrieved person shall be by both certified mail, return receipt requested, and by first class mail; all other notices may be by any means reasonably calculated to give actual notice. Notice may also be given to such other persons as the project manager or Hearing Officer determine to be interested persons.

G. The aggrieved person and the project manager or their representatives may make argument and submit evidence in accordance with ORS Chapter 183 procedures and rules for contested cases.

H. All hearings shall be recorded in a manner that will allow for written transcription to be made. The Hearing Officer shall retain all materials submitted at the hearing for three years.

I. Within 15 days after the hearing, the Hearing Officer shall issue and mail to the aggrieved person either a copy of ~~his or her~~ their order or a notice of any continuance of ~~his or her~~their decision, not to exceed 15 days.

J. Failure of an aggrieved person to appear at either the informal conference or at the hearing shall constitute a waiver of the right to a hearing.

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

4.01.050 Reconsideration; Judicial Review

A. The Hearing Officer may reconsider an order upon the filing of a written petition for reconsideration with the County by the aggrieved person. A petition for reconsideration must be filed within 15 days after issuance and mailing of the order.

B. The County shall promptly notify the Hearing Officer in writing that a petition for reconsideration has been filed. If the Hearing Officer takes no action within 15 days after notice is sent to ~~him or her~~them, the petition shall be deemed denied and the order shall be deemed final. If the Hearing Officer allows the petition, a reconsideration hearing shall be held scheduled for a date within 21 days after the petition is filed. The County shall give the petitioner and all parties to the original hearing written notice of the time and place of the reconsideration hearing. Notice to the petitioner shall be by both certified mail, return receipt requested, and first class mail; all other notices shall be by first class mail.

C. The petitioner or ~~his or her~~ their representative may make an oral presentation at the hearing. The Hearing Officer shall have the discretion to allow new evidence.

D. Within 15 days after the reconsideration hearing, the Hearing Officer shall issue a new order that shall include a statement of the reasons upon which the new order

is based.

E. Judicial review of the Hearing Officer's action shall be taken in the manner set forth in ORS 183.480-183.497.

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

Chapter 4.02

4.02 LOCAL IMPROVEMENT DISTRICT FORMATION, FINANCING AND COLLECTION

4.02.010 Purpose

A. The purpose of this chapter is to establish procedures and guidelines for the formation and financing of Local Improvement Districts relating to construction of public roads, sidewalks, and related facilities and for the foreclosure of liens on properties within said Local Improvement Districts ("LIDs") or other collection action as may be necessary when payments are delinquent.

B. Local Improvement Districts are formed under ORS 371.615. It is the purpose of this chapter to articulate the minimum criteria for the formation and financing of LIDs so that potential property owners, the County, and all interested parties have a clear understanding of the requirements at the outset of any formation process, and to allow the County to assure an economically viable and efficient method for financing. Further, it is the purpose of this chapter to set forth the policy on enforcement and collection of payments of delinquent liens with LIDs as well as the creation of a surplus debt fund.

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

4.02.020 Formation and Financing

A. Persons wishing to initiate formation of a Local Improvement District shall meet with staff to review and obtain explanation of the County's process including the requirements of statute, this chapter and the Policies and Procedures Manual. At this meeting, staff and the potential applicant(s) shall review the financial criteria of the chapter and the Policies and Procedures Manual to determine at the outset if the petition is feasible. The potential applicant(s) shall then obtain petition forms, and at their own cost and expense obtain the necessary signatures and otherwise meet all requirements. No action by County staff in reviewing the proposed Local Improvement District shall be binding; only the Board of County Commissioners may evaluate and make the final decision regarding formation of the Local Improvement District and financing thereof.

B. For all projects except sidewalk construction, the petition shall comply with requirements of ORS 371.615 and 371.620. For sidewalk construction projects, the petition shall comply with ORS 371.620 and shall contain the signatures of not less than 60% of the owners of benefited land who represent not less than 50% of the land abutting or fronting on the proposed sidewalk construction. The petition shall indicate where the improvement shall be made and describe the nature of the improvement desired.

C. In addition to the requirement of ORS 371.615, et seq., the resolution initiating the formation shall, at a minimum: (i) set forth where the improvement shall be made; (ii) describe the nature of the improvement desired; (iii) direct the Director of the Department of Transportation and Development to investigate the proposed

improvement, if feasible, provide plans, estimated costs, a recommended method of assessment, descriptions of properties benefited, the real market value of properties involved, and names of the owners; and (iv) direct the Finance Director to evaluate the proposed District according to financing criteria and furnish financing recommendations for timely repayment of project debt. All costs for the construction for any of the improvements described in Section 4.02.010 shall be allocated to the benefited properties in the manner set forth in ORS 371.605 to 371.660. To the extent that ORS 371.615, ORS 371.630 and ORS 373.642 contradict this chapter, this chapter pursuant to ORS 371.610(3) supersedes those provisions.

D. For all projects except sidewalk construction, the number of written objections required to declare the project abandoned should comply with ORS 371.630(2). For sidewalk construction projects, the number of written objections required for the County Commissioners to declare the project abandoned shall be more than 50% of the owners of benefited land or more than 50% of the owners of land abutting or fronting the proposed sidewalk construction.

E. The staff's report, pursuant to ORS 371.625, shall set forth financial criteria designed to evaluate the fiscal viability of a proposed Local Improvement District and contain the recommendation of the Finance Director. The criteria are designed to evaluate and minimize the County's risk of having to expend General Fund or additional tax levy monies to cover defaults or delinquencies on assessment contracts. Each project shall meet the following criteria for financing:

1. No less than ninety percent (90%) of the number of benefited properties must have a ratio of real market value to assessment of at least 3 to 1. Real market value shall be net of any parity tax liens outstanding on the property;
2. The remaining ten percent (10%) of the properties excepted from the requirements of 4.02.020 E 1 above shall have a real market value to assessment ratio of at least 1.5 to 1. Within this category, no single property may represent more than two percent (2%) of value of the total assessment; and,
3. Assessment financing shall not be available for projects in which three or fewer property owners own more than fifty percent (50%) of properties comprising the total real market value for the entire district, except when those assessments are secured by an additional performance guaranty such as a bank letter of credit, by enhanced real market value to assessment ratios, or by other guaranties that appropriately protect the County's interest, in the sole discretion of the Finance Director.

F. Notwithstanding the foregoing, the Finance Director may recommend that a project not meeting the criteria of 4.02.020 E be approved. Considering the nature of the improvement, the dollar size of the project and other equitable factors, it is reasonable to proceed in the public interest, and the County chooses to finance the project on its own or use an alternative method of financing with a third party.

G. The County hereby declares its intention to assess the actual cost of the project as that term is defined in ORS 310.140(13) ("costs"). Pursuant to Section 1.103-18 of the United States Treasury Department Income Tax Regulations, to reimburse

expenditures for the costs of the improvements described in the resolution approving proceeding with the project, approving the staff report, and forming the District, by issuing warrants, notes, bonds or other obligations. Interim financing obligations will be in a principal amount, which does not exceed the costs of the improvements and related costs of administration and financing, less any funds that are available to provide internal financing. Long term financing will be an amount equal to the cost of the improvements and related costs of administration and financing, fewer amounts paid by benefited property owners prior to the issuance of these obligations. The total cost of the improvements and related costs of administration and financing as defined in ORS 310.140(13) shall be estimated in the resolution as the highest possible cost of the project.

H. Upon formation of the District and levy of assessments each assessment levied must be paid in full or proper application must be made under ORS 223.210 to pay any assessments according to the installment payment method on forms approved by the County. Assessments shall be paid in semi-annual installments of fully amortized principal payments plus interest thereon at the rate stated in the assessment contract or as adjusted by the interest rates and other costs associated with a subsequent bond sale wherein the assessment contract is pledged as security. Therefore, if bonds are sold relating to the subject assessment contract the interest rate shall be adjusted as of the date of the bond sale and the varying amounts due by reason of the proration shall be set forth on the next succeeding semi annual payment notice.

I. The County finds that a proposed project where a significant number of assessments are less than $2,500 may be difficult administratively to administer and the County, in its sole discretion, may determine not to proceed with the project based upon the Finance Director's analysis under 4.02.020 C (iv). In such instances the project may be approved if the property owners having assessments of $2,500 or less, elect in writing to pay the assessments according to the following schedule:
    1. For assessments in the amount of $100 or less, the amount shall be paid in full within sixty (60) days following entry on the Street Lien Docket;
    2. For assessments from $100.01 up to and including $1,000, payment shall be made in semi-annual installments including interest thereon over a period of three (3) years; and
    3. For assessments from $1,000.01 up to and including $2,500, payment shall be made in semi-annual installments including interest thereon over a period of five (5) years;

J. The written election shall
    1. Be signed by the owner or duly authorized representative of the owner;
    2. Contain a description of the assessed property and the local improvement for which the assessment is made; and
    3. State that the owner acknowledges that the improvement is a local improvement as described under ORS 223.001(9). That payment of the final assessment, against the properties benefited by the local improvement plus the interest may be spread over at least ten years; that not withstanding any provision of law, the owner consents to make

payments over a period of less than ten years and have the assessment levied accordingly on the benefited property. The written election shall be recorded and valid and binding upon all heirs, successors and assigns of the owner.

K. The interest rate set forth in the assessment contract shall be based upon the current commercial prime interest rate charged by the bank having the largest deposits within the State of Oregon as of the date of the assessment, bond market interest rates, and such other indicators as the Finance Director deems appropriate at the time the assessment is levied. The County must be protected from funding cash flow shortfalls produced from default or delinquent payment associated with non-performing assessment contracts. Unless otherwise amended by order, or within the formation resolution or assessment contract, the County shall add 50 basis points for administrative costs and 50 basis points for historically anticipated risks (total of 1%) to the assessment contract interest rate. Nothing shall prevent adjustment of either component described above by resolution or order.

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

4.02.030 Delinquent Accounts

A. Upon formation of a Local Improvement District, persons or entities who elect and qualify to pay on an installment or other deferred basis, must do so in a timely fashion, but there has been, and is anticipated, a certain percentage of persons or entities who make partial and/or late payments, as well as those who default entirely. The County has previously adopted and followed a collection policy consistent with State law. With the passage of Article XI, Section 11(b) of the Oregon Constitution, the County finds that it must adopt by ordinance the most proper and efficient method possible to assure its financiers and citizens of implementation of proper fiscal management practices. Nothing herein shall prevent more stringent practices as deemed necessary by debt instruments executed by the County in favor of third parties.

B. Aggressive collection shall be taken for all unpaid debt. The Finance Director will be notified immediately by the Collection Department of any account thirty- (30) days or more past due. The Finance Director shall then send a letter to the defaulting party demanding payment no later than thirty (30) days following the date of the demand letter. The demand shall require payment of all amounts to bring the account current including any applicable interest or other penalty and shall demand full compliance with a time-be-of-the-essence clause according to the type of obligation at issue. The time for payment to bring the account current shall be left to the best professional judgment of the Finance Director, depending upon the type of debt and amount owed. However, in no event shall time for payment exceed the next payment due date, or any other requirements imposed by debt instruments executed by the County in favor of any third party, or other agreements that may have been executed by the County.

C. If payment has not been made following the first notice, the Finance Director shall send a second notice detailing the prior defaults and notices thereof, indicating that further action, including legal action, will be taken.

D. If, following the second notice, time for payment has expired, then the Finance Director shall include the defaulting person or entity on a list entitled "Collection/Foreclosure" and consult with appropriate staff and legal counsel regarding the most efficient and cost effective method for collection of the debt.

E. The Finance Director shall determine if the matter will be referred to legal counsel, a debt collection agency or other method for collection. If referred to legal counsel, a demand letter to the debtor shall be sent declaring default, accelerating the entire balance and requiring full payment within a reasonable period of time, not to exceed thirty (30) days. If no satisfactory response is forthcoming, the Finance Director may direct counsel to commence legal action. The Finance Director may extend the time limits for legal action in cases of extraordinary hardship. Such determination shall be at the sole discretion of the Finance Director and not subject to review by the Board of County Commissioners.

F. Upon referral and direction by the Finance Director, counsel may proceed with foreclosure of the assessment lien or take other legal action authorized by law, which is deemed most appropriate under the circumstances.

G. If the Finance Director determines that it is most effective to use the services of a collection agency, the Finance Director may solicit proposals and make a recommendation to the Board of County Commissioners regarding selection of a firm consistent with the Clackamas County Local Contract Review Board Rules and ORS Chapter 279. The Finance Director shall be authorized to negotiate a contract regarding the amount of compensation, length of term and methods of collection, subject to final review and approval by the Board. However, the contract shall specifically provide that the collection agency shall fully comply with the Fair Debt Collection Practices Act, 15 U.S.C. 1601, et seq., and shall provide for full indemnification and protection of the County from any and all claims for unfair, or unlawful, debt collection practices.

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

4.02.040 Reserve Fund

Any surplus of funds remaining after the last maturity of any present or future Local Improvement District bond or financing issue shall be transferred to the reserve fund for Local Improvement Districts to meet assessment shortfalls.
[Codified by Ord. 05-2000, 7/13/00]

4.02.050 Policies and Procedures Manual

The Board hereby authorizes the Clackamas County Finance Director to adopt a Policies and Procedures Manual consistent with, and to implement, this chapter. In addition to any statute or ordinance requirements hereunder, the terms and conditions of the Policy and Procedures Manual shall apply to any proceeding under this chapter, as long as said terms and conditions are consistent with, and carry out, the intent of this chapter.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 4.03

4.03 ZONE OF BENEFIT RECOVERY CHARGES

4.03.010 Authority, Scope and Purpose

This chapter provides an optional partial reimbursement mechanism for persons or entities that build necessary road improvements. Under this chapter, when a developer builds necessary road improvements likely to benefit other nearby properties, the developer may request that the County determine the degree of benefit and, if appropriate, require the nearby owner(s) to reimburse a portion of the improvement costs at the time they develop their property. The properties that benefit from the road improvement are known as the Zone of Benefit, and the partial reimbursement charge is called the Recovery Charge.

A. ORS 368.016 specifies that the exercise of governmental powers relating to a road within a county is a matter of county concern. ORS 203.035(1) provides that counties may, by ordinance, exercise authority within the county to the end that counties have all powers over matters of county concern, to the fullest extent allowed by the Constitutions and laws of the United States and of this state.

B. Clackamas County generally constructs, or requires property owners to construct and install, necessary road improvements as a condition of development approval. If property owners accomplish these improvements, they are generally constructed in accordance with County design and construction standards and later dedicated to the County as public improvements. Many of these road improvements, particularly those constructed off-site, can and will be used in the future by other nearby property owners who develop or otherwise change the use of their property in a manner which creates an increased impact on road facilities. Therefore, these improvements represent a potential benefit to nearby property owners.

C. This chapter is intended to provide a uniform mechanism whereby, if either the County initiates, or property owners install, necessary road improvements which specially benefit other nearby property owners, a request may be directed to the County to formally assess the degree of benefit. If appropriate, the County may require the owner(s) of such benefited property to contribute a portion of the cost of the road improvements, if the latter owner changes the use of, or otherwise develops, their property in a manner that increases the impact on road facilities.

D. This chapter provides a mechanism whereby property that has been benefited by the construction of certain improvements by another person or the County, will share in the cost of those improvements through payment of a Zone of Benefit Recovery Charge to the County at the time the benefited property is approved for development and before a permit for development is granted. This chapter also provides a mechanism for the County to examine the improvements which are constructed, their cost, the properties which are specially benefited by them, and a reasonable method of apportioning the recoverable costs among benefited properties. Property owners whose property would be subject to the Recovery

Charge fee will be provided an opportunity to review and comment on pertinent information prior to the County establishing a Zone of Benefit Recovery Charge pursuant to this chapter. The County will endeavor to collect Recovery Charges and upon receipt, will forward the appropriate portion of such funds (less a fee of up to 5% for administration, as established by Board resolution) to the requester who financed and/or caused the improvements to be constructed.

E. The process which is used to establish a Zone of Benefit Recovery Charge under this chapter, also offers property owners who would be required to pay a future recovery charge for such improvements, an opportunity to examine and comment on the proposal at a public hearing. improvements. The decision by the Board to establish a Zone of Benefit Recovery Charge in a given case is not intended to be a land use decision. Rather, it recognizes the private benefit that has been conferred by a property owner, or the County, on neighboring property and provides a way of sharing those costs.

F. Except as may be provided in this or other County chapters, Zone of Benefit Recovery Charges are in addition to other charges which may be required of development, such as system development charges, inspection fees, building permit fees, other improvement-related fees and taxes. The Zone of Benefit Recovery Charges established under this chapter represents a cost associated with development, which is specifically related to the benefit derived by new development and the advance costs of providing that benefit.

G. Zone of Benefit Recovery Charges established under this chapter are not assessments against property, and do not become due and payable, unless and until such time as the subject property is approved for development that increases, or is likely to increase, the impact on road facilities.

H. The Zone of Benefit Recovery Charges established herein, are intended to be charged upon approval of the act of development that increases, or is likely to increase, the impact on road facilities. Such charges are fees for service because they contemplate a development's receipt of essential services based upon the nature of that development. The timing and extent of any development are within the control and discretion of the property owner. Furthermore, the Recovery Charges imposed by this chapter are not intended to be a tax on property, or on a property owner, as a direct consequence of ownership of property within the meaning of Section l1b, Article XI of the Oregon Constitution, or the legislation implementing that section.

I. The Zone of Benefit Recovery Charges established under this chapter provide a method for more specifically adjusting the improvement requirements imposed on a property owner according to the benefit received by new development. This also serves the purpose of providing reasonable compensation to the requester who finances or causes to be constructed the beneficial road improvements, and thus assists in avoiding disputes over property rights.

J. The Zone of Benefit Recovery Charges established, and the process described in this chapter, may be reviewed and modified as needed to comply with future amendments to the Clackamas County Comprehensive Plan and/or the Clackamas County Zoning and Development Ordinance.

K. While Clackamas County may require a person to construct and install necessary

road improvements as a condition of development approval, a request to establish a Zone of Benefit Recovery Charge as authorized by this chapter is voluntary, and cannot be made a condition of development approval.

L. This chapter shall apply throughout Unincorporated Clackamas County.

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

4.03.020 Definitions

All terms not defined below shall be as defined in the Clackamas County Zoning and Development Ordinance.

A. ADMINISTRATOR means the person appointed by the Board of County Commissioners to implement and manage the administration of this chapter.

B. ANNUAL PERCENTAGE RATE MULTIPLIER means the factor applied to the Zone of Benefit Recovery Charge at the time it is paid to account for the time value of money and provide the requester with a fair return on investment for the road improvements included in an approved Zone of Benefit.

C. BANCROFT BOND means that a bond is issued by the County to finance a capital improvement in accordance with ORS 223.205 - 223.295.

D. BOARD means Board of County Commissioners of Clackamas County, Oregon.

E. BUILDING OFFICIAL means that person, or designee, certified by the State and designated as such.

F. BUILDING PERMIT means that permit issued by the Building Official pursuant to the State of Oregon Structural Specialty Ordinance Section 301, or as amended, and the State of Oregon One and Two Family Dwelling Chapter section R-109, or as amended. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the County Building Official relating to the placement of manufactured homes in the County.

G. COUNTY means Clackamas County, Oregon.

H. DEVELOPMENT means any change in the use or appearance of improved or unimproved real property, that increases, or is likely to increase, the impact on road facilities, and requires a County permit, including, but not limited to:

1. Construction, installation or change of a building or other structure;
2. Land division;
3. Establishment or termination of a right of access;
4. Storage on the land; or
5. Construction of additional parking.

I. FINANCE DIRECTOR means that person or designee assigned by the Board of County Commissioners the responsibility of managing the Finance Department for Clackamas County.

J. PARCEL OF LAND or PARCEL means a lot, parcel, block or other tract of land that is occupied, or may be occupied, by a structure, or structures, or other legal use, and that includes the yards and other spaces required by County Ordinance or regulations.

K. PERSON means an individual ~~natural~~ person, such person's heirs, executors, administrators or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent, employee or any representative. For purposes of this chapter, Clackamas County also qualifies as

"an individual ~~person~~".

L. PROPERTY OWNER means the owner of the title to real property, or the contract purchaser of real property of record, as shown on the last available complete assessment roll in the office of the County Assessor.

M. REQUESTER means the person who finances or causes construction of road improvements, such that property(ies) upon its development will, or may be, relieved of the obligation or requirement, to construct all or a portion of the same improvements, and who requests that the County establish a Zone of Benefit Recovery Charge. The County itself may be a requester.

N. ROAD IMPROVEMENT means all road related construction within a public right-of-way, which is designed and constructed in accordance with the County zoning, development ordinance, comprehensive plan, and design and construction standards which includes, but is not limited, to some or all of the following: extension, widening, bridges, storm drains, curbs, gutters, sidewalks and pedestrian safety devices, bike paths, traffic signals and other traffic control devices, street trees, sound walls, lighting, signage, and acquisition of right-of-way and necessary easements.

O. SPECIAL BENEFIT means the value associated with a road improvement, which relates to a particular parcel of land to the extent such parcel is partially relieved of a cost or expense associated with development, and is different in degree from the value or benefit received by the general public.

P. TRANSPORTATION CAPITAL IMPROVEMENT PLAN means the County program that identifies all of the major transportation system capacity, safety, reconstruction, and bridge improvements projected to be necessary to accommodate existing and anticipated transportation system demands. The document detailing this program is entitled "Clackamas County Transportation Capital Improvement Plan and Program".

Q. ZONE OF BENEFIT means the area or parcels of real property, which are determined by the Board of County Commissioners to derive a special benefit from the design and construction of a road improvement, financed or constructed by a person or the County, without the formation of a local improvement district. For such improvements being installed, the owner(s) of the benefited property(ies) would be required to construct all or a portion of such improvements in connection with the development of such property(ies).

R. ZONE OF BENEFIT RECOVERY CHARGE or RECOVERY CHARGE means the fee required to be paid by a property owner within a previously delineated Zone of Benefit, determined by the Board of County Commissioners to be the amount which is necessary or appropriate to reimburse another person or the County for financing or causing the construction of road improvements.

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

4.03.030 Formation of a Zone of Benefit

A. Any person who finances or causes construction of a road improvement which exceeds $25,000 in cost, such that nearby property(ies) developed afterward will, or may be, relieved of the obligation or requirement to construct all or a portion of the same improvement, may request that the County establish a Zone of Benefit

Recovery Charge.

B. A request to establish a Zone of Benefit Recovery Charges shall be in writing and shall consist of the following information:
   1. Detailed or as-built plans or drawings showing the actual location, nature and extent of all improvements for which a Zone of Benefit is sought;
   2. The parcels of property identified by survey or tax lot number which are purportedly specially benefited by the improvements and from which a Zone of Benefit Recovery Charge is sought;
   3. The ownership of parcels identified in paragraph 2 of this Subsection, according to the current records of the County Department of Assessment and Taxation, and the mailing address of such property owners;
   4. Detailed costs and invoices for labor, materials and actual permit and inspection fees devoted exclusively to the improvements and for which a Zone of Benefit Recovery Charge is sought to be established, and subject to the following limitations:
      a. Costs shall not include any amount of "profit" or "overhead" of the requester.
      b. Costs shall not include any amount of value, which is or may be attributable to the real property of the requester, which has been dedicated or transferred to the County for public use, such as right-of-way or easements.
      c. The requester shall certify the accuracy of the costs, which are submitted to the County, and that the requester has actually paid or financed such costs.
      d. The amount of any recovery charge attributable to road improvements may be based upon construction contract documents together with construction invoices or other appropriate information, provided by the requester.
      e. The requester shall have the burden of establishing the cost of improvements.
      f. Should the Administrator determine the contract amounts exceed prevailing market rates for a similar project, the Recovery Charges shall be based upon market rates.
   5. Other relevant information, as required by the Administrator shall be submitted; and
   6. A nonrefundable application fee, as established by the Board of County Commissioners by resolution, to cover the County's costs in providing notice of public hearing and the Administrator's examination and report, shall be paid at the time of application.

C. The Administrator shall review each application for the establishment of a Zone of Benefit Recovery Charge and prepare a report and recommendation to the Board of County Commissioners whether such a Zone of Benefit Charge should be established. The recommendation shall include and address the following factors:
   1. Whether the requester has paid for some or all of the costs of a road improvement;

2. The extent to which the improvements referred to in paragraph 1 of this Subsection have relieved another person or persons of the future need or requirement to construct all or a portion of the same improvements;
3. The area, lots and/or parcels of land which are specially benefited by the improvement, and whether or not such parcels would, as a condition of future development, be required to construct some or a portion of the same improvement for which a Zone of Benefit Recovery Charge is sought to be established;
4. That portion of the cost of the improvements within the area of the proposed or probable Zone of Benefit which may later become appropriate for recovery from the owners of property identified in Paragraph 3 of this Subsection;
5. A rational formula for apportioning the cost of the improvement among properties within the proposed Zone of Benefit and an equitable cost allocation method, such as:
    a. Front Foot method,
    b. Zone Front Foot method,
    c. Square Footage method,
    d. Trip Generation (traffic) method, or
    e. Other equitable method.
6. The results of applying the formula referred to in paragraph 5 of this Subsection to the lots and/or parcels of land identified in paragraph 3 of this Subsection, which becomes the proposed Zone of Benefit Recovery Charge, subject to the limits described in 4.03.030 F;
7. The annual percentage rate to be applied to the proposed recovery charge over the following fifteen (15) years, which represents the estimated annual return on investment of the recoverable costs.
8. Whether the requester has complied with the requirements of this chapter.

D. The Board of County Commissioners following a hearing pursuant to 4.03.040 of this chapter, shall determine the portion of the cost of the road improvement subject to recovery by properties within the zone of benefit.

E. The amount of improvement costs that may be reimbursed to the person making such improvements through a Zone of Benefit Charge shall be limited as follows:
1. No recovery shall be made, or provided for, for the costs of that portion of the road improvement which specially benefits the requester's own property.
2. No recovery shall be allowed for the cost or value of real property which the requester for recovery was required to dedicate or reserve for public use as a condition of development, unless such property was, prior to dedication or reservation, part of a separate parcel owned by another, where the cost of acquisition reflected an arms-length transaction, or where the amount of value received, represents the reasonable market value.
3. Except as otherwise provided, recoverable costs and expenses shall be limited to the cost of road improvements, including the acquisition and condemnation costs of acquiring additional right-of-way and/or easements,

the actual cost of permits, engineering and legal services as shown by invoice, and the estimated annual percentage increase in such costs over the fifteen (15) years following completion and approval of the road improvement.

4. No recovery shall be allowed for road improvements which have been constructed by the requester, approved by the County and for which no application for Zone of Benefit Recovery Charge pursuant to this chapter has been received within six (6) months from the date of County approval of such improvements
5. No recovery shall be allowed for that portion of a road improvement where the requester for Zone of Benefit Recovery Charge has received a credit against Transportation Systems Development Charges. If a Transportation System Development Charge credit is granted to a Recovery Zone requester for a portion of a project for which the requester has also made application for Zone of Benefit Recovery Charges, then the total amount of the request for Zone of Benefit Charges shall be reduced by the amount of the granted System Development Charge credits prior to determining the Zone of Benefit Recovery Charge for each affected property owner, including the requester. Property owners who are responsible for Zone of Benefit Recovery Charges may not receive Transportation Systems Development Charge credits for payment of the Zone of Benefit Recovery Charge.
6. The obligation to pay a Zone of Benefit Charge shall not arise unless and until an owner of property within the Zone of Benefit applies for, or causes, or permits an application to be submitted and receives approval from the County for development activity involving the affected property.
7. Unless the benefiting property owner agrees in writing, Zone of Benefit Charge shall not be imposed retroactively upon those benefiting properties that have been granted a development, or building permit, before an application for Zone of Benefit has been received.
8. Reimbursement shall be allowed only for those expenditures and in amounts which the Board of County Commissioners determines are based upon improvement construction contract documents or other appropriate information provided by the requester, but not exceeding prevailing market rates for a similar project.
9. Nothing contained herein shall be construed as requiring inclusion of County owned or controlled property within a Zone of Benefit or payment of a Zone of Benefit Recovery Charge unless, prior to County acquisition of such parcel, the Zone of Benefit had previously been established over such property. Except as otherwise specifically provided by the Board of County Commissioners, the obligation to pay a Zone of Benefit Charge shall not apply to that portion of a parcel which is dedicated or conveyed to the County for right-of-way or public utility purposes.

F. Developments with reverse frontage or undeveloped tracts within the Zone of Benefit shall be subject to an access control restriction in the favor of the County, set by a reserve strip of land on each side and parallel to the road improvement

center line, being one foot wide, along the lot lines abutting the road improvement, across which there shall be no access. In each case where a dedication deed, subdivision, or partition plat establishes a new road improvement right-of-way in support of a Zone of Benefit Recovery Charge project, said dedication deed or plat shall additionally dedicate to the County a reserve strip for the purpose of withholding access from the adjacent property onto the road improvement until a proportional recovery charge is paid by the respective adjoining property owner. After the Zone of Benefit Recovery Charge is satisfied, or after fifteen years pass from the date of the Resolution creating the charge, whichever comes sooner, the County shall grant access and convert the reserve strip, or a portion thereof, to road right of way.

G. The amount of the proposed Zone of Benefit Recovery Charge for each proposed lot and/or parcel to be included in the Zone of Benefits identified in Administrator's report shall not exceed 33 1/3% of the expected value of the land and improvements upon development or redevelopment.

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

4.03.040 Board Action on the Application

A. After the Administrator's report on the Zone of Benefit application is complete, the matter shall be scheduled for hearing before the Board. The Administrator shall provide notice of such hearing on the application for establishment of a Zone of Benefit Recovery Charge by publication not less than ten (10) calendar days prior to the hearing, in a newspaper of general circulation within the County, and by mailing copies of the notice by certified mail (return receipt requested) not less than 20 calendar days prior to the hearing, to the owners of record of all lots and/or parcels which are proposed to be subject to the recovery charge. The notice shall contain at least the following information:

1. That an application for a Zone of Benefit Recovery Charge has been submitted to the County and the name of the requester;
2. That the Administrator has prepared a report concerning such application, which report is available for public inspection by contacting the Administrator's Office;
3. A general description of the improvement and the costs for which a Zone of Benefit Recovery Charge is sought;
4. A general description of the improvement and the costs, or unit cost, for which a Zone of Benefit Recovery Charge will be recommended to the Board of County Commissioners;
5. That the Board of County Commissioners will hold a hearing on the proposed recovery charge on a specified date at which time objections and comments regarding the proposed recovery charge will be heard by the Board; and
6. That failure of the owner of property subject to such proposed recovery charge to object before the Board of County Commissioners either orally or in writing will be treated and relied upon by the Board as a waiver of objection to the Zone of Benefit Recovery Charge established by the Board.

B. For purposes of mailing notice to the parcel owner(s) of record under this Section, any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate the proceedings with respect to the establishment of the recovery charge.

C. The Board of County Commissioners shall conduct a hearing at the time and place for which notice is given, or any continuance thereof, and shall consider the application, the Administrator's report, and any testimony and evidence presented concerning the application. The Board shall determine the following:
   1. Whether the properties against which a Recovery Charge is proposed to be established under this chapter are, or will be, specially benefited by the road improvement;
   2. Whether the costs for which a Zone of Benefit Recovery Charge is sought pursuant to this chapter are based upon improvement construction contract documents or other appropriate information provided by the requester and the extent, if any, to which such costs exceed prevailing market rates for a similar project;
   3. Whether the method of apportioning the costs to benefited properties is reasonably calculated to reflect the special and peculiar benefits each lot or parcel of land receives from the improvements; and
   4. Whether the annual percentage rate multiplier to be applied to the cost of construction reasonably reflects prevailing market rates.

D. After the hearing, the Board of County Commissioners may modify the proposed Zone of Benefit or Recovery Charge or both by adjusting the area, or the particular properties, from which recovery charges will be collected, by adjusting the amount of recoverable costs, by adjusting the formula used in apportioning recoverable costs or by adjusting the amount of the annual percentage rate by which the recovery charge will be increased. The Board shall make a tentative oral decision on the application, and thereafter adopt written findings in support of the decision.

E. If the Board determines that a Zone of Benefit Charge should be established, it shall do so by resolution, specifying the properties within the zone of benefit, the method of apportioning improvement costs among properties within the Zone of Benefit, and the annual percentage rate multiplier to be applied.

F. Following adoption of a resolution establishing a Zone of Benefit Recovery Charge pursuant to this chapter, the County Recorder shall provide public notice of the Zone of Benefit Recovery Charge applicable to those parcels as described in such resolution.

G. A copy of the resolution described in Subsection E of this Section shall be sent by certified mail (return receipt requested) to the owners of record of all property subject to the recovery charge established therein and to any other persons who have so requested a copy. Failure of the County to send the resolution to a person or property owner, or failure of a person or property owner to receive such resolution, shall not invalidate any proceeding in connection with the establishment of the recovery charge.

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

4.03.050 Pre-Approval for Zone of Benefit

A requester may seek pre-approval for a Zone of Benefit prior to construction of the road improvement through the following process:

A. The requester may submit a full application, defining the scope of work to be accomplished and projecting the total cost for recovery on an engineer's estimate for construction of the project.

B. The process identified in Sections 4.03.030 and 4.03.040 will occur, but will incorporate these additional components:

1. If the Board decides to establish the Zone of Benefit Recovery Charge, the oral decision and written resolution shall specify that the total projected Recovery Charge may not be exceeded.
2. Until construction of the improvement is completed and approved by the County, the requester shall not receive any payment from a benefiting property owner.
3. The requester shall submit monthly reports on the progress of the road improvement to the administrator. If, in the opinion of the administrator, the progress reports and field inspection of the improvement do not show significant progress without justifications for delay, the administrator shall make a recommendation to the Board that the Zone of Benefit be abandoned and benefiting properties be relieved of their obligation to pay the recovery charge. The County shall not refund any application fees paid by the requester. The County shall not be responsible for any costs of completing a project or making a project safe and secure should the Zone of Benefit be abandoned and/or the project not completed.
4. After construction of the improvement is completed, the requester shall submit a final cost breakdown, with corroborating paid invoices to the County for review.
5. Upon receiving the final cost breakdown and corroborating paid invoices, the County will determine whether there is more than a 5% difference between the total actual cost of construction of the improvement and the projected cost that was pre-approved under this Section.
    a. If the projected cost that was pre-approved exceeds the total actual cost by more than 5%, the County shall reduce the recovery charge for each benefiting property by the same formula originally used for apportionment.
    b. If the projected cost that was pre-approved exceeds the total actual cost by less than 5%, the County may choose to not reduce the recovery charge for each benefiting property and may choose to apply the difference to administrative costs otherwise chargeable to the requester as allowed in Section 4.03.060 D.
6. If the requester's total actual costs exceed the projected Recovery Charge pre-approved by the Board by at least 5% and not less than $25,000.00, the requester may apply for a supplemental Zone of Benefit Recovery Charge to qualify the additional costs by filing a new, complete application and paying a new, full application fee. The action taken on a supplemental Zone of Benefit Recovery Charge application will not be

abbreviated in any way, and the decision of the administrator and the Board shall not be influenced or affected by the fact that the projected cost was pre-approved.

7. If approved, the supplemental Recovery Charge shall be allocated to the benefiting properties using the same method that was used for the pre-approved projected amount, unless the Board finds good cause to deviate.

C. If a benefiting property owner chooses to proceed with development of property before the requester's improvement is approved by the County, the benefiting property owner shall pay the County the pre-approved recovery charge, to be held by the County in escrow until the requester completes construction of the road improvement. Any benefiting property owner who utilizes this Subsection will be subject to the following conditions:

1. If approval of the benefiting property owner's development is contingent upon completion of the Recovery Zone road improvement, but the benefiting property owner finishes development prior to completion of the road improvement, the benefiting property owner may not use ~~his/her~~ theirdevelopment until the road improvement is completed, or until the condition is removed by the County. If the requester terminates construction of the road improvement prior to completion, the benefiting owner may complete the road improvement in order to satisfy ~~his/her~~ theircondition of approval, and will receive a refund of the amount paid for the pre-approved Recovery Charge.
2. If the requester qualifies for a supplemental Zone of Benefit Recovery Charge upon completion of the road improvement project, any benefiting owner who has already paid the Recovery Charge is exempt from the supplemental charge.
3. If the requester's projected Recovery Charge exceeds the actual costs by more than 5% upon completion of the road improvement project, any benefiting owner who has already paid the Recovery Charge will receive a refund calculated in the same manner that reductions are calculated under 4.03.050 B 6.

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

4.03.060 Obligation to Pay Zone of Benefit Recovery Charge

A. If an application requiring County approval is submitted for any act of development on affected real property within fifteen (15) years from establishment of a Zone of Benefit Recovery Charge, the owner of the affected property shall pay the Zone of Benefit Recovery Charge established by the Board, adjusted to reflect the annual percentage rate multiplier, in addition to any other applicable fees and charges. For purposes of this chapter, the following do not constitute acts of development, and do not constitute a change in use that impacts, or is likely to impact the road facility in a manner that will trigger the payment of a Zone of Benefit Recovery Charge:

1. Approval of a Temporary Permit;
2. Approval of a permit for a home occupation;

3. Creation of a new parcel, unless the new parcel has been created to allow additional development on that parcel that is likely to increase the impact on road facilities.

When allocating Zone of Benefit Recovery Charges among parcels newly created by an approved land division, the administrator shall use the method specified during formation of the Zone of Benefit, or any other method specified in section 4.03.030 C 5 that the Administrator finds would more equitably distribute the Recovery Charges.

B. Except as otherwise expressly provided, neither the County nor any officer or employee of the County, acting in their official capacity, shall be liable for payment of any Recovery Charge, accrued percentage rate or portion thereof, only those payments which the County has received from, or on behalf of, properties within the particular Zone of Benefit shall be payable to the requester for the Zone of Benefit. The County's general fund or other revenue sources shall not be liable for, or subject to, payment of outstanding and unpaid recovery charges imposed on private property, notwithstanding the County's allowance of installment payments under 4.03.060.

C. The right to recovery under this chapter is assignable and transferable after the requester or their assignee gives written notice to the County, advising the County to whom future payments are to be made.

D. Upon receipt of a Zone of Benefit Recovery Charge or portion thereof, the County shall cause a record to be made of the property for which such payment is received and remit such funds to the person upon whose request the Zone of Benefit Recovery Charge was established or their assignee, less an administrative fee of up to 5%, as adopted by resolution by the Board of County Commissioners.

E. The County shall not issue a development or building permit until the charge has been paid in full or until provision for installment payments or other acceptable security has been made and approved.

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

4.03.070 Installment Payment

A. When a Zone of Benefit Recovery Charge is due and payable, the owner may apply for payment in twenty (20) semi-annual installments, secured by a lien on the property upon which the development is to occur, to include interest on the unpaid balance, if that payment option is required to be made available for payment of system development charges as outlined in ORS 223.207.

1. The Administrator shall provide application forms for installment payment, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. A non-refundable fee, if any, in an amount established by Board resolution for this purpose shall be paid in advance.
2. The total amount of the principal included in the installment payments shall not exceed 33 1/3% of the expected value of the land and improvements upon development or redevelopment, as specified in section 4.03.030 G of this Code.

3. The applicable interest rate shall be fixed at the current prime lending rate plus three percentage points. Should the County exercise its option to issue a Bancroft Bond for the amount owed, the applicable interest rate charged the applicant shall be fixed at the current Bancroft Bond rate plus two percentage points.
4. An applicant requesting installment payments shall have the burden of demonstrating the authority to assent to the imposition of a lien on the property and that the interest of the owner is adequate to secure payment of the lien.
5. The Administrator shall docket the lien in the lien docket. From that time the County shall have a lien upon the described parcel for the amount of the Zone of Benefit Recovery Charge, together with interest on the unpaid balance at the rate established by the Board. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230.

B. The Finance Director will be notified immediately by the Collection Department of any account thirty (30) days or more past due. The Finance Director shall then send a letter to the defaulting party demanding payment no later than thirty (30) days following the date of the demand letter. The demand letter shall require payment of all amounts to bring the account current including any applicable interest or other penalty and shall demand full compliance with a time be of the essence clause according to the type of obligation at issue. The time for payment to bring the account current shall be left to the best professional judgment of the Finance Director depending upon the type of debt and amount owed, but in no event shall time for payment exceed the next payment due date, or any other requirements imposed by debt instruments executed by the County in favor of any third party or other agreements that may have been executed by the County.
1. If payment has not been made following the first notice, the Finance Director shall send a second notice detailing the prior defaults and notices thereof indicating that further action, including legal action, will be taken.
2. If, following the second notice, time for payment has expired, then the Finance Director shall include the defaulting person or entity on a list entitled “Collection/Foreclosure” and consult with appropriate staff and legal counsel regarding the most efficient and cost effective method for collection of the debt.
3. The Finance Director shall determine if the matter will be referred to legal counsel, a debt collection agency or other method for collection. If referred to legal counsel, a demand letter to the debtor shall be sent declaring default, accelerating the entire balance and requiring full payment within a reasonable period of time not to exceed thirty (30) days. If no satisfactory response is forthcoming, the Finance Director may direct counsel to commence legal action. The Finance Director may extend the time limits for legal action in cases of extraordinary hardship.
4. Upon referral and direction by the Finance Director, counsel may proceed with foreclosure of the assessment lien or take other legal action authorized by law.

5. If the Finance Director determines that it is most effective to use the services of a collection agency, the Finance Director may solicit proposals and make a recommendation to the Board regarding selection of a firm consistent with the Clackamas County Local Contract Review Board Rules and ORS Chapter 279. The Finance Director may negotiate a contract regarding the amount of compensation, length of term and methods of collection, subject to final review and approval by the Board. However, the contract shall specifically provide that the collection agency shall fully comply with the Fair Debt Collection Practices Act, 15 U.S.C. 1601, et seq., and shall provide for full indemnification and protection of the County from any and all claims for unfair or unlawful debt collection practices.

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

4.03.080 Implementing Regulations: Amendments

The Board may adopt regulations to implement the provisions of this chapter.
[Codified by Ord. 05-2000, 7/13/00]

TITLE 5

ANIMALS

Summary

TITLE 5

ANIMALS

Table of Contents

Chapter 5.01

5.01 ANIMAL LICENSING, SERVICES AND ENFORCEMENT

5.01.010 Enactment; Authority

The County is authorized by Oregon Revised Statutes (ORS) 203.035 to regulate matters of County concern. The Board of County Commissioners finds that dog licensing and services within the County is a matter of County concern that impacts the health and safety of the people of Clackamas County. ORS 609.015, ORS 609.135 and ORS 153.030 recognize the authority of the County to enact and enforce regulations and procedures that vary from related state law provisions. The Board of County Commissioners adopts the following dog licensing and services regulations and procedures pursuant to ORS 203.035. Matters that concern crimes of abuse, neglect, or abandonment of dogs and other animals regulated by this code will be investigated and prosecuted under state law. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 03-2014, 7/31/14]

5.01.020 Definitions; Exclusions; Fines and Fees

A. Definitions. Terms used but not defined shall have their plain meaning.

1. ANIMAL means any nonhuman mammal, bird, reptile, amphibian or fish as defined in ORS 167.310 or ORS 167.374.
2. ANIMAL RESCUE ENTITY means an individual or organization, including but not limited to an animal control agency, humane society, animal shelter, animal sanctuary or boarding kennel not subject to ORS 167.374, but excluding a veterinary facility, that keeps, houses, and maintains in its custody 10 or more animals and that solicits or accepts donations in any form.
3. BITE, BITING, BITTEN means the breaking of the skin of a person, domestic animal, or livestock by the teeth of a dog.
4. CONDITIONAL RELEASE means a security or non-security release of an impounded dog which imposes regulations and conditions on the activities and keeping of the dog pending final disposition of a violation of this chapter, including appeal.
5. CONTINUOUS ANNOYANCE means any dog that unreasonably causes annoyance, alarm or noise disturbance to any person by barking, whining, screeching, howling or making other sounds which may be heard beyond the boundary of the owner's or keeper's property, either as an episode of continuous noise lasting for a minimum period of thirty (30) minutes or repeated episodes of intermittent noise lasting for a minimum period of 45 minutes within a 24-hour period.
6. COSTS mean any monetary assessment, other than fines and fees ordered by a Hearings Officer, including but not limited to, costs for veterinarian care, restitution, prosecution and attorney fees.
7. DANGEROUS DOG means any dog that menaces, bites, injures or kills a person, domestic animal, or livestock.

8. DOG means the common dog (*Canis familiaris*) and also includes any animal claimed by its owner to be a wolf-hybrid unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.
9. DOG AT LARGE means a dog that is off or outside the dog owner's property and not under the immediate control of a person.
10. DOG OWNER means the following, however any presumption of ownership raised in this section may be rebutted by proof to the contrary:
    a. Any person in whose name a dog license has been issued;
    b. Any person who has a possessory property right in a dog;
    c. Any person who without regard to any ownership interest, shelters a dog or has a dog in that person's care, possession, custody or control, or knowingly permits a dog to remain on property occupied by that person for more than 30 days.
    d. In all three circumstances described above, it is understood that in a family situation the adult head(s) of household shall be jointly and severally presumed to be the owner(s).
11. DOG SERVICES means Clackamas County Dog Services.
12. DOG SERVICES OFFICER means a person employed by or contracting with Clackamas County who is authorized to investigate violations and issue citations as provided in this chapter.
13. DOMESTIC ANIMAL means any nonhuman mammal, bird, reptile, amphibian or fish as defined in ORS 167.310.
14. ENFORCING AGENCY means Clackamas County.
15. EUTHANASIA means the putting to death of an animal in any humane manner permitted under ORS 609.405.
16. EXPENSES mean expenditures incurred by Dog Services during impoundment, keeping and disposition of a dog.
17. HEARINGS OFFICER means any authority appointed by the Board of County Commissioners to hear and determine violations of this chapter.
18. IMPOUND means taking physical or constructive custody of a dog. A dog shall be considered impounded from the time Dog Services staff or a peace officer takes physical custody of the dog or serves an owner with a Notice of Impound and Conditional Release in accordance with this chapter.
19. LIVESTOCK has the meaning provided in ORS 609.125.
20. MANAGER means the Clackamas County Dog Services Manager or ~~his/her~~ their designee.
21. MENACE means lunging, growling, snarling, chasing, attacking, or other behavior by a dog that would cause a reasonable person to fear for the person's safety, the safety of another person or the safety of a domestic animal or livestock.
22. MINIMUM CARE means care sufficient to preserve the health and well-being of a dog and, except for emergencies or circumstances beyond the reasonable control of the owner, includes but is not limited to, each of the following requirements:
    a. Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

b. Open or adequate access to potable water in sufficient quantity to satisfy the dogs' needs. Access to snow or ice is not adequate access to potable water.

c. Access to adequate shelter. For a dog other than one engaged in herding or protecting livestock, this requires access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun with adequate bedding to protect against cold and dampness.

d. Access to adequate bedding, which is defined as bedding of sufficient quantity and quality to permit a dog to remain dry and reasonably clean and to maintain a normal body temperature.

e. Veterinary care deemed necessary by a reasonably prudent person to relieve the dog's distress from injury, neglect or disease.

f. Continuous access to an area:

i. with adequate space for exercise necessary for the health of the dog;

ii. with air temperature suitable for the dog; and

iii. that is kept reasonably clean and free from excess waste or other contaminants that could affect the dog's health.

23. PEACE OFFICER has the meaning provided in ORS 161.015.

24. PHYSICAL INJURY has the meaning provided in ORS 167.310.

25. SECURE ENCLOSURE means any of the following:

a. A fully fenced pen, kennel or structure that is in compliance with applicable County codes, that will remain locked with a padlock or combination lock, and which has secure sides at least five feet high. The County may also require that the structure have a secure top and/or floor attached to the sides, or require that the sides be embedded in the ground no less than one foot; or

b. A house or garage that has latched doors kept in good repair to prevent the escape of the dog. A house, garage, patio, porch or any part of the house is not a secure enclosure if the structure would allow the dog to exit the structure of its own will; or

c. For a dangerous dog, a fully fenced pen, kennel or structure at least six feet in height that is either anchored beneath the ground or is in concrete and which prevents the dog from digging under it. The enclosure must be of a design that prevents entry of children or unauthorized persons and also prevents those persons from extending an arm or leg inside the enclosure. The enclosure must remain locked with a padlock or combination lock when occupied by the dog. A County approved sign must remain posted at all entry points of the dog owner's property that informs both children and adults that the dog is dangerous.

26. TETHERING means to restrain a dog by tying the dog to any object or structure by any means. Tethering does not include using a handheld leash for the purpose of walking a dog.

27. VIOLATION means any violation of this chapter for which a fine, condition, restriction, or other sanction may be imposed.

28. WOLF-HYBRID means an animal that is either the result of cross-breeding a purebred wolf and a dog, an existing wolf-hybrid with a dog, or any dog declared by its owner to be a wolf-hybrid. A wolf-hybrid will be considered to

be a dog under this chapter unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.

B. Exclusions.

This chapter does not regulate kennel operators or pet shop owners who for a period of not more than 90 days maintain on their property dogs owned by other persons.

C. Fines and Fees.

All fines and fees associated with this chapter shall be set by the Board of County Commissioners.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05 2010, 7/1/10; Amended by Ord. 03-2014, 7/31/14]

NOTE: Section 5.01.020.A.5 does not go into effect until January 5, 2015.

5.01.030 Licensing; Vaccinations

A. License.

1. Individual Dog License.
   a. A person must be at least 18 years old to obtain a license for a dog.
   b. Every dog owner shall license a dog by the time the dog has a set of permanent canine teeth or is six months old, whichever comes first, or within thirty (30) days of acquiring the dog.
   c. A dog owner who has moved to Clackamas County and does not have a current dog license from another Oregon city or county, shall obtain a dog license within thirty (30) days of moving into Clackamas County unless the dog has not yet reached six months of age. A dog with a current dog license from another Oregon city or county shall not require licensing under this chapter until expiration of the current license, if within thirty (30) days of moving into Clackamas County the owner notifies Dog Services of the dog's description, license number, city or county of issuance, and Clackamas County address.
   d. A dog license is not transferable to another dog. The license number shall be assigned to the particular dog and shall remain with that dog for the life of the dog.
2. Multiple Dog License.
   a. Qualification; Application; Inspection. When an owner has more than one dog, the owner may obtain or renew a multiple dog license after submitting a completed, qualifying Multiple Dog License Application and after either 1) submitting an inspection certification from a veterinarian licensed in the state of Oregon; or 2) a County inspection of the applicant's premises to determine that the owner is in compliance with minimum care standards as provided by this chapter.
   b. Denial. Causes for denial of a multiple dog license application may include, but are not limited to, denial for any person currently under active investigation or prosecution for any animal-related crime, persons under parole or probation following a conviction for any animal-related crime, or any person for which ownership, keeping or responsibility for animals would be a violation of any rule, regulation or law, either civil or criminal.

c. Transfer. A multiple dog license may be transferred to another holder with prior written approval of Clackamas County, provided that the transferee qualifies to hold the license in all ways that an applicant for a new multiple dog license must qualify.

d. Appeal of Denial of Multiple Dog License. An owner may appeal the denial or a new multiple dog license or denial of a transfer of a multiple dog license to a Hearings Officer by delivering a written request to Dog Services within seven (7) days of the mailing date of the written notice denying the license. A hearing will follow the same procedures set forth in this chapter for a hearing on a violation, except that the burden of proof will be on the owner to prove that the denial was improper.

e. Land Use Approval. Issuance of a multiple dog license does not constitute approval of a particular land use or indicate compliance with any zoning or land use planning restrictions that may apply. Applicant may be required to demonstrate compliance with city or county zoning or land use planning restrictions prior to issuance.

f. To ensure that minimum care standards are continually being met, an owner can either 1) submit an inspection certification from a veterinarian licenses in the state of Oregon or 2) allow a County inspection of the premises to determine that the owner is in compliance with the minimum care standards as provided for by this chapter.

3. Licensing of Animal Rescue Entities:

a. Licensing Requirement. An animal rescue entity shall comply with the following license requirements:

i. Obtain a license issued by the enforcing agency in accordance with this section; and

ii. Pay a reasonable fee for a license or an annual renewal of the license.

b. Issuance and Renewal of License. The enforcing agency may not issue or renew a license under this section unless the animal rescue entity demonstrates it is in compliance with this chapter and with applicable state and local law.

c. Record Keeping. An animal rescue entity shall maintain a record for each animal that identifies:

i. The animal's date of birth or, if the date of birth is unknown, the animal's approximate age;

ii. The date possession, control or charge of the animal was acquired and the source of the animal;

ii. The number of offspring the animal has produced, if applicable;

iv. The disposition of each animal, including the date of disposition, manner of disposition, and the name and address for any individual or organization taking possession, control or charge of an animal;

v. Sex, breed type and weight of the animal at intake; and

vi. A photograph of the animal taken within 24 hours of intake.

d. Inspections. The following inspections of animal rescue entities by the enforcing agency shall be permitted:

i. Inspection of the records required by this section.

ii. Furnish reports and information required by Section 5.01.030(C)(1)-(6) and by state and local law.

iii. Conduct an on-site investigation of the premises whenever the enforcing agency has reason to believe that the animal rescue entity is operating without a license. The purpose of an investigation under this section is to determine whether the animal rescue entity is subject to the requirements of this chapter.

iv. At any reasonable time, an on-site investigation of the premises may be conducted to determine whether the animal rescue entity is in compliance with this section.

v. An on-site investigation if a credible and serious complaint has been received that the animal rescue entity has failed to comply with the requirements of this section. The investigation shall be limited to determining if the animal rescue entity has failed to comply with the requirements of this chapter.

vi. If during the course of an inspection made under this section, the enforcing agency finds evidence of animal cruelty in violation of ORS 167.310 to 167.351, 167.355 or 167.360 to 167.372, the enforcing agency shall seize the evidence and report the violation to law enforcement.

e. Transfer of License. An animal rescue entity may transfer a license issued under this section to another person with the written consent of the enforcing agency, provided that the transferee otherwise qualifies to be licensed as an animal rescue entity and does not have a certified unpaid debt to the state. The transferee shall submit a signed release to the enforcing agency permitting the performance of a background investigation of the transferee, and the enforcing agency shall conduct the background investigation.

f. Violations. A violation of any provision in this section may be prosecuted by the enforcing agency, as provided by section 5.01.070 of this chapter, and may result in the imposition of fines and civil penalties, or other restrictions or remedies as provided in this chapter.

B. Dog Rabies Vaccination

1. Individual or multiple dog licenses will not be issued without evidence of one of the following for each dog to be licensed:
   a. A rabies vaccination certificate issued by a licensed veterinarian that is valid for the license period; or,
   b. A written statement signed by a licensed veterinarian stating that for medical reasons the rabies vaccination cannot be administered to the dog.
2. A dog that does not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license, shall be apprehended and impounded at the owner’s expense.
3. A veterinarian performing a rabies vaccination of any dog must transmit a copy of the vaccination certificate or written documentation that includes information contained on the certificate to Dog Services within 30 days of the vaccination. In the alternative, a veterinarian may issue a dog license in accordance with the rules adopted by this Chapter, and submit proof of license to Dog Services within 30 days of the vaccination.

C. License Term; Renewal; Fine
1. A license will be valid for one, two or three years from the date of issuance at the option of the dog owner, based on the license fee paid by the owner, and requires a rabies vaccination certificate for the licensing period.
2. Renewal of a license shall not be due until the last day of the month in which the license expires. If a person fails to renew a license prior to its expiration date, a fine may be assessed at the time the license is renewed.

D. Identification Tags.
1. At the time an individual dog license is issued, the County will issue a free identification tag that is to be fastened to a collar or harness and kept on the dog at all times when the dog is not in the immediate possession of the owner.
2. When a multiple dog license is issued, the owner may obtain identification tags for each dog in ~~his~~ their possession upon payment of a fee.
3. If a dog license tag is lost, the owner may obtain a duplicate tag from Dog Services upon payment of a fee.

E. License Fees Exemptions.
1. No license fee will be required for the following:
a. Any dog that meets the definition of an "assistance animal" as defined in ORS 346.680, provided that the license applicant has filed a statement with Dog Services indicating that the dog is an "assistance animal" for a person who has a physical impairment in one or more of their daily life activities and resides in the applicant's household.
b. Any dog in training to be an "assistance animal" as defined in ORS 346.680, in affiliation with a recognized organization for the training or placement of assistance animals, provided the trainer files a statement with Dog Services verifying that the dog is an assistance animal.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 08-2012, 8/2/12; Amended by Ord. 03-2014, 7/31/14]

5.01.040 Control

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

B. Violations.
1. It is unlawful to permit a dog to be a public nuisance. A dog is a public nuisance if it:
a. Menaces, bites, injures or kills a person, domestic animal or livestock. It is a defense to this section if the dog engages in such behavior as a result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property;
b. Is a dog at large. It is a defense to this section that the dog was a working dog wearing a locating device and temporarily separated from the person in control of the dog;
c. Chases a vehicle while off the dog owner's property;

d. Damages or destroys property of another person while off the dog owner's property;
e. Scatters garbage while off the dog owner's property;
f. Is a female in heat (estrus) and is a dog at large.

2. It is unlawful to fail to comply with the requirements of this chapter that apply to keeping a dangerous dog.
3. It is unlawful to permit any dog to leave the confines of any prescribed quarantine area and/or fail to comply with any other condition of quarantine.
4. It is unlawful to interfere with an identified County employee or peace officer who is enforcing any provision of this chapter by intentionally acting in any manner that prevents, or attempts to prevent, a County employee or peace officer from performing their lawful duties.
5. It is unlawful to knowingly provide false information to a County employee or peace officer enforcing any provision of this chapter.
6. It is unlawful to permit a dog to be confined within a motor vehicle at any location under such conditions as may endanger the health or well-being of the dog.
7. It is unlawful to permit a dog to be unrestrained in an open portion of a vehicle.
8. It is unlawful to fail to reclaim an impounded dog.
9. It is unlawful to fail to comply with any fine, fee, cost, expense, condition, restriction or other order imposed by a Hearings Officer under this chapter.
10. It is unlawful to fail to surrender a dog for apprehension to the County when required by this chapter.
11. It is unlawful to fail to license a dog or renew a license as required by this chapter.
12. It is unlawful for an owner to fail to immediately notify Dog Services when the owner's dog has bitten a person, domestic animal or livestock.
13. It is unlawful to keep a dog in a manner that does not meet minimum care standards of this chapter.
14. It is unlawful to fail to maintain a current rabies vaccination.
15. It is unlawful for a person who has been bitten by a dog, or a parent/guardian of a bitten minor, to fail to immediately notify Dog Services when required by this chapter.
16. It is unlawful for a dog owner to fail to follow any condition of release pending final disposition of a violation of this chapter, including appeal.
17. It is unlawful to permit any dog to cause continuous annoyance as defined in Section 5.01.020(5)**.
18. It is unlawful to permit any dog to be tethered in any manner as provided below:
    a. with a tether that is not a reasonable length given the size of the dog and available space and that allows the dog to become entangled in a manner that risks the dog's health or safety;
    b. with a collar that pinches or chokes the dog when pulled;
    c. for more than 10 hours in a 24-hour period;
    d. for more than 15 hours in a 24-hour period if the tether is attached to a runner, pulley or trolley system;

    It is not a violation of this section if for any dog to be tethered:
    e. while the dog remains in the physical presence of the person who owns, controls or otherwise has charge of the dog;
    f. pursuant to the requirements of a campground or other recreational area;

g. for the purpose of engaging in an activity that requires licensure in this state, including but not limited to hunting;
h. to allow transport of the dog; or
i. if the dog is kept for herding, protecting livestock or dog sledding.

19. It is a violation for a veterinarian performing a rabies vaccination on a dog to fail to report the rabies vaccination as provided in 5.01.030(B)(3).
20. It is unlawful to operate an animal rescue entity without proper licensing and compliance with requirements outlined in 5.01.030(A)(3).

C. Lost Dogs; Duties of Finders. Any person who finds and shelters a dog without knowing the dog owner's identity shall be subject to the responsibilities provided in ORS 98.005, ORS 98.025 and ORS 609.100.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 08-2012, 8/2/12; Amended by Ord. 03-2014, 7/31/14]

**NOTE: Section 5.01.040.B.17 does not go into effect until January 5, 2015.

5.01.050 Biting Dogs; Dangerous Dogs

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

B. Quarantine of Biting Dogs.
1. A dog suspected of biting a person will be quarantined at the owner's expense until the tenth day following the bite in accordance with state law.
2. At the discretion of the County, a dog that has proof of a current rabies vaccination, exemption from vaccination, or a current Oregon county or city license may be quarantined at the premises of a licensed veterinarian or at the premises of the owner providing the dog is kept within a secure enclosure or with approved restraint deemed adequate to prevent contact with any person or other animal, and is kept in accordance with any other conditions set by the County as permitted by this chapter or required by state law. It shall be a violation of this chapter if during home quarantine the dog leaves the confines of a prescribed quarantine area for any reason or otherwise violates the conditions of quarantine.
3. Dogs that have bitten a person and do not have proof of a current rabies vaccination, exemption from vaccination, or a current Oregon county or city license shall be apprehended and impounded as resources allow.

C. Dangerous Dogs.

1. Classification of Dog as a Dangerous Dog. A dog may be classified by the Hearings Officer as a dangerous dog when it has menaced, bitten, chased, injured or killed any person, domestic animal or livestock.
2. Notice of Classification; Hearing.
    a. Notice. Prior to a dog being classified as dangerous, the owner shall have a right to a hearing before a Hearings Officer. The County shall send a Dangerous Dog Notice to the dog owner by certified mail or personal service. If sent by mail, the date of mailing will be considered the date of service. The notice shall inform the owner of:
        i. A description of the alleged incident and specific behavior that supports classification of the dog as dangerous.
        ii. The regulations that may be imposed following a dangerous dog classification, including the requirement of a dangerous dog certificate.
        iii. An opportunity to request a hearing.
        iv. Information that the dog owner must request a hearing within seven (7) days from the date of service by delivering a written request to Dog Services.
        v. Information that if the dog owner does not make a timely request for hearing, the dog owner shall be deemed to have waived ~~his/her~~ their right to a hearing. Thereafter, following proof of sufficient evidence that the dog is dangerous, the Hearings Officer may so classify the dog and impose regulations consistent with this chapter.
    b. Hearing.
        i. Following a timely request for hearing, the County will notify the dog owner and Hearings Officer of the date and time of the hearing. The hearing shall follow the procedures set forth in this chapter for a hearing on a violation.
        ii. The Hearings Officer may refrain from classifying a dog as dangerous upon a finding that the behavior was the result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser, or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property.
        iii. A hearing on classification of a dangerous dog may be consolidated with a hearing on any underlying violation for which the dog owner has been cited.
3. Regulation of Dangerous Dogs; Microchip Identification. When a dog has been classified as dangerous, the dog shall be microchip identified at Dog Services at the expense of the owner, as provided in ORS 609.168. In addition, a Hearings Officer may order the following regulations:
    a. That the dog be kept in a secure enclosure;
    b. That the dog owner obtain and maintain proof of public liability insurance;
    c. That the dog owner not permit the dog to be off the owner's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a competent person;

d. That the dog owner successfully complete a County approved pet ownership program;

e. That the dog successfully complete obedience training certified by the American Temperament Testing Society or other similar County approved program;

f. That the dog be spayed or neutered;

g. After consideration of the factors set forth in ORS 609.093, require euthanasia when a dog has bitten or killed a person, domestic animal, or livestock. The Hearings Officer may also consider the public nuisance violation history of the dog and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred.

4. Certificate of Registration; Secure Enclosure; Notice to New Owner

a. Certificate of Registration. Within seven (7) days after a dog has been classified as dangerous, the owner must license the dog, if not already licensed, and obtain a dangerous dog certificate of registration to be renewed annually until the dog is declassified or dies. The County will only issue certificates of registration and renewals to persons who are at least 18 years of age and who present sufficient evidence of:

i. A rabies vaccination certificate which will remain in effect for at least one year from the date the certificate of registration is issued;

ii. A secure enclosure to confine the dangerous dog;

iii. A clearly visible County-approved warning sign to be posted and remain at all entry points of the owner's property that informs both children and adults that the dog is dangerous;

iv. Microchip identification as provided in ORS 609.168; and,

v. Payment of an annual dangerous dog registration fee.

b. Secure Enclosure. The owner of a dog classified as dangerous shall confine the dog in a secure enclosure. The owner must immediately notify Dog Services when a dangerous dog is at large, or has bitten a person, domestic animal or livestock. A dangerous dog shall not be permitted to leave the confines of a secure enclosure unless the dog is muzzled and restrained by an adequate chain or leash and under control of a competent person.

c. Notice to New Owner. Prior to a dangerous dog being sold or given away. the owner shall provide notice to the new owner that the dog has been classified as a dangerous dog and provide the County with the name, address and telephone number of the new owner whether or not the new owner resides in Clackamas County. If the new owner resides in Clackamas County, ~~he/she~~ they must comply with all dangerous dog regulations imposed unless and until the dog is declassified or dies.

5. Declassification of Dangerous Dog.

a. Declassification. Following an owner's written request, the County may declassify a dog as dangerous and terminate the regulations ordered at the time of classification, except for microchip identification and secure enclosure, when the following conditions have been met:

i. For two years from the date of classification the dog has had no further incidents of behavior that would make it a dangerous dog;
ii. For two years from the date of classification there have been no violations of the regulations imposed;
iii. The dog owner has obtained a certificate of satisfactory completion of obedience training for the classified dog.

b. Appeal of Declassification Denial. A dog owner may appeal to a Hearings Officer the denial of a request to declassify a dangerous dog by delivering a written request for appeal to Dog Services within seven (7) days of the mailing date of the County's written notice denying declassification.
i. The County's written denial shall include information on how the dog owner may appeal the denial.
ii. On appeal the Hearings Officer shall determine whether the dog meets the criteria for declassification and shall either uphold the County's denial or order declassification.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 03-2014, 7/31/14]

5.01.060 Impoundment; Release; Adoption

A. Impoundment
1. Any Dog Services Officer or peace officer may impound an animal that is in violation of this chapter, or when a Dog Services Officer or peace officer reasonably believes the animal requires medical assistance or care, or when ordered by a court or Hearings Officer.
2. If a person refuses to allow a Dog Services Officer or peace officer to enter the premises to apprehend and impound an animal as authorized by this chapter, the County may request the assistance of the local law enforcement official to obtain and execute a search warrant as authorized by law to search for and seize the animal subject to impound.
3. Any Dog Services Officer or peace officer is authorized to remove the animal from a motor vehicle to apprehend and impound the animal when the officer reasonably believes it is confined in a manner that endangers its health or well-being, including but not limited to dangerous temperature, lack of food, water or attention. A written notice of impoundment will be left on or in the vehicle with information on how to reclaim the animal.
4. Any person may immediately apprehend and hold for impoundment any animal that has trespassed upon the property of that person or another in violation of this chapter, or has menaced, bitten, injured or killed a person, domestic animal, or livestock.
5. Animals other than dogs that are seized by Dog Services Officers will be taken to facilities that are appropriate for the holding or keeping of those animals. Release of such animals will be subject to State law as well as any rules or procedures for the facility where the animal is being kept.

B. Impound Holding Periods. Unless otherwise provided in this chapter or reclaimed sooner by the owner, dogs that have been impounded will be held for the following minimum time periods:

1. Dogs not wearing a license tag shall be held for at least three consecutive business days, not including the day of impoundment.
2. Dogs wearing a license tag shall be held for at least five consecutive business days, from the date of notification of impoundment. If notification is by mail, the date of mailing shall be considered the date of notification.

C. Release of Animals Impounded at County Dog Shelter; Conditional Release.

1. Release.
   a. Release Prohibited. Unless otherwise ordered by a Hearings Officer or court of competent jurisdiction, an impounded dog may not be released until final disposition of any violation alleging that the dog has killed a person, or when a dog is pending classification or has been classified as a dangerous dog.
   b. Release Permitted. Unless prohibited by this chapter prior to final disposition of a violation or pending appeal, an impounded animal may be released subject to release conditions in subsection 5.01.060(C)(2)(a) and upon posting security in the amount equal to 50% of the base fine for each violation and payment of fees and costs owed to date including prior outstanding balances, except upon showing of good cause.
2. Conditional Release.
   a. Conditions. As permitted by this chapter pending final disposition of a violation or appeal, the County or Hearings Officer may conditionally release an impounded animal to its owner and may impose any of the following release conditions, including but not limited to a requirement that the animal owner:
      i. Obtain and provide proof of a rabies vaccination within a designated time, if applicable;
      ii. Provide proof of license within a designated time, if applicable;
      iii. Restrain the dog on the dog owner's property by means of a secure enclosure;
      iv. If the animal is a dog, control the dog on a leash that is no longer than six (6) feet, and at all times handled by an adult who is able to control the dog;
      v. If the animal is a dog, muzzle the dog at all times when the dog is off the dog owner’s property;
      vi. Obtain veterinary care for the animal within a designated time;
      vii. Comply with minimum care standards consistent with this chapter;
      viii. Keep the animal indoors during certain hours.
   b. Revocation of Conditional Release; Violation; Security Forfeited.
      i. Revocation. Upon reasonable ground to believe that a release condition has been violated, the County may revoke release, and apprehend and impound the subject animal pending final disposition of the underlying violation or appeal.
      ii. Violation. At the time of revocation the animal owner, or the owners, operators or managers of animal rescue entities shall be cited for failure to follow condition(s) of release. A hearing on revocation may be made in accordance with section 5.01.070 of this chapter and consolidated with a hearing on the underlying violation(s).

iii. Security Forfeited. The security amount posted on conditional release shall be forfeited upon a finding that one or more conditions of release were violated or if no timely hearing is requested.

3. If a dog owner, or the owners, operators or managers of animal rescue ~~entitites~~entities, has been cited for a violation(s) of this chapter, and a Hearings Officer finds that no violation(s) occurred, then impoundment and board fees shall not be assessed until the first business day after notice of the Hearings Officer's Final Order.

4. An owner must reclaim an animal within five (5) business days after notice of a Hearings Officer's Final Order unless otherwise ordered or unless stayed by a court of competent jurisdiction.

D. Failure to Reclaim.

1. If an owner fails to reclaim an animal as provided in this chapter, the animal will be deemed abandoned and shall become the property of the County without compensation paid to the owner.

2. An owner that fails to reclaim an animal will be civilly liable to the County for all penalties, fines, fees, costs and expenses authorized by this chapter, which may be collected in the same manner as any other debt allowed by law.

E. Diseased or Injured Animal. A dog owner, or the owners, operators or managers of animal rescue entities shall be liable to the County for costs paid for medical treatment during impoundment. If the County determines an animal is seriously injured or seriously ill or its health condition causes a threat to public health or safety, the animal may be immediately euthanized without compensation paid to the owner.

F. Release for Adoption.

1. Fees. Adoption fees will be assessed consistent with this chapter.

2. Standards. The Dog Services Manager shall have the authority to develop and enforce adoption policies and procedures.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 08-2012, 8/2/12; Amended by Ord. 03-2014, 7/31/14]

5.01.070 Citation; Complaint; Hearing Process

A. Issuance of Citation.

1. Any Dog Services Officer or peace officer may issue and serve a dog owner, or the owners, operators or managers of animal rescue entities with a citation when there are reasonable grounds to believe that a violation of this chapter has occurred. The citation shall serve as the County's complaint and may include a fine that is payable to Clackamas County.

2. A citation shall be served by personal service or by certified mail with return receipt requested, no later than six (6) months from the date the alleged violation occurred. When mailed the date of mailing shall be considered the date of service. The failure of any person to receive notice properly given shall not invalidate or otherwise affect proceedings under this chapter.

B. Inspection and Investigation. In determining whether to issue a citation, a Dog Services Officer may request entry onto any real property in order to investigate a suspected violation of this chapter.

C. Form of Citation.

1. The citation shall include:
    a. The name and address of the person cited;
    b. The date(s) the alleged violation(s) occurred;
    c. The number and title of the chapter section(s) violated;
    d. A description of the animal(s) involved;
    e. The base fine, to be equal to the minimum fine, along with the maximum fine for each violation as authorized by this chapter;
    f. A statement providing notice of the penalties that could be imposed by the Hearings Officer, including penalties and keeping restrictions provided in Section 5.01.080 of this chapter.
    g. Whether appearance before a Hearings Officer is optional, or if mandatory, the date, time and place at which the person is to appear;
    h. The procedure for the person to follow to admit the violation and pay the fine or to contest the citation and appear before a Hearings Officer;
    i. A statement that if the person fails to pay the fine within the time allowed, or fails to appear before the Hearings Officer when required, the person shall have waived ~~his/her~~ their right to contest the citation and the Hearings Officer may enter a judgment against the person for an amount up to the maximum fine, in addition to any fees, costs or expenses, conditions or restrictions authorized by this chapter;
    j. A statement that when appearance before a Hearings Officer is mandatory the person cannot pay the fine in lieu of appearance.

2. An error in transcribing information into a citation, when determined by the Hearings Officer to be non-prejudicial to the defense of the cited person, may be corrected prior to or at the time of the hearing with notice to the cited person. Except as provided in this subsection, a citation that does not conform to the requirements of this section shall be set aside by the Hearings Officer upon motion of the cited person before any other proceedings at the hearing. Minor variations in the form of citation shall not be a basis for setting aside a citation. Nothing prohibits the Hearings Officer from amending a citation in the Hearings Officer's discretion.

C. Response to Citation

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

2. Mandatory Appearance. Personal appearance before a Hearings Officer at the time and place indicated on the citation shall be mandatory:
   a. When a dog owner, or the owners, operators or managers of animal rescue entities has received a citation three (3) times or more within a twelve (12) month period or the issuing officer has determined the appearance should be mandatory;
   b. For violation of Failure to Surrender an Animal;
   c. For violation of Interfering with a County employee or Peace Officer;
   d. For violation of Providing False Information to a County employee or Peace Officer;
   e. For violation of Failure to Comply with Conditions of Quarantine;
   f. For violation of Failure to Comply with any Fine, Fee, Cost, Expense, Condition or Restriction authorized by this chapter;
   g. For violation of Dog as a Public Nuisance when a dog kills a person, domestic animal or livestock;
   h. For violation of Failure to Comply with the Requirements of Keeping a Dangerous Dog.
   i. For failure to reclaim an impounded animal.
   j. For failure to meet minimum care standards.
3. Failure to Respond to Citation. If a person cited fails to respond to a citation as required by this chapter, then the person shall be deemed to have waived ~~his/her~~ their right to contest the citation. Following proof of sufficient evidence that the person has committed the cited violation(s), the Hearings Officer may enter a Final Order against the person for an amount up to the maximum fine, in addition to any applicable fees, costs or expenses, and any other imposition consistent with this chapter. A copy of the Final Order shall be sent to the person cited by regular mail.

D. Hearing Process.
1. Informal Disposition. The County and the dog owner, or the owners, operators or managers of animal rescue entities may agree to an informal and final disposition of any violation before a Hearings Officer issues a Final Order.
2. Burden of Proof. The burden will be on the County to prove that the violation occurred by a preponderance of the evidence.
3. Testimony of Witnesses and Parties. The Hearings Officer shall have the authority to administer oaths or affirmations and take testimony of and question witnesses and parties. Parties may offer witness testimony on their own behalf. Written testimony must be submitted by sworn affidavit and may be admitted into the record subject to exclusion by the Hearings Officer and objections by the opposing party.
4. Cross-Examination of Witnesses. The person cited and attorneys may examine or cross-examine witnesses.
5. Evidence. Reliable and relevant evidence shall be admitted subject to the rules of privilege recognized by law. Records developed, kept and maintained, during the normal course of business, including but not limited to, law enforcement reports and veterinary records, shall be admissible provided the party offering the records establishes the authenticity of the records through written or oral testimony. The burden of presenting evidence to support a fact or position shall be on the offering party. The Hearings Officer may establish procedures for the presentation of evidence to ensure that the hearing record

reflects a full and fair inquiry into the facts necessary to determine the matter alleged. The Hearings Officer shall have the discretion to exclude any material or testimony that is accumulative, repetitious, irrelevant or immaterial.

6. Objections. Objections to admission of evidence shall be noted in the record and will be considered with respect to the weight to be given the particular evidence offered. The Hearings Officer shall have the discretion to admit or exclude any evidence presented and may reserve the ruling on the admissibility or exclusion of evidence until the time the Final Order is issued.
7. Subpoenas. The Hearings Officer may issue subpoenas to parties when a request is supported by a showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties, peace officers or employees of the County, shall be paid the same witness fees and mileage as allowed in civil cases from the party requesting the subpoena to be paid at the time the subpoena is issued. The party requesting the subpoena will be responsible for its service in accordance with the Oregon Rules of Civil Procedure.
8. Representation. The person cited may represent ~~him/herself~~themself or may be represented by counsel at personal expense. The County may be represented at the hearing by any employee of the County. If the employee is not an attorney, the employee shall not present legal argument, examine or cross-examine witnesses, present rebuttal evidence or give legal advice to the Hearings Officer conducting the hearing.
9. Record. A verbatim record shall be made of all hearings. The record may be transcribed at the request of a party upon payment in advance of the cost of transcription.
10. Final Order. At the conclusion of the hearing, the Hearings Officer shall issue a Final Order based upon reliable, relevant and substantial evidence which shall be the County's final determination. A Final Order shall be effective on the date that it is issued unless otherwise provided by the Hearings Officer. The order may be oral or written, but in all cases must be recorded in the record of the proceeding. The Hearings Officer may impose fines, fees, costs, expenses, conditions or restrictions and any other imposition authorized by this Chapter. Monetary obligations are due and payable on the effective date of the Final Order unless otherwise provided.
11. Judicial Review. Review of a Final Order of the Hearings Officer may be made by any party by writ of review as provided in ORS 34.010-34.100. Notwithstanding ORS 34.030, if the Final Order of the Hearings Officer provides the dog is to be euthanized, a writ of review must be filed no later than the 10th day after service of the order. The order to euthanize a dog may not be carried out during the period that the order is subject to review or appeal, unless:
    a. A person appealing the Hearings Officer order, or a person with the right to appeal the order, fails to maintain advance payment of the costs of keeping the dog in the shelter during the period; or
    b. The County files a motion in the Court where the appeal is filed and demonstrates by a preponderance of the evidence that (1) the dog cannot be safely released from the shelter because it presents a risk of causing physical injury to a person or another animal; (2) it is not humane or in the best interest of the dog to remain confined in the shelter; and (3) the County shows a reasonable likelihood of success on the appeal.

12. Enforcement of Final Order. The County may maintain civil proceedings in law or equity in a court of competent jurisdiction to enforce any provision of a Hearings Officer's Final Order.

F. Process when Citation is for Dog as Continuous Annoyance. When the County receives a complaint of a dog causing a continuous annoyance, all of the procedures in this chapter shall apply and the following additional procedures shall also be required:

1. First Complaint. The county will not investigate or issue a citation, but will provide assistance to the complainant and the dog owner to help them resolve the issue between themselves.
2. Second Complaint. The complainant and the dog owner will be referred to mandatory mediation:
   a. If the complainant fails to participate in mediation, no citation will be issued to the owner, the county will not investigate the complaint and not further complaints will be considered until and unless the complainant participates in mediation.
   b. If the owner fails to participate in mediation, the county may conduct further investigation into the complaint, may issue a citation and may take other steps that it determines are reasonable in the circumstances.
3. Complaints Following Mediation Where All Parties Have Participated. If mediation is conducted wherein both the owner and complainant participate, upon receipt of further complaints the County may conduct further investigation into the complaint, may issue a citation and may take other steps that it determines are reasonable in the circumstances.
4. After Citation Issued. After a citation is issued by the County, all standard procedures and provisions in this chapter shall apply.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 08-2012, 8/2/12; Amended by Ord. 03-2014, 7/31/14; Amended by Ord. 02-2015, 2/5/15]

NOTE: Section 5.01.070.F does not go into effect until January 5, 2015.

5.01.080 Penalties

A. Fines, Fees, Costs; Expenses.

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

B. Conditions and Restrictions; Restitution; Euthanasia.

1. Upon a finding by the Hearings Officer that a dog owner, or the owners, operators or managers of animal rescue entities has violated a provision of this

chapter, in addition to and not in lieu of any fine, fee, cost or expense, the Hearings Officer may impose restitution, euthanasia, and reasonable conditions and restrictions, including but not limited to:

a. Suspend the owner's right to own or keep any animal in Clackamas County for a period not to exceed five (5) years;
b. Upon sufficient proof order restitution to any person who has suffered actual monetary loss as a result of a violation of this chapter, including but not limited to expenses incurred for veterinary care, burial and memorial expenses, repair or replacement of damaged property, or medical bills;
c. Require the owner to spay or neuter the animal;
d. Require the owner to remove the animal to a location where the animal does not present a threat to persons, domestic animals or livestock;
e. Require the owner to surrender the animal to the County;
f. After consideration of the factors set forth in ORS 609.093, require euthanasia when an animal has bitten or killed a person, domestic animal or livestock. The Hearings Officer may also consider the public nuisance violation history of the animal and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred;
g. Require that the owner comply with any other condition or restriction reasonably designed to abate any future violation of this chapter;
h. Require that the owner obtain microchip identification for the animal;
i. Require the owner to reduce the number of animals on the owner's premises.

2. Any condition or restriction imposed by a Hearings Officer must be complied with immediately unless otherwise ordered. The County may request that an owner provide proof of compliance by a date certain. If proof is not provided, or proof is insufficient, then a rebuttable presumption will exist that the owner has failed to comply and the owner may be cited for the violation of Failure to Comply in accordance with this chapter.
3. An owner shall be responsible for all costs incurred in complying with any condition or restriction imposed.
4. Upon a finding that an owner is guilty of a violation set forth in this chapter, regarding the same animal for the third time in a twelve (12) month period, the Hearings Officer may order that the owner surrender the animal to the County, without compensation paid to the owner.
5. When an animal has been ordered surrendered and the County has determined that the animal qualifies for adoption, the County may give placement preference to any person who had prior contact with the animal, including but not limited to the former owner's family members or friends who reside separately from the former owner and whom the County has determined will provide adequate care and follow all conditions or restrictions imposed by the Hearings Officer in order to maintain control of the animal.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 08-2012, 8/2/12; Amended by Ord. 03-2014, 7/31/14]

5.01.090 Authority of Dog Services Manager

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

A. Collect fines, fees, costs and expenses.
B. Authorize an owner to keep a licensed dog that has been impounded and quarantined, at the premises of the owner during the period of quarantine.
C. Declassify a dog as dangerous in accordance with the provisions of this chapter.
D. Require a dog owner, or the owners, operators, or managers of animal rescue entities to provide proof of compliance with a Hearings Officer's Final Order.
E. Inspect premises of a dog owner, or of an animal rescue entity to ensure compliance with this chapter;
F. Develop and enforce policy, procedures and standards to ensure the effective administration of this chapter.

[Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10; Amended by Ord. 03-2014, 7/31/14]

5.01.100 Transition

[Added by Ord. 01-2004, 4/8/04; Repealed by Ord. 08-2012, 8/2/12]

5.01.110 Severability

If any clause, section or provision of this chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein.
[Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

5.01.120 Enforcement of Other Laws

A. Enforcement of Dogs. Pursuant to ORS 203.035; 153.030; 609.015 and ORS 609.135, to the extent there is any conflict, this chapter supersedes enforcement in the County of the following state statutes regarding control of dogs: ORS 609.030 and 609.035 to 609.110; 609.155; 609.158; 609.165; 609.170; 609.180; 609.190.
B. Enforcement of Rabies Control. Rabies control shall be enforced by the Clackamas County Health Officer in cooperation with the Dog Services Manager in accordance with the provisions of ORS 433.340 through 433.390.
C. Enforcement of Violations Involving Livestock. When a dog is determined to be a Public Nuisance under this chapter for menacing, biting, injuring or killing livestock, in addition to all other provisions and regulations of this chapter the following state statutes apply: ORS 609.125; 609.156; 609.161; 609.162; 609.163; 609.167; 609.168.
D. Enforcement of Possession of Dogs. The number of dogs possessed by a person shall be limited as provided in ORS 167.374. In addition to all other provisions and regulations of this chapter, ORS 167.374 shall apply.
E. Other Laws Apply. Except as expressly provided in this chapter, this chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state and federal laws, rules and regulations, and other ordinances which relate to the requirements provided in this chapter.

[Added by Ord. 05-2010, 7/1/10; Amended by Ord. 08-2012, 8/2/12; Amended by Ord. 02-2015, 2/5/15]

TITLE 6

PUBLIC PROTECTION

Table of Contents

Chapter 6.01

6.01 CURFEW

6.01.010 Purpose

ORS 419C.680(4) authorizes the Board of Commissioners of any county to adopt an ordinance for a curfew restriction on minors applicable to areas not within a city, which has the same terms provided in ORS 419C.680(1), except for providing that the period of curfew may include hours in addition to those specified therein, and except for further providing for different periods of curfew for different age groups, and enacting such an ordinance is in the interests of the people of Clackamas County.
[Codified by Ord. 05-2000, 7/13/00]

6.01.020 Curfew Regulation, Restriction, and Hours for Minors

The County of Clackamas, outside incorporated cities, hereby provides the following curfew regulations, restrictions and hours for minors, unless a minor is emancipated pursuant to ORS 419B.550 to 419B.558:

A. It shall be unlawful for any minor under 18 years of age to be, or remain, in or upon any street, highway, park, alley or other public place between the hours specified herein, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over, and authorized by the parent or by law to have the care and custody of the minor, or unless such minor is then and there engaged in a lawful pursuit or activity which requires their presence in or upon such street, highway, park, alley or other public place during the hours specified herein. For the purpose of this chapter, the applicable hours of curfew shall be:
    1. As to minors under 14 years of age who have not begun high school, the hours shall be between 9:15 o'clock p.m. and 6:00 o'clock a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 10:15 p.m. and 6:00 a.m. of the following morning.
    2. As to minors 14 years of age or over or who have begun High school, the hours shall be between 10:15 o'clock p.m. Sunday, Monday, Tuesday, Wednesday or Thursday, and 6:00 o'clock a.m. of the following morning, and between 12 midnight on Friday or Saturday, or any day prior to a legal holiday when no school is scheduled for said legal holiday, and 6:00 o'clock a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 12 midnight and 6:00 o'clock a.m. Any minor violating any of the provisions of this chapter may be apprehended and taken into custody as provided in ORS 419C.080, 419C.085 and 419C.088 and may be subjected to further proceedings as provided in ORS Chapter 419C.

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

Chapter 6.02

6.02 PROHIBITED TOUCHING; NUDITY IN MASSAGE

6.02.010 Purpose

The Clackamas County Board of Commissioners has made the following finding of fact that the activity prohibited in this chapter is contrary to the public peace, morals, health, safety and welfare, and that the activity prohibited in the proposed chapter constitutes a nuisance.
[Codified by Ord. 05-2000, 7/13/00]

6.02.020 Prohibited Touching

A. A person commits the offense of prohibited touching if:
   1. They engage in or agree to engage in sexual contact in return for a fee; or
   2. They pay or offer or agree to pay a fee to engage in sexual contact.

   Sexual contact means any touching of the sexual or other intimate parts of a person not married to the actor, or causing such person to touch the sexual or other intimate parts of the actor, for the purpose of arousing or gratifying the sexual desire of either party.

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

6.02.030 Promoting Prohibited Touching

A person commits the offense of promoting prohibited touching if, with intent to promote prohibited touching, they knowingly:

A. Owns, controls, manages~~,~~ or supervises ~~or otherwise maintains~~ a place or enterprise where prohibited touching takes place; or
B. Induces or causes a person to engage in prohibited touching or remain in a place where prohibited touching takes place; or
C. Receives or agrees to receive money or other property, other than compensation for personally rendered prohibiting touching services, pursuant to an agreement or understanding that the money or other property is derived from a prohibited touching activity; or
D. Engages in any conduct that institutes, aids or facilitates an enterprise of prohibited touching.

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

6.02.040 Nudity in Massage

A person commits the offense of nudity in massage if:

A. They appear in a state of nudity while engaged in the practice of massage; or

B. They, as a principal, agent, officer or employee of a massage business, appear in a state of nudity in any portion of a massage establishment where massage is given or where there is any patron of the establishment; or

C. They, as a principal, agent, officer or employee of a massage business, cause, permit, aid or abet any violation of this section by any agent or employee of the massage business.

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

6.02.050 Definitions

A. MASSAGE means pressure on, friction against, stroking and kneading the body by manual or mechanical means, and gymnastics, with or without appliances such as vibrators, infrared heat, sunlamps and external baths for the purpose of maintaining good health and establishing and maintaining good physical condition;

B. MASSAGE BUSINESS means the operation of an establishment where massage is given;

C. PRACTICE of MASSAGE means the performance of massage for compensation, either as the owner of or as an employee in a massage business; and,

D. NUDITY means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human ~~female~~ breast below a point immediately above the top of the areola, or the covered human ~~male~~ genitals in a discernibly turgid state. For the purposes of this definition, a ~~female~~ breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

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

6.02.060 Penalties

The violations of any of the above sections shall be punishable upon conviction by a fine in an amount set by resolution of the Board of County Commissioners, for each violation.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3-13-03]

6.02.070 Nuisances

A. Any place where prohibited touching, promoting prohibited touching or nudity in massage is conducted or carried on as described in section 6.02.030, 6.02.040 or 6.02.050 above is declared a nuisance and may be enjoined and abated as described below.

B. Whenever a nuisance exists under section 6.02.060 A, the District Attorney may maintain a suit in equity in the name of Clackamas County perpetually enjoining such nuisance and for its abatement. Such suit may be brought regardless of whether any individuals have been convicted under Section 6.02.050 above.

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

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

Chapter 6.03

6.03 EMERGENCY REGULATIONS

6.03.010 Purpose

The purpose of this chapter is to provide a procedure to minimize injury to persons, the environment, and property. In addition, to preserve the established civil authority in the event a state of emergency exists within the unincorporated areas of Clackamas County or within the incorporated areas of Clackamas County, if assistance is requested by such incorporated jurisdiction. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.020 Definition Of Emergency

For the purposes of this ordinance, emergency is defined as any human-made or natural event or circumstance causing or threatening loss of life; injury to persons, the environment, or property; human suffering; or financial loss to the extent that extraordinary measures must be taken to protect the public health, safety, and welfare. Such event shall include, but not be limited to: fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills of oil or other hazardous substances, disease, blight, infestation, utility or transportation service disruptions, civil disturbance, malfeasance in office, or willful or wanton neglect of duty of a County public official or the inability of County public official to perform duties in a timely or competent manner, riot, sabotage, terrorism, war or any other such emergency as defined under Oregon Revised Statute, Chapter 401, as may be amended from time to time. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6/29/06; Amended by Ord. 08-2015, 12/3/15]

6.03.030 Authority Of County

Under the provisions of ORS Chapter 401, and any successor statutes, the authority, and responsibility for responding to emergencies is placed at the local government level. ORS Chapter 401 further mandates that the County shall establish an emergency management agency to perform emergency program management functions including, but not limited to: program development, fiscal management, coordination with non-governmental agencies and organizations, public information, personnel training, and development and implementation of exercises to test the system. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.040 Declaration Of Emergency

When, in the judgment of the Board of County Commissioners, a state of emergency exists, it shall declare in writing and publicize the existence of it. At the earliest practical opportunity, a written declaration of emergency shall be adopted by the Board and made a part of the County's official records. If circumstances prohibit the timely action of the Board of County Commissioners, the Chair of the Board may declare a state of emergency, provided that the approval of a majority of the Board of County Commissioners is sought and obtained at the first

available opportunity. Upon that declaration of emergency, the Chair of the Board is empowered to assume centralized control of, and have authority over, all departments, divisions, and offices of Clackamas County, including those managed or overseen by County elected officials, in order to implement the provisions of this chapter. The state of emergency declared pursuant to this section shall specify the factors that warrant the exercise of emergency controls. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.050 Succession Of Authority

In the event that the Chair of the Board of County Commissioners is unavailable or unable to perform his or her duties under the ordinance, the duties shall be performed by:

A. The Vice-Chair of the Board of County Commissioners;
B. If the Vice-Chair is unable to perform the required duties, then the remaining members of the Board of County Commissioners in order of seniority;
C. If the remaining members of the Board are unable to perform the required duties, then the Clackamas County Administrator or designee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6-29-06; Amended by Ord. 08-2015, 12/3/15]

6.03.060 Regulation And Control

Whenever a state of emergency has been declared to exist within unincorporated Clackamas County, or on the request of a municipality's governing body, the Board of County Commissioners is empowered to order and enforce the measures listed herein below. However, if circumstances prohibit the timely action of the Board of County Commissioners, the Chair of the Board may order emergency measures, provided that approval from a majority of the Board of County Commissioners is sought and obtained at the first available opportunity, or else the Chair's order will become invalid if such approval is not granted. Such emergency measures shall include but not be limited to:

A. Establish a curfew for the area designated as an emergency area which fixes the hours during which all persons other than officially authorized personnel may be upon the public streets or other public places;
B. Prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place within the area designated as an emergency area;
C. Barricade streets and roads, as well as access points onto streets and roads, and prohibit vehicular or pedestrian traffic, or restrict or regulate the same in any reasonable manner in the area designated as an emergency area for such distance or degree of regulation as may be deemed necessary under the circumstances;
D. Evacuate persons from the area designated as an emergency area;
E. Close taverns or bars and prohibit the sale of alcoholic beverage throughout Clackamas County or a portion thereof;
F. Commit to mutual aid agreements;

G. Suspend standard competitive bidding procedures to obtain necessary goods, services and/or equipment, utilizing the procedures in the Clackamas County Local Contract Review Board rules;
H. Redirect funds for emergency use;
I. Direct the County Administrator, or designee, to assume duties or take measures to abate the emergency in the event of malfeasance in office or willful or wanton neglect of duty of a County public official, or inability of County public official to perform duties in a timely or competent manner; and,
J. Order such other measures as are found to be immediately necessary for the protection of life and/or property.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.070 Acquisition Of Resources

Under this section, the Board of County Commissioners is authorized to extend government authority to non-governmental resources (i.e.: personnel, equipment) that may support regular government forces during an emergency and may enter into agreements with other public and private agencies for either use of governmental resources in aid of authorized private agency efforts related to the emergency or for private resources to aid governmental efforts. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to immediate notice of the requisition by the County under its authority hereunder and to receive reasonable compensation within a reasonable period of time.

Under the provisions of ORS Chapter 401, State resources are available when the appropriate response to an emergency is beyond the capability of the county in which it occurs.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.080 Penalty

A. Any person, firm, corporation, association or entity who violates any emergency measure taken by the Board of County Commissioners under authority of this chapter shall be subject, upon conviction, to a fine in an amount set by resolution of the Board of County Commissioners.
B. Each day of violation shall be deemed a separate offense for purposes of imposition of penalty up to the maximum allowed by law.
C. Where the Oregon Revised Statutes provide a penalty for an act, commission, or omission, the penalty prescribed herein shall be no greater than the penalty prescribed by said Oregon Revised Statues.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 08-2015, 12/3/15]

6.03.090 Responsibility For Emergency Management

For purposes of this Ordinance, in accordance with ORS Chapter 401 or any successor statutes, the Emergency Management Agency for Clackamas County shall be the Clackamas County

Department of Emergency Management. The Clackamas County Administrator is hereby designated as the Emergency Program Manager. Day-to-day management of the emergency program may be delegated to the Emergency Management Director. The National Incident Management System (NIMS) shall be used as the foundation for incident command, coordination and support activities.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6-29-06; Amended by Ord. 08-2015, 12/3/15]

Chapter 6.04

6.04 TOBACCO USE REGULATIONS IN AND AROUND COUNTY FACILITIES

[The Title of Chapter 6.04 changed by Ord. 04-2008, 12/18/08; Title amended by Ord. 04-2014, 9/11/14]

6.04.010 Purpose

The purpose of this chapter is to protect the health and welfare of the public, County employees and of all Clackamas County by providing a place that is free of tobacco smoke, vapor and other smoking instruments for all employees, clients, contractors and visitors to County facilities, and to reduce costs for the repair, maintenance and cleaning of County property, and to reduce the risk of fire.
[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08; Amended by Ord. 04-2014, 9/11/14]

6.04.020 Definitions

As used in this chapter:

A. COUNTY FACILITY means an enclosed area that is operated, owned, leased, or rented by Clackamas County, or any of its departments or agencies. It includes, but is not limited to buildings, portions of buildings, meeting rooms, elevators, stairways, and motor vehicles that are operated in the course of County business.

B. DESIGNATED SMOKING AREA means a location sheltered or unsheltered that is designated by Clackamas County and posted with signage that indicates it is a permissible smoking area.

C. ENCLOSED AREA means all space between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways that extend from the floor to the ceiling.

D. SMOKING means using, inhaling, exhaling, burning or carrying any smoking instrument, or lighted or heated cigar, cigarette, pipe, weed, plant, or other tobacco like product or substance in any manner or in any form, including the use of electronic smoking devices which create vapor.

E. SMOKING INSTRUMENT means any cigar, cigarette, pipe or other smoking equipment, including any form of electronic cigarette or smoking apparatus; also includes smokeless dissolvable tobacco or nicotine product; chewing tobacco, also known as chew, snuff, or dip.

F. TOBACCO PRODUCT means any product that contains tobacco or is derived from tobacco and is intended to be introduced into the human body. "Tobacco Product" includes any electronic smoking device. "Tobacco Product" does not

mean any product that the United States Food and Drug Administration has approved as a tobacco use cessation product.

[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08; Amended by Ord. 04-2014, 9/11/14]

6.04.030 Policy

A. Smoking is prohibited inside all County facilities. Smoking is restricted to designated smoking areas outside County facilities on County property. These prohibitions shall apply to all employees, clients, contractors, volunteers and visitors.

B. A person may not smoke or use any smoking instrument within 25 feet of the following parts of a County facility:
   1. Entrances;
   2. Exits;
   3. Windows that open; and
   4. Ventilation intake that serves an enclosed area.

C. A conspicuous sign stating that smoking is prohibited shall be posted at the entrance of every County facility where smoking is prohibited by this chapter.

[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08; Amended by Ord. 04-2014, 9/11/14]

6.04.040 Violation

It is a violation of this chapter for any person to smoke in any area where smoking is prohibited by this chapter.

[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08]

6.04.050 Severability

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

[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08]

Chapter 6.05

6.05 NOISE CONTROL

6.05.010 Declaration Of Findings And Policy

The Board of Commissioners for Clackamas County finds that excessive sound can and does constitute a hazard to the health, safety, welfare, and quality of life of residents of the County. While certain activities essential to the economic, social, political, educational and technical advancements of the citizens of the County necessarily require the production of sounds which may offend, disrupt, intrude or otherwise create hardship among the citizenry, the Board is obliged to impose some limitation and regulation upon the production of excessive sound as will reduce the deleterious effects thereof.

Now, therefore, it is the policy of this Board to prevent and regulate excessive sound wherever it is deemed to be harmful to the health, safety, welfare, and quality of life of citizens of Clackamas County. This chapter shall be liberally construed to effectuate that purpose.
[Codified by Ord. 05-2000, 7/13/00]

6.05.020 Definitions

The following terms and definitions shall apply herein unless the context requires otherwise:

A. INDUSTRIAL or COMMERCIAL ORGANIZATIONS or WORKERS those industrial or commercial sources of sound which are subject to noise regulation by the State of Oregon Department of Environmental Quality;

B. NOISE SENSITIVE UNIT any building or portion thereof, currently and regularly used for the overnight accommodation of persons, including, but not limited to individual residential units, individual apartments, hospitals, and nursing homes;

C. PERSON includes, in addition to any individual, any public or private corporation, association, partnership, or other legally recognized public or private entity;

D. SHERIFF the Sheriff of Clackamas County or the Sheriff's designee; and

E. SOUND SOURCE includes, but is not limited to,
   1. Loudspeakers, public address systems;
   2. Radios, tape recorders and/or tape players, phonographs, television sets, stereo systems including those installed in a vehicle;
   3. Musical instruments, amplified or un-amplified;
   4. Sirens, bells;

5. Vehicle engines or exhausts, when the vehicle is not on a public right-of-way;
6. Motorboats;
7. Vehicle tires, when caused to squeal by excessive speed or acceleration;
8. Tools, including drills, chain saws, lawnmowers, saws, hammers, and similar tools, but only between 10 p.m. and 6 a.m. of the following day;
9. Heat pumps, air conditioning units, generators and refrigeration units, including those mounted on vehicles; and,
10. Animals located in urban residential zoning districts.

F. URBAN RESIDENTIAL ZONING DISTRICTS means that those zoning districts defined in the Clackamas County Zoning and Development Chapter. The Urban Low Density Residential (R-7/R-30), Medium Density Residential (MR-l), High Density Residential (HJDR), Special High Density Residential (SHD), Planned Medium Density (PMD), Medium High Density Residential (MR-2), and any other similar urban residential zoning district defined after the enactment of this chapter.

G. VEHICLE means automobiles, motorcycles, motorbikes, go-karts, trucks, buses, and snowmobiles.

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

6.05.030 Sound Measurement

A. Measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. For purposes of this chapter, a sound level meter shall contain at least an A weighted scale, and both fast and slow meter response capability.

B. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

C. Measurements may only be made at, or within, three (3) feet of a window or door of a noise sensitive unit, occupied by a person making a complaint under this chapter.

D. All measurements made pursuant to this chapter shall comply with the provisions of this section.

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

6.05.040 Prohibitions

A. It shall be a violation of this chapter for any person to produce or permit to be produced, from a sound source either owned and operated by them or under their control, sound which, when measured at or within three feet of a window or door of a noise sensitive unit occupied by a person making a complaint under this chapter, exceeds:
1. 50 dBA at any time between 10 p.m. and 7 a.m. the following day; or,
2. 60 dBA at any time between 7 a.m. and 10 p.m. the same day.

B. When the sound is emitted from a motorboat it shall not be subject to the standards above but a violation shall be established where the sound exceeds 75 dBA as measured on shore, provided that the measurement be taken no closer than 150 feet from the boat. Where a measurement is taken from a distance close than 150 feet, a violation shall be established where the sound exceeds 84 dBA measured no closer than 50 feet from the boat. Motorboats shall not be operated on public waterways within the County unless equipped with a functioning underwater exhaust, muffler, or system which continuously pipes water into the exhaust line, except as may be permitted under ORS 830.260.

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

6.05.050 Exceptions

Notwithstanding 6.08.040, the following exceptions from this chapter are permitted when conditions therefor are met:

A. Sounds caused by organized athletic, religious, educational, civic or racing activities on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, race tracks, airports and waterways, between the hours of 7:00 a.m. and 11:00 p.m. the same day;

B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property;

C. Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations;

D. Sounds caused by bona fide use of emergency warning devices and alarm systems authorized by the Clackamas County Burglary and Robbery Alarm Chapter 6.09 or successor provisions;

E. Sounds caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9 a.m. and 4 p.m. excluding weekends, unless such permit expressly authorizes otherwise;

F. Sounds caused by industrial, commercial, timber-harvesting, or utility organizations or workers during their normal operations;

G. Sounds caused by animals, animal husbandry, or agricultural operations, when the source of such sound is located outside of urban residential zoning districts;

H. Sounds caused by motor vehicles operated on public roads, which are regulated by state law (ORS 815.250) which the Sheriff has a mandate to enforce; or,

I. Sounds caused by construction activity or by tools, including drills, chain saws, lawnmowers, saws, hammers, and similar tools, between the hours of 6 a.m. to 10 p.m. of the same day.

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

6.05.060 Variances

Any person who is planning the operation of a sound source which may violate any provision of this chapter, may apply to the Sheriff for a variance from such provision.

A. Application. The application shall state the provision from which a variance is being sought, the period of time for which the variance is to apply, the reason for which the variance is sought and any other supporting information which the Sheriff may reasonably require.
B. Review Considerations. The Sheriff shall consider:
   1. The nature and duration of the sound emitted;
   2. Whether the public health, safety or welfare is endangered;
   3. If compliance with this chapter would produce a benefit to the public; and,
   4. Whether previous permits have been issued and the applicant's record of compliance.
C. Time Duration of Variance. A variance may be granted for a specific time interval only.
D. The Sheriff shall within ten (10) days deny the application, approve it, or approve it subject to conditions.
E. The Sheriff's decision may be appealed to the Board of County Commissioners. Notice of Appeal must be delivered to the Board of County Commissioners within thirty (30) days from the date of the Sheriff's decision. The Board shall review the application de novo and within fifteen (15) days, deny the application, approve it, or approve it subject to conditions.
F. The authority granting the variance may at any time before or during the operation of any variance revoke the variance for good cause.

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

6.05.070 Chapter Is Additional To Other Law

The provisions of this chapter shall be cumulative and non-exclusive. It shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

Such existing legislation includes exhaust system and sound emission standards for motor vehicles operated on public roads set forth by ORS 815.250 and OAR 340-35-030. Existing legislation also includes exhaust system standards for motorboats set forth by ORS 830.260. The Sheriff has a mandate to enforce ORS 815.250 and 830.260.
[Codified by Ord. 05-2000, 7/13/00]

6.05.080 Administration And Enforcement

A. The Sheriff for Clackamas County shall administer, supervise, and perform all acts necessary to enforce this chapter.
B. Citation: whenever a person produces or permits to be produced sound which is found in violation of, or contrary to, any provision of this chapter, that person may be issued a citation.
C. Unsworn persons may be utilized, as the Sheriff deems necessary, to issue citations for violation of this chapter, under the provisions of ORS 204.635.

D. Forms of Citation: the form for the citation to be issued under this chapter shall contain the following: a description of the specific violation alleged, the name and address of the person producing or permitting the violation, the description of the sound source, the time and place of the occurrence of the violation, the name and address of the office of the Sheriff, a form for admitting or denying the violation as provided by subsection F of this section, and a schedule of the forfeiture amounts for specific violations.

E. Upon citation of a person for a violation of this chapter, the person issuing the citation may seize the offending sound source as evidence. It is the intent of this chapter to avoid such seizures except where the person being cited has received two previous citations within the previous six- (6) months for the same or similar sound source. The previous citations may, but need not, occur on the same date as the citation, which prompts the seizure.

F. A person who receives a citation for violation of this chapter shall respond within fourteen (14) days of the issuance of the citation by payment of any penalties established under this chapter, or by requesting a hearing as provided in subsections G and H of this section.

G. Notice of Hearing: a person who receives a citation for violation of this chapter may deny all or part of the alleged violation by completing an appropriate response form, attached to the citation, and mailing or delivering it to the Sheriff's office, as indicated on the citation. Upon receipt, the Sheriff's office shall forward the form to the office of the hearing officer, who shall establish a time and place for the hearing and provide notice of it to the person who received the citation. Notice of the time and place of the hearing shall be made by mailing the notice to the address designated by the person who received the citation. The notice shall be sent by regular first class mail.

H. Hearings Officer: the Board of County Commissioners shall appoint a quasi-judicial hearing officer or officers to hear and determine cases of alleged violations of this chapter. The hearing officer may establish a schedule of the amounts of forfeiture for violations with the approval of the Board of County Commissioners.

1. Every hearing to determine whether this chapter has been violated shall be held before a hearing officer. The hearing officer may prescribe procedures for the conduct of such hearings.
2. Evidence, including rebuttal evidence, may be presented at the hearing and shall be limited to that which is relevant to the violation alleged.
3. The hearing officer has the authority to administer oaths and take the testimony of witnesses. The hearings officer may issue subpoenas in accordance with Oregon Rule of Civil Procedure 55, provided that if the person who receives a citation desires that witnesses be ordered to appear by subpoena, they must so request in writing either at the time response is made to the citation or subsequently by mail at any time before five (5) days prior to the scheduled hearing. A deposit for each witness in an amount set by resolution of the Board of County Commissioners shall accompany the request, such deposit to be refunded if no forfeiture is assessed or if the total witness cost is less than the amount deposited.

Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in district court. If a forfeiture is declared, the person ordered to forfeit shall also be ordered to pay all witness fees.

4. The parties shall have the right to cross-examine witnesses who testify.
5. After due consideration of the evidence and arguments, the hearings officer shall determine whether the violation as alleged in the complaint the complaint has been established. If the violation has been established, the hearings officer shall issue a decision including a brief statement of the findings of fact necessary to establish a violation and ordering the person to pay an appropriate forfeiture and witness costs, to be paid into 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.

I. In addition to any other enforcement procedures, the Board of County Commissioners may, upon its own motion, or upon receipt of a petition requesting hearing by the Board, issue its order to the person producing or permitting to be produced, the sound which allegedly violates this chapter, to appear before the Board and show cause why the Board should not declare the sound a violation of this chapter and order the violation abated. Noncompliance with the order may result in the Board referring the matter to the County Counsel for enforcement.

J. An attorney at any hearing may represent a person who receives a citation or an order to show cause, provided that in the case of representation by an attorney, the person gives one (1) day of written notice to the hearings officer or Board of County Commissioners so that the County may, at its option, arrange for representation by an attorney on its behalf.

K. County Counsel may prosecute or bring a civil action against violators of this chapter, or those who fail to comply with the hearing procedure, or an order of the Hearings Officer or Board. Such action shall be brought or pursued in the District or Circuit Court of the State of Oregon.

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

6.05.090 Penalties

Violation of this chapter shall be punishable by a penalty or fine in an amount set by resolution of the Board of County Commissioners.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3-13-03]

6.05.100 Payment

Payment of all fines under this chapter shall be made by mailing or delivering the response form attached to the citation accompanied by a check or money order for the amount of the fine to the Sheriff's Office at 2223 5. Kaen Road, Oregon City, Oregon 97045.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 6.06

6.06 PARK RULES

6.06.010 Policy and Purpose

The purpose of this chapter is to protect County parks, forest and recreational areas, protect the health, safety and welfare of the public using such areas, and insure the best use of and benefits from such areas. The numbering system for this chapter is necessarily *unique* because of the requirements of the County and State criminal justice systems.
[Codified by Ord. 05-2000, 7/13/00; renumbered from 6.06.02 by Ord. 04-2013, 8/22/13]

6.06.020 Definitions

A. APPROVED CAMPING SHELTER means ground tents, vehicle tents, motorhomes, travel trailers, vans and camper units designed specifically for overnight, outdoor camping, such as Class A, B or C vehicles, towables, and truck campers.
B. BOARD means the Board of County Commissioners of Clackamas County.
C DIVISION means the Clackamas County Parks Division of the Business and Community Services Department and its employees.
D ANIMAL, as per ORS 167.310, means any non-human mammal, bird, reptile, amphibian or fish. LIVESTOCK, as per ORS 609.125 means any ratites (large flightless birds), psittacines (parrot & macaw type birds), horses, mules, jackasses, cattle, lamas, alpacas, sheep, goats, swine, domesticated fowl and any fur bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.
E. PARK AREA means any County park, forest or recreational area under the jurisdiction of the board, but not any residence located thereon.
F. PARK EMPLOYEE means a County employee, caretaker, host, or agent.
G. PARKS MANAGER means the person designated by the Board or the Department of Business and Community Services to administer the County's programs and policies for County parks, forests, and recreation areas.
H. PEACE OFFICER means a Sheriff, deputy sheriff, constable, marshal, municipal police officer, Oregon State Police officer, and such other persons as may be designated by law.
I. PROHIBITED ARTICLES means fireworks, weapons, glass, and alcoholic beverages under this Chapter.
J. RESERVATION includes, but is not limited to, calling, booking online or by email, in advance to obtain a campsite or day-use area.
K. Other terms shall be defined as set forth in the Oregon Vehicle Code, ORS Chapter 801, unless specifically provided otherwise in this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.03 and amended by Ord 04-2013, 8/22/13; Amended by Ord. 01-2016, 3/24/16; Amended by Ord. 07-2018, 6/28/18; Amended by Ord. 03-2019, 6/6/19; Amended by Ord. 02-2021, 6/24/21]

6.06.030 Opening, Closing, Entry Into Parks

A. The Division is hereby authorized to close to the public use of any County Park area or portion thereof, restrict the times when any County park area shall be open to such use, and limit or prohibit a recreation use whenever such action is necessary to protect the health or safety of the public, or the safety of the park area or its facilities. Cause for park area closure or limitation, or prohibition, on park area or recreational use includes, but is not limited to: Fire hazard, dangerous weather, water conditions, sanitary protection of the watershed, park area construction or repairs, conservation of fish and wildlife, excessive traffic**;** unsafe or overcrowded shoreline, ramp, parking or road conditions**;** the prevention of damage to the park or any of its facilities**;** or any dangerous, unsafe or unhealthful conditions.

B. Any County employee designated by the Director of Business and Community Services Department or any peace officer may request, as a condition of the license or permit to enter the County's park areas, that persons entering or about to enter allow inspections of all backpacks, briefcases, suitcases, athletic bags, packages, duffle bags, coolers, ice chests, picnic baskets, and other containers capable of concealing prohibited articles:
   1. Inspections under this section may occur anywhere on park property. Persons possessing containers subject to inspection shall be informed that they are free to decline the inspection and then must immediately leave the park area.
   2. If a person already inside the park area possesses a prohibited article, that person shall be considered to have violated the license to enter and use the park area. The person's license is automatically revoked and the person shall be requested to leave immediately.
   3. Any person in violation of park rules is subject to citation and immediate trespass.

C. The County shall display signs at entrances to the park area that generally identify prohibited articles and provide notification of the request for inspection. The signs shall generally describe prohibited articles, explain the potential request for inspection and the right-to-decline options. Similar explanations may be printed on parking receipts and where available may be displayed at ticket windows on County property where parking passes or admissions are regularly sold.

D. Fees Required.
   1. No person shall enter or use any County park area or any of its facilities without first paying the required fee, if any, unless such entry or use is otherwise authorized by a valid existing permit in the name of said person.
   2. Any permit for entry or receipt for the use of any County park shall be displayed in a way that makes it easily visible from outside the vehicle.

Failure to display a permit or receipt in a visible manner is a violation of this section requiring payment.

3. For all misplaced or stolen parking permits, there shall be a nominal fee for replacement.

E. Any County employee designated by the Director of Business and Community Services Department or any peace officer may revoke any permit that has been issued erroneously or where there is reasonable cause to believe the permit holder or any person in their custody, control, or family, has violated any of the provisions of these rules or any State, County or federal law. Any person whose permit has been revoked and all other persons in their custody, control, and family shall immediately leave the park area.

F. Any person who violates any of these Park Rules, or who violates any state statute (including the vehicle chapter), County ordinance or code while in a County park, may be ordered to leave the park area.

G. No person who has been ordered to leave a County Park area shall remain therein or return thereto.

H. The Division may refuse to admit into a park area any person who has been previously ordered to leave a County park.

I. The daily opening and closing times for each Clackamas County Park, including but not limited to Barlow Wayside, Barton, Boones Ferry Marina, Boring Station, Carver, Eagle Fern, Feyrer, Hebb, Knights Bridge, Madrone Wall, Metzler, Ed Latourette, Feldheimer, Wagon Wheel, and Wilhoit Springs, shall be established by the Parks Manager and/or their designee and posted at the entrance to the park.

J. Except for authorized overnight camping in accordance with these rules, no person, other than peace officers or authorized County personnel or agents, shall enter or remain in any park area after the daily closing time and before the daily opening time, without prior written authorization.

K. User fees for campsites are due and shall be paid prior to each day's use. The fee covers use of facilities and services until the vacating time of 1:00 p.m. the following day.

L. The person registering for the campsite is responsible for all persons using the campsite adhering to all park area rules, but this shall not provide a defense to any person who actually causes, or participates in causing, a violation of said rules.

M. Campers must maintain campsites in a clean, sanitary, and safe manner.

N. Unless otherwise posted at the entrance to the park campground, campsites may be occupied only as assigned by a reservation or at the campground registration area.

O. No more than two (2) vehicles are allowed in a single campsite. The first vehicle is included in the campsite fee. All excess vehicles will be charged an additional fee and may need to be parked in designated overflow parking.

P. In order to avoid unnecessary congestion of campground roadways and overloading of campground water and sanitation facilities, a park employee may prohibit entry of non-camper vehicles into the campground area. The park employee may issue temporary entry permits to non-camper vehicles when, in their opinion, such entry will not unnecessarily disrupt the operation, safety, and sanitation facilities of the campground.

Q. Campsites may be accommodated with any approved camping shelter except those areas that have specific designated usage, i.e., RV only, tent only.

R. Individual campsites are designed to serve one family unit. The following capacities shall apply:
   1. Not more than two (2) tents OR one (1) recreation vehicle and one (1) tent per campsite.
   2. A maximum occupancy of 8 persons per site.
   3. No person under the age of 18 shall camp overnight unless accompanied by an adult.
   4. ADA accessible campsites are designed for campers with mobility challenges. Campers with DMV placards or license plates are given priority in these sites. Unless otherwise noted below persons registering for, or occupying, accessible campsite(s) must clearly display an appropriate placard or plate during their stay. *Note: Large group reservations of all campsites in a campground loop or park are exempt from this rule.*

S. Parks with accessible campsites for Persons with Disabilities shall:
   1. Hold all reserved site(s) for the date(s) of reservation unless notified by the Parks Office to release the site;
   2. Hold unreserved accessible sites site(s) for qualified drop-in campers until 7:00 p.m. daily;
   3. Release unreserved accessible site(s) for first come, first served use after 7:00 p.m. for one (1) night only stay if no qualified users have registered.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.03 and amended by Ord. 04-2013, 8/22/13; Amended by Ord. 05-2015, 5/14/15; Amended by Ord. 01-2016, 3/24/16; Amended by Ord. 07-2018, 6/28/18; Amended by Ord. 03-2019, 6/6/19; Amended by Ord. 02-2021, 6/24/21]

6.06.040 Reservations And Check In/Out Times

A. All persons making reservations must be 18 years of age or older.

B. Online reservations for camp sites, sheltered and non-sheltered picnic areas must be made a minimum of 3 days in advance. Payment for reservations of picnic areas and campsites are due in full at the time of booking unless booking ten (10) or more campsites.
   1. Reservations for ten (10) or more campsites must be made through the Parks Administration Office and requires a deposit of the reservation fee and first night's rental fee due at the time of booking the reservation. The remaining balance is due thirty (30) days after making the reservation. The Parks Division reserves the right to cancel a reservation of ten (10) or more campsites, without notification, if the final payment has not been paid as per policy.
   2. No group may book more than thirty (30) campsites for the same date(s) in any one park on Memorial Day weekend, or during the peak use season from July 1 through Labor Day weekend.

C. Cancellations and refunds:
   1. For campsites (full hook-up, partial hook-up, primitive) and bunkhouse:
      a. If cancellation is made four (4) or more days in advance of the arrival date, a refund will be issued by the Parks Division less the reservation fee and a cancellation fee.
      b. If cancellation is made within three (3) days of the arrival date, a partial refund will be issued by the Parks Division less the reservation fee, a cancellation fee and the first night's camping fee.
   2. For sheltered and non-sheltered picnic areas:
      a. If cancellation is made fifteen (15) days or more in advance of the reserved use date, a refund will be issued less the reservation fee and a cancellation fee.
      b. If cancellation is made within fourteen (14) days of the reserved use date, no refunds will be issued..
   3. Reservation and transaction fees are non-refundable.
   4. If days are removed from the front of a reservation, resulting in the new arrival date being more than one year from when the original reservation was made, the County reserves the right to cancel the entire reservation, and retain the reservation fee and first night's camping fee.

D. Changes to overnight camping reservations and day use reservations, such as a reduction in the number of campsites, or a change in the location or date, can be made at any time, except as noted in section C.4, but a change fee is required and will be charged at the time of the change request.

E. Check-in time for all overnight camping sites is established at 3:00 p.m. and check-out time is established at 1:00 p.m. the following day. Campsites not vacated by 1:00 p.m. shall be subject to charge of fees for an additional night, if the campsite is available and not reserved for that time period.

F. If a campsite has been reserved for use by another party for that night, and the campsite has not been vacated by the non-reserved party by check-out time:
   1. The non-reserved party shall vacate the site immediately or be subject to eviction;
   2. The non-reserved party shall be subject to exclusion from Clackamas County parks pursuant to this chapter;
   3. Any vehicle occupying the campsite after check-out time other than a vehicle of the reserved party is parked in violation of this chapter, and may be immediately towed away without prior notice at the owner's expense under the provisions of the Clackamas County Vehicle Parking and Towing Chapter; and
   4. Park employees may remove any personal property remaining on the campsite other than property of the reserved party.

G. Individual campers or small groups reserving ADA accessible sites must provide documentation upon making the reservation or the reservation may be forfeited. *Note: Large group reservations of all campsites in a campground loop or park are excluded from this rule.*

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Renumbered from 6.06.14; amended by Ord. 04-2013, 8/22/13; amended by Ord. 02-2014, 5/22/14; Amended by Ord. 01-2016, 3/24/16; Amended by Ord. 04-2017, 5/4/17; Amended by Ord. 07-2018, 6/28/18; Amended by Ord. 03-2019, 6/6/19]

6.06.050 Violations

A. No person shall park a vehicle on any Clackamas County park property before the posted opening time or after the posted closing time. Vehicles parked in violation of this section shall be towed or booted in accordance with the Clackamas County Parking and Towing Chapter.

B. No person shall expose their genitalia or breasts, or be completely nude (full nudity) while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex or children.

C. No person shall, while in, or in view of, a public place, perform an act of sexual intercourse or an act of oral or anal sexual intercourse; or an act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person, as defined in ORS 163.465.

D. No person shall have in their possession any glass beverage container without first obtaining a permit from the County Parks Department. Permits will be issued upon payment for use of designated campsites and group picnic areas. Permits for possession of glass beverage containers will not be issued for day-use areas.

E. Fires
   1. Fires in park areas shall be confined to:
      a. Fire rings, fire pits, or fireplaces provided for such purposes;
      b. Portable stoves in established campsites and picnic areas where fires are permitted.
   2. No person shall leave any fire unattended, and every fire user shall extinguish the fire before leaving the park area.
   3. No person shall build, light or maintain any fire so as to constitute a hazard to any pile of wood, grass, tree, underbrush, or other flammable material.
   4. No person shall move a park fire ring, fire pit, or fireplace from its designed location in any day use area or campground.

F. Fireworks and Weapons
   1. No person shall hunt, pursue, trap, kill, injure, or molest any bird or animal in any park area.
   2. No person shall discharge in any park area any firearm, pellet gun, bow and arrow, slingshot, paintball gun, or other weapon capable of injuring any person, bird, or animal.
   3. No person~~,~~ shall possess in any park area any: loaded firearm, loaded pellet gun; paintball gun; bow and arrow; slingshot; other weapon capable of injuring any person, bird or animal; provided however that the prohibition of loaded firearms does not apply to or affect:
      a. a peace officer or authorized agent in the performance of official duty,

b. a member of the military in the performance of official duty,
c. a person licensed to carry a concealed handgun, or
d. a person authorized to possess a loaded firearm while in a public building under ORS 166.370.

4. No person shall possess or use fireworks or other explosives in any park area, except as designated, without the written permission from the Parks Manager and/or their designate.

G. Alcoholic Beverages

1. No person shall possess alcoholic beverages in any general day use area in any county park. Permits may be issued for designated reservable group picnic areas when requested and approved and upon payment for the group picnic area. Permits for the possession of alcoholic beverages in reserved campsites are not required. Violations shall be treated as a rule violation, and any person authorized to enforce park rules is authorized to confiscate and destroy any alcohol and its container.

H. Park Property & Property Destruction

1. No person shall mutilate, deface, damage, or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind in any park area.
2. No person shall dig up, deface, or remove any dirt, stones, rock or other substance whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in doing any of said things, in any park area.
3. No person shall erect temporary signs, markers, or inscriptions of any type in any park area, without the permission from the Parks Manager and/or their designee.
4. No person shall set up or use a public address system in any park area without the written permission from the Parks Manager and/or their designate.
5. No person shall wash any clothing or other materials, or clean any fish, in a lake, stream, river, or pond, in any park area.
6. No person shall use abusive or threatening language or gestures, create any public disturbances, or engage in riotous behavior, in any park area.
7. No person shall operate or use any noise-producing machine, vehicle, device, or instrument in any park area in a manner that is disturbing to other park area visitors.
8. No person shall operate any remote control device in any park area (i.e., drones, airplanes, cars, etc.).
9. No person shall pick, cut, mutilate, or remove any flowers, shrubs, foliage, trees, or plant life or products of any type in any park area.

I. Concessions and Solicitations

1. No person shall operate a concession, either fixed or mobile, in any park area without the written permission from the Parks Manager and/or their designee.

2. No person shall solicit, sell or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services in any park area without the written permission of the Parks Manager and/or their designee.
3. No person shall advertise any goods or services in any park area without the written permission from the Parks Manager and/or their designeee.
4. No person shall distribute any circulars, notices, leaflets, pamphlets, or written or printed material of any kind in any park area by leaving or placing the material on a person's vehicle or property without the written permission from the Parks Manager and/or their designee.

J. Animals

1. No person shall ride, drive, lead, or keep livestock or animals, other than cats and dogs, in any park area not designated for their use (e.g., equestrian trails/facilities) without the written permission from the Parks Manager and/or their designee.
2. No dog or cat shall be brought into or kept in a park area unless confined or controlled on a maximum 6-foot long leash. A Park Employee may undertake, or require the person keeping the animal to take any measures, including removal of the animal from the park area, deemed necessary to prevent interference by the animal with the safety, comfort, and wellbeing of park area users, and the appearance or sanitary condition of the park area. No animals, other than service dogs for the disabled, shall be allowed in any park area building.
3. No person shall allow any animal in their custody or control to annoy, molest, attack, or injure any person or animal in the park area.
4. No person shall tie up any animal in their custody or control and leave such animal unattended.
5. All animal fecal matter shall be put in a bag or container and left in a designated waste receptacle.
6. No person shall have or allow more than two (2) domestic pets or other animals in any campsite.

K. Motor Vehicles

1. No person shall operate any vehicle in any park area in violation of the Oregon State Vehicle Code, County ordinance, code or other laws.
2. No person shall operate any motor vehicle in any park area at a speed in excess of 10 miles per hour, unless otherwise designated. In addition, no person shall operate any motor vehicle in any park area at a speed greater than is reasonable and prudent, having due regard to all of the following:
   a. The traffic;
   b. The surface and width of the highway;
   c. The hazard at intersections;
   d. Weather;
   e. Visibility; and
   f. Any other conditions then existing.
3. No person shall park a vehicle:
   a. In violation of any "No Parking" signs or markings authorized by the Parks Manager and/or their designee;

b. In any location within a park, other than officially designated parking lots and parking spaces;
c. On grass, dirt, or landscaped areas that have not been graveled and designated for parking;
d. Beyond the edges of curbing or parking lots; or
e. In any designated staging area or timed parking area for longer than the maximum time limit stated on the posted sign.

4. No vehicle shall be parked in an emergency access area or travel lane of any park. Any vehicle parked in an emergency access area or travel lane of any park will be towed under the provisions of the Clackamas County Parking and Towing Chapter.
5. No person shall operate a motor vehicle on any park trail, or on any area within a park, which is not paved or graveled unless specifically marked as an area for motor vehicles.
6. No person shall operate any Off Highway Vehicle (OHV), All Terrain Vehicle (ATV) or any other vehicle not legal for street riding in any park area not designated for their use without the written permission from the Parks Manager and/or their designate.

L. Waste Disposal

1. All bottles, cans, ashes, waste, paper, garbage, sewage, and other rubbish or refuse shall be left only in receptacles designated for that purpose.
2. No person shall bring into a park area any trash, refuse, garbage, litter, waste material, or vehicles for the purpose of disposing them there.
3. No person shall use kitchen or toilet facilities in a camping vehicle in the park unless the person makes provision for holding sewage and other waste materials in watertight and sanitary containers. Such containers shall not be emptied in the park except at an officially designated dump station.
4. No person shall urinate or defecate in public in any park area where restroom facilities are provided.

M. Camping Rules

1. No person may camp overnight in a park area other than in an officially designated and numbered overnight camping space.
2. No person may camp in any one park area for more than fourteen (14) days in one eighteen (18) day period of time. No person may camp for more than twenty-eight (28) days total in the County Parks system as a whole, in any one camping season from May 1 to November 30, without the written permission from the Parks Manager and/or their designee.
3. Campers are required to maintain reasonable quiet between the hours of 10:00 p.m. and 7:00 a.m. and to respect the rights of other campers to peace and quiet during these hours.
4. No person shall camp overnight without an approved camping shelter.
5. No person shall wash a vehicle or trailer in any campsite.
6. No swimming pools of any size shall be filled with water in the campground without the written permission of the Parks Manager and/or their designee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07; Amended by Ord. 04-2013, 8/22/13; Amended by Ord. 04-2017, 5/4/17; Amended by Ord. 07-2018, 6/28/18; Amended by Ord. 03-2019, 6/6/19; Amended by Ord. 02-2021, 6/24/21]

6.06.060 Enforcement and Penalties

A. Any County employee or agent designated by the Director of the Business and Community Services Department, and any peace officer may enforce these park rules, order any person violating these rules to leave the park areas, and issue citations for violations of these rules, except that only a person expressly authorized under the Clackamas County Parking and Towing Chapter may enforce the towing or booting provision of that chapter. Caretakers and Camp hosts who are appointed by the County may notify persons of the requirements of these rules, seek voluntary compliance, and order any person violating the rules to leave the park areas.

B. Violation of any of the foregoing rules is subject to citation and punishable by a fine as set forth below.

C. Form of citation:
   1. Description of the specific violation alleged;
   2. The date, time, and location of its occurrence;
   3. The maximum amount of the fine for the violation alleged;
   4. A statement that the fine must be paid or a hearing requested within 20 days, and that upon failure to do so within 20 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;
   7. The telephone number of the person or facility which may be contacted for information;
   8. The name and address of the violator, or in the case of a parking violation where the operator of the vehicle is not present, the license plate and vehicle number of the vehicle (if visible); and

D. Upon receiving a citation under this chapter, the cited person may:
   1. Within 20 days, deliver to the Sheriff's Office the form provided with the citation, admitting the violation(s), forfeiting and paying the amount of the fine(s) indicated on the citation by credit card; forfeiture may be made by mail but must be actually received by the Sheriff within 20 days from the date of the citation; or
   2. Within 20 days, deliver to the Sheriff's Office 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 20 days from the date of the citation.

Upon receipt of a denial, the Sheriff's Office shall inform the Hearings Officer. The Hearings Officer shall set a hearing within 30 days of the Sheriff's Office receipt of the denial and bail, and shall mail notice to the cited person and the issuer of the citation of the hearing date, time and place within 15 days of the Sheriff's Office receipt of the denial of bail.

3. Failure to perform any part of either subsection 1 or 2, including failure to respond within 20 days, shall be presumed an admission of the violation(s) cited, and the fine(s) shall be doubled.

E. Hearing Process.

The hearing shall afford a reasonable opportunity for the person(s) requesting it to present evidence that the citation was invalid or unjustified.

1. 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.
2. 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.
3. 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 the amount of witness fees to be paid out of any deposit, or refunded.
4. The decision of the Hearings Officer is final.

[Codified by Ord. 05-2000, 7/13/00; Renumbered from 6.06.15 and amended by Ord. 04-2013, 8/22/13; amended by Ord. 02-2014, 5/22/14; Amended by Ord. 04-2017, 5/4/17; Amended by Ord. 07-2018, 6/28/18]

6.06.04.01[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 03-2010, 2/25/10; Repealed by Ord. 04-2013, 8/22/13]

6.06.07.01[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 03-2010, 2/25/10; Repealed by Ord. 04-2013, 8/22/13]

06.06.07.02 [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Deleted by Ord. 03-2010, 2/25/10]

6.06.070 Vehicle Towed

A vehicle registered to a person who has failed to respond or pay fines as required by this chapter to three or more vehicle parking citations, may be towed from any park area or booted, without prior notice, in accordance with the Clackamas County Parking and Towing Chapter, and held until the amounts owing have been paid.
[Codified by Ord. 05-2000, 7/13/00; Renumbered from 6.06.11 by Ord. 04-2013, 8/22/13]

6.06.080 Fines

All fines shall be set by ordinance of the Board of County Commissioners.
[Added by Ord. 5-2003, 3-13-03; Renumbered from 6.06.17 and amended by Ord. 04-2013, 8/22/13]

6.06.090 Exclusions

Any peace officer or agent providing security services on behalf of County Parks may issue a written exclusion notice to any person violating County Park rules within Chapter 6.06, or who violates any state statute (including the vehicle chapter), County ordinance or code while in a county park.

A. An exclusion may be issued for up to one (1) year per violation.

B. A peace officer or agent providing security services on behalf of County Parks will provide a person who is excluded from a County park an exclusion notice. The exclusion notice shall specify the basis for the exclusion, which County parks the person is excluded from, the period of the exclusion, the time the exclusion is to commence, and a statement of the person's right to appeal the exclusion to the County Administrator.

C. The individual who is excluded for a period exceeding thirty (30) days shall have the right to appeal the exclusion. An appeal must be file, in writing, with the County Administrator within five (5) calendar days of the exclusion notice's issuance. The notice of appeal shall state the following:
   1. The appellant's name;
   2. The appellant's address and a telephone number where they can be reached;
   3. A concise statement as to why the exclusion was in error; and
   4. Attach a copy of the exclusion notice.

D. A person appealing an exclusion may request a hearing. The County Administrator may hold a hearing on the exclusion if there are any disputed issues of fact. If permitted, a hearing on the appeal shall be held no more than thirty (30) calendar days after the filing of the appeal, except in the event the County Administrator determines otherwise. The hearing shall afford a reasonable opportunity for the person requesting it to present and rebut evidence that the exclusion is invalid or unjustified.

E. The County shall have the burden to show by a preponderance of evidence that the exclusion is based on conduct prohibited under Chapter 6.06.
F. Copies of any and all County documents used by the County at the hearing shall be made available to the person appealing the exclusion upon written request.
G. The exclusion shall remain in effect during the pendency of the appeal.
H. The County Administrator will issue a final, written decision on an exclusion appeal.
[Added by Ord. 02-2021, 6/24/21]

Chapter 6.07

6.07 CONTRACTING TO PROVIDE LAW ENFORCEMENT SERVICES

6.07.010 Purpose

The Clackamas County Board of Commissioners has determined that the operation by private organizations of public events involving large numbers of people is a matter of County concern. It is in the best interest of the citizens of Clackamas County for the Sheriff to provide temporary law enforcement services by contract to the private organizations.
[Codified by Ord. 05-2000, 7/13/00]

6.07.020 Authority to Contract

The Sheriff of Clackamas County is authorized to enter into contracts with private individuals, or public or private organizations, to provide temporary law enforcement services for short-term public events. The authority to execute such a contract is hereby delegated to the Sheriff.
[Codified by Ord. 05-2000, 7/13/00]

6.07.030 Contract Terms

A. Application for a temporary law enforcement service contract shall be made upon standard forms issued and kept by the Sheriff's Office.
B. Contracts authorized by this Chapter shall comply with all public contracting laws pursuant to ORS 279.310 through ORS 279.320 and Article XI, Section 10 of the Oregon Constitution.
C. The Sheriff shall have full discretion in determining the type of law enforcement service to provide, and the number of law enforcement officers appropriate, taking into account, but not limited to, the consideration of factors such as the size and type of the event, and the availability of officers and resources in the Sheriff's Office.
D. The law enforcement services shall encompass duties and enforcement functions of the type coming within the jurisdiction of, and customarily rendered by, the Clackamas County Sheriff under the statutes of the State of Oregon.
E. The rendition of such service, standards of performance, the discipline of officers, and other matters incident to the performance of such services, and control of personnel so employed, shall remain in Clackamas County and the Sheriff of Clackamas County.
F. Clackamas County, its officers and employees shall not be deemed to have assumed any liability for acts of the particular contractor, or of any officer, employee, or agent thereof, and that contractor shall covenant and agree to hold

and save Clackamas County and all of its officers, agents and employees harmless from all claims whatsoever that might arise against Clackamas County, its officers, agents, and employees, by reason of any act of the contractor, its officers, agents and employees. Each contractor will secure and maintain throughout the term of its contract with the Sheriff comprehensive liability insurance in form and amount acceptable to Clackamas County.

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

Chapter 6.08

6.08 CHRONIC NUISANCE

6.08.010 Chronic Nuisance Property – Violations.

A. Any property within Clackamas County, that becomes a chronic nuisance property, as defined herein, is in violation of this Chapter and subject to its remedies.

B. Any person who permits property under their ownership, possession, or control to be a chronic nuisance property, as defined herein, shall be in violation of this Chapter and subject to its remedies.

[Added by Ord. 08-2001, 7-12-01; Amended by Ord. 13-2002, 10/17/02]

6.08.020 Definitions.

A. ABATE: Affirmative actions to remove, to stop, to prevent a nuisance including but not limited to:

1. Restricting or limiting use of the Property, including posting the property with signs indicating such restrictions.
2. Limiting the hours of operation of a business.
3. Closing the Property for not less than six (6) months or more than one (1) year.
4. Entering premises for purposes of removing, compelling the removal or destruction of the structure, thing, substance, condition or property constituting a nuisance.
5. Filing a civil ~~complaint~~ action in a court of competent jurisdiction.

B. BOARD OF COMMISSIONERS: The Board of Commissioners for Clackamas County.

C. BUILDING OFFICIAL: The Clackamas County Building Official is the person designated by the County Administrator, or Director of the Department of Transportation and Development with the Responsibility to enforce the County Code.

D~~C~~. CHRONIC NUISANCE PROPERTY:

1. Property on which three (3) or more Nuisance Activities exist or have occurred during any sixty (60) day period or on which twelve (12) or more Nuisance Activities exist or have occurred during any twelve (12) month period; or
2. Property within 200 feet of which three (3) or more Nuisance Activities exist or have occurred during any sixty (60) day period or twelve (12) or more Nuisance Activities exist or have occurred during any twelve (12) month period, and the Nuisance Activities were engaged in by any Person Associated with the Property.

~~D~~E. CONTROL: The authority to regulate, restrain, dominate, counteract or govern Property, or conduct that occurs on a Property.

~~E~~F. GOOD CAUSE: Circumstances beyond the ability of a person acting with reasonable care and diligence to control.

~~F~~G. NUISANCE ACTIVITIES:

1. Any of the following activities, behaviors or conduct:
   a. Any activity on the Property, the commission of which constitutes a misdemeanor or felony criminal offense, even if criminal charges have not been issued or a criminal case is pending but not yet resolved.
   b. Noise violations as prohibited in Clackamas County Code Sections 6.05.010 through 6.05.100.
   c. Prohibited touching and nudity in massage as prohibited in Clackamas County Code Sections 6.02.010 through 6.02.070.
   d. Arrests for criminal activity or based on a warrant of any kind.
   e. Aiding or abetting in the commission of any crime as described by ORS 161.155.
   f. Ordinance or code violations, including but not limited to violations of the solid waste ordinance, where the violations appear to a sworn law enforcement officer or duly authorized code enforcement officer to be reasonably likely to pose a threat to the health or safety of occupants or neighbors of the property or to the public at large.
   g. Illegal occupation, camping, or squatting by individuals without authority or right to be on the property.
   h. Harboring or giving refuge to a person who is actively sought or wanted in custody by a law enforcement agency.
   i. Unlawful use, possession, manufacture, or delivery of controlled substances in violation of Oregon law. This conduct constitutes a nuisance activity regardless of whether the law violation is criminal in nature or is merely a violation level offense involving personal use quantities.
2. To qualify, all Nuisance Activities must be based on either:
   a. Personal observation of the Sheriff, Building Official or designee; or
   b. A determination by the Sheriff, Building Official or designee, either after an investigation or following a sworn statement of a person who personally witnessed the alleged incident and a determination that there are reasonable grounds to conclude that the alleged Nuisance Activities did, in fact, occur.

~~G~~H. PERMIT: To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

~~H~~I. PERSON: Any ~~natural~~ individual person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using Property in Clackamas County.

~~I~~J. PERSON ASSOCIATED WITH THE PROPERTY: Any ~~Person who, on the occasion of a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a Property or any~~

~~Person present on a Property. Person Associated With the Property includes, without limitation, any officer, director, customer, agent, employee, or any independent contractor of a Property, the Person in Charge, or an owner of a Property.~~ guest or customer causing a nuisance activity that is not denied by a person in charge of the Property.

~~J~~K. PERSON IN CHARGE: Any Person with actual or constructive possession of a Property, including but not limited to an owner or occupant of Property under their ownership or Control.

~~K~~L. PROPERTY: Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For Property consisting of more than one unit, Property may be limited to the unit or the portion of the Property on which any Nuisance Activity has occurred or is occurring, but includes areas of the Property used in common by all units of Property including without limitation other structures erected on the Property and areas used for parking, loading and landscaping.

M~~L~~. SHERIFF: The Clackamas County Sheriff.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 13-2002, 10/17/02; Amended by Ord. 03-2016, 8/11/16]

6.08.030 Procedure

A. When the Sheriff, Buildng Official or designee receives information indicating the existence of activities which qualify as nuisance activities:

1. The Sheriff, Building Official or designee shall independently review such information to determine whether a Chronic Nuisance Property as defined in 6.08.020.C. is more likely than not established by the information.
2. Upon such determination, the Sheriff or Building Official shall notify a Person in Charge in writing that the Property has been determined to be a Chronic Nuisance Property and request an abatement plan from the Person in Charge.
3. The notice shall contain the following information:
   a. The street address or a legal description sufficient for identification of the Property.
   b. A statement that the Sheriff or Building Official has determined the Property to be a Chronic Nuisance Property with a concise description of the Nuisance Activities leading to this determination.
   c. A demand that the Person in Charge respond within ten (10) days to the Sheriff or Building Official by either describing the actions the Person in Charge intends to take to abate the Nuisance Activities (abatement plan), or indicating good cause as to why the Person in Charge cannot abate the Nuisance Activities, or contesting the determination of the Sheriff to the Board of Commissioners.

d. That an agreed abatement plan must be reached with the Sheriff, Building Official or designee within thirty (30) days from the date of the notice of determination of Chronic Nuisance Property.

e. That if the Nuisance Activities are not abated and good cause for failure to abate is not shown, the matter may be referred by the Sheriff or Building Official to the Board of Commissioners with a recommendation that the Board of Commissioners authorize the County Counsel to seek any remedy deemed to be appropriate to abate the Nuisance Activities.

f. That permitting Chronic Nuisance Property is a violation of this Chapter.

g. That the above remedies are in addition to those otherwise provided by law.

4. Notice may be served by personal service, posting on the Property, or mailing ~~with return receipt requested~~first class US mail. Notice may be delivered to the Property, to the mailing address of the owner of the Property as listed on the county tax roll, or to any other address that is likely to give the Person in Charge notice of the determination of the Sheriff.

5. The failure of any person to receive notice shall not invalidate or otherwise affect the proceedings under this Chapter.

B. The Sheriff or Building Official may take further action as described in Section 6.08.040 of this chapter when:

1. The Person in Charge fails to respond within ten (10) days from the date of the notice of determination of Chronic Nuisance Property by the Sheriff or Building Official; or

2. No agreeable written abatement plan is reached within thirty (30) days from the notice of determination of Chronic Nuisance Property by the Sheriff or Building Official; or

3. The Person in Charge fails to abate the Nuisance Activities from the Property as required by the agreed abatement plan; or

4. The Person in Charge fails to comply with all conditions of the written abatement plan for one year.

C. When the Person in Charge includes both a Person with actual or constructive possession of the Property and a legal owner of the Property, both people must agree to any proposed abatement plan within the time allotted under subsection (A)(3)(d) of this Section. Failure of both to agree to a proposed abatement plan shall result in a finding by the Sheriff or Building Official that the abatement plan is not agreeable under subsection (B)(2) of this Section.

D. Failure to respond, failure to abate the Nuisance Activities, or failure to propose an abatement plan shall be prima facie evidence of lack of cooperativeness of the Person in Charge. Failure to execute or comply with any abatement plan shall be prima facie evidence of lack of good faith in mitigating or correcting the situation.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 13-2002, 10/17/02; Amended by Ord. 03-2016, 8/11/16]

6.08.040 Commencement of Actions; Remedies; Burden of Proof

A. After receiving a referral from the Sheriff, Building Official or their designee, the Board of may authorize the County Counsel to commence legal proceedings in the Circuit Court to abate Chronic Nuisance Property and to seek closure of the Property, the imposition of civil penalties against any or all of the Persons in Charge thereof, and, any other relief deemed appropriate.

B. If the County submits a case to the Circuit Court, any disputed issues of law or fact as to the Property's designation as a Chronic Nuisance Property shall be determined by a judge at a court trial. Such trial shall be held as soon as reasonably possible by the Court in light of the risks posed to the community by Chronic Nuisance Properties and the standard of proof in such a case shall be a preponderance of the evidence.

C. If the Court determines a Property to be Chronic Nuisance Property, the court may order any or all of the following remedies:

1. That all occupants, regardless of their legal status, must vacate the Property.
2. That if the occupants fail to vacate the Property, the County may remove all occupants by obtaining a writ of execution and an eviction trespass notice in substantially the manner and form provided by ORS Chapter 105. The writ of execution and eviction trespass notice shall be available to the County not less than four (4) days after the subject Property is posted with a copy of the Court's judgment.
3. That the County's designee shall have authority to determine who may access the Property and for what purposes and duration such access is appropriate.
4. That anyone who accesses the Property without proper authorization from the County may be arrested for trespassing.
5. That upon the vacation or removal of all occupants, the County may enter and immediately close and secure the Property against all unauthorized access, use and occupancy. The court may order that the Property remain closed for a period of time not to exceed one (1) year.
6. That any owner or occupant of the Property who is named as a party in the lawsuit shall pay a civil penalty in an amount authorized by the Board of County Commissioners in Appendix B to the Clackamas County Code.
7. That any owner or occupant of the Property must take remedial steps to clean up or secure the Property, or to otherwise abate any activity or condition on the Property causing a risk to the health or safety of any occupants of the Property or any people residing in the vicinity of the Property. The court may condition re-entry onto the Property on completion of said remedial steps.
8. Any other remedy that the court deems appropriate in light of the circumstances.

The order shall be entered as part of the final judgment. The Court shall retain jurisdiction during any period of closure and to enforce the terms and conditions of the judgment.

D. When establishing the amount of any civil penalty, the Court may consider any of the following factors and shall cite those found applicable based on the evidence presented:
   1. The actions taken by the Person in Charge to mitigate or correct the Nuisance Activities at the Property;
   2. The financial condition of the Person in Charge;
   3. Continuous or repeated nature of the problem;
   4. The magnitude or gravity of the problem;
   5. The cooperativeness of the Person in Charge with the County;
   6. The cost to the County of investigating and correcting or attempting to correct the Nuisance Activities;
   7. The effect upon the surrounding neighborhood during the history of the Nuisance Activities;
   8. The good faith of the Person in Charge in executing and complying with any abatement plan; and
   9. Any other factor deemed relevant by the Court.

E. The County shall have the initial burden of proof to show by a preponderance of the evidence that the Property is a Chronic Nuisance Property.

F. Evidence of a Property's general reputation and/or the reputation of persons residing in or frequenting it shall be admissible.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 03-2016, 8/11/16]

6.08.050 Summary Closure

Notwithstanding sections 6.08.030 and .040 above, if the Board of County Commissioners, upon recommendation of the Sheriff, Building Official or their designee, determines that a substantial risk of immediate, serious, and irreparable harm to public welfare and safety exists on a property that qualifies as chronic nuisance property, the Board may authorize County Counsel to proceed directly into Circuit Court to seek relief permitted by this Chapter. ~~Any~~ This summary closure proceeding shall be ~~based on evidence showing that Nuisance Activities exist or have occurred on the Property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of~~ pursued pursuant to ORCP 79 ~~for obtaining~~ governing temporary restraining orders.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 03-2016, 8/11/16]

6.08.060 Entering Closed Property

It is unlawful for any person to enter, use or remain in or on property that has been ordered closed pursuant to this Chapter. Such entry without prior express permission of the Sheriff, Building Official or their designee shall constitute criminal trespassing.

[Added by Ord. 08-2001, 7/12/01]

6.08.070 Enforcement

A. The Court may authorize the County to physically secure the Property against all unauthorized access, use or occupancy in the event that the Person in Charge fails to do so within the time specified by the Court.

B. In the event that the County is authorized to secure the Property, the County shall recover from the Owner or Person in Charge all costs reasonably incurred by the County to physically secure the Property. The County shall prepare and submit a statement of costs incurred in physically securing the Property to the Court for review as provided by ORCP 68.

C. The Person in Charge may be required by the Court to pay reasonable relocation costs of a tenant as defined by ORS 90.100(28), if, without actual notice, the tenant moved into the Property after either:
   1. A Person in Charge received notice of the determination of the Sheriff pursuant to Section 6.08.030.A.3.; or
   2. A Person in Charge received notice of an action brought pursuant to Section 6.08.040 and 6.08.050.

D. A lien shall be created against the Property for the amount of the County's money judgment. In addition, any Person who is assessed penalties under this chapter shall be personally liable for payment thereof to the County. Judgments imposed by this Chapter shall bear interest at the statutory rate.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 03-2016, 8/11/16]

6.08.080 Liability

Nothing herein shall be relied on or construed as establishing any County responsibility, obligation or liability to any third party, for damages or otherwise, arising from the actions or inaction of the County in applying this Chapter. Nothing herein lessens or otherwise alters the Person in Charge's responsibility to third parties arising from use and condition of the Property.
[Added by Ord. 08-2001, 7/12/01]

~~**6.08.090 Attorney Fees**~~

~~The Court may, in its discretion, award attorney fees to the prevailing party.~~
~~[Added by Ord. 08-2001, 7/12/01]~~

6.08.~~100~~090 Sunset Clause

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 13-2002, 11/17/02; Deleted by Ord. 14-2004, 12/16/04]

6.08.1~~1~~0 Severability

The provisions of this Chapter are intended to be consistent with any applicable provisions of state law. If any provisions of this Chapter, or its application to any person, or circumstances is held to be invalid for any reason, the remainder of the Chapter, or the

application of its provisions to other persons or circumstances shall not in any way be affected.
[Added by Ord. 08-2001, 7/12/01]

CHAPTER 6.09

6.09 LIBRARY EXCLUSION PROCESS

6.09.010 Exclusion From Library

A. A person is subject to a warning notice, exclusion from library property, immediate ejection from library property or may otherwise have their library privileges restricted or suspended for a period of up to ninety (90) days for any of the following conduct:

1. Sleeping. Sleeping using bedding, sleeping bag or other sleeping matter in the library unless such use has been approved in advance by the Library Director.
2. Unrelated Activities. Use of Library facilities and/or equipment for activities unrelated to the purposes of the Library;
3. Excessive Noise. Loud or excessive noise or use of amplified recording or sound production equipment, including, but not limited to, radios, tape recorders, compact disc (CD) players, and digital media players, such that the sound produced is audible five (5) feet from the device, unless such use has been approved in advance by the Library Director.
4. Children Required to be in School. Violating ORS 339.010 or any successor statutes, which requires children between the ages of 7 and 18 years who have not completed the 12th grade to attend regularly a public full-time school, unless the child is exempt from compulsory school attendance by ORS 339.030.
5. Disruptive Behavior. Disruptive behavior, which includes, but is not limited to:
    a. any illegal activity;
    b. damaging library materials or equipment;
    c. smoking;
    d. drinking alcoholic beverages;
    e. littering;
    f. soliciting;
    g. running;
    h. harassing patrons and/or staff;
    i. using abusive or threatening language or gestures;
    j. create a public disturbance;
    k. panhandling; or
    l. riotous behavior.
6. Disobeying Library Staff. Disobeying the direction of a library staff member.
7. Interference with Use or Duties. Persons who interfere with the use of the Library by other persons, or interfere with Library employees' performance of their duties.

8. Appropriate Clothing. Persons who are not wearing a shirt or other covering of their upper bodies, pants or other covering of their lower bodies, or who are not wearing shoes or other footwear.
9. Hygiene. Persons whose bodily hygiene is offensive so as to constitute a nuisance to other persons shall be required to leave the building.
10. Weapons. Persons who bring a weapon into the library unless authorized by law under ORS 166.370.
11. Animals. Allowing any non-service animal that is not pre-approved by library staff into the library. Any service animal that is allowed to annoy, molest, bark continuously, attack or injure any person or animal on library property or is tied and left unattended will no longer be deemed a service dog and will not be permitted to remain on the premises.

    Under the federal Americans with Disabilities Act, a service animal is defined as a dog that is individually trained to do work or perform tasks for people with disabilities. The work or task a dog has been trained to provide must be directly related to the person's disability. A service animal whose sole function is to provide comfort or emotional support does not qualify as a service animal under the ADA.
12. Concessions and Solicitations. Persons who engage in any of the following on library property:
    a. Operate a concession, either fixed or mobile, without having obtained a permit or contract from the Director;
    b. Solicit, sell, or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids or services without having obtained a permit or contract from the Director.
    c. Advertise any goods or services, except signs painted or mounted on vehicles in personal use, without having obtained a permit from the Director.

B. As used in subsection A above, the term "library privileges" means the ability to obtain the use of any printed material, pictures, sound recordings or information that is kept in any form within any Clackamas County Library building, and to physically enter any Clackamas County Library.

C. A person may be immediately ejected from the library based on conduct from subsection A, at the discretion of the Library Director or other authorized designee.

D. A person may obtain a permit to engage in concessions or solicitations, as referenced above in subsection A(12), by submitting a completed application to the Director. The Director will use a range of content-neutral factors to make a determination whether to issue the permit. If a permit application is denied, the applicant may file an appeal following the procedures in 6.09.040 below.

[Added by Ord. 03-2002, 3/7/02; Amended by Ord. 04-2005, 6/9/05; Amended by Ord. 05-2013, 10/17/13]

6.09.020 Persons Authorized to Issue Exclusion or Warning Notices or Eject Individuals From Property

The Library Director is hereby designated as the person in charge of the Library for purposes of excluding or ejecting individuals and issuing exclusion or warning notices in accordance with this Chapter. The Library Director may authorize other personnel to exclude or eject individuals or issue exclusion or warning notices consistent with this Chapter.
[Added by Ord. 03-2002, 3/7/02; Amended by Ord. 05-2013, 10/17/13]

6.09.030 Issuance of Warning or Exclusion Notices

A. Warning Notice. At the time of the occurrence of any conduct identified in Section 6.09.010.A., the Library Director, or designee may issue a written warning notice. The notice shall specify that in the event a second notice is issued to the individual within ninety (90) days of the first notice, that person shall be subject to exclusion from the Library and/or lose such other Library privileges as the Library Director may determine to be appropriate for a period of up to ninety (90) days. The warning notice shall include information concerning the right to appeal the warning notice to the County Administrator.

B. Exclusion Notice. The Library Director may issue a written exclusion notice excluding the person from the Library. If an individual engages in conduct described in section 6.09.010(A) above that warrants exclusion without a warning notice, then the individual will receive a written exclusion notice.

   The notice shall specify that the person is to be excluded from the Library, the period of the exclusion, the time the exclusion is to commence, as well as contain information concerning the right to appeal the exclusion notice to the County Administrator.

[Added by Ord. 03-2002, 3/7/02; Amended by Ord. 05-2013, 10/17/13]

6.09.040 Right to Appeal

A. The individual who is excluded, to whom a warning or exclusion notice is issued, or to whom a permit application has been denied, shall have the right to appeal the decision.

B. An appeal must be filed, in writing, with the County Administrator within five (5) calendar days of the notice's issuance. The notice of appeal shall state the following:
   1. The appellant's name;
   2. The appellant's address and a telephone number where they can be reached.
   3. A concise statement as to why the exclusion, denial of a permit or issuance of the notice was in error; and
   4. Attach a copy of the notice or letter of denial.

C. A hearing on the appeal shall be held no more than thirty (30) calendar days after the filing of the appeal, except in the event the County Administrator determines otherwise. The hearing shall afford a reasonable opportunity for the person requesting it to present and rebut evidence that the warning, exclusion, or permit denial is invalid or unjustified. The decision of the County Administrator is final and shall be in writing. The written decision shall state how it can be appealed.

D. The warning or exclusion shall remain in effect during the pendency of the appeal.

E. The County shall have the burden to show by a preponderance of evidence that the warning or exclusion is based on conduct described in Section 6.09.010. In the case of a permit denial, the County shall have the burden to show by a preponderance of the evidence that the denial of the permit was determined through a content-neutral analysis.

F. Copies of any and all County documents used by the County at the hearing shall be made available to the appellant upon request.

[Added by Ord. 03-2002, 3/7/02; Amended by Ord. 05-2013, 10/17/13]

CHAPTER 6.10

6.10 REMOVAL OF PERSON FROM UNLAWFUL CAMPSITES

6.10.010 Definitions for Chapter 6.10

A. CAMP, CAMPS, CAMPED OR CAMPINT means to set up, or to remain in or at a campsite for the purpose of establishing or maintaining a temporary place to live.
B. CAMPSITE means any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
C. PERSONAL PROPERTY means, for the purpose of this chapter, any item that is reasonably recognizable as belonging to a person and that has apparent utility.
D. PUBLIC PROPERTY means public lands, premises and buildings, including but not limited to any building used in connection with the transaction of public business or any lands, premises or building owned or leased by the state or any political subdivision of the state, including any park, or under any bridge or viaduct.
E. UNLAWFUL CAMPSITE means a campsite where a notice of unlawful camping has been posted as provided in this Chapter, and where persons remain camped, or personal property remains at the campsite, five days after the posting of the notice.

[Added by Ord. 02-2007, 2/8/07]

6.10.020 Unlawful Camping; Removal from Public Property

It is unlawful for any person who camps in or upon any public property to remain camped for 5 days after having been provided a notice of unlawful camping as set forth in this chapter. Any person found to be camping unlawfully on public property may be removed from the unlawful campsite as provided by this Chapter.
[Added by Ord. 02-2007, 2/8/07]

6.10.030 Notice of Unlawful Camping

Subject to the exceptions set forth in this chapter, a notice of unlawful camping must be posted before the County removes persons from a campsite on public property, or before the County removes personal property from a campsite on public property. The notice must meet the following requirements:
A. The notice must be posted at the campsite in English and Spanish and must:
    1. State that personal property will be removed five (5) days after the notice is posted.

2. State that anyone remaining at the campsite five (5) days after the notice is posted may be subject to removal.
3. Indicate the location where personal property can be retrieved if property was removed from the site for storage, and that it must be retrieved within thirty (30) days.
4. Include the telephone number for Clackamas County Social Services Information and Referral.

B. The notice must be provided in writing to persons present at the campsite, allowing the person a minimum of five (5) days to vacate the area.

C. Officials posting and providing such notice shall inform Clackamas County Social Services at the time notice is posted that notice has been provided to the persons and/or has been posted on the public property, and the location of the posting.

D. The notice required by this section may be reduced to not less than twenty-four (24) hours when expressly authorized in a particular case by the County Administrator or their designee.

E. Following the removal of persons from public property under the provisions of this chapter, law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner, and to determine if any changes are needed in the policy.

[Added by Ord. 02-2007, 2/8/07]

6.10.040 Enforcement

After the notice period provided in the notice of unlawful camping has elapsed, the County may remove any person from an unlawful campsite on public property, and may remove personal property left at the campsite as provided in section 6.10.060.
[Added by Ord. 02-2007, 2/8/07]

6.10.050 Exceptions

A. The notice described in sections 6.10.030 and 6.10.040 is not required:
1. When there are grounds for law enforcement officials to believe that illegal activities other than unlawful camping are occurring;
2. In the event of an emergency such as possible site contamination by hazardous materials, or when there is immediate danger to human life or safety, or when the Governor has declared an emergency under the provisions of ORS 131.715;
3. For a campground designated by the County, state or federal government which is occupied under an agreement between the occupant and the campground; or
4. For an area temporarily designated by the County Administrator for camping during an emergency or special event.

[Added by Ord. 02-2007, 2/8/07]

6.10.060 Personal Property

Personal property may be removed by the County from an unlawful campsite on public property. All unclaimed personal property removed from the campsite shall be given to law enforcement officials. The property shall be stored for a minimum of thirty (30) days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for thirty (30) days may be disposed of in accordance with the provisions of County Code Chapter 2.02, Unclaimed Property. Personal property that has no apparent utility or is in unsanitary condition may be immediately discarded. Weapons, drug paraphernalia and items that appear to be stolen or evidence of a crime shall be given to law enforcement officials.
[Added by Ord. 02-2007, 2/8/07]

CHAPTER 6.11

6.11 GRAFFITI

6.11.010 Definitions

A. GRAFFITI means any inscriptions, words, figures or designs that are marked, etched, scratched, drawn, painted, pasted or otherwise affixed to the surface of real or personal property, without the prior authorization of a responsible person, and that is visible from premises open to the public.
B. PERMIT means to knowingly allow graffiti to remain by any failure, refusal or neglect to remove.
C. RESPONSIBLE PERSON means any person, organization, or entity having a legal or equitable interest in real or personal property.

[Adopted by Ord. 07-2008, 12/18/08]

6.11.020 Administration

The Director of the Clackamas County Department of Transportation and Development or their designee (the director) shall administer and enforce the provisions of this chapter.
[Adopted by Ord. 07-2008, 12/18/08]

6.11.030 Violations

It shall be unlawful for any responsible person to permit any graffiti to remain on real or personal property within Clackamas County for more than fifteen (15) calendar days from the date that notice of the presence of graffiti is mailed.
[Adopted by Ord. 07-2008, 12/18/08]

6.11.040 Procedures

A. Notice of Graffiti – Upon discovery that graffiti exists, the director shall provide prompt written notice to a responsible person informing them of the presence of graffiti. The notice shall be sent by regular mail and shall contain:
    1. The legal description of the property and/or address where the graffiti exists.
    2. A description of the graffiti to be removed.
    3. A statement that the graffiti must be removed within fifteen (15) days from the date the written notice is mailed.
    4. A statement that unless the graffiti is removed within the given length of time, the director may issue a citation and may refer the matter to the County Code Compliance Hearings Officer. The Code Compliance Hearings Officer may order the graffiti to be removed pursuant to Chapter 2.07 of the Clackamas County Code and may impose costs of

enforcement, administrative fees, and/or civil penalties upon a responsible person.

5. A statement that, if necessary, the County costs of removing the graffiti and/or civil penalties shall be collected from a responsible person and if left unpaid may be made a lien against the property or responsible person.

B. Enforcement – If the responsible person does not remove the graffiti to correct the violation within the time specified, the director may:

1. Order the violation referred to the Clackamas County Code Compliance Hearings Officer or undertake other enforcement actions pursuant to Chapter 2.07 of the Clackamas County Code; or,
2. Order Clackamas County Counsel to institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of this chapter or any Order of the Compliance Hearings Officer pursuant to Section 2.07.090.5 and any costs or fees imposed pursuant to Sections 2.07.090.A.6 and 2.07.090.A.7 of the Clackamas County Code.

C. Hearings – Hearings regarding the existence of a violation, the identity of a responsible person, or any other legal or factual issue shall take place pursuant to Chapter 2.07 and may result in any of the remedies provided in that chapter as well as an order allowing the County to enter the property and remove the graffiti.

D. Removal of Graffiti by County - If the Compliance Hearings Officer orders removal of the graffiti and the responsible person does not remove the graffiti within the time specified, then the Hearings Officer may order that the removal be done by the County. If removal by the County is ordered by the Hearings Officer;

1. The Director shall keep an accurate record of expenses incurred by the County in removing the graffiti and shall submit a copy of this record to the County Clerk for filing.
2. After removal of the graffiti by the County the Director shall forward to the responsible person by certified mail a notice stating:
   a. The total cost of the graffiti removal.
   b. That costs will be assessed and become a lien against the property unless paid within thirty (30) days from the date of the notice.
3. If the costs of the removal are not paid within thirty (30) days from the date of the notice, an assessment of the costs stated shall thereupon be entered in docket of County Clerk Lien Record and upon such entry being made, shall constitute a lien on the property from which the graffiti was removed. The lien provided for herein shall be foreclosed in the manner prescribed by state law for the enforcement of liens.

[Adopted by Ord. 07-2008, 12/18/08]

6.11.050 Severability

If any clause, section, or provision of this chapter is declared unconstitutional or invalid for any reason, the remaining portion of this chapter shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein.
[Adopted by Ord. 07-2008, 12/18/08]

CHAPTER 6.12

6.12 MEDICAL MARIJUANA FACILITY MORATORIUM

(Added by Ord. 01-2014, 4/24/14; Amended by Ord. 01-2015, 1/8/15; Repealed by Ord. 09-2015, 12/17/15)

CHAPTER 6.13

6.13 EXCLUSION OF PERSONS FROM COUNTY BUILDINGS AND PROPERTY

6.13.010 Purpose

To establish a policy and procedure for lawfully excluding disruptive or threatening persons from County buildings or property.

6.13.020 General Policy

A person who engages in certain disruptive or threatening conduct in County buildings or on County property shall be subject to immediate exclusion as necessary to ensure the safety of others and the ability to conduct County business. This Chapter applies to all County buildings and property except for County Parks, which are subject to Section 6.06.090 of the County Code, and County libraries, which are subject to Chapter 6.09 of the County Code.

6.13.030 Definitions

COUNTY BUILDINGS OR PROPERTY means all buildings and property owned, operated, leased, or occupied by Clackamas County or any of its component governmental units and county service districts.

6.13.040 Policy Guidelines and Procedures

A. A person shall be subject to exclusion from County buildings or property if that person engages in any of the following types of conduct:
   1. Fighting or engaging in threatening behavior or disorderly conduct;
   2. Interfering with the ability to conduct County business;
   3. Making unreasonably loud or disturbing noise;
   4. Causing damage to County property;
   5. Using abusive or obscene language in a threatening manner;
   6. Intentionally entering or attempting to enter an area that is not open to the public;
   7. Entering or attempting to enter a County building or County property while possessing an illegal or dangerous item, including a weapon, unless the individual meets an exception as listed in ORS 166.370(3);
   8. Refusing to vacate County buildings or property after being asked to do so by a County employee.

B. For the purposes of this policy, the persons in charge of County buildings or property are either the County Administrator, the County Operating Officer, County Counsel, County Facilities Director, or their designees and the Clackamas

County Sheriff, the Undersheriff, the Chief Deputies, or their designees. All such persons in charge are delegated the discretion to exclude people pursuant to this policy.

C. Persons in charge shall have discretion to set reasonable parameters when issuing exclusions. The extent and duration of an exclusion shall be reasonably related to the following factors:
   1. The nature of the conduct;
   2. The level of threat posed;
   3. Any history of past exclusions or similar conduct;
   4. Any risk of violence; and
   5. The likelihood of repeated conduct.

D. The duration of the exclusion shall be no less than 7 days and no longer than 1 year unless the exclusion results from fighting or other offensive physical contact, or bringing an illegal or dangerous item onto County property, in which case the exclusion shall be no less than 1 year and no longer than 3 years.

E. Upon determining that an exclusion of a person is necessary, a person in charge shall issue a written notice of exclusion on a form prescribed by the County. The notice shall be personally served on the person to be excluded, or may alternatively be served by mailing a copy by first-class mail, to the excluded individual's residence or mailing address.

F. A notice of exclusion shall contain at least the following:
   1. The name and address (if known) of the individual to be excluded;
   2. The date and time of the event(s) resulting in the exclusion;
   3. A brief description of the behavior or conduct resulting in the exclusion;
   4. The duration for which the exclusion will be in effect;
   5. The name and phone number of the person in charge who issues the exclusion;
   6. A statement that the excluded person may request reconsideration of the exclusion and how such a request can be made;
   7. A statement that if the excluded person requires County services during the exclusion period, he/she may do so pursuant to Section 6.12.030(H) of this exclusion policy;
   8. A statement that the violation of a notice of exclusion could result in arrest and prosecution pursuant to Oregon law, including ORS 162.235, ORS 164.245, ORS 164.265, or ORS 166.360;
   9. A full copy of this exclusion policy for the person's reference; and
   10. A person who has received notice that he or she is excluded from County buildings or property and who subsequently remains or returns to County buildings or property, may be arrested and may face prosecution for criminal trespass pursuant to ORS 162.235, ORS 164.245, ORS 164.265, or ORS 166.360.

G. This policy applies to buildings or property owned, operated, leased, or occupied by Clackamas County or any of its component governmental units and county service districts. If this general exclusion policy conflicts with a more specific exclusion policy, the more specific policy shall control.

H. Persons excluded pursuant to this policy may obtain necessary County services during the exclusion period by scheduling to meet with staff at specified locations at pre-arranged times, provided the individual appropriately conducts him or herself during any such meetings. When an excluded individual arrives for a pre-arranged meeting, the person must immediately check-in with a security checkpoint, building reception or departmental reception upon entering County property.

I. Excluded persons may request reconsideration by mailing a written request and explanation within 10 days of the exclusion to the County Administrator. The request must contain a current mailing address, telephone number, and any other pertinent contact information. Upon receiving a request for reconsideration, the County Administrator shall review the exclusion for consistency with County policy. Review shall be completed within 10 days after the request is delivered and the excluded person shall be informed of the determination in writing. The exclusion order remains in effect unless changed or rescinded upon reconsideration.

J. The decision by the County Administrator after reconsideration shall be the County's final decision on an exclusion.

TITLE 7

VEHICLES AND TRAFFIC

Summary

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

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

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 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 6.06.070, 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 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~~them, 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~~them, 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

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.

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 6.06.070, 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~~them, 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 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~~they 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~~they 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.

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~~their 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 l 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~~they are 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

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.

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

any portion of the road right-of-way that abuts property ~~s/he~~they own~~s~~ or occup~~ies~~y, 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~~they own~~s~~ or occup~~ies~~y, 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;

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

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

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. If any condition existing when a gate permit is granted changes, the Board may evaluate whether to revoke the permit and require the gate to be removed.

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~~they determine~~s~~ 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; Amended by Ord. 08-2018, 10/11/18]

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 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~~they find~~s~~ that the proposed construction or relocation is contrary to the public interest.

B. Changing the Designated Location of Utilities; Costs; Notice/Orders.
The Road Official has the authority to order the designated location of lines, fixtures and facilities operated by utilities to be changed, either temporarily or permanently, at any time the Road Official deems it expedient. The cost of any temporary or permanent relocation of any 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~~they 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

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~~ their successor or assign;
2. By order of the Board or the Road Official, if the applicant/owner or ~~his~~ their 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.

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 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 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~~ 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.

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~~ their 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).

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.~~

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 and tribal members.
6. ~~Early leaders and pioneers of eminence.~~
7. People and events that have left their mark on the county including but not limited to past leaders, innovators, settlers and pioneers, or explorers.
8. Native flora and fauna.

D. Names from all ethnicities, backgrounds and genders will be considered. Slang or potentially offensive terms, words, or phrases that reflect poorly on ~~certain~~ groups or classes of people are not permitted.

E~~D~~. Hyphenated or exceptionally long names shall be avoided as well as initials (such as A.J. Feely Street).

F~~E~~. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the county.

G~~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.

H~~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.

I~~H~~. Access roads in new manufactured dwelling parks shall be named.

J~~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 Section 7.05.040 herein, and 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, provided the road names are consistent with section 7.05.040. 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 7.05.040 and .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; Codified by Ord. 05-2000, 7/13/00]

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

Chapter 7.07

7.07 VEHICLE REGISTRATION FEE

7.07.010 Authority

This chapter is adopted pursuant to the authority granted by ORS 801.040, 801.041 and 803.445. [Adopted by Ord. 01-2019, 2/21/19]

7.07.020 Definitions

A. MOPED shall have the meaning given in ORS 801.345.
B. MOTORCYCLE shall have the meaning given in ORS 801.365.
C. REGISTRATION or REGISTER shall have the meaning given in ORS 801.410.
D. VEHICLE shall have the meaning given in ORS 801.590.
[Adopted by Ord. 01-2019, 2/21/19]

7.07.030 Fee Imposed; Exemptions

A. Except as provided in this chapter, Clackamas County hereby imposes a vehicle registration fee on all vehicles registered with the State of Oregon Department of Transportation where the residential or business address on the application for registration or the renewal of registration is located in Clackamas County.
B. Clackamas County shall not impose a vehicle registration fee on those vehicles identified in ORS 801.041(3) as being exempt from the registration fee. Vehicles exempt from the vehicle registration fee include the following:
    1. Snowmobiles and Class I all-terrain vehicles;
    2. Fixed load vehicles;
    3. Vehicles registered under ORS 805.100 to disabled veterans;
    4. Vehicles registered as antique vehicles under ORS 805.010;
    5. Vehicles registered as vehicles as special interest under ORS 805.020;
    6. Government-owned or operated vehicles registered under ORS 805.040 or 805.045;
    7. School buses or school activity vehicles registered under ORS 805.050;
    8. Law enforcement undercover vehicles registered under ORS 805.060;
    9. Vehicles registered on a proportional basis for interstate operation;
    10. Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420(14)(a) or (b);
    11. Vehicles registered as farm vehicles under the provisions of ORS 805.300;

12. Travel trailers, campers and motor homes, as those terms are defined in ORS 801.565, ORS 801.180, and ORS 801.350 respectively;
13. Vehicles registered under ORS 805.110 to former prisoners of war.

[Adopted by Ord. 01-2019, 2/21/19]

7.07.040 Amount and Payment of Fee

A. Except as provided in this chapter, at the time a vehicle is first registered or at the time of registration renewal, the applicant shall pay the county vehicle registration fee for each year of the registration period.
B. At the time a motorcycle or moped is first registered or at the time of registration renewal, the applicant shall pay the county vehicle registration fee for each year of the registration period.
C. The county vehicle registration fee is in addition to other fees required to be paid to the State of Oregon under ORS 803.420.
D. The fee shall be collected by the Oregon Department of Transportation on behalf of Clackamas County.

[Adopted by Ord. 01-2019, 2/21/19]

7.07.050 Distribution of Revenue

A. The County will pay and distribute 40% of the moneys collected to those incorporated cities within the County. The distribution shall be based on each city's proportional share of the total number of Clackamas County residents residing within incorporated cities, as determined by the most recent reports of the Portland State University Population Research Center.
B. The County will allocate 10% of the moneys collected to a strategic investment fund for purposes of funding jurisdictional road transfers or other multi-jurisdictional projects.
C. All distributions under this provision will be made after administrative fees are collected by the Oregon Department of Transportation and the County.

[Adopted by Ord. 01-2019, 2/21/19]

7.07.060 Use of Revenue

A. The County Department of Finance, or its designee, shall be responsible for the disposition of the revenue from the vehicle registration fee.
B. For the purposes of this section "net revenue" means the revenue from the fee imposed by this chapter remaining after providing for the cost of collection, transfer, and administration by the Oregon Department of Transportation and the County.

C. The net revenue of the fees collected under this chapter shall be used only for purposes allowed by state law. Except for the portion of the net revenue described in 7.07.050(B), the net revenue received by the department shall be credited to the County road fund under a different account to ensure these funds shall be used only for the maintenance of local roadways, safety related projects and capital construction focused on the reduction of congestion on county roads. The net revenue received by the cities shall be used only for road purposes as outline in applicable state law regarding expenditure of road user fees and taxes. The net revenue described in 7.07.050(B), which is allocated to the strategic investment fund, shall be used only for payments to transfer roads between jurisdictions or for multi-jurisdictional projects which affect new or existing roads or streets within the limits of a city, or on county roads or local access roads, as those terms are defined in ORS 368, that are located within or adjacent to the limits of an incorporated city.

[Adopted by Ord. 01-2019, 2/21/19]

TITLE 8

BUSINESS REGULATION

Summary

Chapter 8.01

8.01 LIQUOR LICENSE CRITERIA

8.01.010 Policy and Purpose

The purpose of this chapter is to establish criteria to be considered by the Board of County Commissioners or its designees the County Clerk, the Clackamas County Sheriff's Office, and the Environmental Health Division, in providing information or making recommendations to the Oregon Liquor Control Commission concerning the granting, denying, or renewing of liquor licenses for premises within the unincorporated area of the County. In addition, this chapter will establish procedures to be used to investigate license applicants in order to provide accurate local information or make fair, effective, and efficient recommendations. This chapter is necessary to assist the Oregon Liquor Control Commission in ensuring that premises licensed to sell or dispense liquor within the County conduct business in a lawful, peaceful, safe, and sanitary manner. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2010, 12/16/10]

8.01.020 Definitions

A. OLCC means Oregon Liquor Control Commission.
B. BOARD means Clackamas County Board of County Commissioners.
C. COMMISSIONER means Clackamas County Commissioner.
D. CLERK means Clackamas County Clerk.
E. SHERIFF means Clackamas County Sheriff's Office.
F. ENVIRONMENTAL HEALTH means Environmental Health Section of the Public Health Division of the Clackamas County Department of Human Services.

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

8.01.030 Application Procedure

A. New Licenses**.** Any applicant for a liquor license, other than a license renewal, who is required by the OLCC to provide Clackamas County with notice of the filing of the application, shall present properly completed application forms prescribed by the OLCC, to the Clerk along with the appropriate processing fee.
B. Renewal Licenses. The Clerk will receive from the OLCC a list of all liquor licenses that are due to expire and are subject to a license renewal. Any applicant for renewal of a liquor license shall mail or deliver the County license renewal processing fee to the County Clerk at 2051 Kaen Rd. 2nd Floor, Oregon City, OR 97045. No application form is required by the County for license renewals. Applicants for license renewal must certify to the OLCC that they have paid the County fee. OLCC will provide the Clerk with a list of license renewal applicants who certify they have paid the County fee.
C. If the County does not provide information or a written recommendation

regarding an applicant, as provided below, to the OLCC within the time allowed by ORS 471.166, OLCC will proceed as if the County had made a favorable recommendation. The County may request additional time as provided by statute or administrative rule.

D. Liquor license processing fees are nonrefundable.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2001, 12/13/01; Amended by Ord. 07-2010, 12/16/10]

8.01.040 Investigation of License Applicants

A. The Clerk shall forward the liquor license application, or list of license renewals, for investigation by the Sheriff and Environmental Health. Each such County agency after investigation may send the Clerk copies of police reports or other informational documents regarding an applicant or location, or may provide the Clerk with summaries of relevant information and a written recommendation. This information or recommendation should be provided to the Clerk within 15 days after receipt of the application or list of renewals unless the agency receives permission from the Clerk for an extension of said time.

B. At the end of the investigation time described above, the Clerk shall forward any and all documentation it has received from County agencies to the OLCC for their use in determining whether to issue or renew a liquor license.

[Added by Ord. 07-2010, 12/16/10]

8.01.050 Criteria for Investigation

County agency investigations shall be focused on finding information related to an applicant or location that indicates that one or more of the following has occurred:

A. The application is incomplete;

B. The applicant fails to provide the Clerk or any County agency with reasonably requested information in a timely manner;

C. The applicant provides the County with false or misleading information;

D. The applicant has been convicted of, or pled guilty to, one or more of the following local, State, or Federal offenses within the last five years--

1. Driving while under the influence of intoxicants;
2. Drinking alcoholic liquor in a motor vehicle upon a highway;
3. Possession of a controlled substance;
4. Delivery of a controlled substance;
5. Manufacture of a controlled substance;
6. Furnishing alcohol to a minor; or
7. Any other offense involving moral turpitude;

E. The applicant has been under the influence of alcoholic liquor or controlled substances while on duty in a liquor establishment;

F. The applicant's record shows, through convictions, guilty pleas, civil compromises, administrative rulings, or other means, violation(s) of law(s), or code(s), or ordinance(s), connected in time, place and manner with a liquor establishment, including State alcoholic liquor and gambling laws;

G. The applicant has maintained, or allowed to exist, an establishment that creates or is a public nuisance under state law or County code or ordinance;
H. The applicant has maintained, or allowed to exist, an establishment in which any violation of Federal, State or County law regarding minors, gambling, alcoholic beverages, controlled substances, obscenity, or prostitution, or violations of Oregon Revised Statutes Chapters 163, 164, 165, or 166, by anyone has occurred;
I. The applicant has maintained, or allowed to exist, an establishment that creates an increase in disorderly or violent acts, litter, noise, vandalism, or vehicular or pedestrian traffic congestion, in reasonable proximity to the premises;
J. The applicant's premises put an unreasonable and excessive demand on County services, including law enforcement;
K. There are sufficient licensed premises in the locality, and public interest or convenience does not demand a new license or increase in selling or dispensing privilege;
L. There is a history of illegal activities, altercations, noisy conduct, or other disturbances in or around these particular premises; or
M. The applicant has demonstrated an unwillingness or inability to cooperate with County agencies and/or neighbors in resolving community disputes related to a liquor-licensed establishment.
N. The applicant has made false statements to the OLCC regarding payment of license renewal fees to the County.
O. There are present any conditions listed in ORS 471.313, OAR 845-005-0320, OAR 845-005-0325, OAR 845-005-0326, or OAR 845-005, 0355.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2001, 12/13/01; Amended by Ord. 07-2010,

Chapter 8.02

8.02 TRANSIENT ROOM TAX

8.02.010 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

A. ACCRUAL ACCOUNTING means the operator enters the rent due from a transient on their records when the rent is earned, whether or not it is paid.

B. BOARD means the Clackamas County Board of Commissioners.

C. CASH ACCOUNTING means the operator does not enter the rent due from a transient on their records until rent is paid.

D. COUNTY means Clackamas County.

E. HOTEL means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy, for thirty (30) days or less, for dwelling, lodging, or sleeping purposes. This includes, but is not limited to, any hotel, motel, inn, bed and breakfast, space in mobile home or trailer parks, tourist home, condominium, hostel, studio hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, or similar structure or portions thereof so occupied.

F. OCCUPANCY means the use or possession, or the right to the use or possession, for lodging or sleeping purposes, of any room or rooms in a hotel, or space in a mobile home, or trailer park, or portion thereof.

G. OPERATOR means the person who is proprietor of the hotel in any capacity. Where the operator performs their functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as their principal. Compliance with the provisions of this chapter, by either the principal or the managing agent, shall be considered to be compliance by both.

H. PERSON means any individual, firm, partnership, joint venture, association, social club, ~~fraternal~~ service club organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

I. RENT means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property, or any other consideration valued in money, without any deduction; but does not include the sale of any goods, services, and commodities, other than the furnishing of room accommodations and parking space in mobile home parks or trailer parks.

J. RENT PACKAGE PLAN means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this chapter shall be the same charge made for rent when consideration is not a part of a package plan.

K. TAX ADMINISTRATOR means the official appointed by the Board of County

Commissioners to carry out provisions of this chapter.

L. TAX means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report the collections.

M. TRANSIENT means any person who exercises occupancy, or is entitled to occupancy, in a hotel for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than thirty (30) consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter, may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.020 Tax Imposed

For the privilege of occupancy in any hotel, on and after the effective date of this chapter, each transient shall pay a tax in the amount of six percent (6%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the County, which is extinguished only by payment to the operator. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on the records when rent is collected if the operator keeps the records on the cash accounting basis, and when earned if the operator keeps the records on the accrual accounting basis. If rent is paid in installments, the transient shall pay a proportionate share of the tax to the operator with each installment.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.030 Where Tax is Imposed

The tax imposed by this chapter shall apply to all hotels located within Clackamas County. [Codified by Ord. 05-2000, 7/13/00]

8.02.040 Collections of Tax by Operator, Rules for Collection

A. Every operator renting rooms in this County, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owed by the operator to the County.

B. In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made.

C. For rent collected on portions of a dollar, the first one cent ($.01) of tax shall be collected on five cents ($.05) through twenty-one cents ($.21) inclusive; and the second one cent ($.01) of tax on twenty-two cents ($.22) through thirty-eight

cents ($38); the third one cent ($.01) of tax on thirty-nine cents ($39) through fifty-five cents ($.55); the fourth one cent ($.01) of tax on fifty-six cents ($.56) through seventy-two cents ($.72); the fifth one cent ($.01) of tax on seventy-three cents ($.73) through eighty-nine cents ($.89); and the sixth one cent ($.0l) of tax on ninety cents ($.90) through the next one dollar and four cents ($1.04) of rent.

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

8.02.050 Operator's Duties

Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax, or any part of the tax, will be assumed or absorbed by the operator, or that it will not be added to the rent, or that when added, any part will be refunded, except in the manner provided by this chapter. [Codified by Ord. 05-2000, 7/13/00]

8.02.060 Exemptions

No tax imposed under this chapter shall be imposed upon:

A. Any person who rents a room or facility for more than thirty (30) successive calendar days; (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient);
B. Any person whose rent is of a value less than $15.01 per day;
C. Any person who rents a private home, vacation cabin, or like facility from any owner who personally rents such facilities incidentally to the owner's use thereof. A personal rental is not incidental to an owner's own use if the private home, vacation cabin, or like facility is publicly advertised for rent by the owner or any other person or entity including, but not limited to, rental management agencies or transient lodging intermediaries, as defined by ORS 320.300;
D. Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home or home for aged people, that are licensed, registered, or certified by the Oregon Department of Human Services; or
E. Employees, officials or agents of the U. S. Government occupying a hotel in the course of official business.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2005, 5-26-05; Amended by Ord. 02-2010, 2/25/10; Amended by Ord. 03-2020, 3/26/20]

8.02.070 Registration of Operator, Form and Contents, Execution, Certification of Authority

Every person engaging or about to engage in, business as an operator of a hotel in this County shall register with the Tax Administrator on a form provided by the Tax Administrator. Operators engaged in business at the time this chapter is adopted, must not register later than thirty (30) calendar days after passage of this chapter. Operators starting business after this chapter is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment, or collection of tax, regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of the place or places of

business and such other information to facilitate the collection of the tax as the Tax Administrator may require. The operator shall sign the registration. The Tax Administrator shall, within ten (10) days after registration, issue without charge from the occupant, a Certificate of Authority to the registrant to collect the tax, from the occupant of the hotel, together with a duplicate thereof, for each additional place of business for each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

Said certificate shall, among other things, state the following:

A. The name of the operator;
B. The address of the hotel;
C. The date upon which the certificate was issued; and,
D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Chapter of the Clackamas County Code by registration with the Tax Administrator for the purpose of collecting from transients the room tax imposed by the County and remitting the tax to the Tax Administrator."

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.080 Due Date, Returns, and Payments

A. The transient shall pay the tax imposed by this chapter to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Tax Administrator on a monthly basis on the fifteenth (15th) day of the month for the preceding month and are delinquent if received after the last day of the month in which they are due.
B. On or before the fifteenth (15th) day of the month following each month of collection a return for the preceding month's tax collections shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every operator liable for payment of tax.
C. Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of the operator for such period, and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
D. The person required to file the return should deliver the return together with the remittance of the amount of the tax due to the Tax Administrator at their office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
E. For good cause, the Tax Administrator may extend for up to one (1) month the time for making any return or payment of tax. No further extension shall be granted, except by the Board. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month, on the amount of tax due

without proration for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this chapter.

F. An operator shall be permitted to deduct as collection expense five percent (5%) of the amount of the taxes collected, as shown by the return mentioned in paragraph C of this section.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.090 Penalties and Interest

A. Original Delinquency: Any operator who has not been granted an extension of time for remittance of tax due, and who fails to remit any tax imposed by this chapter prior to delinquency, shall pay a penalty of ten percent (10 %) of the amount of tax due in addition of the amount of the tax.

B. Continued Delinquency: Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due, plus the amount of the tax due, and the ten percent (10%) penalty first imposed.

C. Fraud: If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax due shall be added thereto, in addition to the penalties stated in paragraphs (1) and (2) of this section.

D. Interest: In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof without proration for portions of a month on the amount of the tax due, exclusive of penalties, for the date on which the remittance first became delinquent until paid.

E. Penalties merged with tax: Every penalty imposed and such interest as accrues under the provisions of this chapter, shall be merged with and become a part of the tax herein required to be paid.

F. Petition for waiver: Any operator who fails to remit the tax levied within the time stated, shall pay the penalties stated. However, the operator may petition the Board for waiver and refund of the penalty or any portion thereof, and the Board may if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.100 Deficiency Determinations, Fraud, Evasion, Operator Delay

A. Deficiency determination: If the Tax Administrator determines that the returns are incorrect, they may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within their possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein

provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in 8.02.090.

1. In making a Determination, the Tax Administrator may offset overpayments, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in 8.02.090.
2. The Tax Administrator shall give to the operator or occupant a written notice of their determination. The notice may be served personally or by certified mail. In the case of service by mail of any notice required by this chapter, the service is complete upon receipt by the operator or the operator' agent or employee, or if refused, the date of its refusal as shown by the United States Postal Department return receipt.
3. Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.
4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof. However, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

B. Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this chapter any report and remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the Tax Administrator shall proceed in such manner as they may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, they shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this chapter. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Tax Administrator of any fraud, intent to evade, or failure, or refusal to collect said tax or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof. However, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

C. Operator Delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the County, will be jeopardized by delay or if any determination will be jeopardized by delay, they

shall thereupon make a determination of the tax or amount of tax required to be collected noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay same determination to the Tax Administrator after service of notice thereof provided. However, the operator may petition after payment has been made for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of service of notice by the Tax Administrator.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.110 Re-determinations

A. Any operator against whom a determination is made under Section 8.02.100 or any person directly interested may petition for a re-determination and redemption and refund within the time required in 8.02.100, hereof. If a petition for re-determination and refund is not filed within the time required in 8.02.100, the determination becomes final at the expiration of the allowable time.

B. If a petition for re-determination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and if the person has so requested in their petition, shall grant the person an oral hearing, and shall give them ten (10) days notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

C. The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing, and if an increase is determined, such increase shall be payable immediately after the hearing.

D. The order or decision of the Tax Administrator upon a petition for re-determination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the Board within ten (10) days after service of such notice.

E. No petition for re-determination of redemption and refund or appeal there from shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.120 Security, Collection of Tax

A. The Tax Administrator, after delinquency and when they deem it necessary to insure compliance with this chapter, may require any operator subject thereto to deposit with them such security in the form of cash, bond, or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator's estimated average monthly liability for the period for which they file returns, determined in such manner as the Tax Administrator deems proper, or Five Thousand Dollars ($5,000), whichever amount is the lesser. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations herein provided.

B. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Tax Administrator may bring an action in

the courts of this State, or any State, or of the United States in the name of the County to collect the amount delinquent together with penalties and interest.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.130 Lien

A. The tax imposed by this chapter together with the interest and penalties herein provided and the filing fees paid to the Clerk of Clackamas County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this chapter shall be and until paid remain a lien from the date of its recording with the Clerk of Clackamas County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator, which may be foreclosed on and sold as may be necessary to discharge said lien if the lien has been recorded. Notice of lien may be issued by the Tax Administrator or their deputy whenever the operator is in default in the payment of said tax, interest, and penalty and shall be recorded and a copy sent by certified mail to the delinquent operator. The personal property subject to such lien may be seized by any authorized deputy or employee of the Tax Administrator and may be sold at public auction after twenty (20) days' notice of sale given by two publications in a newspaper of general circulation in the County. The notices required hereunder shall be published not less than seven (7) days apart. Such seizure and sale shall be in addition to any other process to secure payment of the delinquent tax allowed by law.

B. Any lien for taxes shall upon the payment of all taxes, penalties, and interest thereon be released by the Tax Administrator, and the operator or person making such payment shall receive a receipt therefore stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released.

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

8.02.140 Refunds

A. Operators' refunds. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter, it may be refunded provided a verified claim in writing therefore stating the specific reason upon which the claim is founded is filed with the Tax Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balance may be refunded to each such operator, their administrators, executors or assignees.

B. Transient Refunds. Whenever the tax required by this chapter has been collected by the operator and deposited by the operator with the Tax Administrator and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient provided a verified claim in writing therefore, the specific reason on which the claim is founded, is filed with the Tax Administrator within three (3)

years from the date of payment.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.150 Administration

A. Transient Room Tax Fund. The Tax Administrator shall place all monies received pursuant to this order in the Transient Room Tax Fund.

B. Records Required from Operators. Every operator shall keep guest records of room sales and accounting books and records of room sales. The operator shall retain all records for a period of three (3) years and six (6) months after they come into being.

C. Examination of Records, Investigations. For the purpose of enforcing 8.02.100 of this chapter, if the Tax Administrator has reason to believe that the returns are incorrect or that fraud, refusal to remit, evasion or operator delay has occurred as set forth in 8.02.100 of this chapter, then the Tax Administrator or any person authorized in writing by them may examine during normal business hours the books, papers, and accounting records relating to room sales of any operator after notification to the operator liable for the tax and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

D. Confidential Character of Information Obtained, Disclosure Unlawful. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount of source of income, profits, losses, expenditures, or any particular thereof set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Nothing in this subsection shall be construed to prevent:

1. The disclosure to or the examination of records and equipment by another county official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter or collecting taxes imposed hereunder;
2. The disclosure after the filing of a written request to that effect to the taxpayer, receivers, trustees, executors, administrators' assignees, and guarantors if directly interested of information as to any paid tax, and unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that the Clackamas County Counsel approves each such disclosure, and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when in their opinion the public interest would suffer thereby;
3. The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued; or

4. The disclosure of general statistics regarding taxes collected or business done in the County.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2020, 3/26/20]

8.02.160 Tax Revenue Sharing

A. Commencing with tax revenues collected January 1, 1993, the total net transient room tax receipts after operator collection expense of 5% and County administrative costs, not to exceed 2%, have been deducted, shall be distributed by the Tax Administrator as follows:
   1. Between January 1,1993, and June 30,1993, an amount sufficient to bring proceeds up to a base support amount of $250,000 per year shall be paid in equal quarterly installments to the Clackamas County Fair; this amount shall be adjusted annually to allow for inflation by an amount to be determined by the Tourism Development Council (TDC); these funds shall be used by the Fair for construction, operations and maintenance, in accordance with its annual budget approved by the Board; and,
   2. The balance placed with the County Treasurer for deposit until transferred to the TDC monthly to pay expenditures authorized as provided below.

B. There is hereby created the Clackamas County Tourism Development Council, consisting of nine (9) members to be appointed by the Board of County Commissioners. The TDC is to oversee the development and promotion of tourism and conventions in Clackamas County.

C. The TDC is to develop, adopt and implement, subject to Board of County Commissioners' approval, a Tourism Development and Promotion Master Plan. The Master Plan shall address at least the following elements: tourism promotion, tourism development, conventions, visitor information services, special events and festivals, and the County Fair. The Master Plan may be revised from time to time, subject to Board of County Commissioners' approval. Prior to adoption of the Master Plan, the TDC may adopt, subject to Board of County Commissioners' approval, an Interim Plan.

D. The funds described in subsection 8.02.160 A 2 above shall be allocated to projects and programs by the TDC in accordance with the Tourism Development and Promotion Master Plan, except that revenues collected prior to final Board of County Commissioners' approval of a Master Plan may be expended pursuant to an interim Plan, if adopted.

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

8.02.170 Appeals to the Board

Any person aggrieved by any provisions of the Tax Administrator may appeal to the Board by filing a notice of appeal with the Tax Administrator within ten (10) days of the Administrator's decision. The Tax Administrator shall transmit said notice of appeal, together with the file of said appealed matter to the Board who shall fix a time and place for hearing such appeal. The Board shall give the appellant not less than ten (10) days written notice of the time and place of hearing of said appealed matter. [Codified by Ord. 05-2000, 7/13/00]

8.02.180 Violations

It is unlawful for any operator or other person so required, to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due, required by this chapter. Any person willfully violating any of the provisions of this chapter shall be subject to a fine in an amount set by resolution of the Board of County Commissioners. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03]

8.02.190 Severance Clause

If any provision of this Chapter 8.02 is adjudged or declared to be unconstitutional or otherwise held to be invalid by a court of competent jurisdiction, the remaining provisions of this chapter shall remain in full force and effect.
[Added by Ord. 03-2020, 3/26/20]

Chapter 8.03

8.03 SECONDHAND DEALERS

[Chapter 8.03, Secondhand Dealers, codified by Ord. 05-2000, Amended by Ord. 05-2003, 3/13/03 is hereby repealed and replaced by Chapter 8.03 Secondhand Dealers, adopted by Ord. 02-2011, 9/15/11]

8.03.010 Purpose

The purpose of this chapter is to strictly regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen property. This risk is present despite the best effort of legitimate Secondhand Dealer and Pawnbroker businesses, because these businesses process large volumes of goods and materials that are frequently the object of theft. This chapter is intended to reduce this type of criminal activity by facilitating timely police notification of such property transactions, and by regulating the conduct of persons engaged in this business activity. The need for these regulations outweighs any anti-competitive effect that may result from their adoption. [Adopted by Ord. 02-2011, 9/15/11]

8.03.020 Definitions

As used in this chapter, unless the context requires otherwise:

A. ACCEPTABLE IDENTIFICATION means either a current driver license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or one current United States federal, state or local government-issued identification card which has a photograph of the seller.

B. ACQUIRE means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales, consignments, memoranda between a Dealer and a private party seller, leases, trade-ins, loans, and abandonments. Any acquisitions of regulated property by a Dealer will be presumed to be an acquisition on behalf of the Secondhand Dealer business. Notwithstanding the foregoing, "acquire" does not include:
   1. Any loans made in compliance with state laws by persons licensed as Pawnbrokers by the State of Oregon for the purposes of making a pawn loan; or
   2. Memoranda between a Dealer and a person engaged in the business of selling regulated property.

C. BOARD means the Clackamas County Board of County Commissioners or its designee;

D. CRIMINAL CONVICTIONS RELATED TO FRAUD, DECEPTION, DISHONESTY, OR THEFT means any conviction for a criminal violation of ORS 162.015 to 162.121; 162.265 to 162.385; 164.005 to 164.235; 164.377; 164.395 to 164.415; Chapter 165, or any similar provision of previous or later Oregon statutes, or statutes of another state, or of the United States;

E. DEALER or SECONDHAND DEALER

1. Means any sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that either:
   a. Acquires regulated property on behalf of a business, regardless of where the acquisition occurs, for the purpose of reselling the property; or
   b. Offers for sale regulated property in Clackamas County.
2. Notwithstanding Subsection 1 above, DEALER or SECONDHAND DEALER does not include any of the following:
   a. A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)(3) organizations; or
   b. An individual or business whose only transactions involving regulated property in Clackamas County consist of the acquisition of regulated property for personal use, or the sale of regulated property that was originally acquired by the seller for personal use; or
   c. A person whose only business transactions with regulated property in Clackamas County consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.

F. HELD PROPERTY means any regulated property that cannot be sold, dismantled, altered, or otherwise disposed of for a proscribed period of time as more specifically described in Section 8.03.090.

G. INVESTMENT PURPOSES means the purchase of personal property by businesses and the retention of that property, in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

H. MEDICATION means any substances or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.

I. NEW means anything conspicuously not used.

J. PAWNBROKER has the meaning set forth in ORS 726.010 (2) and includes any business required by ORS 726.040 to hold an Oregon Pawnbroker's license.

K. PERSON means any ~~natural~~ individual person, or any partnership, association, company, organization or corporation.

L. PRINCIPAL means any person who will be directly engaged or employed in the management or operation of the Secondhand Dealer business, including any owners and any shareholders with a 5% or greater interest in the company.

M. REGULATED PROPERTY means any property of a type that has been determined by the Sheriff's Office to be property that is frequently the subject of theft, including but not limited to the following property, unless excluded by subsection 3 below, and may be revised as necessary by the Sheriff's Office after giving appropriate advance notification.

1. Used Items:
    a. Precious metals;
    b. Precious gems;
    c. Watches of any type and jewelry containing precious metals or precious gems;
    d. Sterling silver including, but not limited to, flatware, candleholders, salt and pepper shakers, coffee and tea sets or ornamental objects;
    e. Audio equipment;
    f. Video equipment;
    g. Other electronic equipment including, but not limited to: global positioning systems (GPS), electronic navigation devices or radar detectors;
    h. Photographic and optical equipment:
    i. Electrical office equipment;
    j. Power equipment and tools;
    k. Automotive and hand tools;
    l. Telephones or telephone equipment;
    m. Power yard and garden tools;
    n. Musical instrument and related equipment;
    o. Sporting equipment;
    p. Outboard motors, and boating accessories;
    q. Household appliances;
    r. Video game consoles;
    s. Property that is not purchased by a bona fide business for investment purposes, limited to:
        i. Gold bullion bars (0.995 or better);
        ii. Silver bullion bars (0.995 or better);
        iii. All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency whose intrinsic, market or collector value is greater than the apparent legal or face value; or
        iv. Postage stamps, stamp collections and philatelic items whose intrinsic market or collector value is greater than the apparent legal or face value.
    t. Computers and computer related software and equipment;
2. New items.

a. New items purchased from a licensed business shall be exempt from regulation under this chapter if the Dealer has a bill of lading, receipt, invoice or the equivalent for the new items that specifies the seller's business name, physical and mailing address, date of transaction and description of the purchased items. The bill of lading shall be held by the Dealer for one (1) year, or as long as the property is in the Dealer's possession, whichever is longer. Upon reasonable belief that a specific licensed business is dealing in stolen property, the Sheriff may deem that new items purchased from that specific licensed business are regulated property.

b. Items acquired from a manufacturer, manufacturer's representative or distributor that are discontinued or have been used for display or demonstration but not previously sold are new and exempt from regulation under this chapter if the Dealer has a bill of lading, receipt, invoice or the equivalent that includes the information specified in subsection (2)(a) of this section. The Dealer must hold the bill of lading, receipt, and invoice or equivalent for one (1) year or as long as the property is in the Dealer's possession.

3. Regulated property does not include any of the following property:
   a. Books and comic books;
   b. Sports cards and sports memorabilia;
   c. Glassware and objects d'art including, but not limited to, paintings, prints, sculptures, ceramics, and porcelains;
   d. Vehicles required to be registered with the Oregon Motor Vehicles Division;
   e. Boats required to be certified by the Oregon Marine Board;
   f. Furniture;
   g. Refrigerators, freezers, stoves, ovens, dishwashers, washers and dryers;
   h. Pursuant to ORS 166.170, firearms and components thereof, including but not limited to rifles, handguns, shotguns, pellet guns, BB guns, and ammunition.

N. REMANUFACTURED means that an item has been altered to the degree that that the main components are no longer identifiable as the original item.

O. SHERIFF or SHERIFF'S OFFICE means the Sheriff of Clackamas County, or their designee;

P. SELLER means any person who:
   1. Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or
   2. Donates or abandons items of regulated property.

Q. TRANSACTION REPORT means the record of the information required by Section 8.03.080, transmitted to the Sheriff's Office by means required in Section 8.03.090.

R. TRADE SHOW means an event open to the public, held in a venue other than a Dealer's business location, at which vendors of a specific type of merchandise may exhibit, buy, sell or trade items that may include regulated property.

S. USED means anything that has been put into action or service.
[Adopted by Ord. 02-2011, 9/15/11; Amended by Ord. 04-2021, 8/8/21]

8.03.030 Permit Required

A. No person shall act as a Secondhand Dealer in Clackamas County without a valid Secondhand Dealer's Permit issued by the Sheriff's Office.
B. Any person or business that advertises or otherwise holds themselves out to be acquiring or offering for sale regulated property within Clackamas County will be presumed to be operating as a Secondhand Dealer subject to the terms of this chapter.
C. Any Pawnbroker operating within Clackamas County shall be required to maintain a valid license pursuant to the Oregon Revised Statutes Chapter 726. If any Pawnbroker also acts as a Secondhand Dealer, that Pawnbroker shall be required to obtain a Secondhand Dealer permit and meet all requirements of this chapter. Any Pawnbroker that is not a Secondhand Dealer shall nonetheless be subject to the following sections of this chapter:
    1. 8.03.080 Reporting requirements (this section shall be used by Pawnbrokers in order to meet the requirements of ORS 726.280 – 726.285).
    2. 8.03.090 Sale Limitations
    3. 8.03.095 Exceptions to Sale Limitations
    4. 8.03.100 Tagging and Inspection of Property
    5. 8.03.110 Prohibited Acts
    6. 8.03.120 Citations
    7. 8.03.150 Nuisance
D. The sale of regulated property at events known as "garage sales," "yard sales," "flea markets" or "estate sales," is exempt from these regulations if all of the following are present:
    1. No sale exceeds a period of seventy-two (72) consecutive hours; and
    2. No more than four (4) sales are held in any twelve- (12) month period.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.035 Minimum Standards

A. No person may operate as a Secondhand Dealer within Clackamas County unless the person maintains a fixed physical business location.
B. Any Secondhand Dealer who holds a valid permit may not change the business name of the premises without notifying the Clackamas County Sheriff's Office at least 30 days prior to the actual effective date of the name change.
C. Dealers shall comply with all federal, state and local regulations.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.040 Application for Permit

A. An application for Secondhand Dealer's Permit shall set forth the following information:

1. The name, business and residential address, business and residential telephone number, birth date, driver license information, including state of issue and license number and principal occupation of the applicant and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;
2. The name, address, telephone number, and electronic mail address of the business or proposed business and a description of the exact nature of the business to be operated;
3. The web address of any and all web pages used to acquire or offer for sale regulated property on behalf of the Dealer, and any and all internet auction account names used to acquire or offer for sale regulated property on behalf of the Dealer;
4. Written proof that the applicant and all principals of the business are at least 18 years of age;
5. Each principal's business occupation or employment for the five (5) years immediately preceding the date of application;
6. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by this chapter.
7. A brief summary of the applicant's business history in Clackamas County or in any other city, county or state including:
    a. The business license or permit history of the applicant; and
    b. Whether the applicant has ever had any such license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant subsequent to the suspension or revocation;
8. The form of the business or proposed business, whether a sole proprietorship, partnership or corporation, etc., and
    a. If a partnership, the names, birth dates, addresses, telephone numbers, principal occupations, along with all other information required of any individual applicant, for each partner, whether general, limited, or silent, and the respective ownership shares owned by each;
    b. If a corporation, or limited liability company, the name, copies of the articles of incorporation and the corporate bylaws, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, for every officer, director, and every shareholder owning more than five percent of the outstanding shares, and the number of shares held by each.
9. If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;
10. All arrests and criminal convictions relating to fraud, deception, dishonesty or theft, or citations for violation of Secondhand Dealer

ordinance or statutes of any city, county, or state of each principal and all natural persons enumerated in paragraphs 1 through 7 of this section; and

B. New employees of dealers shall complete and submit the Secondhand Dealer personal history information as required in Section A of this Subsection. Employees may not acquire regulated property until all required information has been reviewed by the Sheriff's Office, unless the Dealer receives permission from the Sheriff's Office while those employees' background checks are being evaluated. The criteria used to review a new employee will be the same as those used in the review of an initial application in Section 8.03.050(B).

[Adopted by Ord. 02-2011, 9/15/11]

8.03.050 Issuance and Renewal of Permit

A. Applications for Secondhand Dealer's Permit must be notarized, and shall be filed with the Sheriff and shall include payment of the required fee. Individual employee history forms containing the required information of each employee need not be notarized, but must be signed by the specific individual represented on the form.

B. The Sheriff's Office shall conduct an investigation of the applicant and all principals and employees directly engaged in the management or operation of the business listed according to the requirements in Sections 8.03.040(A) and 8.03.040(B). The Sheriff shall issue such permit if no cause for denial as noted herein exists.

C. The Sheriff shall deny an application for a Secondhand Dealer's Permit if:

1. The applicant, or any other person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by this chapter or a similar ordinance or law of another city, county or state, and
   a. the license and permit for the business has been revoked for cause which would be grounds for revocation pursuant to this chapter; or
   b. The business has been found to constitute a public nuisance and abatement has been ordered; or
2. Any person involved in the business has been convicted of any criminal offense related to fraud, deception, dishonesty or theft, or convicted of any violation of this chapter or laws of any city, county or state; or
3. The operation as proposed by the applicant would not comply with all applicable requirements of statutes and local ordinances including, but not limited to: building, health, planning, zoning and fire chapters; or
4. Any statement in the application is found to be false or any required information is withheld; or
5. Evidence exists to support a finding that the location of the business for which the application has been filed has a history of violations of the provisions of this chapter; or

6. The operation does not comply with applicable federal or state licensing requirements.

D. Notwithstanding Section 8.03.050(B), the Sheriff may grant a permit despite the presence of one or more of the enumerated factors, if the applicant establishes to the Sheriff's satisfaction that:
   1. The behavior evidenced by such factor(s) is not likely to recur;
   2. The behavior evidenced by such factor(s) is remote in time; and
   3. The behavior evidenced by such factor(s) occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this chapter.

E. Secondhand Dealer's Permits shall be for a term of one year and shall expire on the anniversary of their issuance. The permits shall be nontransferable and shall be valid only for a single location. When the business location is to be changed, the permit holder shall provide the address of the new location in writing to the Sheriff for approval or disapproval at least 30 days prior to such change.

F. All Secondhand Dealer's Permits shall be displayed on the business premises in a manner readily visible to patrons.

G. The Sheriff's Office will have primary authority concerning the issuance of a permit. If an applicant for permit is denied, denied applicants will make their first appeal to the Clackamas County Hearings Officer. If denial of an application for permit is denied by the Hearings Officer, review shall be by writ of review as provided in ORS 34.010 to 34.100.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.060 Permit Fees

Every person engaged in conducting, carrying on or controlling a Secondhand Dealer's business shall:

A. File an application as described in Section 8.03.050 and pay a nonrefundable fee as required by the Sheriff.

B. For renewal of a Secondhand Dealer's Permit, file an application and pay a nonrefundable fee as required by the Sheriff.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.070 Additional Locations

A. The holder of a valid Secondhand Dealer's Permit shall file with the Sheriff an application for a permit for each additional location, and shall pay a nonrefundable fee as required by the Sheriff.

B. Permits issued for additional locations shall be subject to all the requirements of this chapter, and the term of any permit issued for an additional location shall expire on the same date as the initial permit.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.080 Reporting of Secondhand Dealer Regulated Property Transactions and Seller Identification

A. Dealers shall provide to the Sheriff all required information listed for each regulated property transaction (not including sales). The Sheriff may designate the format of transfer of this information and may direct that it be communicated to the Clackamas County Sheriff's Office Pawn Shop Detail by means of mail, the internet or other computer media.
   1. In the event the Sheriff directs that the transaction information be transmitted via computer media, the Sheriff may also specify the system that will be utilized in order to ensure conformity among all dealers
   2. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Sheriff alters the required format; Dealers will be given at least sixty (60) days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a Dealer must, prior to the deadline submit a written request to the Sheriff for additional time.
   3. Pawnbrokers are required to report only new transactions. Loan renewals and redemptions by the original client do not need to be reported as long as the property involved in the transaction has not left the store for any period of time.

B. If paper forms are approved for use by the Sheriff's Office, the Sheriff will provide all Dealers with transaction report forms at cost until sixty (60) days after such time that the Sheriff directs a change in the reporting method. The Sheriff may specify the format (size, shape and color) of the transaction report form. The Sheriff may require that the transaction report form include any information relating to the regulations of this chapter. Dealers may utilize their own forms, in lieu of those supplied by the Sheriff's Office, if the Sheriff has approved such forms. The Declaration of Proof of Ownership is considered to be included in references in this chapter to the transaction reports, as appropriate. Declaration of Proof of Ownership will be retained by the business and made available to law enforcement.

C. When receiving regulated property, the Dealer must do all of the following except that Pawnbroker loan transactions are temporarily exempt from the requirements regarding copying acceptable identification, obtaining a thumbprint and completion of the Declaration of Proof of ownership until an electronic reporting system is implemented by the Sheriff's Office on October 31, 2011. If unable to comply before the deadline, a Pawnbroker must submit a written request for additional time to the Sheriff before the deadline. The requirements for a Dealer at the time of a transaction when receiving any regulated property are:
   1. The Dealer must obtain acceptable photo identification from the seller or pledgor and verify that the photograph is a photograph matches the individual in the transaction.
   2. The Dealer must record the seller's current residential address, telephone number and thumbprint on the transaction report.

3. The dealer must write on the transaction report a complete, legible and accurate description of the regulated property of sufficient detail to distinguish like objects one from the other. If an item is new, the Dealer must include the word "new" in the property description.
   a. The Dealer must complete the transaction report in its entirety, and the individual completing the report must initial it.
   b. Transaction reports must be completed in legible printed English.
4. The Dealer must require the Seller to legibly complete the Declaration of Proof of Ownership except that no such Declaration of Proof of Ownership is required for pawn loans made in compliance with state law by licensed pawnbrokers.
   a. In completing the Declaration of Proof of Ownership the Seller must, at the time of the transaction, certify in writing that the seller has the legal right to sell the property that is the subject of the transaction and is competent to do so, and that the property is not rented or leased.
   b. The Dealer or Dealer's employee must place the identifiable print of the seller's right thumb (left if right is unavailable) in the thumbprint box on the Declaration of Proof of Ownership. Thumbprints and the information on the Declaration of Proof of Ownership may be produced using a digital format with prior approval of the process from the Sheriff.
   c. When no Declaration of Proof of Ownership is required for pawn loan transactions, the Dealer or Dealer's employee shall verbally verify that the seller has the legal right to sell the property that is the subject of the transaction and is competent to do so, and that the property is not rented or leased, and enter that information in the transaction report.
5. A Dealer may provide a description of any motor vehicle (including license number) identified as used in the delivery of regulated property and record the description and license number next to the seller's thumbprint.
6. Transaction reports are designed to assist in the investigation of the theft of property. Therefore, additional reporting for Dealers includes unregulated property that is identifiable with markings indicating apparent ownership.
7. Dealers must take either a photograph or still video of each person selling or loaning on an item of regulated property or make a copy of the acceptable identification presented by the seller. Dealers must also take either a photograph or a still video of each regulated item listed in 8.03.020(M)(1)(a) through (d) (items including precious metals, gems, watches, jewelry, sterling silver, etc.). These photos are required only for new transactions and do not apply to repeated transactions from the same person of the exact same item. All information on the copy must be legible and may be made by photostatic copying, computerized scanning or any other photographic, electronic, digital or other process that preserves and

retains an image, and which can be subsequently produced or reproduced for viewing of the image. If a photograph is taken, a print of the photograph must be referenced to the transaction report number. A video photograph (still) must be referenced by time and date and transaction report number to correspond to the regulated property accepted. Copied identification must be kept with the transaction report or shall be referenced to the transaction report number. The photograph or videotape of copied identification and items listed in 8.03.020(M)(1)(a) through (d) must be kept by the Dealer for one year and must be provided to the Sheriff's Office upon request.

D. Dealers must mail or deliver to the Sheriff's Office at the close of each business day the original of all transaction reports describing articles received during that business day.

E. Dealers must retain at their business location a copy of all completed and voided transaction reports for a period of not less than one year from the date of acquisition. Any unused transaction reports must be available for inspection by the Sheriff's Office.

[Adopted by Ord. 02-2011, 9/15/11; Amended by Ord. 04-2021, 8/8/21]

8.03.090 Regulated Property Sale Limitations

A. Regulated property is subject to the following limitations:

1. Holding Period: Regulated property acquired by any Dealer must be held for a period of thirty (30) full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 30-day hold requirements of this section because of the redeemable nature of the loans and the holding requirements of ORS 726. However, if the loan is converted to a buy by the Pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of this section remain in effect.
2. Requirements of held property: All held property must remain in the same form as when received, must not be sold, dismantled, altered or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale, and to allow for identification and examination by the Sheriff's Office. Held property must be kept at the business location during this holding period so that it can be inspected during normal business hours as provided in Section 8.03.100.
3. Held property requirements do not apply if:
    a. the property is received by a Dealer from another Dealer (regulated by the Sheriff's Office or any other nearby police agency approved by the Sheriff) who has already satisfied the holding requirements of this chapter, and the receiving Dealer records the original transaction report number on the transaction report completed for the new transaction.

b. a customer, who originally purchased property from a Dealer, returns it with the original receipt.

B. Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any Dealer that a specifically described item of regulated property must be held in a separate Police Hold area for a period not to exceed thirty (30) days from the date of notification, and is subject to the (30) days upon notice provided to the Dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The Dealer shall comply with the hold notice and notify the Sheriff's Office Pawn Shop Detail of the hold notice not later than five (5) calendar days from the day the notice was received, either by telephone, fax, email or in person. A Dealer must notify the Pawn Shop Detail of its intent to dispose of any item of regulated property under Police Hold at least ten (10) days prior to doing so. A Police Hold area must meet the following criteria:

1. Located out of public view and access, and
2. Marked "Police Hold", and
3. Contains only items that have been put on Police Hold

C. Any peace officer or Community Service Officer (unsworn peace officers employed by law enforcement agencies) who places a police hold on any property suspected of being the subject of a crime shall provide the Dealer with a DPSST number and a valid incident number.

D. Upon probable cause that an item of regulated property is the subject of a crime, the Sheriff may take physical custody of the item or provide written notice to any Dealer to hold such property for a period of time to be determined by the Sheriff, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements of subsection (A)(2) above, and will be maintained in the Police Hold area unless seized or released by the Sheriff. Seizure of property will be carried out in accordance with ORS.

E. If a Dealer acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the Dealer shall continue to hold the regulated property at the business location for a period of ninety (90) full days after acquisition. The Dealer must notify the Sheriff's Office by writing "90-day hold" next to the item on the transaction report or by an electronic means approved by the Sheriff's Office. The held property must conform to all the requirements of this section.

F. If a peace officer seizes any property from a Dealer, the Dealer must notify the Sheriff's Office not later than five (5) calendar days from the day the seizure occurs. The Dealer must provide the name of police agency, the incident or case number, the name and DPSST number of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Sheriff's Office may be given by telephone, fax, email or in person.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.095 Exceptions to Regulated Property Sale Limitations

A. A Dealer is not required to obtain the seller's identification, photograph the seller, record the seller's thumbprint, or have the seller complete the Declaration of Proof of Ownership if the Dealer complies with the remaining requirements in Section 8.03.090 and if:

1. The item is acquired through consignment by a Dealer from a person who lives more than 150 miles from Clackamas County and the consigned property is mailed, shipped, or sent by courier to the Dealer.
2. The item is acquired during a trade show. All items acquired during a trade show by a Dealer must be reported. At the time of the transaction, the Dealer must write on the transaction report a complete, legible and accurate description of the regulated property of sufficient detail to distinguish like objects one from the other. The Dealer must also record the name and date of the event and the address of the venue in the name, date, and address fields of the transaction report form. Items acquired during a trade show may be sold or traded during the trade show without being held. Items still in a Dealer's possession at the end of the show will be subject to the hold period requirement in effect for that Dealer's acquisitions of regulated property.
3. The item is acquired from a business whose acquisitions of regulated property consists exclusively of donated items and/or purchases from a 501(c)(3) organization. The Dealer must record the name and location address of the business in the name and address fields of the transaction report form and the date of acquisition.
4. The item is acquired through an internet transaction. The Dealer must record on the transaction report the seller's email address or seller's identification, the name of the internet website that listed the item, and the date of the acquisition.
5. The item is acquired by the Dealer from a yard sale, garage sale, estate sale or swap meet. The Dealer must record on the transaction report the physical address of the sale location and the date of acquisition.

Items acquired under subsection (A) must be held in compliance with the hold period requirement in effect for the Dealer's other acquisitions of regulated property.

B. A Dealer is not required to obtain the seller's identification, photograph the seller, record the seller's thumbprint, nor have the seller complete the Declaration of Proof of Ownership if the Dealer complies with the remaining requirements in Section 8.03.090 and if the item is used, regulated property acquired from a licensed business. The Dealer must keep a receipt for the item from the licensed business that includes the licensed business' name and a description of the item. The receipt must be retained at the Dealer's business location for one year or until the item is sold, whichever is longer. The Dealer must record on the transaction report the name and location address of the business in the name and address fields of the transaction report form, and the date of the acquisition. The item does not have to be held.

C. A Dealer is not required to make a copy of the acceptable identification obtained from the seller, photograph the seller, or record the seller's thumbprint if the Dealer complies with the following requirements:
   1. Conducts each and every acquisition of regulated property by either:
      a. Not tendering payment to the seller for a minimum of fifteen (15) days after the regulated property is delivered to the Dealer; or
      b. Offering in-store credit that must be used for merchandise only and not redeemed for cash; and
   2. Holds each and every item of regulated property for a minimum of fifteen (15) days from the date of acquisition; and
   3. Complies with the remaining requirements set forth in the Section 8.03.090; and
   4. Notifies the Sheriff in writing that each and every acquisition of regulated property will be conducted by not tendering payment to the seller for a minimum of fifteen (15) days after the regulated property is delivered to the Dealer.

D. A Dealer is not required to make a copy of the acceptable identification obtained from the seller, photograph the seller, or record the seller's thumbprint when the Dealer acquires an item of regulated property on consignment if the Dealer complies with the following requirements:
   1. Does not tender payment to the consignor for a minimum of fifteen (15) days after the regulated property is delivered to the Dealer;
   2. Holds each and every item of consigned regulated property for a minimum of fifteen (15) days;
   3. Complies with the remaining requirements in Section 8.03.090.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.100 Tagging Regulated Property for Identification, Sheriff's Inspection

A. Secondhand Dealer acquiring any regulated property shall affix to such property a tag upon which shall be written a unique number, in legible characters, which shall correspond to the number on the transaction report forms required by Section 8.03.080. After the holding period has expired, the transaction number must remain identifiable on the property until it is sold.

B. After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.

C. After the applicable holding period has expired, items that are remanufactured need not remain tagged.

D. Upon presentation of official identification, the Sheriff may seek permission to enter onto the business premises of any person with a Secondhand Dealer's Permit to ensure compliance with the provisions of this chapter. An inspection shall be for the limited purpose of inspecting any regulated property acquired by the dealer, held by the dealer pursuant to Section 8.03.090, or the records incident thereto. Such inspections shall occur only during normal business hours. The

failure to grant permission to the Sheriff for inspection could result in a violation of this chapter.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.110 Prohibited Acts

A. It shall be unlawful for any principal, employee or Dealer regulated by this chapter to:

1. Receive any property from any person known to the principal, employee or Dealer to be prohibited from selling by a court order or is under the age of eighteen (18) years,
2. Receive property prohibited by this chapter. Items specifically prohibited from being acquired by Secondhand Dealers include:
   a. Medications;
   b. Gift cards, in-store credit cards, or activated phone cards;
   c. Property with serial numbers, personalized inscriptions or initials or other identifying marks which appear to have been intentionally altered, obliterated, removed, or otherwise rendered illegible;
   d. Any item that cannot be lawfully possessed pursuant to local, state, or federal law.
3. Act as a Secondhand Dealer within Clackamas County without a valid Secondhand Dealer's Permit issued by the Sheriff.
4. Fail to obtain acceptable identification from the person selling any regulated property;
5. Fail to have the person selling any regulated property sign the transaction report form describing the article acquired;
6. Fail to retain on the business premises a copy of the transaction report form describing the acquired regulated property for a period of one (1) year from the date of acquisition;
7. Fail to mail or deliver to the Sheriff at the close of each business day the original and second copy of all transaction report forms and required photographs describing regulated property acquired during that business day;
8. Fail to include on transaction report forms all readily available information required by the form;
9. Fail to withhold from sale any regulated property for the required holding period after acquisition;
10. Fail, after acquiring regulated property, to retain the property on the business premises for the required holding period after its acquisition;
11. Fail to allow inspection by the Sheriff of any regulated property being retained pursuant to this chapter;
12. Fail to allow inspection by the Sheriff of any records required by this chapter;
13. Fail to have affixed to any acquired regulated property, during the required holding period, a tag on which is written a number in legible characters

which corresponds to the number on the transaction report form required by this chapter;

14. Continue activities as a Secondhand Dealer after suspension or revocation of a permit.

B. Any violation of Section 8.03.110(A) is a County Code violation punishable by a fine in an amount set by resolution of the Board of County Commissioners.

[Adopted by Ord. 02-2011, 9/15/11; Amended by Ord. 04-2021, 8/8/21]

8.03.120 Citation

A. The Sheriff, upon learning of a violation of Section 8.03.110(A) may issue the Secondhand Dealer a citation. Such citation shall be delivered at the address listed on the permit application during regular business hours to a person who appears to be in charge.

B. The citation shall list the nature of the violation, and the time and date of the citation. The citation shall also indicate the fine assessed for said violation, which is to be paid to the Sheriff, or appealed within ten (10) days from the date of delivery. Appeal may be taken under the Hearing Officer procedure outlined in Section 8.03.140.

C. Nothing in this section shall affect the ability of the Sheriff to take any and all actions otherwise authorized to abate any violation.

D. In the event that fines and fees assessed are not paid in full per the guidelines set forth in this chapter, the County reserves the right to assign the debt for collection.

[Adopted by Ord. 02-2011, 9/15/11; Amended by Ord. 04-2021, 8/8/21]

8.03.130 Revocation or Suspension of Permit

A. The Sheriff may revoke or suspend any permit issued pursuant to this chapter:

1. For any cause which would be grounds for denial of a permit; or
2. Upon a finding that any violation of the provisions of this chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that such violations or offenses were permitted to occur at the location by the Dealer or any principal or employee engaged or employed in the management or operation of the business location; or
3. If lawful inspection has been refused; or
4. If the Secondhand Dealer’s activities cause significant litter, noise, vandalism, vehicular or pedestrian traffic congestion or other locational problems in the area around the Dealer’s premises; or
5. If a fine assessed under this chapter has not been paid to the Sheriff or appealed under Section 8.03.140 within ten (10) days after the date of delivery of a citation; or

6. If any statement contained in the application for the permit is found to have been false; or
7. If any Secondhand Dealer fails to meet federal or state licensing requirements.

B. The Sheriff shall give the permittee written notice of proposed revocation or suspension of any permit issued pursuant to this chapter by causing notice to be served upon the permit holder at the address listed on the permit application. Service of the notice shall be accomplished by either mailing the notice by certified mail, return receipt requested, or by service in the same manner as a summons served in an action at law. Refusal of the service by the person whose permit is revoked or suspended shall be prima facie evidence of receipt of the notice. Service of the notice upon the person in charge of a business, during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.

C. Revocation or suspension shall be effective and final ten (10) days after the giving of such notice unless such revocation or suspension is appealed in accordance with Section 8.03.140.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.140 Appeals

A. Appeals of violations of this chapter will be made to the County Hearings Officer pursuant to Chapter 2.07 of the County Code.

B. Orders of the Hearings Officer:
1. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.
2. Findings of fact and conclusions of law shall accompany a final order. The findings of fact shall consist of a concise statement of the underlying facts supporting the Hearings Officer's order.
3. The Hearings Officer shall notify the appellant and respondent of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to the appellant and respondent or, if applicable, their attorney of record. The Hearings Officer shall issue a final order within fourteen (14) days from the conclusion of the hearing.
4. The Hearings Officer shall file all final orders with the Clerk of the Board of County Commissioners. A final order shall become effective five (5) days after it is filed unless a party makes objections to the form of the order within five (5) days of filing and the Hearings Officer subsequently amends the final order.

C. Enforcement of Hearings Officer Order:
1. Fines and costs are payable upon receipt of the final order declaring the fine and costs. Fines and costs under this chapter are a debt owing to the Sheriff's Office and may be collected in the same manner as any other debt allowed by law.
2. The Sheriff may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce any order of the Hearings

Officer, including, but not limited to, an action to obtain judgment for any fine or any assessment for costs imposed pursuant to Sections 8.03.110(B) or 8.03.140(G).

D. Judicial Review of the final order of the Hearings Officer under this chapter shall be by writ of review as provided in ORS 34.010 – 34.100.

[Adopted by Ord. 02-2011, 9/15/11]

8.03.150 Maintenance of Regulated Business Activity in Violation Declared a Nuisance, Abatement

Any business maintained in violation of the provisions of this chapter is hereby declared to be a public nuisance. The Sheriff is authorized to bring any action or suit to seek imposition of fines for violation of this chapter or to abate such nuisance by seeking injunctive or other appropriate relief to:

A. Cease all unlawful activities;

B. Close the unlawful business establishment;

C. Return property obtained through unlawful activities to the rightful owners; or

D. Seek such other relief as may be appropriate.

[Adopted by Ord. 02-2011, 9/15/11]

Chapter 8.04

8.04 PUBLIC HEALTH LAWS AND CONTESTED CASE PROCEDURES

8.04.010 Tourist Facilities

Pursuant to ORS 446.425 the Oregon Health Authority delegated to the Clackamas County Department of Health, Housing and Human Services Public Health Division ("the Division") the authority, responsibility and functions to administer recreational facilities health laws under ORS 446.310 et seq. and the implementing regulations. This chapter incorporates the provisions of those sections by reference.

A. Requirements.

1. Any person establishing, operating, managing or maintaining any travelers' accommodation, hostel, recreation park or organizational camp, or combination recreation park - mobile home park (as those terms are defined in ORS 446.310 and OAR 333-029-0015) must first obtain a license or certificate of sanitation from the Division. Any person constructing any travelers' accommodation, hostel, recreation park, or organizational camp must first obtain a permit to do so from the Division.
2. An applicant for a permit to construct a travelers' accommodation, hostel, recreation park, or organizational camp shall pay the Division a plan review fee. Every applicant for a license or certificate of sanitation shall pay to the Division a fee.
3. Certificates or licenses issued under this section shall expire at the end of each calendar year and are not transferable nor shall refunds be made on unused portions of such licenses or upon applications that have been denied.
4. Anyone who establishes, operates, manages or maintains a tourist facility in Clackamas County must comply with the laws and regulations regarding the construction, operation or maintenance of tourist facilities. The Division may deny issuance, suspend or revoke a license or assess civil penalties for failing to comply with these laws.

B. Violations.

1. It is unlawful to establish, operate, manage or maintain a tourist facility in Clackamas County without a current license or certificate of sanitation. Penalty fees shall be imposed for a failure to apply for or renew a license.
2. Any person who violates the laws regarding the construction, operation or maintenance of tourist facilities will be subject to civil penalties in an amount set by the Board of County Commissioners, for each violation.
3. The Division shall provide five days' advance notice before any civil penalty under this section is imposed, unless the person incurring the penalty has otherwise received actual notice of the violation not less than

five days prior to the violation for which a penalty is imposed.

4. Hearings on the denial, suspension or revocation of a license or the imposition of civil penalties shall be conducted as a contested case following the procedures in this code. Failure to remit the civil penalty within 10 days after the order becomes final is grounds for license revocation.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 02-2018, 3/15/18]

8.04.020 Swimming Facilities

A. Requirements.

1. Any person operating or maintaining a public swimming pool, public spa pool, public wading pool or bathhouse (as those terms are defined in ORS 448.005 and OAR 333-062-0015) must first obtain a license to do so from the Division
2. A fee shall be paid to the Division for a license to operate a year-round public swimming pool, public spa pool, public wading pool or bathhouse either:
   a. For profit;
   b. For the primary benefit of the patrons, members or employees of the person operating the public swimming pool, public spa pool, or bathhouse; or
   c. In conjunction with a travelers' accommodation or tourist park.
3. A fee shall be paid to the Division for a license to operate a seasonal public swimming pool, public spa pool, public wading pool or bathhouse either:
   a. For profit;
   b. For the primary benefit of the patrons, members or employees of the person operating the public swimming pool, public spa pool, or bathhouse; or
   c. In conjunction with a travelers' accommodation or tourist park.
4. A person who operates a single facility containing more than one year-round public pool or spa shall pay to the Division an additional fee for each pool in excess of (1) pool for a license to operate such pools.
5. Any person wishing to construct, perform a major alteration or reconstruct any public swimming pool, public spa pool, public wading pool or bathhouse must first obtain a permit to do so from the Division.
6. An applicant for a permit to construct, perform a major alteration or reconstruct a public swimming pool, public spa pool, public wading pool or bathhouse shall pay the Division a plan review/construction permit fee. Licenses issued under this section shall expire at the end of each calendar year. Such licenses shall not be transferable, nor shall refunds be made on the unused portion of such licenses or upon applications that have been denied.
7. Anyone who establishes, operates, manages or maintains a public

swimming pool, public spa pool, public wading pool or bathhouse in Clackamas County must comply with the laws and regulations regarding the construction, operation or maintenance of such facilities. The Division may deny issuance, suspend or revoke a license or assess civil penalties for failing to comply with these laws.

B. Violations.

1. It is unlawful to operate or maintain a public swimming pool, public spa pool, public wading pool or bathhouse without a current license.
2. It is unlawful to keep a public swimming pool, public spa pool, public wading pool or bathhouse open to the public after a permit or license to operate such facilities has been suspended, denied or revoked.
3. The Division may at all reasonable times enter upon any part of the premises of public bathing and swimming places to examine and investigate to determine the sanitary conditions of such places and any violations of law.
4. If the license holder does not correct violations listed in a notice issued by the Division within the specified time period, the Division or its agent may issue a notice proposing to suspend or revoke the license to operate in accordance with ORS Chapter 183. A license holder shall have 21 days to request a hearing in writing.
5. Any public swimming pool, public spa pool, public wading pool or bathhouse constructed, operated or maintained contrary to these laws is a public nuisance, dangerous to health. The Division may abate or enjoin the nuisance as permitted by law, including emergency suspension and closure. Under ORS 183.430(2), a license holder shall have 90 days after the date of notice of emergency suspension to request a hearing and if a hearing is requested a hearing shall be granted to the licensee or permittee as soon as practicable after such demand.
6. Hearings on the denial, suspension or revocation of a license shall be conducted as a contested case following the procedures in this code.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 02-2018, 3/15/18]

8.04.030 Food Service Facilities

Pursuant to ORS 624.510 the Oregon Health Authority has delegated to the Division the authority, responsibility and functions to administer food service health laws. This chapter incorporates the provisions of ORS 624.010 et seq. and the implementing regulations by reference.

A. Requirements.

"Food service facility" means restaurant, bed and breakfast, vending machine, food cart, warehouse, mobile unit, commissary combination or any other food service facility as defined by ORS 624.010, ORS 624.310 and OAR 333-150-000 and 333-157-0073.

1. Food Handlers Certificate. Any person handling food in a restaurant or food service facility licensed under this chapter is required by state law to obtain a certification within thirty (30) days of hire.
2. Food Service License Fees.
   a. Every applicant for a food service facility license, temporary license, or renewal of a license shall pay a license fee to the Division, unless exempted under ORS 624.106. Licensees whose food service facility requires a critical item re-inspection shall pay a fee to the Division as set by OAR 333-12-0053.
   b. The license or temporary license shall be posted in a conspicuous place on the premises of the licensee. For a vending machine or mobile unit the license shall be posted in a conspicuous place, and a card, emblem, or other device clearly showing the name and address of the licensee and the serial number of the licensee shall be affixed to each vending machine or mobile unit.
   c. To reinstate a food service facility license after the expiration date, other than a temporary license, the operator must pay a reinstatement fee per ORS 624.490.
3. Plans. Properly prepared plans and specifications must be provided to the Division for review and approval and plan review fees paid: (1) before any construction, extensive remodeling or conversion is done to an existing structure for use as a food service facility; and (2) before constructing or establishing a food service facility, including a bed and breakfast, mobile unit or pushcart.
4. Licenses issued under this section shall expire at the end of each calendar year. Licenses shall not be transferable nor shall refunds be made on the unused portion of such licenses or upon applications that have been denied.

B. Violations.
1. It is unlawful to operate a food service facility or temporary food service facility without obtaining a current license to do so from the Division, unless exempt under Oregon law.
2. It is unlawful to operate a food service facility in a manner that creates an imminent or present danger to the public health, as those terms are defined in ORS 624.073 and the administrative rules.
3. It is unlawful to continue to operate a food service facility that has been closed due to uncorrected priority item violations as defined by Oregon statute and administrative rules.
4. It is unlawful to continue to operate a food service facility that has been closed due to obtaining a sanitation score of less than 70 on two consecutive complete inspections conducted within 30 days as defined by OAR 333-157-0030(5)-(6).
5. It is unlawful to construct, extensively remodel or convert an existing structure to use as a food service facility, or to construct or establish a mobile unit or pushcart without first providing properly prepared plans

and specifications to the Division for review and approval, and paying plan review fees.

C. Civil Penalties.

1. Any person who violates this section will be subject to civil penalties in an amount set by the Board of County Commissioners, for each violation.
2. When a person has violated this section the Division will issue a written warning stating that further violation will result in the assessment of a civil penalty or revocation or suspension of the license.
3. If the violations continue after the written warning has been issued the Division will issue a Notice of Intent to impose civil penalties.
4. Civil penalties are due and payable 10 days after the order imposing the penalty becomes final by operation of law or appeal. The order assessing civil penalties may be recorded with the County Clerk and listed in the County Lien Record.
5. A person subject to civil penalties under this chapter may request a hearing in writing within 20 days of service of the order imposing the civil penalty.
6. If a hearing is requested it will be conducted as a contested case hearing under the procedures set out in this code.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2008, 3/13/08; Amended by Ord. 02-2018, 3/15/18]

8.04.040 Review of Existing Property's Drinking Water

Fees shall be paid to the Public Health Division of the Clackamas County Department of Human Services for a request to review existing property's individual drinking water.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 02-2018, 3/15/18]

8.04.050 School Cafeteria Inspections

Schools requesting cafeteria sanitation inspections or plan review from the Public Health Division of the Clackamas County Department of Human Services shall pay fees for those services.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 02-2018, 3/15/18]

8.04.060 Miscellaneous Fees – Hourly Rate

For miscellaneous services of the Environment & Health section of the Public Health Division, Clackamas County Department of Health, Housing, and Human Services, an hourly fee shall be paid.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 02-2018, 3/15/18]

8.04.070 Contested Case Procedures

A. Definitions.
   1. DIVISION means the Public Health Division of the Clackamas County Department of Health, Housing, and Human Services.
   2. HEARINGS OFFICER means the officer appointed by Clackamas County to hear contested cases, and "the County" means Clackamas County.

B. A contested case exists whenever:
   1. A constitutional provision or state law requires a hearing upon the action;
   2. The Division has discretion to suspend or revoke a right or privilege of a person;
   3. There is a proceeding regarding a license to pursue a commercial activity, trade or profession; or
   4. There is a proceeding in which the County by rule or order provides for a hearing, in accordance with contested case requirements.

C. Notice.
   1. When the County is required or permitted to give a person an opportunity for a hearing to contest the Division action, a notice shall be served personally or by registered or certified mail on all parties. The notice shall include.
      a. A statement of the party's right to hearing, or a statement of the time and place of the hearing;
      b. A statement of the authority and jurisdiction under which the hearing is to be held;
      c. A reference to the particular sections of the ordinance, statutes and rules involved;
      d. A short and plain statement of the matters asserted or charged;
      e. A statement indicating whether and under what circumstances an order by default may be entered;
      f. A statement that active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act, and may contact the Oregon State Bar or the Oregon Military Department for more information, and will include the toll-free numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website; and
      g. A statement that if the party desires a hearing, the Division must be notified within a specified number of days from the date of mailing of the notice.
   2. The number of days within which the Division must be notified that the party desires a hearing shall be as follows:
      a. Within 20 days of the date of mailing of notice; or
      b. When the Division refuses to issue a license required to pursue any commercial activity, trade, occupation or profession if the refusal is based on grounds other than the results of a test or inspection that division shall grant the person requesting the license 60 days

form notification of the refusal to request a hearing, unless otherwise specified in the applicable section of Chapter 8.04.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 02-2018, 3/15/18]

8.04.080 Immediate Suspension or Refusal to Review a License, Notice of Opportunity for Hearing, Service

A. If the Division finds there is a serious danger to the public health or safety, it may suspend or refuse to renew a license immediately.

B. The Division shall give notice to the party upon immediate suspension or refusal to renew a license. The notice shall be served personally or by registered or certified mail and shall include:
   1. A statement of the party's right to hearing;
   2. A statement of the authority and jurisdiction under which the hearing is to be held;
   3. A reference to the particular sections of the ordinance and rules involved;
   4. A short and plain statement of the matters asserted or charged;
   5. A statement that the party may be represented by counsel at the hearing;
   6. A statement that if the party demands a hearing the Division must be notified within 90 days of the date of the notice;
   7. A statement giving the reason or reasons for the immediate actions; and
   8. The effective date of the suspension or refusal to renew the license.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 02-2018, 3/15/18]

8.04.090 Orders When No Hearing Requested or Failure to Appear

A. When a party has been given an opportunity and fails to request a hearing within a specified time, or having requested a hearing fails to appear at the specified time and place, the Division or hearings officer shall enter an order which supports the Division action.

B. The order supporting the Division action shall set forth the material on which the action is based, and the material shall be attached to and made a part of the order.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 02-2018, 3/15/18]

8.04.100 Subpoenas, Depositions

A. The Division may issue subpoenas in a contested case. In addition, subject to subsection B, any party to a contested case shall, upon request, be issued subpoenas by the hearings officer to compel the attendance of witnesses.

B. Before issuing subpoenas to the requesting party, the hearings officer may require a showing of need, general relevancy and the evidence to be given by the witness to be within the reasonable scope of the proceedings.

C. On petition of any party to a contested case, the hearings officer may order the testimony of any material witness be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall include:

1. The name and address of the witness whose testimony is desired;
2. A showing of materiality of the testimony; and
3. A request for an order that the testimony of the witness by taken before an officer named in the petition for that purpose.

D. If the hearings officer issues on order for the taking of a deposition and the witness resides in this state and is unwilling to appear, the hearings officer may issue a subpoena as provided in subsection A requiring their appearance before the officer taking the deposition.

E. Witnesses appearing pursuant to subpoena, other than parties, or officers or employees of the Division shall be tendered fees and mileage as prescribed by law for witnesses in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the fees and mileage to the witness.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 02-2018, 3/15/18]

8.04.110 Conducting Contested Case Hearing

A. The hearing shall be conducted by and shall be under the control of the hearings officer, conducted pursuant to the procedures in ORS 183.417 et seq.

B. At the discretion of the hearings officer, the hearing shall be conducted in the following manner:
1. Statement and evidence of Division in support of its action;
2. Statement and evidence of affected person disputing division action; then
3. Rebuttal testimony.

C. The hearings officer and the affected parties and the Division or its attorneys shall have the right to question or examine or cross-examine any witnesses.

D. The hearing may be continued with recesses as determined by the hearings officer.

E. The hearings officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

F. Exhibits shall be marked and the markings shall identify the person offering the exhibits. The exhibits shall be preserved by the hearings officer as part of the record of the proceedings.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 02-2018, 3/15/18]

8.04.120 Evidentiary Rules

A. Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible.

B. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

C. All offered evidence, not objected to, will be received by the hearings officer subject to their power to exclude irrelevant, immaterial or unduly repetitious matter.

D. Evidence objected to may be received by the hearings officer with rulings on its admissibility or exclusion to be made at the time a final order is issued.

E. Any time ten (10) days or more before a hearing, any party may serve on an

opposing party a copy of any affidavit, certificate or other document the party proposes to introduce in evidence. Unless the opposing party requests cross-examination of the affiant, certificate preparer, or other document preparer or custodian, within five (5) days prior to hearing the affidavit or certificate may be offered and received with the same effect as oral testimony or the document may be received in evidence.

F. If the opposing party requests cross-examination of the affiant, certificate preparer, or other document preparer or custodian as provided in subsection E and the opposing party is informed within five (5) days prior to the hearing that the person will not appear for cross-examination but the affidavit, certificate or other document will be offered in evidence, the affidavit, certificate or other document may be received in evidence, provided the hearings officer determines that:
   1. The contents of the affidavit, certificate or other document is of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs; and
   2. The party requesting cross-examination would not be unduly prejudiced or injured by lack of cross-examination.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 02-2018, 3/15/18]

8.04.130 Final Orders on Contested Cases, Notification

A. Final orders on contested cases shall be in writing or stated in the record and shall include the following:
   1. Rulings on admissibility of offered evidence;
   2. Findings of fact – the findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the order.
   3. Conclusion(s) of law, which are – applications of the controlling law to the facts found and the legal results arising therefrom; and
   4. Order – the action taken by the hearings officer as a result of the finding of fact and conclusions of law.

B. Parties to contested cases and their attorneys of record shall be served a copy of the final order. Parties shall be notified of their right to judicial review of the order.

C. Any judicial review of the final order shall be done pursuant to ORS 183.482 for review of contested cases.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 02-2018, 3/15/18]

Chapter 8.05

8.05 SOCIAL GAMBLING REGULATION

8.05.010 Purpose

Pursuant to the legislative grant of authority of Oregon Revised Statute 167.121, the Board of Commissioners of Clackamas County hereby ordains as follows, a chapter which authorizes, regulates and licenses the playing and conducting of social games in charitable, ~~fraternal~~service clubs, and religious organizations.
[Codified by Ord. 05-2000, 7/13/00]

8.05.020 Definition

Social game means a game other than a lottery, between players in a charitable, ~~fraternal~~service club, or religious organization where no house player, house bank or house odds exist and there is no house income from the operation of the social game.
[Codified by Ord. 05-2000, 7/13/00]

8.05.030 Organizations

Charitable, ~~fraternal~~service clubs, or religious organizations may conduct the playing of social games upon receipt of a valid license issued by the County of Clackamas.
[Codified by Ord. 05-2000, 7/13/00]

8.05.040 Applications

Application for such license shall be made annually to the Board of County Commissioners upon such form as the Board shall provide. The application for a license shall be accompanied by a fee in an amount set by resolution of the Board of County Commissioners.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03]

8.05.050 Social Game License

Upon presentation of a valid receipt from the County Clerk's office evidencing payment of the fee referred to in Section 8.05.040, accompanied by an appropriate application, the Board of County Commissioners shall refer such application to the Sheriff's office for investigation and comment. The Board of County Commissioners may issue a social games license after due consideration of the Sheriff's comments.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/03]

8.05.060 Appeals

Any organization whose application is denied may appeal the denial to the Board of County Commissioners, which shall hold a hearing on the matter. The applicant may

present additional evidence and testimony to show why its application for a social games license ought to be granted. The Board of County Commissioners must receive notice of appeal on or before 60 days have elapsed since the Board signed the written denial.
[Codified by Ord. 05-2000, 7/13/00]

8.05.070 Suspension

A social games license may be suspended or revoked when it appears to the Board of County Commissioners that the licensee, its officers, employees or agents have violated this chapter or the provisions of Chapter 167 of the Oregon Revised Statutes as they relate to gambling, or have provided false information either on their application or to the Sheriff in the conduct of their investigation.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 8.06

8.06 BINGO

8.06.010 Purpose

The purpose of this chapter is to ensure that bingo or lotto games are conducted only by charitable, ~~fraternal~~service clubs, or religious organizations within Clackamas County, consistent with the intent of ORS 167.118 and accompanying criminal prohibitions (or successor statutes).
[Codified by Ord. 05-2000, 7/13/00]

8.06.020 Game Limitations And Exceptions

No bingo or lotto game shall be maintained, operated or conducted anywhere in unincorporated Clackamas County for more than two days in any week (Monday through Sunday) by any single organization, nor for more than 8 hours in any one day (12:0l a.m. through midnight), nor shall any single structure be used as the location of games of bingo or lotto on more than two days in any week.

Upon application to the Board of County Commissioners and for good cause shown, the County Commissioners may by a majority vote, approve one (1) additional day per week usage at a single structure.

This exception is for special events by organizations other than the organization regularly using that single structure and shall not exceed one (1) additional day per month. This exception shall not expand the two- (2) days per week limitation for any single organization.
[Codified by Ord. 05-2000, 7/13/00]

8.06.030 State Law

Compliance with the requirements of this chapter shall not excuse any violation of State criminal provisions relating to gambling (See ORS 167.117 through 167.162).
[Codified by Ord. 05-2000, 7/13/00]

8.06.040 Inspection Of Games, Premises And Records

Any deputy sheriff or any investigator from the District Attorney's office, upon presentation of official identification, shall be permitted entry by the organization conducting a bingo or lotto game into the premises where the game is played for the purpose of inspecting such premises, the equipment used in playing such games, and the records kept by the organization relating to the game.
[Codified by Ord. 05-2000, 7/13/00]

8.06.050 Definitions

For purposes of this chapter, the following definitions shall apply:

A. BINGO or LOTTO means the game as defined by ORS 167.117(1), or successor statute.

B. CHARITABLE, RELIGIOUS or ~~FRATERNAL~~ SERVICE CLUB ORGANIZATION means those persons within the definition of ORS 167.117(4)(d), or successor statute.

C. PERSON, PERSONS or ORGANIZATION means any human being or, where appropriate, any combination of human beings or any organized entity in any form including, but not limited to, sole proprietorship, partnership, corporation or association.

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

8.06.060 Nuisance And Abatement

Any bingo or lotto games maintained, operated, or conducted in violation of this chapter are hereby declared to be a public nuisance. Upon direction by the Board of Commissioners of Clackamas County, the County Counsel's office may bring any action or suit necessary to have such nuisance abated in any court of competent jurisdiction.
[Codified by Ord. 05-2000, 7/13/00]

8.06.070 Pre-Existing Nonconforming Games

Bingo games or lotto games, being conducted in compliance with State law on the date of adoption of the Bingo Ordinance, adopted pursuant to Board Order No. 86-104, shall be allowed to continue on their existing schedule, notwithstanding the provisions of Section 6.05.020 of this chapter, provided that this exemption is limited to the same organization conducting the games, at that same location, and on the same schedule, as at the date of adoption of this chapter, and is not transferable.
[Codified by Ord. 05-2000, 7/13/00]

[Chapter 8.07, Burglar Alarm Ordinance, codified by Ord. 05-2000, Amended by Ord. 05-2003, 3/13/03 is hereby repealed and replaced by Chapter 8.07 Alarm Permit, adopted by Ord. 01-2010, 1/28/10;] [Chapter 8.07 adopted by Ord. 01-2010, 1/28/10, is hereby repealed and replaced by Chapter 8.07 Alarm Systems, adopted by Ord. 06-2019, 8/8/19]

Chapter 8.07

8.07 ALARM SYSTEMS

8.07.010 Purpose

A. The purpose of this chapter is to reduce the number of the number of false alarms from private alarm systems by requiring alarm users and alarm businesses to retain responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary emergency response to false alarms and thereby protect emergency response capabilities of Clackamas County from misuse.
B. This chapter governs systems intended to summon a public safety response, authorizes fees and fines, establishes a system of administration, sets conditions for the suspension of public safety response and establishes a public education and training program.
C. The provisions of this chapter shall be administered by the Clackamas County Sheriff and shall apply only to alarm systems operated in unincorporated Clackamas County, unless otherwise permitted by law.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.020 Definitions

A. ALARM ADMININSTRATOR means the person or persons designated by the Sheriff's Office to administer the provisions of this chapter.
B. ALARM BUSINESS means a business by any individual, partnership, corporation or other entity, that selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any Alarm System in or on any building, structure, or facility. Alarm businesses also include any person, business, or organization that monitors security alarm systems and initiates alarm dispatch requests.
C. ALARM USER means any person who has contracted for monitoring, repair, installation or maintenance service for an alarm system from an alarm installation company or monitoring company, or an individual or business who purchases, installs (see DIY), or self-monitors (see MIY) an alarm system which is not professionally monitored, maintained or repaired under agreement with an alarm business
D. ALARM USER AWARENESS CLASS means a class conducted for the purpose of educating alarm users about the responsible use, operation, and maintenance of alarm systems and the problems created by false alarms.
E. ALARM SITE means a structure or portion thereof served by a single security alarm system. In a multi - tenant building or complex, each portion of the structure or complex having its own security alarm system is considered a separate alarm site.
F. ALARM SYSTEM means a device or series of devices, which emit or transmit an

audible or remote visual or electronic alarm signal, arranged to identify the occurrence of an illegal entry or other activity intended to summon public safety response. The term includes hardwired systems, surveillance cameras and systems interconnected with a radio frequency method such as cellular or private radio signals, and includes local alarm systems. This does not include an alarm installed in a motor vehicle or a system which will not emit a signal, either audible or visible, from the outside of the building, residence or beyond, but is designed solely to alert the occupants of a building or residence.

G. AUTOMATIC DIALING DEVICE means a device connected to a telephone line or internet connection programmed to select a predetermined telephone number or internet location (URL address) and transmit by voice message or code signal an emergency message indicating a need for emergency response.

H. DIY SYSTEM (DO IT YOURSELF) means an alarm system installed by an alarm user.

I. ENHANCED CALL CONFIRMATION (ECC) means an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user and/or the alarm user's designated representatives by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting a burglar alarm dispatch, in an attempt to avoid an unnecessary alarm dispatch request.

J. FALSE ALARM means an alarm signal, eliciting a response by law enforcement when a situation requiring a response by law enforcement does not in fact exist. An alarm is not considered false if there are signs of forced or attempted entry, is caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user.

K. FALSE ALARM RESPONSE means response to an alarm dispatch request by law enforcement where, in the opinion of responding law enforcement, no evidence of criminal activity or attempted forced entry is present that can be reasonably attributed to the alarm activation. Additionally, when law enforcement is unable to determine if evidence of a criminal offense or attempted criminal offense is present because of inaccessibility of the alarm site, the response is presumed to be a false alarm, and is subject to false alarm fines.

L. MIY SYSTEM (MONITOR IT YOURSELF) means the monitoring of an alarm system by the alarm user.

M. MONITORING means the process an alarm business uses to keep watch on alarm systems; to receive alarm activation signals from alarm systems; to verify alarm activations; to relay alarm dispatch requests to the emergency dispatch center for the purpose of summoning law enforcement response to an alarm site; and to cancel alarm dispatch requests.

N. PERMIT YEAR means a 12-month period beginning on the day and month on which an alarm permit is issued.

O. PRIMARY RESIDENT means an alarm user who lawfully occupies an alarm site as an owner, tenant, or holder of other right to occupy the property.

P. REVOKED OR REVOCATION means the cancellation of a permit because the alarm user has failed to renew their permit and/or has unpaid fees or fines. Revocation will result in non-response to alarm calls by law enforcement for up to one year from the date of revocation.

Q. REINSTATEMENT means the alarm user has obtained or renewed the required alarm permit, has paid all associated fees and fines and/or has prevailed on an

appeal.

R. RUNAWAY ALARM means an alarm system that produces repeated alarm signals from the same zone that do not appear to be caused by separate human action.

S. SUSPENSION means the termination of public safety response to alarms at a specified alarm site as a result of violations of this ordinance.

T. UNMONITORED ALARM SYSTEM means an alarm system that is not actively monitored by an alarm business and whose function is to evoke law enforcement response by means of a generally audible or visible signal, or the alarm user.

U. VERIFY with reference to the monitoring of an alarm system, means an attempt by the alarm company, or its representative, to contact the alarm site and responsible party (parties) by telephonic or other electronic means, whether or not actual contact with a person(s) is made, before requesting law enforcement response, in an attempt to avoid false alarms.

V. VIDEO VERIFICATION is an electronic picture, pictures or images viewing an area of the protected premises from which an alarm signal has been received which permits monitoring business personnel or an alarm user to view the area which has an alarm to verify an emergency condition exists or alternately that no emergency appears to exist.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.030 Alarm Site Must be Registered

A. Law enforcement response to private security alarm sites in unincorporated Clackamas County without corroboration of the need for law enforcement services ls a privilege available only to those alarm users who have alarm systems registered with the Clackamas County Sheriff's Office and have obtained the required permit. In order to ensure sufficient law enforcement resources remain available to properly respond to all calls for service, the Clackamas County Sheriff's Office will respond to alarm calls that are not verified only at alarm sites where valid permits have been issued.

B. It shall be a violation of this chapter to operate an alarm system without a permit. The alarm user shall be the responsible party for purposes of enforcing this chapter. Within fourteen (14) days of a Notice of Violation an alarm user must submit a permit application, and applicable fees and fines to the Sheriff.

C. Failure to obtain or maintain a valid permit will also result in the Sheriff's Office suspending law enforcement responses to unverified alarm calls at the alarm site.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.040 Permit Terms and Fees

A. Alarm permits are valid for one year from the date of issuance.

B. Alarm permits are issued to a person or persons (Alarm User) having ownership or control of an alarm site (e.g., homeowner, business owner, tenant, leaseholder, etc).

C. Alarm permits are issued to a specific alarm user and alarm site until a change of ownership or control of the alarm site occurs.

D. Alarm permits are non-transferable. A new alarm permit must be obtained whenever there is a change of ownership or occupancy of an alarm site.

E. An alarm permit fee is not required upon proof that a residential applicant is over

65 and is a primary resident unless a commercial business is conducted in or on the premises.

F. An alarm permit fee is not required when the alarm user is a public entity (e.g., public school, US Postal Service, City or County offices, law enforcement or fire agencies) and the permit issues shall not be subject to suspension.

G. On receipt of the permit application and applicable fees, the alarm administrator (or designee) shall issue an alarm permit.

H. An alarm permit shall be posted at the alarm location and must be visible to responding law enforcement.

I. Alarm permits may be renewed under the following conditions:
   1. The alarm site has no unpaid fines;
   2. The permit is not suspended for excessive false alarms;
   3. The permit is not revoked; and
   4. The alarm user updates the registration information, or verifies that the existing information is current.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.050 Duties of the Alarm User

A. An alarm user shall maintain the alarm site and the alarm system in good operating condition and free of false alarms. In addition, the alarm user shall ensure that all persons with access to the premises have an adequate understanding of the alarm system to prevent an unintended activation.

B. An alarm user shall make every reasonable effort to arrive at (or arrange for a designated, responsible person to arrive at) the alarm system's location within thirty (30) minutes after being requested by the monitoring company or law enforcement to:
   1. Deactivate the alarm system;
   2. Provide access to the alarm site; and/or
   3. Provide alternative security for the alarm site.

C. An alarm user shall provide updated names and contact phone numbers to the alarm monitoring company of at least two (2) individuals who are able and have agreed to:
   1. Receive notification of an alarm system activation at any time;
   2. Respond to the alarm site at any time; and
   3. Provide access to the alarm site and deactivate the alarm if necessary.

D. An alarm user must report their assigned permit number to their monitoring company.

E. An alarm user may not activate an alarm system for any reason other than an occurrence of an event that the alarm system was intended to report.

F. An alarm user may not use automatic voice dialers

G. An alarm user must notify the monitoring company of the alarm site of any suspension of law enforcement response (as provided under this chapter) and request that the monitoring company not make a burglar alarm dispatch request.

H. An alarm user is responsible for obtaining and annually renewing the alarm permit.

I. An alarm user is financially responsible for paying fees and fines as outlined in this ordinance.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.060 Duties of Alarm Installation and Monitoring Companies

A. An alarm business shall take reasonable measures to prevent the occurrence of false alarms, and will take corrective action following a third (3rd) false alarm activation (in a permit year) with the alarm user. It shall be a violation of this chapter for an Alarm User to incur a False Alarm at the permit address during the alarm permit year. The fourth False Alarm in a permit year shall be cause to suspend the alarm permit for one year from the date of the last False Alarm.

B. The alarm installation company shall provide written and oral instructions to each of its alarm users regarding the proper use and operation of their alarm system, specifically to include all instructions necessary to arm and disarm, and how to cancel an unintended alarm activation.

C. Alarm installation companies shall not install or issue a device to activate a hold up alarm, which is single action, non-recessed button.

D. An alarm installer or monitoring company must not use automatic voice dialers.

E. Each alarm installing company and alarm monitoring company shall designate one Individual who has the knowledge and authority to address false alarm issues and respond to requests from the alarm administrator. The name, phone number and email address of this individual must be provided to the alarm administrator and be annually updated.

F. A monitoring company shall:

1. Not make an alarm dispatch request of a law enforcement agency in response to a burglary alarm signal, excluding panic, duress and hold up signals, during the first seven (7) days following an alarm system installation.
2. Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Verification shall require, as a minimum, that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm sign al is valid, EXCEPT in the case of a panic, duress, hold up or robbery, or in cases where a crime-in-progress has been verified.
3. When requesting law enforcement response to an alarm site, provide information which may include, but is not limited to, the following information:
    a. The alarm site permit number;
    b. The location of the alarm activation to include all additional address identifiers (suite number, apartment number, unit number, etc.); and/or
    c. The type of alarm activation (burglary, panic, motion, etc.) and the identification of the alarm signal (north, south, front door, back slider, etc.).

G. Transmitted video images should show obvious criminal event-in-progress prior to dispatching law enforcement resources. A person merely seen on video does not establish criminal intent or activity. If transmitted images do not show an obvious criminal event-in-progress the standard verification process of calling the premises and authorized key holders must be undertaken.

H. A monitoring company shall fully inform and caution the Clackamas County Department of Communications (CCOM) dispatcher at the time the initial

request is made, of known precautions responding law enforcement personnel must take to avoid Incurring injury.

I. A monitoring company, after receiving notice from the alarm administrator that an alarm user's registration status is that of non-registered, shall not make a burglar alarm dispatch request from that alarm user until the required permit has been issued and the alarm user has provided the permit number to the company.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.070 False Alarms

It shall be a violation of this chapter for an alarm user to incur a false alarm at the permit address during the alarm permit year. The fourth (4^{th}) false alarm in a permit year shall be cause to suspend the alarm permit for one year from the date of the last false alarm.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.080 Fees and Fines

A. Fines and fees associated with this chapter shall be set by resolution of the Board of County Commissioners.

B. A late charge may be imposed if fines and fees are not paid within thirty (30) days after the invoice is mailed.

C. The alarm administrator may assess the alarm user a fine for a false alarm occurring at the alarm user's alarm site.

D. The alarm location may be suspended from law enforcement response if the alarm user has failed to make a timely payment of a fee or fine assessed under Section 8.07.100 (A)(3) of this chapter.

E. Additional fines may be imposed to the person(s) operating an unregistered alarm system that results in a dispatch request to an alarm activation.

F. If cancellation of law enforcement response occurs prior to their arrival at the alarm site within 10 minutes of the initial request, the response is not considered a false alarm and no false alarm fine will be assessed.

G. The alarm installation company shall be assessed a fine if responding law enforcement determines that an on-site employee of the alarm installation company directly caused the false alarm. In this situation, the false alarm will not be counted against the alarm user.

H. The monitoring company shall be assessed a fine for failure to verify alarm system signals as specified in Section 8.07.060 (F) (2) of this chapter.

I. A fine shall be assessed if an alarm business makes a false statement concerning the inspection of an alarm site, the performance of an alarm system, or a call confirmation log.

J. A fine shall be assessed if a monitoring company continues to request law enforcement response to a runaway alarm at an alarm site that has received four (4) or more alarm signals in a permit year from a singular zone where the alarm site has been suspended for excessive false alarms.

K. Notice of the right of appeal under this chapter will be included with notice of any fine.

L. The alarm administrator may offer a one-time waiver for the false alarm fine for the first chargeable false alarm during the alarm user's 1-year registration period,

pending the successful completion of the online alarm user awareness class available through the alarm administrator. In order to have the fine waived, the alarm user shall have successfully completed the class within 30 days of the fine notice. Alarm users without online access may request the online school and test be mailed to them. Reasonable additional time to complete the alarm user awareness class shall be allowed for mail delivery.

M. In the event that fines and fees assessed are not paid in full per the guidelines set forth in this chapter, Clackamas County reserves the right to assign the debt for collection.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.090 Audible Alarms; Restrictions, Abatement of Malfunctioning Alarm

Any bell, horn, or siren used in conjunction with an alarm system which can be heard outside a building, structure, dwelling or facility for more than fifteen (15) minutes continuously or intermittently and the alarm user is not readily available or able to silence the device, is a public nuisance and may be disconnected or otherwise silenced by responding law enforcement personnel. Disconnection may be made by such means as is reasonably necessary to silence the alarm. The alarm user shall be solely responsible for property damage associated with disconnecting or silencing the alarm, as well as, the costs of reconnection. The County, its employees or agents shall not be responsible or liable for damage resulting from such a disconnection

[Adopted by Ord. 06-2019, 8/8/19]

8.07.100 Suspension of Response

A. The alarm administrator may suspend law enforcement response to unverified alarm calls at an alarm site if it is determined that:

The alarm user has four (4) or more false alarms during a permit year;

1. There is a statement of material fact known to be false in the alarm permit application.
2. The alarm user has failed to make timely payment of a fee or fine assessed under Section 8.07.080 of this chapter; or
3. An appeal request has been denied for failure to provide adequate documentation as to the cause of the violation and the corrective action taken.

B. Unless there Is separate indication that there is a verified crime in progress, law enforcement may refuse response to an alarm dispatch request at an alarm site for which the alarm permit is revoked or suspended.

C. The alarm administrator may again suspend law enforcement response to a reinstated alarm site by again revoking or suspending the alarm registration if it is determined that two (2) false alarms have occurred within sixty (60) days after the reinstatement date.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.110 Appeals

A. If the alarm administrator assesses a fee or fine, suspends an alarm registration or denies the issuance, renewal or reinstatement of an alarm permit, the alarm

administrator shall send notice of the action and a statement of the right to appeal to the affected alarm user or alarm business.

B. The alarm user or alarm business may appeal any action described above to the Sheriff, or their designee(s), within twenty-one (21) days from the date of the notice. Failure to deliver the appeal within that time period is a waiver of the right to appeal.

C. The procedure for an appeal to the Sheriff, or their designee(s), is as follows:
   1. The alarm user or alarm business submits a written request and provides supporting and mitigating information for appeal as outlined in the appeal guidelines provided in the Notice of Right to Appeal.
   2. The Sheriff, or designee(s) will review the appeal within thirty (30) days after receipt of the request and will consider the evidence submitted by the appealing party. The Sheriff, or designee(s), will base its review of the decision by a preponderance of evidence and will render a decision within fifteen (15) days after the date of the review. The decision shall affirm or reverse the decision or action taken by the alarm administrator. The decision of the Sheriff, or designee(s}, shall be the final determination of the County in the matter.
   3. Filing of an appeal stays the payment for a fee or fine until the appeals process has been exhausted. Any false alarms accrued following the suspension date will be added to the total count at the maximum fine rate.
   4. Appeal of a final determination of the County may be taken exclusively by writ of review in the manner set forth in ORS 34.010 to ORS 34.100.

D. The alarm administrator or designee(s), may adjust the count of false alarms or assessed fees based upon:
   1. Evidence that a false alarm was caused by action of a communications services provider (i.e., telephone, cellular, cable company);
   2. Evidence that a false alarm was caused by a power outage of more than 4 hours or severe weather such as a tornado, earthquake, or excessive winds where a high wind warning has been issued and measured by a local, recognized weather monitoring station (sustained winds of 40 mph or greater).
   3. Evidence that an alarm dispatch request was not a false alarm.

E. The alarm administrator may waive all or part of the false alarm fine due to extenuating circumstances or to encourage corrective action with supervisor approval.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.130 Confidentiality

Clackamas County will strive to ensure confidentiality of information submitted by permit applicants and holders and will disclose such information only to the extent required by law.

[Adopted by Ord. 06-2019, 8/8/19]

8.07.140 Allocation of Revenues and Expenses

All fees and fines collected pursuant to this chapter shall first be set aside solely for the administration of this chapter. Funds collected beyond the requirement of the

administration of the alarm chapter shall be used to reimburse the Clackamas County Sheriff's Office Patrol Division as a means of cost recovery for public safety response. The Sheriff shall maintain records sufficient to identify the sources and amounts of that revenue.
[Adopted by Ord. 06-2019, 8/8/19]

8.07.150 No Duty to Respond

Alarm registration is not intended to, and does not create a contract, duty, obligation or relationship, between the Clackamas County Sheriff or Clackamas County and the alarm user or alarm business, nor does it guarantee law enforcement response to any alarm call when there is no other indication of the existence of an actual emergency. Any and all liability and consequential damage resulting from failure to respond to an alarm dispatch request is hereby disclaimed and immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that alarm response may be influenced by the availability of law enforcement resources, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.
[Adopted by Ord. 06-2019, 8/8/19]

8.07.160 Severability

The provisions of this Ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.
[Adopted by Ord. 06-2019, 8/8/19]

[Chapter 8.08, Adult Care Homes, repealed by Ord. 03-2012, 1/4/12 is replaced by Chapter 8.08, Film and Media Production, adopted by Ord. 11-2012, 11/8/12]

Chapter 8.08

8.08 FILM AND MEDIA PRODUCTION

8.08.010 Purpose

This chapter is intended to provide an efficient and uniform permit and approval processes in unincorporated Clackamas County for the motion picture, television, and commercial photography industries throughout Clackamas County, for the safety of the public and the promotion of its businesses.
[Adopted by Ord. 11-2012, 11/8/12]

8.08.020 Definitions

A. CHARITABLE FILMS, shall mean commercials, motion pictures, television, videotapes, digital recording or photography produced by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.

B. COMMERCIAL PHOTOGRAPHY shall mean a moving image or photography production created to advertise or sell a product or service.

C. MOTION PICTURE, TELEVISION, shall mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, commercials, and student films produced to satisfy a post-secondary school course requirement at an educational institution in any medium including film, tape or digital format.

D. NEWS MEDIA, shall mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or camerapersons.

E. PUBLIC, EDUCATIONAL, AND GOVERNMENT ACCESS CENTERS shall mean photographing, filing, or videotaping:

1. For the purposes of:

a. Promoting communities within Clackamas County, including local organizations;

b. Making government more accessible and understandable by offering information about services, meetings, workshops, programs, projects, activities, the history of the region, and public meetings;

c. Creating documentaries and local productions; and

d. The teaching of film and media productions techniques such as camera work, editing, and studio productions;

2. By local community media centers supported by the municipalities, educational institutions, and cable subscribers within Clackamas County.

F. STUDIO shall mean a fixed place of business certified as such by local fire authority having jurisdiction where filming activities (motion or commercial photography) are regularly conducted upon the premises.

[Adopted by Ord. 11-2012, 11/8/12]

8.08.030 Permits and Exemptions

A. Permits: Applicants must obtain permits for commercial photography, motion picture, or television production within any unincorporated area within the County.

B. Exemptions: The provisions of this chapter shall not apply to or affect the following:

1. Reporters, photographers, or camerapersons in the employ of a newspaper, news service, or similar entity engaged in on-the-spot, spontaneous print media, publishing, or broadcasting of news events concerning those persons, scenes, or occurrences which are in the news and of general public interest.

2. The recording of visual images whether motion or photography, solely for private personal use and not commercial use.

3. Filming activities whether motion or commercial photography conducted at a studio.

4. Charitable films

5. Public, educational, and government access centers.

[Adopted by Ord. 11-2012, 11/8/12]

8.08.040 Application for Permit

A. The following information shall be included in the application for permit:

1. The name, address, email address, and telephone number of the person(s) in charge of the activity;

2. The property address at which the activity is to be conducted as well as the name of the representative of the property, their address, email address and telephone number.

3. The specific location on the property that will be used by the applicant;

4. The hours and dates such activity will occur;

5. The exact number of personnel to be involved;

6. A general statement of the character or nature of the proposed activity, including a description of any activity that may cause public alarm such as but not limited to, animals, gunfire or pyrotechnics, and low flying aircraft;

7. The requested number of County personnel (i.e., police fire) needed for public safety during the activity. The applicant shall reimburse the County for any personnel provided as agreed upon at the time of application;

8. The exact amount/type of vehicles/equipment to be used during the activity, along with a parking plan; and

9. A commitment that the applicant shall hold the County harmless and otherwise indemnify the County against any liability caused by the proposed activity.

B. The permit is valid for a period of sixty (60) days from the date of issuance or for a single production (whichever comes first). If multiple productions are taking place by a single production company, a permit is required for each production.

C. An extension of the sixty (60) day permit may be requested in writing, must be made to the County, and must be received by the County no less than twenty-four (24) hours during the County's normal business days (Monday-Thursday) prior to the expiration of the existing permit. The extension request must include the following information:

1. Duration of the extension request.

2. A revised Certificate of Insurance covering the extension dates; and
3. A check for any additional fees associated with the extension request.

D. Upon the written request of the applicant, the County may change the date for which the permit has been issued, provided established limitations are complied with in respect to time and location of production.

E. No film permit shall be issued for any production or use that violates federal, state or local laws.

F. To ensure cleanup and restoration of any public property, an applicant may be required to submit a refundable deposit. Upon completion of filming and inspection of the site by the County, if no verifiable damage has occurred, the security deposit should be returned to the applicant.

G. Fees shall be set by a resolution adopted by the Board of County Commissioners.
[Adopted by Ord. 11-2012, 11/8/12]

8.08.050 Liability and Insurance

A. Before a permit is issued for the use of any public property for the purpose of taking motion pictures, television, or commercial photography, a certificate of insurance will be required in the amount not less than $1,000,000 naming the County as a co-insured for protection against claims of third persons for personal injuries, wrongful deaths, and property damage. The County, including its officers and employees, shall be named as additional insured. The certificate shall not be subject to cancellation or modification until after thirty (30) days' written notice to the County. A copy of the certificate shall remain on file with the County.

B. An applicant shall conform to all applicable Federal and State requirements for Worker's Compensation Insurance for all persons operating under a permit.
[Adopted by Ord. 11-2012, 11/8/12]

8.08.060 Violation

If an applicant violates any provisions of this ordinance or a permit issued pursuant thereto, the County may provide the applicant with a verbal or written notice of such violation. If the applicant fails to correct the violation, the County may revoke the permit and all activity must cease.
[Adopted by Ord. 11-2012, 11/8/12]

8.08.070 Rules and Regulations

The County is hereby authorized and directed to promulgate rules and regulations, subject to approval by resolution of the Board of County Commissioners, governing the form, time and location of any activity occurring within the County.
[Adopted by Ord. 11-2012, 11/8/12]

Chapter 8.09

8.09 MARIJUANA SALES TAX

[Adopted by Ord. 04-2015, 4/16/15; Repealed by Ord. 09-2015, 12/17/15; Chapter title amended by Ord. 02-2017, 1/26/17]

8.09.010 Definitions

A. Marijuana item has the meaning given that term in ORS 475B.015(16).
B. Marijuana retailer means a person who sells marijuana items to a consumer in this state.
C. Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

[Added by Ord. 02-2017, 1/27/17]

8.09.020 Tax Imposed

As described in ORS 475B.345 the County of Clackamas hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the unincorporated areas of Clackamas County.
[Added by Ord. 02-2017, 1/27/17]

8.09.030 Collection

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.
[Added by Ord. 02-2017, 1/27/17]

8.09.040 Interest and Penalty

A. Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.
B. If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400.
C. Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.
D. Taxes, interest and penalties transferred to Clackamas County by the Oregon Department of Revenue will be distributed to the County's general fund.
E. If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce

collection on behalf of the County of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and Clackamas County under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

[Added by Ord. 02-2017, 1/27/17]

8.09.050 Referral

This ordinance in substantially the same form was referred to and approved by the electors of Clackamas County at the statewide general election on Tuesday, November 8, 2016.

[Added by Ord. 02-2017, 1/27/17]

TITLE 9

BUILDINGS

Summary

TITLE 9

BUILDINGS

Table of Contents

CHAPTERS

Chapter 9.01

9.01 CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS AND STRUCTURES

9.01.010 Purpose

A. It is the purpose of this chapter to provide a just, equitable and practicable method, to be cumulative with addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law. Whereby buildings or structures which from any cause endanger the life, limb, health, property, safety, or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

B. The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

C. The provisions of this chapter shall apply to all dangerous buildings and structures, as herein defined, which are now in existence, or which may hereafter become dangerous in this jurisdiction.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.020 Alterations, Additions and Repairs

A. All buildings or structures, which are required to be repaired, under the provisions of this chapter, shall remain subject to all applicable provisions of law, including but not limited to the Oregon Specialty Code.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.030 Administration

A. The building official and ~~his or her~~ their authorized representatives are hereby delegated full authority to enforce the provisions of this chapter. The building official shall have the power to render interpretations of this chapter, to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

B. The Compliance Hearings Officer appointed pursuant to Chapter 2.07, has the authority and jurisdiction to conduct hearings to enforce the provisions of this chapter.

C. The following Clackamas County employees are “Authorized Representatives” of the building official :

1. The Deputy Building Codes Administrator;
2. The Plan Review Supervisor; and
3. The Structural/Mechanical Inspector Supervisor.

D. Words, phrases, and provisions in this chapter shall be construed as specified herein or as specified in the Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language Unabridged; copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

1. BUILDING CODE is the Clackamas County Building Code, as defined in Section 9.02.040.
2. DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 9.01.100 of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.040 Inspections

The health officer, the building official, and their staff are hereby authorized to make any such inspections and take such actions as may be required to enforce the provisions of this chapter. Where provisions of the Oregon Fire Code may be at issue, the building office shall consult with a fire marshal prior to taking action under this chapter.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.050 Right of Entry

When the health officer, building official or the building official's authorized representative has reasonable suspicion to believe that there exists in a building or upon premises a condition which is contrary to or in violation of this chapter, that makes the building or premises unsafe, dangerous, or hazardous, the building official, the building official's authorized representatives, the health official and their staff may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or premises were occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.060 Abatement Of Dangerous Buildings

All buildings or portions thereof, which are determined after inspection or receipt of other verifiable information to be dangerous, as defined in this chapter, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Section 9.01.100 of this chapter. In addition to abatement as described herein, a dangerous building may be ordered to be vacated subject to the provisions of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.070 Violations

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, or structure, cause or permit the same to be done in violation of this chapter or any provision of the Building Code.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.080 Inspection Of Work

All buildings or structures within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the building official or the building official's authorized representative in accordance with and in the manner provided by this chapter and of the Building Code.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.090 Code Compliance Hearings Officer

A. As authorized by Section 9.01.030 (B) of this code, and subject to Chapter 2.07 of this code, the Code Compliance Hearings Officer shall conduct hearings and render decisions to enforce the provisions of this chapter.
B. The Code Compliance Hearings Officer shall have no authority to interpret the administrative provisions of this chapter nor shall the Code Compliance Hearings Officer be empowered to waive requirements of this chapter.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.100 Dangerous Building or Structure

For the purpose of this chapter, any building, building system, or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building or structure, provided that such conditions or defects endanger the life, health, property or safety of its occupants or the public.

A. Whenever a building or structure is determined to be structurally unsound or defective such that building collapse or other structural failure may occur or where such a structural condition exists that may be injurious to life, limb, or property.
B. Whenever a required door, aisle, passageway, stair, or other exit component or system is blocked or otherwise rendered unusable or is otherwise in violation of any applicable code.
C. Whenever a building or structure is being used or occupied contrary to the manner in which it was approved provided that such use creates a life or fire safety hazard, health hazard, or environmental hazard to the building occupants or adjacent property owners.

D. Whenever a building or structure is effected by one or more health hazards including but not limited to inadequate plumbing and/or sanitation, inadequate light and/or ventilation, chemical hazard, toxins, or is otherwise determined to be unfit for human habitation or use.

E. Whenever, for any reason, a building or structure or a portion thereof is manifestly unsafe for the purpose for which it is being used.

F. Whenever a building contains a fire hazard as defined in the most current edition of the Oregon Fire Code that creates an immediate threat to life or fire safety.

G. Whenever any building system (electrical, plumbing, heating, ventilation, air conditioning or other permanently installed system) is determined to be unsafe or otherwise in violation of any applicable code or ordinance.

H. Whenever permanently installed equipment or machinery creates a structural, life or fire safety hazard, health or other hazard.

I. Whenever the accumulation of solid and/or putrescible waste creates a structural, life or fire safety, health or other hazard.

J. Whenever an environmental hazard exists that poses an immediate danger to the occupants of a building or where the continued use of a building will cause the environmental hazard to worsen.

K. Whenever an occupied building lacks an operational, potable water supply.

L. Whenever an occupied building lacks a functioning connection to public sewer or an approved and fully operational septic facilities.

M. Whenever any other condition exists that creates a significant structural, life or fire safety, health or other hazard that impacts the occupancy or continued use of buildings or structures. In such cases, the health officer or the building official shall cite the specific reason(s) that the building or structure has been determined to be unsafe.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.110 Notices And Orders Of Building Official

When the building official or the building official's authorized representative has inspected, caused to be inspected, or received a sufficient amount of verifiable information about any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

A. Notice and Order

The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 9.01.100 of this chapter.
3. A statement of the action required to be taken as determined by the building official.

a. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits must be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.

b. If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.

c. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official;

a. Will order the building vacated and posted to prevent further occupancy until the work is completed, and

b. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.

5. Statements advising

a. that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the Code Compliance Hearings Officer, provided the appeal is made in writing as provided in this chapter and filed with the building official within 30 days from the date of service of such notice and order; and

b. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

B. Service of Notice and Order

The notice and order and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: The holder of any mortgage, or deed of trust or other legal interest holder; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

C. Method of Service

Service of the notice and order shall be made upon all persons entitled thereto

either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.120 Recordation Of Notice And Order

A. Where the building official or an authorized representative has determined that a building or structure constitutes an immediate danger to the life, limb, property, or safety of the public, the building official may record with the County Clerk a certificate describing the property and certifying that:
   1. the building is a dangerous building; and
   2. the owner has been so notified.

B. If the building or structure does not constitute an immediate danger to the life, limb, property, or safety of the public, and if the property owner does not obtain compliance with the order within the time specified therein, and no appeal has been properly and timely filed, the building official or an authorized representative may record with the County Clerk a certificate describing the property and certifying that:
   1. the building is a dangerous building; and
   2. the owner has been so notified.

C. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.130 Repair, Vacation And Demolition

The following standards shall be followed by the building official (and by the Code Compliance Hearings Officer if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

A. Any building declared a dangerous building under this chapter shall be made to comply with one of the following:
   1. The building shall be repaired in accordance with the Building Code or other current code applicable to the type of substandard conditions requiring repair; or
   2. The building shall be demolished at the option of the building owner; or

3. Where a building is not occupied and does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured, and maintained against entry in a manner acceptable to the building official. Where a building cannot adequately be secured and maintained against entry, the building official shall have discretion to disallow the securing of the building against entry as an option for resolution of the dangerous condition.

B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated and such a building shall remain vacated until such time as the building official or an authorized representative determines the building no longer poses an immediate threat. Upon issuance and posting of an order to vacate a dangerous building it shall be unlawful for anyone to enter or remain in the building without obtaining the prior written permission of the building official or an authorized representative. A person who enters or remains in a duly ordered and posted dangerous building is subject to arrest, criminal prosecution, and any other remedy available at law.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.140 Order To Vacate

A. Posting. Every order to vacate shall, in addition to being served as provided in Section 9.01.110, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building,
Or to remove or deface this notice.
Building Official
. . . . . of . . . . . .

B. Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 9.01.110, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant the provisions of the Building Code.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.150 Appeal

A. Any person entitled to service under Section 9.01.110 may appeal from any notice and order or any action of the building official under this chapter by filing at the office of the building official a written appeal containing:

1. A heading in the words: “Before the Code Compliance Hearings Officer

of Clackamas County

2. The . . . . . of . . . . . ”
3. A caption reading: “Appeal of…. . . . .,“ giving the names of all appellants participating in the appeal.
4. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
5. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
6. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed modified or otherwise set aside.
7. The signatures of all parties named as appellants and their official mailing addresses.
8. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal shall be filed within 30 days from the date of the service of such order or action of the building official.

C. As soon as practicable after receiving the written appeal, the Code Compliance Hearings Officer shall fix a date time and place for the hearing of the appeal by the board. Such date shall not be less than 15 days and not for more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be provided in the manner set forth in Section 2.07.050.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.160 Effect Of Failure To Appeal

Failure of any person to file an appeal in accordance with the provisions of Section 9.01.150 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.
[Codified by Ord. 05-2000, 7/13/00]

9.01.170 Scope Of Hearing On Appeal

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
[Codified by Ord. 05-2000, 7/13/00]

9.01.180 Staying Of Order Under Appeal

Except for vacation orders made pursuant to Section 9.01.140, enforcement of any notice and order of the building official issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.190 Hearing, Conduct of Hearing, and the Form of Decision on Appeal

The notice of hearing, the conduct of the hearing and the form of decision shall be provided in the manner set forth in Section 2.07.050-2.01.100.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.200 Compliance

After any order of the building official or the Code Compliance Hearings Officer made pursuant to this chapter becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order.

A. Failure to Obey Order to Vacate. Any person who fails to comply with an order to vacate a dangerous building is subject to arrest and criminal prosecution, as well as fines, fees, and civil penalties permitted by law.

B. Failure to Obey Order to Repair or Demolish Building. Whenever effective person fails to comply with an order to repair or demolish a dangerous building the building official may:

    1. order the building to be vacated, and 2. in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this chapter. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.210 Extension Of Time To Perform Work

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant extensions of time, in increments of 60 additional days , within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.220 Interference With Repair Or Demolition Work Prohibited

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished

under the provisions of this chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.230 Performance Of Work Of Repair Or Demolition

When any work of repair or demolition is to be done pursuant to Section 9.01.200, of this chapter, the building official shall issue an order therefor to the director of the Department of Transportation and Development and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.240 Repair And Demolition Fund

The Board of County Commissioners hereby creates a Repair and Demolition fund to be used for the purpose of repairing, demolishing, and taking steps to mitigate dangerous buildings that pose an immediate threat to the health and safety of the occupants or the public. Expenditures from the fund may be made by the County Building Official, upon advising the Department Director.
[Codified by Ord. 05-2000, 7/13/00**; Amended by Ord. 11-2015, 12/17/15**]

9.01.250 Recovery Of Cost Of Repair Or Demolition

The director of the Department of Transportation or ~~his or her~~ their designee shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 9.01.240, of this chapter. Upon the completion of the work of repair or demolition, said director shall prepare and record with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 9.01.110. Thereafter the Building Official shall make all reasonable efforts to recover the amounts spent and costs of said work shall become a lien on the property and a debt for which the record owner(s) and interest holders are personally liable until paid in full. Said lien shall be enforceable in any manner provided by law.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

9.01.260 Remedies not Exclusive

None of the remedies described in this chapter are exclusive and the County may pursue any other remedies available to it including, but not limited to, commencing a civil action in a court of competent jurisdiction.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 11-2015, 12/17/15]

Section 9.01.270 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.280 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.290 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.300 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.310 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.320 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.330 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.340 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.350 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.360 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.370 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.380 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.390 [Repealed by Ord. 11-2015, 12/17/15]
Section 9.01.400 [Repealed by Ord. 11-2015, 12/17/15]

Chapter 9.02

9.02 APPLICATION AND ENFORCEMENT OF THE CLACKAMAS COUNTY BUILDING CODE

9.02.010 Purpose

The purpose of this chapter is to establish uniform performance standards for building-related codes and rules to reasonably safeguard the public health, safety, and general welfare occupants and users of buildings within this jurisdiction, and provide for the use of modern methods, devices, materials and techniques and for superior energy conservation. The provisions of this chapter are in addition to the requirements of the State Building Code, as defined in ORS 455.010 and in many cases are intended to amend specific sections of the State Building Code pursuant to the authority granted to Clackamas County through ORS 455.020.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16; Amended by Ord. 07-2019, 12/12/19]

9.02.020 Application

This chapter shall apply to the construction, reconstruction, alteration, relocation (i.e. moving), demolition, repair, maintenance and work associated with any building or structure except when such work is located in a public right of public way.

Without limiting the generality of the foregoing, this chapter shall also apply to the following:

A. Abatement of nuisances and dangerous buildings.
B. Demolition.
C. Protection of adjoining property.
D. Retaining walls.
E. Fences.
F. Tanks that are located exterior to and not attached to or supported by a regulated building.
G. Telecommunication towers.
H. Ground mounted flagpoles exceeding 25 feet.
I. Signs not attached to or supported by a regulated building.
J. Piers and wharves.
K. Bridge structures outside of a public right of way.
L. Structures associated with agricultural processing.

This chapter shall not apply to the following:

A. Fire safety during construction.
B. Structures within a public right of way.
C. Floating structures.

D. Docks.
E. Equipment shelters not intended for human occupancy with a building area 250 square feet or less, designated as Risk Category I or II.
F. Administration and implementation f a National Flood Insurance Program (NFIP).
G. Transitional housing accommodations.
H. Water tanks supported directly upon grade if the capacity does not exceed 5000 gallons and the ration of height to diameter or width does not exceed 2 to 1.

If any conflict arises because different sections of this chapter specify different materials, methods of construction or other requirements, the most restrictive provision shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement will apply.

If any conflict arises between a provision of this Chapter and Oregon Revised Statutes or State Building Code, the statutory or State Building Code provision(s) shall govern. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16; Amended by Ord. 07-2019, 12/12/19]

9.02.030 Definitions

When used in this chapter, the following terms, phrases, words and their derivatives shall have the meanings ascribed to them below. When terms are used that are not defined below, they shall have the ordinary accepted meanings that are appropriate to their context. Words used in the singular include the plural and those used in the plural include the singular. Words used in the masculine gender include the feminine and those used in the feminine include the masculine.

A. AGRICULTURAL PROCESSING is the compounding, or conversion of an agricultural good into a product. The alteration of the physical makeup of the agricultural good is the primary characteristic of agricultural processing. Agricultural processing does not include preparation, cleaning, treatment, sorting, and packaging of agricultural goods.
B. AUTHORIZED REPRESENTATIVE may include, among others, the Deputy Building Codes Administrator and their authorized inspection personnel, and the Fire Marshall and his authorized inspection personnel.
C. BUILDING is any structure used or intended for supporting or sheltering any use or occupancy.
D. BUILDING OFFICIAL is the official designated by order of the Clackamas County Board of Commissioners, charged with administration and enforcement of the State of Oregon Building Codes as outlined in ORS 455.148, and includes that official’s authorized representatives.
E. PERSON includes human beings and, where appropriate, public or private corporations, unincorporated associations, partnerships, firms, governments, governmental instrumentality, joint stock companies, trusts and estates, trustees and any other legal entities whatsoever, and shall indicate both the singular and the plural.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.040 Clackamas County Building Code

The Clackamas County Building Code consists of the following Specialty Codes as adopted by the State of Oregon, and regulations:

A. The Oregon Structural Specialty Code, as adopted by OAR Chapter 918, Division 460, except as modified in this Chapter, shall be enforced as part of this Chapter.
B. The Oregon Mechanical Specialty Code, as adopted by OAR Chapter 918, Division 440, except as modified in this Chapter, shall be enforced as part of this Chapter.
C. The Oregon Plumbing Specialty Code, as adopted by OAR Chapter 918, Division 750, except as modified in this Chapter, shall be enforced as part of this Chapter.
D. The Oregon Electrical Specialty Code, as adopted by OAR Chapter 918, Division 251 except as modified in this Chapter, shall be enforced as part of this Chapter.
E. The Oregon Residential Specialty Code, as adopted by OAR Chapter 918, Division 480, except as modified in this Chapter, shall be enforced as part of this Chapter.
F. The manufactured dwelling park and mobile home park rules adopted by OAR Chapter 918 Division 600, except as modified in this Chapter, shall be enforced as part of this Chapter.
G. The manufactured structure rules adopted by OAR Chapter 918, Division 500, except as modified in this Chapter, shall be enforced as part of this Chapter.
H. The Recreational Park and Organizational Camp Rules adopted by OAR Chapter 918, Division 650, except as modified in this Chapter, shall be enforced as part of this Chapter.
I. Chapter 9.01 of the Clackamas County Code: Code for the Abatement of Dangerous Buildings and Structures.
J. Chapter 9.03 of the Clackamas County Code: Excavation and Grading.
K. The On-Site Sewage Disposal Rules as adopted by OAR Chapter 340, Division 71 and OAR Chapter 340, Division 73, except as modified in this Chapter, shall be enforced as part of this Chapter.
L. The Oregon Energy Efficiency Specialty Code as adopted by OAR Chapter 918, Division 460, except as modified in this Chapter, shall be enforced as part of this Chapter.
M. The Oregon Solar Installation Specialty Code as adopted by ORS 455.010 through 455.897, except as modified in this Chapter, shall be enforced as part of this Chapter.
N. 2018 International Building Code, International Code Council (ICC IBC-2019) Section 105.2.
O. ICC IBC-2018 Section 1807.3
P. American Society of Civil Engineers (ASCE) 7.16, Section 15.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16]

9.02.050 Clackamas County Operating Plan

The provisions of the Clackamas County Operating Plan are hereby incorporated as if fully set forth herein. A copy of the Operating Plan in on file with the Building Codes Division of the Department of Transportation and Development and may be reviewed upon request. Where the terms of the Clackamas County Operating Plan conflict with this chapter, the provisions of this chapter shall control.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.060 Modifications

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.070 Tests

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.080 Powers And Duties Of The Building Official

The building official is hereby authorized and directed to enforce all the provisions of this chapter.

The building official shall have the authority to render interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in conformance with the intent and purpose of this chapter. The building official shall have the authority to vary the approval period for permits applied to resolve violations to less than the 180 days referred to in Section 9.02.270 of this Chapter.

The building official may request, and shall receive, the assistance and cooperation of other officials of this jurisdiction in the discharge of duties required by this chapter and other pertinent laws or ordinances.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.090 Deputies

In accordance with prescribed procedures the building official may appoint a deputy building official technical officers and inspectors and other employees to carry out the functions of code enforcement under this chapter. The building official may deputize such inspectors or employees as may be necessary to carry out the functions of code enforcement under this chapter as delegated by the building official.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.100 Right Of Entry

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this chapter which makes the structure or premises unsafe, dangerous or hazardous, the building official or designee may enter or inspect the structure or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If the structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.110 Stop Work Orders, Warning Notices & Violation Notices

Whenever any work is being done contrary to the provisions of this chapter, or other pertinent laws or ordinances implemented for enforcement of this chapter, the building official may order the work stopped by notice in writing served on any person engaged in doing the work or causing the work to be done, or by posting of the building or work being done, and any such person shall forthwith stop such work until authorized by the building official to resume the work.

In the discretion of the building official, warning notices or violation notices may also be issued for violations of this chapter and any other pertinent laws or ordinances implemented for enforcement of this chapter.

Orders or notices shall give a brief description of the violation identified, and shall be issued through one of the following methods:

A. Personal service upon the person responsible for the violation;
B. Posting at the site of the violation; or
C. Delivered by regular U.S. mail to the address listed on the permit application (if any) submitted in association with the work in question.

Orders or notices shall contain the name of the County Department(s) to contact regarding the violation, the name of the person issuing the order or notice, the date the order or notice was issued and a statement that failure to correct the alleged violation within the time set (no less than 30 days) may result in legal action with the courts or the Compliance Hearings Officer to abate the nuisance or both, and the imposition of administrative fees, penalties and enforcement fees.

If the building official believes an alleged violation presents an imminent threat to public health or safety, no warning notice need be given before pursuing remedies allowed for by this chapter.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.120 Authority To Disconnect Utilities In Emergencies

In case of emergency, the building official shall have the authority to disconnect the energy, fuel or power supply, or plumbing utility service to a building, structure, premises or equipment regulated by this chapter when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, give advance notice to the serving utility, the owner and the occupant(s) of the building or premises that utilities will be disconnected, and shall notify the serving utility, owner and occupant of the building or premises in writing of utility disconnection immediately afterward.
[Codified by Ord. 05-2000, 7/13/00]

9.02.130 Connection After Order To Disconnect

Persons shall not make connections from an energy, fuel, power supply or plumbing service, nor supply energy, fuel, power or plumbing to any equipment regulated by this chapter which has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of such equipment.
[Codified by Ord. 05-2000, 7/13/00]

9.02.140 Occupancy Violations

Whenever any structure or equipment therein regulated by this chapter become unsafe, insanitary, deficient, or is otherwise being used contrary to the provisions of this chapter, the building official may order such use discontinued and the building, structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Any person receiving notice shall discontinue the use within the time prescribed by the building official to make the building, or portion thereof, comply with the requirements of this chapter.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.150 Adjudicating Entities For Specific Appeals

A. In the event an appeal of a staff interpretation of code is necessary during plan review, the appeal shall be processed as set forth in this subsection. If a permit applicant disagrees with a plans examiner's decision, the request is first sent to the Plans Examiner Supervisor or a Section Supervisor depending upon the nature of the problem and which specific code is being appealed. The Supervisor will make a decision regarding the matter. If the matter is not resolved at that level, the appeal is forwarded to the building official. After consultation with the appellant and the appropriate technical staff, the building official reviews the request and shall respond in writing with 10 business days.

B. In the event an appeal of a staff interpretation of code is necessary during field inspections, the appeal shall be processed as set forth in this subsection. If a

permit holder disagrees with a field inspector's correction, the request is first sent to the Structural/Mechanical Inspector Supervisor, the Plumbing Inspection Supervisor, Electrical Inspection Supervisor, or other Section Supervisor depending upon the nature of the problem and which specific code is being appealed. The Supervisor will make a decision regarding the matter. If the matter is not resolved at that level, the appeal is forwarded to the building official. After consultation with the appellant and the appropriate technical staff, the building official reviews the request and shall respond in writing within 10 business days.

C. For those issues that are within the scope and application of the State Building Code, where the applicant is still aggrieved, the matter may be further appealed to the appropriate Division Chief at the State of Oregon and then further to the appropriate Advisory Board at the State of Oregon. Appeals to the State shall follow ORS 455.060, ORS 455.475, and the appropriate Oregon Administrative Rules.

D. For those issues that are outside of the scope and application of the State Building Code, where the applicant is still aggrieved, the applicant may request a hearing as provided in County Code Section 2.07.040. The procedures associated with the applicant's requested hearing shall be subject to those provisions of County Code Section 2.07.

E. Notwithstanding the provisions above, appeals related to a staff interpretation of the On-Site Sewage Disposal Rules as adopted by OAR Chapter 340, Division 71 and OAR Chapter 340, Division 73 shall follow the appeal process set forth in OAR Chapter 340, Division 71.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.160 Board Of Appeals

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.170 Form Of Appeal

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.180 Effect Of Failure To Appeal

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.190 Scope Of Hearing On Appeal

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.200 Procedures For Conduct Of Appeals Hearings

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.210 Form Of Notice Of Hearing

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.220 Conduct Of Hearing

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.230 Method And Form Of Decision

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.240 Plans And Permits

The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official or appointed deputies. Such plans may be reviewed by other departments and divisions of Clackamas County to verify compliance with any applicable laws and ordinances. If the building official or deputy finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, and that the fees have been paid, the building official shall issue a permit to the applicant.

When the building official issues a permit for which plans are required, the building official shall endorse in writing or stamp the plans and specifications. Such approved plans and specifications shall not be changed, modified or altered without authorization from the building official, and all work regulated by this chapter shall be done in accordance with the approved plans.

The building official may issue a permit for the construction of part of a building or structure before the complete plans and specifications for the whole building or structure have been submitted or approved, if adequate information and detailed statements have been filed to assure compliance with all pertinent requirements of this chapter. The holder of a partial permit who chooses to proceed assumes the risk that the permit for the entire building or structure may be denied. Clackamas County is not responsible for any costs associated with work performed under a partial permit if the full permit is denied. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/10]

9.02.250 Retention Of Plans

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.02.260 Validity Of Permit

The building official shall consider any violations of Clackamas County Ordinances or other applicable laws that are known to them in responding to all permit requests, applications, and occupancy or completion certificates. The building official may refuse

to issue permits, occupancy of completion certificates under this chapter if the parcel of land, or the use of the land on which the building, structure, or equipment is to be placed, altered, equipped or used is in violation of any Clackamas County Ordinance or State Building Code.

No building or site permit shall be issued by the building official until all plans for on-site sewage disposal facilities have been approved by the appropriate authority. Further, no building containing plumbing shall be occupied until connected to an on-site sewage disposal facility approved by the appropriate authority and meeting the minimum standards of the Oregon State Board of Health and the Department of Environmental Quality.

The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or acquiescence to, any violation of any of the provisions of this chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall be null and void.

The issuance of a permit based on plans, specifications and/or other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building occupancy or operations associated with the permit, if executed in violation of this chapter or of any other ordinances of this jurisdiction.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.270 Expiration Of Applications, Plans And Permits

A. Automatic Expiration of Applications -- Applications for which no permit is issued within 180 days following the date of the application shall automatically expire, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official.

B. Extensions on Unexpired Applications – The building official may extend the time for action by the applicant for a period not exceeding 90 days if:
   1. The applicant so requests in writing;
   2. The applicant shows that circumstances beyond applicant's control have prevented action from being taken; and
   3. The application is consistent with the relevant provisions of this Chapter in effect on the date the request for a time extension was submitted.

C. Pre-Conditions to Renewing Action on an Expired Application – In order to renew action on an application after expiration, the applicant shall resubmit plans if directed by the building official and shall pay a new plan review fee. The building official shall have authority to modify renewal fees where warranted.

D. Automatic Expiration of Permits – Every permit issued by the building official under the provisions of this chapter shall automatically expire and become null and void if the building or work authorized by the permit is:
   1. Not commenced within 180 days from the date of the permit; or

2. Suspended or abandoned for a period of 180 days at any time after the work is commenced, or
3. Not subject to inspection approval for a period of 180 days at any time after the work is commenced.

E. Extensions on Unexpired Permits – Any permittee holding an unexpired permit may apply for an extension of the time within which to commence work under that permit when the permittee is unable to commence work within the time originally required for good reason. The building official may extend the time for action by the permittee for a period not exceeding 180 days if:
1. The permittee requests an extension in writing; and
2. The permittee shows that circumstances beyond permittee's control have impeded progress under the permit.
3. The unexpired permit remains consistent with the relevant provisions of this chapter in effect on the date the request for a time extension was submitted.

F. Timelines for Permits Issued to Resolve Violations – In those instances where a permit is issued to resolve a violation, the building official may specify the length of time an issued permit may remain valid and they may establish specific timelines for compliance.

G. Pre-Conditions to Resuming Work on Expired Permit – Before resuming work under an expired permit, an existing permit must be renewed where appropriate or a new permit must be obtained if directed to do so by the building official, and an additional fee remitted. The fee will determined under the following guidelines:
1. If no changes have been made or will be made in the original plans and specifications for the work to be resumed; and the suspension or abandonment of work under the permit has not exceeded six months, then no fee will be required to renew the permit; or
2. If there have been or will be changes to the original plans and specifications for the work to be resumed, or the suspension or abandonment of work under the permit has exceeded six months but has not exceeded on year, then the permittee shall pay one half of the full permit fee, plus additional plan review fees assessed at the County's current hourly rate where applicable.
3. If the suspension or abandonment of work under the permit has exceeded on year, then the permittee shall pay an amount equivalent to the full permit fee, plus additional plan review fees assessed at the County's current hourly rate where applicable.
4. The building official shall have authority to modify renewal fees where warranted.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.280 Work Without A Permit; Investigation Fees

Whenever any work for which a permit is required by this chapter has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is ever issued. The investigation fee shall be based on the actual cost of the investigation or the average cost of such investigations per ORS 455.058, but not less than the amount specified in Appendices A and B of the Clackamas County Code. The payment of the investigation fee shall not exempt any person from compliance with all other provisions of this chapter nor from any penalty prescribed by law.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.290 Transferability

With the permission of the building official a permit issued and paid for by a person or firm may be transferred to another person or firm to perform any work thereunder.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.300 Suspension; Revocation

The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information supplied, or in violation of any ordinance or regulation of any of the provisions of this chapter.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.310 Inspections

It shall be the duty of the permit holder or their agent to request all necessary inspections in a timely manner and according to the policies of Clackamas County, provide access to the site, and provide all necessary equipment to make inspections as determined by the building official. The permit holder shall not proceed with construction until authorized by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or their agent. Failure to request inspections shall result in expiration of the permit as per Section 9.02.270. The county has no obligation, responsibility, or liability to follow up on permits for which necessary inspections have not been requested or which are at risk of expiration under Section 9.02.270. The permittee shall bear all such responsibility and liability.

Any person to whom a permit is issued shall be liable for any loss, damage, or injury caused or arising from the permittee's negligence, as well as for any breach of the building codes or regulations, to the person suffering such loss, damage, or injury. The permittee shall indemnify, defend and hold harmless the County and its officers, employees and agents from any and all claims, demands, actions and suits (including all attorney fees and costs, through trial and on appeal) arising from the permittee's negligence, as well as for any breach of the building codes or regulations to the person suffering such loss, damage or injury.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.320 Fees

Fees for permits, inspections, plan checks, site plan review, copy costs, and such other fees that the Clackamas County Board of Commissioners deem reasonable shall be as set from time to time by order of the Clackamas County Board of Commissioners.

The building official may authorize refunds of fees when the guidelines of the applicable refund policy so authorize.

The determination of value or valuation under any provisions of this chapter shall be made by the building official. The value to be used in computing building permit and plan review fees shall be the total value of all construction work associated with the permit, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. Valuations shall be determined as specified in OAR 918-050-0100. The building official may modify the valuation of any building or structure where warranted.

Enforcement fees are in addition to and not in lieu of civil penalties that may be imposed by a Compliance Hearings Officer or court. Enforcement fees shall be used to defray the costs of enforcement of the provisions of this chapter.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.330 Violations And Enforcement

All persons shall comply with this chapter in the location, construction, maintenance, repair, alteration, or use of buildings, structures, installations or on-site sewage disposal systems or facilities within Clackamas County.

A violation of this chapter exists whenever a building, structure, installation, on-site sewage disposal system or sewage disposal facility, or grading is, or is proposed to be, located, constructed, maintained, repaired, altered, or used contrary to the requirements of this chapter. Each day that a violation exists is considered to be a separate offense.

A violation of this chapter is a public nuisance, and continues to be a public nuisance until the offending building, structure, installation, system, facility or use is brought into compliance with this chapter.

The County may, in addition to the other remedies provided by law, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove violations of this chapter. The County may also enforce this chapter through the provisions of the Clackamas County Compliance Hearing Officer Ordinance.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.02.340 Prioritization Of Violations For Enforcement

The building official is charged with administration, implementation and enforcement of the State Building Code and this chapter. The building official's duties include the duty to oversee plan reviews and building inspections required under the State Building Code and this chapter, and the duty to supervise continuing enforcement when violations are identified. Since the Building Code Division has limited financial resources, the building official must exercise their inherent discretion to ensure that sufficient funds are available to deal with the most important public policy matters that come before them.

The top priority for Division resources is the processing of plans and permits properly applied for under the Codes. Although the Division must also address Code violations, violations vary greatly in severity, with some violations having a negligible impact on the public interest and others having a potentially great impact on the public interest. For this reason, the Board of County Commissioners has determined that the building official may prioritize violations for enforcement action without unduly compromising public policy. The Board of County Commissioners believes that this prioritization of violations for enforcement will result in the most effective and efficient re-allocation of Building Division resources.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

Chapter 9.03

9.03 EXCAVATION AND GRADING

9.03.010 Purpose

The purpose of this chapter is to safeguard life, limb, property and the public welfare by regulating grading on private property.
[Codified by Ord. 05-2000, 7/13/00]

9.03.020 Scope

This chapter sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction. All excavation, grading and earthwork construction, including fills and embankments, shall be performed in accordance with Appendix J of the Oregon Structural Specialty Code (OSSC), modified as follows:

A. OSSC Section J104.1: Submittal requirements. In addition to the provisions of Section 105.3, the applicant shall state the estimated quantities of excavation and fill, and provide a quantity calculation and/or methodology.

B. OSSC Section J104.2: Site Plan Requirements. In addition to the provisions of Section 107, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarify to indicate the nature and extend of the work and show in detail that it complies with the requirements of this code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code. Cross section drawing(s) shall be provided and shall be of sufficient quality and detail to accurately represent the proposed work, and that it conforms to the requirements of this code.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.03.030 Permits Required; Exceptions

No person shall do any excavation, grading or earthwork construction without first having obtained a permit from the Clackamas County Building Official or their designee. The following activities shall be exempt from this chapter:

A. Farm grading, as defined in ORS 30.936. All farm grading shall be done in accordance with ORS 455.315; and

B. Grading performed as part of stream or habitat improvements, including turtle nests and log jams.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.03.040 Hazards

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.050 Definitions

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.060 Grading Permit Requirement

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.070 Fees

Fees are as set forth in Appendix A, "A500. Building".
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03]

9.03.080 Bonds

A. The Clackamas County Building Official may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.
B. In lieu of surety bond the applicant may file a cash bond or instrument of credit with the Clackamas County Building Official in an amount equal to that which would be required in the surety bond.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2019, 12/12/19]

9.03.090 Cuts

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.100 Fills

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.110 Setbacks

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.120 Drainage and Terracing

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.130 Erosion Control

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.140 Grading Inspection

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.150 Completion of Work

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.160 Powers and Duties of Building Codes Division Manager

[Codified by Ord. 05-2000, 7/13/00; Repealed by Ord. 07-2019, 12/12/19]

9.03.170 Violation Constitutes Nuisance; Abatement Remedies

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Repealed by Ord. 07-2019, 12/12/19]

TITLE 10

FRANCHISES

Summary

TITLE 10

FRANCHISES

Table of Contents

CHAPTERS

CHAPTER 10.01
10.01 AMBULANCE SERVICE PLAN

10.01.010 Certification by Board of County Commissioners

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

A. The County has included in this plan each of the subjects or items set forth in Oregon Administrative Rule 333-260-0020 and has addressed and considered each of those subjects or items in the adoption process.

B. In the Board's judgment, the ambulance service areas established in the plan will provide for the efficient and effective provision of ambulance services; and

C. To the extent they are applicable, Clackamas County has complied with ORS 682.062 and 682.063 and with existing local ordinances and rules.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02; Amended by Ord. 08-2005, 12/14/05]

10.01.020 Overview of County

A. Clackamas County has a population of approximately 378,480 as of April 1, 2010, and an area of 1,879 square miles. Provision of emergency medical services presents a challenge due to the widely varying demographic and geographic areas within the County. The urbanized areas of the County within the Portland metropolitan urban growth boundary are densely populated, while rural areas are much less densely populated. More than one-third of the County consists of federally owned National Forest or BLM land, which is less densely populated still. There are fourteen cities located wholly within the County, and two others partially inside County borders. Large parts of the urban area are unincorporated, with about 40% of County residents

living outside of city boundaries. Geographically the County varies dramatically, rising from the 31- foot elevation at Oregon City to the 11,239-foot peak of Mt. Hood.

B. History of ASAs

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

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

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02; Amended by Ord. 08-2005, 12/14/05; Amended by Ord. 06-2012, 7/12/12]

10.01.030 Definitions

A. "AMBULANCE" means any privately or publicly owned motor vehicle, aircraft, or marine craft that is regularly provided or offered to be provided for the transportation of persons suffering from illness, injury or disability including any unit registered with the State of Oregon as an advance life support ambulance.

B. "AMBULANCE SERVICE AREA" or "ASA" means a specific geographic area of Clackamas County which is served by one ambulance service provider.

C. "AMBULANCE SERVICE PROVIDER" or "AMBULANCE PROVIDER" means a licensed ambulance service that responds to 9-1-1 dispatched calls or provides pre-arranged non-emergency transfers or emergency or non- emergency inter-facility transfers.

D. "AMBULANCE SERVICE" means any individual, partnership, corporation, association, governmental agency or other entity that holds a Division-issued ambulance service license to provide emergency and non-emergency care and transportation to sick, injured or disabled persons.

E. "BOARD" means the Board of Commissioners for Clackamas County, Oregon.

F. "COUNTY" means Clackamas County, a political Subdivision of the State of Oregon.

G. "COUNTY EMS MEDICAL DIRECTOR" or "EMSMD" means a licensed physician employed by or contracted to the County to provide medical direction as required.

H. "DEPARTMENT" means the Clackamas County Department of Health, Housing and Human Services.

I. "DIVISION" means the Public Health Division, Oregon Health Authority.

J. "EMERGENCY AMBULANCE SERVICE" means the provision of advanced or basic

life support care and transportation by ambulance, if appropriate, in response to medical and traumatic emergencies.

K. "EMERGENCY MEDICAL SERVICES" or "EMS" means those prehospital functions and services whose purpose is to prepare for and respond to medical and traumatic emergencies, including rescue and ambulance services, patient care, communications and evaluation.

L. "EMERGENCY MEDICAL SERVICES AGENCY" means an ambulance service or non-transport EMS service that uses emergency medical services providers to respond to requests for emergency medical services.

M. "EMERGENCY MEDICAL SERVICES PROVIDER" means a person who has received formal training in pre-hospital and emergency care, and is licensed to attend any person who is ill or injured or who has a disability.

N. "EMERGENCY MEDICAL SERVICES SYSTEM" means the system that provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of pre-hospital health care services in Clackamas County.

O. "EMERGENCY PHYSICIAN ADVISORY BOARD" or "EPAB" means an advisory board constituted by the Supervising Physician of each EMS responding agency in the County.

P. "EMS COUNCIL" or "COUNCIL" means Emergency Medical Services Council.

Q. "FIRST RESPONDER" or "FIRST RESPONSE AGENCY" means fire and other governmental or private agencies providing Emergency Medical Services.

R. "FRANCHISE" means a right granted by the Board to provide ambulance services as defined by ORS 682.027 on an exclusive basis but subject to the limits and conditions of this Plan. Assignment of an ASA to a rural fire protection district pursuant to Sections 10.01.070.A.1 and 10.01.070.A.2 of this Plan shall not be considered a franchise.

S. "FRONTIER AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.

T. "MEDICAL DIRECTOR" or "SUPERVISING PHYSICIAN" means a licensed physician meeting the requirements of the Oregon Health Authority and employed or contracted by an agency to provide medical direction.

U. "MEDICAL RESOURCE HOSPITAL" or "MRH" means a medical communications facility contracted by the County which provides on-line medical control functions.

V. "NOTIFICATION TIME" means the length of time between the initial receipt of the request for emergency medical service by either a provider or an emergency dispatch center ("9-1-1"), and the notification of all responding emergency medical service providers.

W. "ON-LINE MEDICAL CONTROL" or "OLMC" means a physician directing medical treatment in person, over a radio, by phone or through some other form of

instant communication.

X. "PARTICIPATING PROVIDER" means a fire service agency (fire district or fire department) that has a contractual agreement with the County allowing the County to integrate agency resources into an EMS response plan including using agency responses to modify ambulance response time requirements.

Y. "PATIENT" means a person who is ill or injured or who has a disability and for whom patient care from an EMS Provider is requested.

Z. "PUBLIC SAFETY ANSWERING POINT" or "PSAP" means a call center responsible for answering calls to an emergency telephone number ("9-1-1") for police, firefighting and ambulance services. Trained emergency communications personnel are also responsible for dispatching these emergency services.

AA. "RESPONSE TIME" means the length of time between the notification of each provider and the arrival of each provider's emergency medical service unit(s) at the incident scene.

BB. "RURAL AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.

CC. "STAFFED" mean qualified persons, physically located at or immediately accessible to an ambulance provider's base of operation within an ASA, available on a 24-hour basis.

DD. "SUBURBAN AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.

EE. "URBAN AREA" means an area within an ASA which is designated as such on the map attached as Appendix A.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02; Amended by Ord. 08-2005, 12/14/05; Amended by Ord. 06-2012, 7/12/12]

10.01.040 Boundaries

A. ASA Map

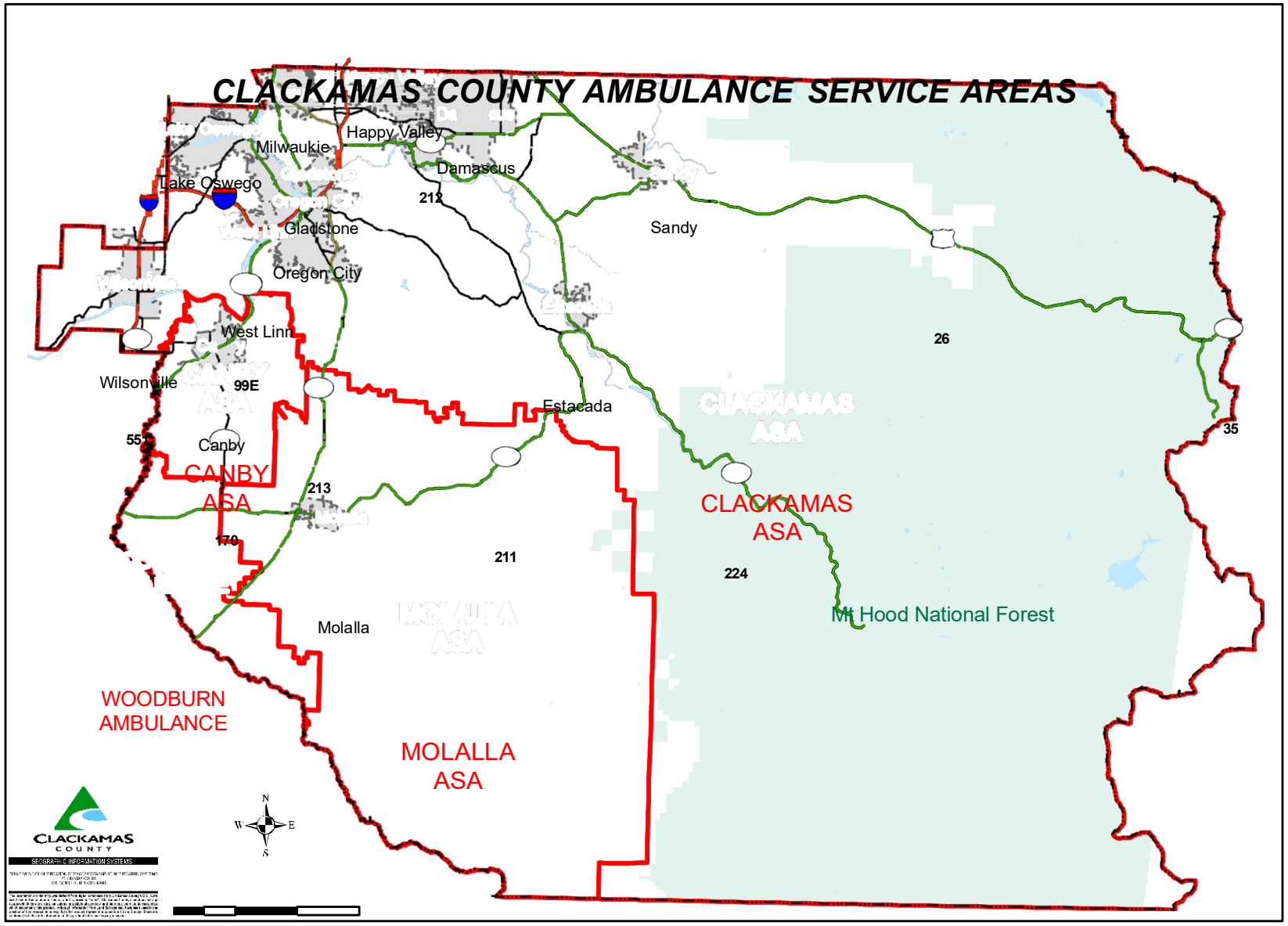


Exhibit A - Page 5

B. ASA Narrative Description

1. Clackamas County is divided into the following ambulance service areas:

   a. The City of Molalla and the area served by the Molalla Rural Fire Protection District ambulance, including the Colton and Molalla Fire Districts, the part of Clackamas County Fire District #1 south of a line drawn along Buckner Creek Road, Gard Road, and Unger Road, and the Oregon Department of Forestry Fire Protection District south of Highway 211, within Clackamas County, known as the "Molalla ASA."

   b. The City of Canby and the area served by the Canby Fire Protection District ambulance, including the part of the Aurora Fire District within Clackamas County east of the Pudding River, known as the "Canby ASA."

   c. The Clackamas Ambulance Service Area is composed of the remaining part of the County except the part of the City of Tualatin located in Clackamas County that is served under an intergovernmental agreement with Washington County, and the parts of the Aurora, Monitor and Silverton Fire Districts within Clackamas County that are served by Woodburn Ambulance Service.

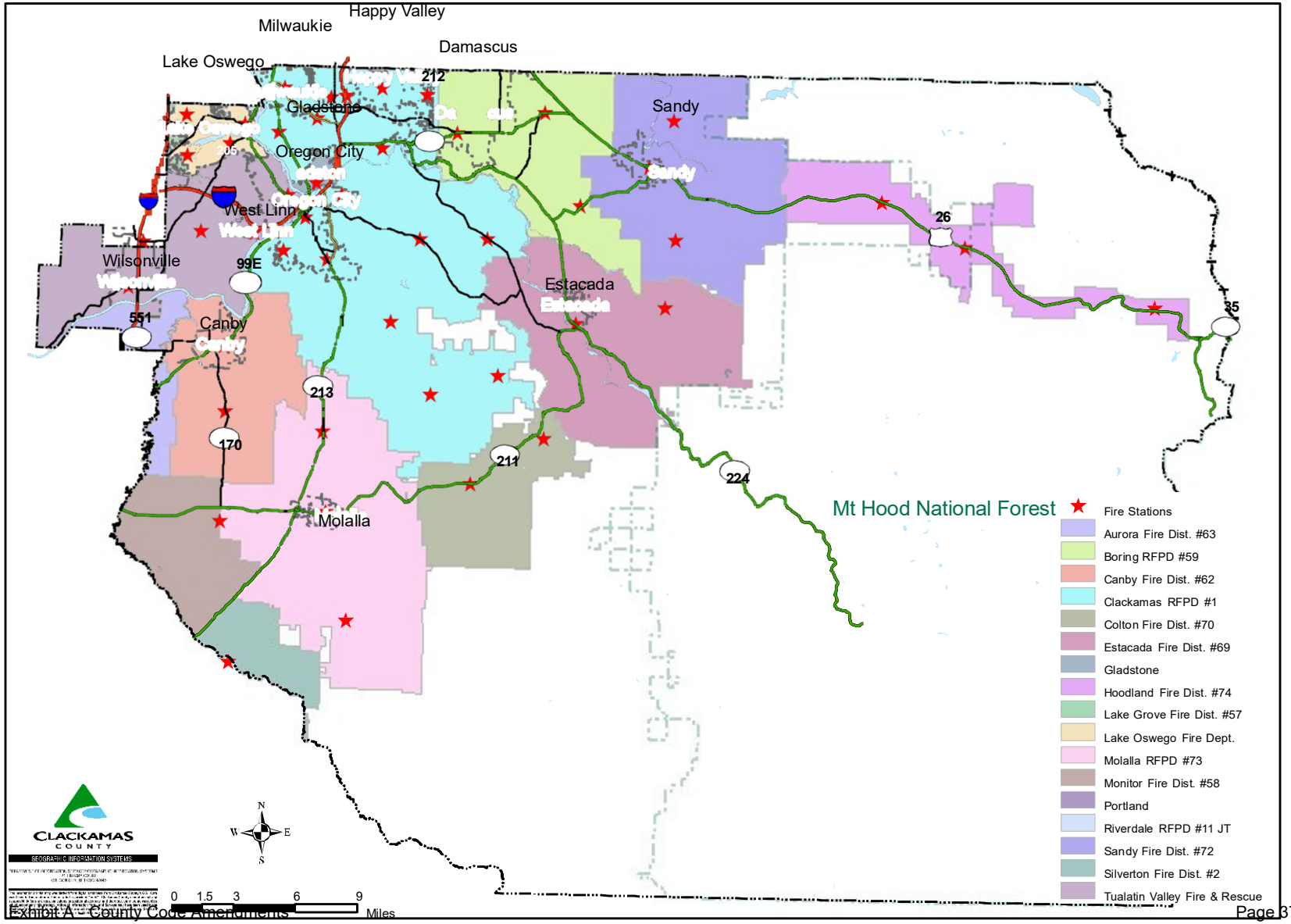
   The following areas outside Clackamas County are served as part of the Clackamas ASA:

   - The City of Wilsonville within Washington County is served under an intergovernmental agreement with Washington County.
   - The parts of the Cities of Lake Oswego and Rivergrove that are within Washington County are served under an intergovernmental agreement with Washington County.
   - The part of the City of Lake Oswego that is within Multnomah County, and the Alto Park Fire District and the Riverdale-Dunthorpe Fire District within Multnomah County.

2. The Board reserves the right, after further addressing and considering the subjects or items required by law, to change the boundaries of these ASAs, or create other ASAs, or incorporate or remove exclusive non-emergency services in one into one or more ASAs in order to provide for the effective and efficient provision of emergency medical service.

C. Fire District Map

CLACKAMAS COUNTY FIRE DISTRICTS



D. 9-1-1 Map

CLACKAMAS COUNTY 9-1-1 DISPATCH AREAS

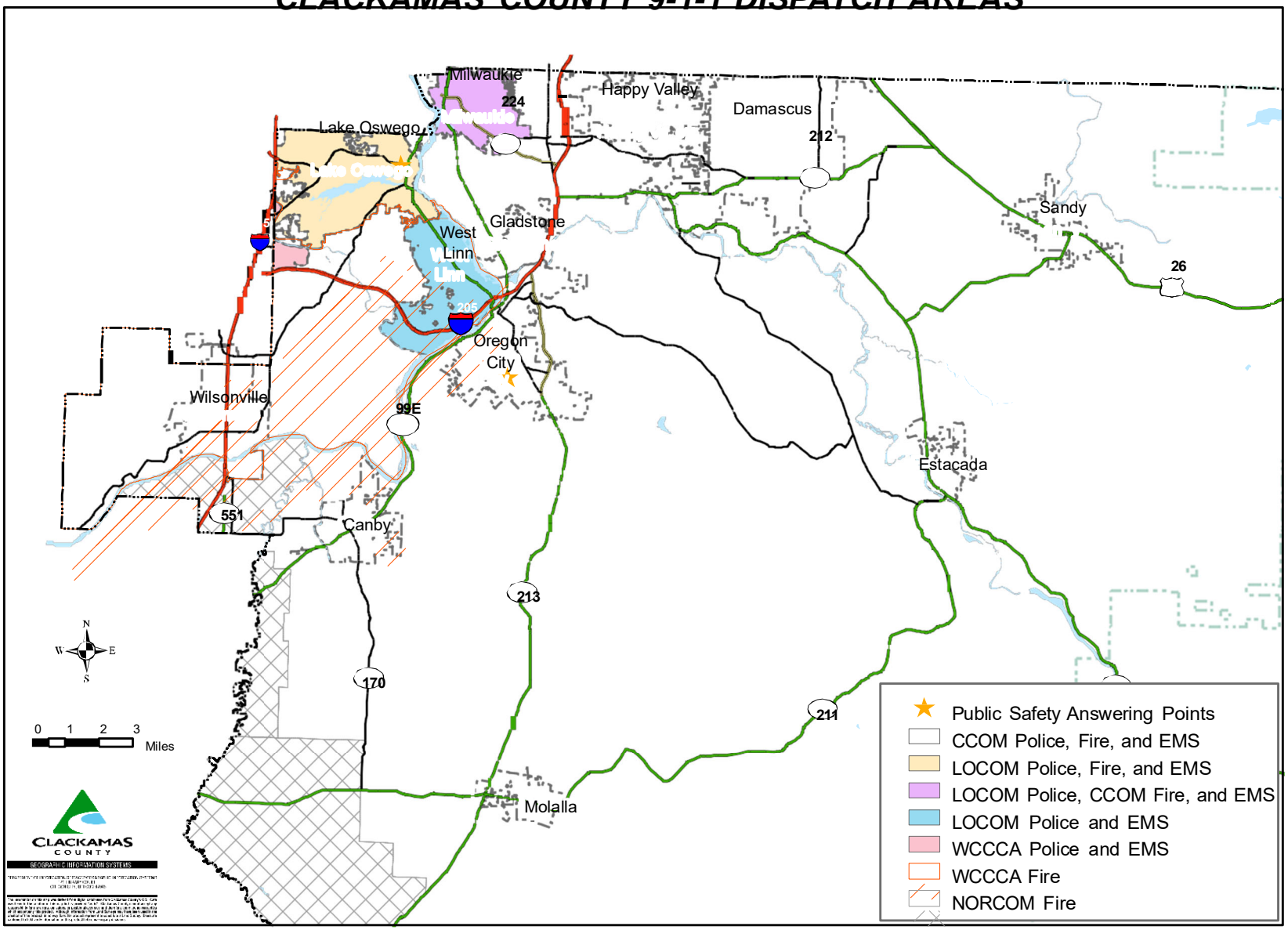


Exhibit A - Page 8

E. Alternatives Considered to Reduce Response Times

1. The County believes that, while there are many artificial and geographic barriers to improving response times, e. g., distance, rural population and density, etc., by establishing maximum response times based on urban, suburban, rural and frontier categories, establishing a procedure that monitors response time performance and establishing a system of times and penalties for failure to comply, the County has established the framework from which Ambulance Providers can operate to provide rapid response times in their service to the community. Additionally, by establishing market rights of sufficient size and duration, the County enables providers to serve the community more efficiently.

2. The County expects Ambulance Providers to use their best expert and professional judgment in deciding upon various methods of achieving and maintaining the level of ambulance service performance required. "Methods" include, but are not limited to, compensation programs, shift schedules, personnel policies, supervisory structure, vehicle deployment techniques and other internal matters which, taken together, comprise strategy for getting the job done in the most effective and efficient manner possible.

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

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

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02; Amended by Ord. 08-2005, 12/14/05; Amended by Ord. 06-2012, 7/12/12]

10.01.050 SYSTEM ELEMENTS

A. 9-1-1 Dispatched Calls

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

9-1-1 calls for medical assistance in Clackamas County are currently received by two Public Safety Answering Points (PSAP), Clackamas County Communications

(C-COM) and Lake Oswego Communications Center (LOCOM).

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

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

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

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

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

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

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

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

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

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

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

C. Notification and Response Times

1. Notification Times

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

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

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

2. Response Times

Ambulance Service Providers are encouraged to exceed minimum performance requirements.

a. Initially, response times for Code-3 calls shall be within the following response time limits.

i. Urban Areas: Maximum response time of 8:00 minutes for 90% of all emergency calls.

ii. Suburban Areas: Maximum response time of 12:00 minutes for 90% of all emergency calls.

iii. Rural Areas: Maximum response time of 25:00 minutes for 90% of all emergency calls.

iv. Frontier Areas: Maximum response time of 2:00:00 hours for 90% of all emergency calls.

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

franchise, ASA assignment, or other remedies.

b. The Board may modify the response time requirements detailed above to promote efficient and appropriate responses to 9-1-1 emergency calls, including modifications adopted in agreements to integrate first responder services delivered by Participating Providers. The Department and County EMS Medical Director will provide recommendations to the Board after reviewing proposed modifications to the requirements with consideration of the following:

- The level of acuity of each call, using modern emergency medical dispatch and priority dispatch capabilities.
- Clinical evidence that any particular standard is more efficacious.
- The efficient use of system resources.
- Alternative delivery systems including, but not limited, to approved advanced life support first response.
- The projected economic impact of any proposed change.
- Requests from local governmental jurisdictions.

c. Emergency response time for ambulances will be calculated from the time that a call is received by the Ambulance Provider until the time that the provider's first ambulance arrives on-scene.

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

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

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

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

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

Each month Ambulance Providers shall document in writing, in a

manner as required by the County, each ambulance call dispatched.

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

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

d. Response Time Exemptions

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

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

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

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

Response time performance of Ambulance Providers under contract to the County shall be reviewed monthly. For those months that the provider fails to respond to 90 percent of all Code-3 calls within a time period specified under Response Times (Section 10.01.050.C.2), the County will review appropriate system-status plans, unit-hour production capacities, or other factors to determine

the causes of noncompliance. For those months that the provider fails to meet the 90 percent standard, a $1,000 financial penalty for each one-tenth of a percentage point less than 90 percent will be assessed for each individual zone (i.e., Urban, Suburban, Rural and Frontier). The penalty will increase to $2,000 for each one-tenth of a percentage point less than 90 percent if the provider fails to meet the 90 percent standard in additional consecutive months. The same penalties will apply if response times for Code-1 calls established by the County are not met.

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

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

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

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

f. Response Time Map Changes

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

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

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

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

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

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

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

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

D. Levels of Care

1. Ambulance Service Providers for each Ambulance Service Area:

   a. Shall provide service at the advanced life support level, staffed by Emergency Medical Services Providers as described in Section 10.01.050.E, on a 24-hour basis.

   b. Shall maintain vehicles and equipment that conform to the standards, requirements, and maintenance provisions established by the County or in Oregon Revised Statutes and in the rules adopted by the Division.

   c. Shall maintain and make available, upon request of the Department, patient care records in a form approved by the Department.

   d. Shall prohibit the performance of Emergency Medical Services Providers or trainees who suffer suspension, revocation, or termination of license by the Division.

E. Personnel

1. All Ambulances used to provide emergency or non-emergency service in the County must be staffed with Emergency Medical Services Providers licensed by the State of Oregon. Emergency Medical Services Providers are required to have a Medical Director who meets the requirements of the Division.

2. Advanced Life Support Ambulances shall be staffed at minimum with two Emergency Medical Services Providers. The minimum level of staffing is one (1) licensed Paramedic and one (1) licensed Emergency Medical Technician.

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

F. Medical Supervision

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

1. The County EMS Medical Director is hired or contracted by the County to serve as the medical advisor to the County for Emergency Medical Services and shall meet the qualifications of the Oregon Health Authority for EMS Supervising Physicians.

2. The EMSMD:

- Serves as the Medical Director for Ambulance Service Providers contracted by the County and may serve as the Medical Director for any agency providing Emergency Medical Services in Clackamas County.
- May implement protocols and set standards of care for Ambulance Service Providers and Participating Providers serving Clackamas County and may require patient care equipment, supplies and medications in addition to those required by the state.
- May, in appropriate cases, suspend medical authorization for Emergency Medical Services Providers working under ~~his/her~~their medical authorization.
- Provides oversight of the County quality improvement program.
- Assists the County in disaster preparedness and response.
- May recommend modifications to the response time requirements in the Ambulance Service Plan.
- Participates in the regional protocol development process.

3. The County may hire or contract assistants to help carry out the duties assigned to the EMSMD. The EMSMD retains the sole responsibility for all assigned duties.

4. The Medical Directors of Emergency Medical Service agencies, including

dispatch centers, in the County constitute the Emergency Physicians Advisory Board (EPAB). The EPAB advises the County EMS Medical Director about significant EMS system issues including:

- Staffing requirements for EMS services.
- Coordination of ambulance services with other EMS services.
- Training needs of EMS services and providers.
- Standards for quality improvement programs.
- Procedures for the resolution of quality assurance problems.
- Sanctions for noncompliant personnel and providers

5. Ambulance Service Providers, Participating Providers and dispatch centers shall have a Medical Director who meets standards established by the Department and the EMSMD.

6. Dispatch centers providing ambulance dispatch shall have a Medical Director and use emergency medical dispatch protocols approved by the EMSMD.

7. The County may establish a County EMS Medical Authority comprised of the EMSMD and the Medical Directors of Participating Providers, approved and contracted by the County, to provide medical direction to EMS agencies.

8. Medical supervision is also addressed in the Quality Improvement provisions of this Plan (Section 10.01.050.J).

G. Patient Care Equipment

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

H. Vehicles

Ambulance Service Providers for each Ambulance Service Area shall:

1. Supply a sufficient number of vehicles outfitted with necessary equipment and supplies as required by the County and Oregon Revised Statutes and Administrative Rules.

2. Report annually to the Department, upon request, the type, age and mileage of each vehicle.

3. Provide to the Department upon request a written description of its program of vehicle and equipment maintenance and inventory control. Providers may modify such maintenance and inventory control programs, from time to time, as necessary to improve performance and contain costs.

I. Training

1. The County expects all Emergency Medical Service Agencies to meet State- required licensing levels, participate in a medical audit process, and to provide special training and support to personnel in need of specific training.

2. Participating Providers will ensure that the EMS Providers utilized in EMS response meet the initial, recurrent and competency based training standards established by the EMSMD.

3. This plan establishes a goal of conducting Multi-Agency Training for all Ambulance Service Providers and First Responder Agencies at least once each year.

J. Quality Improvement

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

2. The EMSMD provides oversight of the County quality improvement program.

3. Ambulance Service Providers and Participating Providers shall participate in medical oversight as directed by the County, and shall provide data to the County for quality improvement as requested and in a manner determined by the County to be secure, reliable and accessible by quality improvement personnel.

4. Ambulance Service Providers and Participating Providers shall meet state- required licensing levels, participate in a medical audit process, and provide special training and support to personnel in need of specific training.

5. Each agency will be responsible for maintaining an internal quality assurance program including monitoring performance of its personnel, responding to complaints and addressing errors and serious events.

6. At a minimum, the County expects Emergency Medical Services Agencies to:

   a. Supervise the services provided by them.

   b. Participate actively in the medical audit process, provide special training and support to personnel found in need of special assistance in specific skill or knowledge areas, and provide additional clinical leadership by maintaining a current and extensive knowledge of developments in EMS equipment and procedures;

   c. Maintain State and local vehicle permits and personnel licenses;

   d. Cause all official EMS policies and protocols to be properly implemented in the field. Where questions related to clinical performance are concerned, Emergency Medical Services Agencies shall satisfy the requirements of the Division and the County. EMS Agencies shall ensure that knowledge gained during the medical audit process is routinely translated into improved field performance by way of training, amendments to operating procedures, bulletins, and any other method necessary to ensure it becomes standard practice.

   e. Utilize the services of a Medical Director to review the quality

of care provided by them.

7. Problem Resolution: the County, with advice from the EMSMD, EPAB and EMS Council, will develop a procedure for the resolution of quality assurance problems. Where EMS Services are provided pursuant to a contract with Clackamas County, the contract shall set forth a procedure for addressing and resolving quality assurance problems.

8. Sanctions: the County may implement sanctions for noncompliant personnel and providers subject to this plan. Where EMS Services are provided pursuant to a contract with the County, the contract shall set forth sanctions to be applied in the event of a major breach by the provider, and shall set forth end-of-term provisions designed to provide an orderly transition if necessary.

K. Changes by Board

The Board reserves the right, after further addressing and considering the subjects or items required by law, to change system elements described in Sections 10.01.050.A through 10.01.050.J in order to provide for the effective and efficient provision of emergency medical services.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02; Amended by Ord. 08-2005, 12/14/05; Amended by Ord. 06-2012, 7/12/12]

10.01.060 COORDINATION

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

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

B. Process for Input and Complaint Review

1. Complaints will be reported to the Director or ~~his/her~~their designee for investigation.

2. Complaints of a clinical nature and those that may have clinical components will be referred to the agency medical director for investigation. Urgent issues and complaints of an egregious clinical nature may be referred directly to the EMSMD for assistance in generating an immediate investigation and/or intervention.

3. To provide regular consultation on EMS issues, the Board has appointed an Emergency Medical Services Council composed of eleven members as follows:

   a. One representative of a commercial ambulance service provider;

   b. One representative from a governmental agency that provides ambulance services, if there is such an agency;

   c. One representative from the Clackamas County Fire Defense Board;

   d. One emergency medicine physician from a hospital within Clackamas

County.

e. One Medical Director to an EMS Agency in Clackamas County;

f. One governmental representative from Clackamas County as recommended by the Director of the Department of Health, Housing and Human Services;

g. One licensed Paramedic currently providing prehospital emergency medical care in Clackamas County;

h. One Basic Life Support Emergency Medical Provider currently providing prehospital emergency medical care in Clackamas County;

i. One person representing a city in Clackamas County.

j. One person representing consumers of ambulance services;

k. One person representing a Primary Public Safety Answering Point (PSAP) Communications Center within Clackamas County.

4. Appointments shall be made for a term of three years.

5. The Council shall adopt bylaws to govern the operations of the Council.

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

C. Mutual Aid Agreements

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

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

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

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

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

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

deploy units or add unit hours to cure deficiencies.

D. Disaster Response

1. County Resources Other than Ambulances

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

2. Out of County Resources

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

3. Mass-Casualty Incident Plan

   The County will establish, in consultation with its Department of Emergency Management, the Fire Defense Board, law enforcement agencies and neighboring jurisdictions, a mass casualty plan to be used in any mass casualty incident. Provisions for mass casualty response will be included in all mutual aid agreements.

4. Response to Terrorism

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

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

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

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

6. Ambulance Providers shall use the incident command and personnel accountability systems adopted by the Clackamas County Fire Defense Board, and provide necessary training to their employees.

7. Ambulance Providers shall participate in County disaster planning and training exercises as requested.

E. Personnel and Equipment Resources

1. Non-Transporting EMS Provider Agencies

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

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

3. All EMS Provider Agencies shall provide training for their crews to the hazardous materials first responder (awareness) level as determined by the Occupational Safety and Health Administration.

4. The authority having jurisdiction will identify the appropriate lead agency for hazardous materials, extrication, search and rescue, and specialized rescue.

5. All Ambulance Providers will participate in and comply with the countywide incident command and personnel accountability systems established by the Fire Defense Board.

F. Emergency Communication and System Access

1. Telephone and Dispatch Procedures

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

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

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

2. Radio System

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

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

4. Emergency Medical Services Dispatcher Training

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

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

G. Changes by the Board

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

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02; Amended by Ord. 08-2005, 12/14/05; Amended by Ord. 06-2012, 7/12/12]

10.01.070 PROVIDER SELECTION

A. Initial Assignment of Ambulance Providers

Initial assignment of Ambulance Providers has been as follows:

1. The Molalla Rural Fire Protection District (RFPD) was assigned as the provider for the Molalla ASA under the 1991 Ambulance Service Plan, and will continue to provide service to that area.

2. The Canby Rural Fire Protection District was assigned as the provider for the Canby ASA under the 1991 Ambulance Service Plan, and will continue to provide service to that area.

3. American Medical Response was assigned as the provider for the Clackamas ASA in a competitive process under the 1993 Ambulance Service Plan.

B. Reassignment

1. An emergency reassignment may be made at any time for a period of up to one year if the Board determines that the inability or failure of a provider to perform in the delivery of ambulance services constitutes an emergency related to public health and safety.

2. Should an Ambulance Provider notify the County that it is no longer willing or able to provide service to an ASA, or should the County take action to terminate the agreement for service or assignment to the ASA, the County shall then select a replacement provider by a competitive selection process recommended by the County Administrator and approved by the Board.

3. At the end of the term of an agreement for ambulance service, the Board may extend the agreement, renegotiate the agreement, or seek a service provider by a method recommended by the County Administrator.

C. Application for an ASA

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

D. Notification of Vacating an ASA

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

E. Maintenance of Level of Service

1. In the event that any provider vacates an ASA, the County will consider reassignment of the ASA as provided in subsection (B) above.

2. In all agreements related to ASA assignments and franchises, the County intends to require adequate performance security to assure adequate services levels are maintained.

    a. Violated this Plan, a County ordinance, the terms of a permit, franchise, assignment, or the conditions thereunder, or other State laws or regulations herein applicable; or

b. Materially misrepresented facts or information given in the application for a franchise, or materially misrepresented facts and justification of rate adjustments; or

c. Failed to provide adequate service in an assigned service area; or

d. Misrepresented the gross receipts from the franchise service area or such other reports required by the Board; or

e. Willfully charged rates in excess of those authorized by the Board; or

f. Generated an excessive number of investigated and confirmed complaints from police agencies, fire departments, health care facilities, the medical community, or the public concerning the provider's performance;

g. Failed conscientiously to comply with any and all requirements of this Plan; or

h. Failed to follow the requirements as listed in the permit, Request for Proposal or the franchise contract.

4. The Board shall notify the ambulance provider in writing of the alleged failure.

5. The County shall have the right to revoke a permit, ASA assignment or franchise if it finds that there has been a violation of the terms of the permit, assignment, or a major breach of the terms of the franchise. The County shall have the right to exercise immediate takeover of the franchise operations if it finds that there has been a major breach of the terms of the franchise, and, in the County's opinion, public health or safety are endangered thereby. Such action may be effective immediately at the direction of the County.

6. No franchise, permit, or ASA assignment shall be revoked without providing a right to a hearing in the matter. The Ambulance Provider shall have the right to appear and defend against the charges, and if desired, to be represented by counsel. In the event of an emergency or immediate situation, the hearing may be conducted after the takeover of the system.

7. The County will include, in its contract with the Ambulance Provider selected to serve the Clackamas ASA, notification and termination provisions to provide for performance security.

8. In areas of the County where geographic or other limitations might hinder the adequate provision of ambulance services, the County may enter intergovernmental agreements with counties, cities or fire districts in order to provide efficient and effective ambulance service by means of public or private Ambulance Providers.

9. The assignments of Section 10.01.070.A shall be exclusive; however, such exclusivity shall not apply to:

a. Vehicles owned by or operated under the control of the United States

Government or the State of Oregon;

b. Vehicles being used to render temporary assistance in the case of a disaster, or an emergency with which ambulance services of surrounding localities are unable to cope, or when directed to be used to render temporary assistance through an alarm/dispatch center or a public official at the scene of an accident;

c. Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any public street, road or highway serving the property of grounds is involved;

d. Any person who owns or who drives or attends a patient transported in a vehicle under this subsection 10.01.070.E.9;

e. Ambulance companies that provide service only to fulfill mutual service agreements, or non-emergency transportation contracts with specific organizations (if the County does not incorporate non-emergency ambulance services into an exclusive franchise agreement), provided the ambulance company and the organization are on a current basis identified and on file with the Department;

f. Vehicles operated solely for the transportation of lumber industry employees;

g. Transport of persons who do not require pre-hospital or out of hospital emergency assessment or treatment (if the County does not incorporate non-emergency ambulance services into an exclusive franchise agreement);

h. Transport of persons through an ASA, or patient delivery from another ASA.

F. Changes by the Board

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

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2002, 3/14/02; Amended by Ord.-08-2005, 12/14/05; Amended by Ord. 06-2012, 7/12/12]

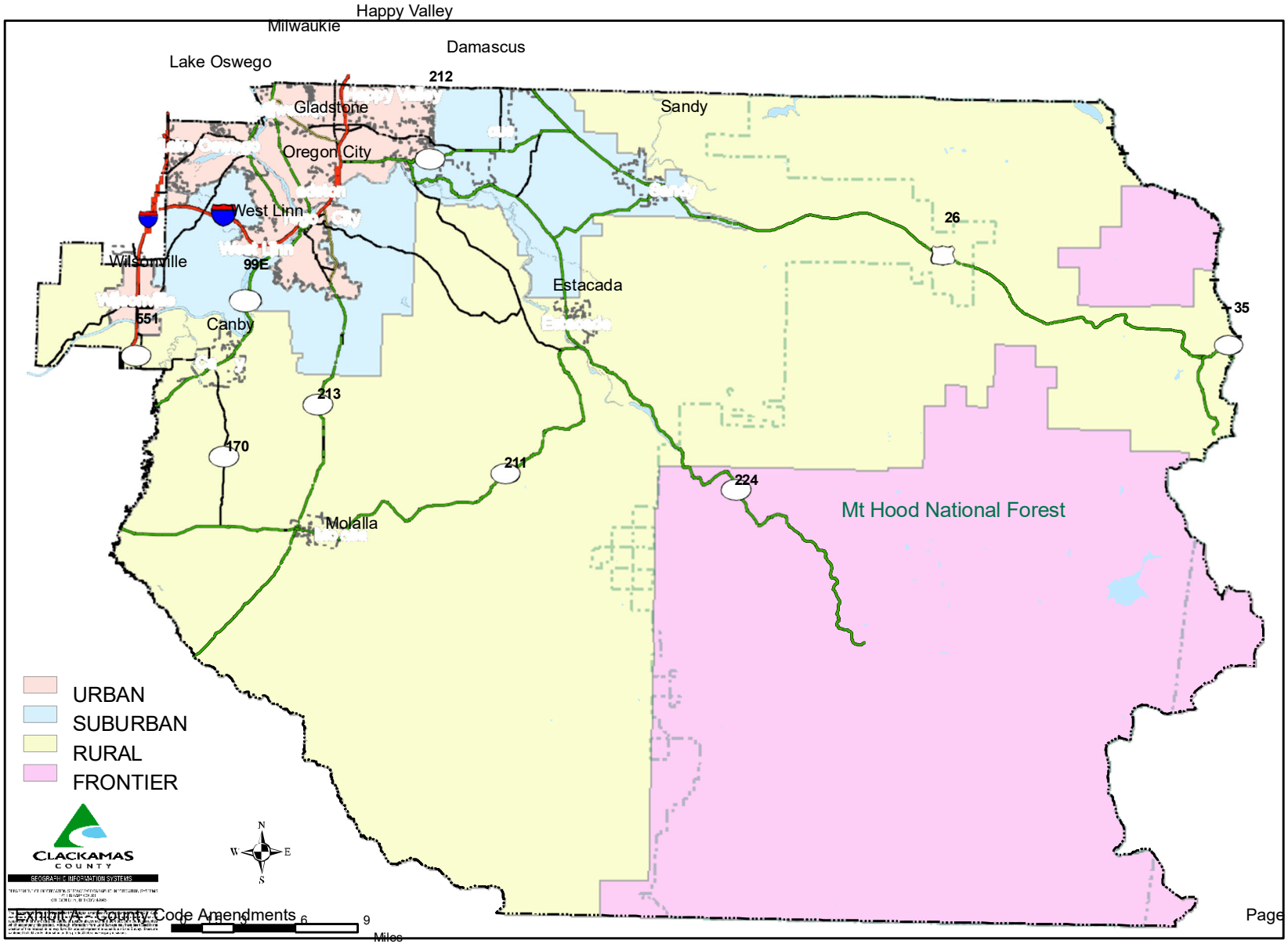
10.01.080 COUNTY ORDINANCES AND RULES

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

[Added by Ord. 04-2002, 3/14/02; Amended by Ord. 08-2005, 12/14/05]

APPENDIX A
Clackamas County Response Time Zone Map

CLACKAMAS COUNTY RESPONSE TIME ZONES



Chapter 10.02

10.02 CABLE TELEVISION COMMUNICATIONS SYSTEMS REGULATION

10.02.010 Definitions

For the purpose of this chapter, unless the context requires otherwise:

A. ACCESS or PUBLIC ACCESS means the use by various agencies, institutions, organizations, groups and individuals in the community, including the County and its designees, of the cable system to acquire, create, and cable cast programming not under the editorial control of the Grantee. Access also refers to the specific channels (and portions thereof), services facilities, equipment, technical components, maintenance, resources and/or other capital or operating support and all other means by which this right is exercised.

B. CABLE OPERATOR means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

C. CABLE SERVICE means the one-way transmission to subscribers of video programming, or other programming service and, subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

D. CABLE COMMUNICATIONS SYSTEM or CABLE TELEVISION SYSTEM means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:
   1. a facility that services only to retransmit the television signals of one or more television broadcast stations;
   2. a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way;
   3. a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, other than for purposes of Section 621 C, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
   4. any facilities of any electric utility used solely for operating its electric utility systems.

E. FRANCHISE means an initial authorization, or renewal thereof (including renewal of an authorization which has been granted subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system.

F. FRANCHISEE means the person, firm or organization to which a franchise is granted to operate a cable communications system pursuant to the authority of this chapter.

G. FRANCHISE FEE means any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such; but the term "franchise fee" does not include, as per sec. 622 G of the Cable Act:

1. any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);
2. in the case of any franchise in effect on the date of the enactment of this chapter, payments which are required by the franchise to be made by the cable operator during the term of such franchise for, or in support of the use of, public, educational, or governmental access facilities;
3. in the case of any franchise granted after such date of enactment, capital costs which are required by the franchise to be incurred by the cable operator for public, educational, or governmental access facilities;
4. requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or
5. any fee imposed under Title 17, United State Code.

H. LEASED ACCESS CHANNEL means any channel or portion of a channel available for programming by persons or entities other than Franchisee for a fee or charge.

I. PROGRAMMING means the process of causing television programs or other patterns of signals to be transmitted on the cable communications system, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the cable communications system.

J. PUBLIC RIGHT-OF-WAY means the surface of, and the space above and below, any public street, road, alley, highway, dedicated way, local access road or road easement used or intended to be used by the general public for motor vehicles, and any public utility easement within the County, to the extent the County has the right to allow the Franchisee to use them.

K. VIDEO PROGRAMMING means programming provided by, or generally considered comparable to programming provided by a television broadcast station.

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

10.02.020 Authority

The County of Clackamas recognizes, declares and establishes its authority to regulate the construction, operation and maintenance of cable communications systems (hereinafter "system") for the area located within the unincorporated areas of Clackamas County, and to exercise all powers necessary for that purpose, including, but not limited to, the following:

A. To grant by resolution, nonexclusive franchises for the development and operation of a system or systems;
B. To impose different franchise requirements based on reasonable classifications.
C. To contract, jointly agree or otherwise provide with other local or regional governments; counties or special districts for the development, operation, and/or regulation of systems, or franchises;
D. In the event of unusual circumstances not presently anticipated to occur, the County may purchase, hire, construct, own, maintain, operate or lease a system and to acquire property necessary for any such purpose.
E. To regulate, subject to applicable law, all facets of a system, including but not limited to:
    1. Consumer service, consumer protection and privacy standards;
    2. Disputes among the County, franchisees, and subscribers;
    3. The development, management and control of access channels;
    4. Rates and review of finances for rate adjustments;
    5. Construction timetables, standards, and service extension policies;
    6. Modernization and upgrade of technical aspects;
    7. Leased access channels;
    8. Ensuring adherence to federal, state, and local regulations;
    9. Franchise transfer and transfer of control of ownership;
    10. Franchise renewal;
    11. Franchise revocation;
    12. Enforcement of buy-back, leaseback or option-to-purchase provisions;
    13. Receivership and foreclosure procedures; and
    14. Compliance with County standards for public rights-of-way.
F. To reserve the power to exercise this grant of authority to the fullest extent allowed by law.

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

10.02.030 Grant of Franchise, Renewal

A. In the event that a cable television operator seeks a franchise the procedures set forth in this chapter shall be followed subject to applicable law.

B. The Cable Manager of Clackamas County shall have authority to establish and provide:
   1. Information and instructions relating to the preparation and filing of proposals to provide cable communications service;
   2. Requirements for proposals to be referred to the Board of County Commissioners regarding the development, operation and regulation of a system, including but not limited to the following:
      a. The length, renewal and transfer or assignment of the franchise, including foreclosure and receivership provisions;
      b. A description of the franchise territory and the extension of service;
      c. Access requirements;
      d. The system design;
      e. Technical performance standards;
      f. Fees, records and reporting;
      g. Indemnification, insurance, and liability for damages; and
      h. Provision of an option for the County to acquire the system upon revocation or expiration of the franchise.

C. Subject to the provision of 10.02.100, it shall be unlawful to commence or engage in the construction, operation or maintenance of a cable communications system without a franchise issued under this chapter.

D. The Board of Commissioners by Board Order may:
   1. Approve and award the submitted franchise, as proposed, or modify or otherwise make amendments thereto as it deems necessary;
   2. Authorize the Cable Manager to seek bids for a system pursuant to a Request For Proposal.

E. The Board of Commissioners may award a franchise only after a public hearing on the proposed franchise, notice of which shall be published in a local newspaper of general circulation in the County at least ten days prior to the date of the hearing. The potential Franchisee shall be notified by mail of the public hearing; provided, however, that no defect in the notice or failure to notify shall invalidate the franchise awarded. The Board of Commissioners may award the franchise, modify the proposed franchise and award or take no action.

F. No franchise or award thereof shall be deemed final until adoption of a Board Order containing the terms and conditions thereof. The franchisee shall bear the costs of all publications and notices given in connection with the award of the franchise, and the costs incurred by the County in evaluating the proposed franchise.

G. A request for renewal of a franchise will be considered and processed n conformance with Federal Law.

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

10.02.040 Administration of Cable Communications

The Board of County Commissioners, (BCC) or its designee, shall have the power to carry out any or all of the following functions:

A. Employ the service of a consultant, to assist in the analysis of any matter related to any franchise, Request For Proposal or proposed franchise under this chapter;
B. Act on applications for franchises;
C. Act on matters which might constitute grounds for revocation or termination of a franchise pursuant to its terms;
D. Attempt to resolve disagreements among Franchisees and public and private users of the system;
E. Consider requests for rate settings or adjustments, as permitted by Federal Law;
F. Coordinate and facilitate the use of access channels;
G. Act in intergovernmental matters relating to cable systems;
H. Review all Franchisee records required by the franchise;
I. Conduct evaluations of the system and the Franchisee's compliance with franchise requirements;
J. Adopt and amend regulations and procedures necessary to enforce franchises and to clarify interpretation thereof;
K. Appoint advisory committees to assist the County in exercising its authority concerning Public Access.

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

10.02.050 Customer Service

A cable operator shall be subject to the customer service standards, set forth in Federal law (Section 8 of the Cable Television Consumer Protection and Competition Act of 1992; 47 U.S.C. §§552; 47 C.F.R. Section 76.309) and as herein detailed:

A. Cable system office hours and telephone availability.
    1. The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
        a. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
        b. After normal business hours, a service or an automated response system, including an answering machine may answer the access

line. A trained company representative must respond to inquiries received after normal business hours on the next business day.

2. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
3. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
4. Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
5. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

B. Installations, outages and service calls: Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

1. Standard installations will be performed within seven (7) business days after an order has been placed. “Standard” installations are those that are located up to 125 feet from the existing distribution system.
2. Excluding conditions beyond the control of the operator, the cable operator will begin working on “service interruptions” promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
3. The “appointment window” alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time blocks during normal business hours (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.).
4. An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
5. If a cable operator representative is running late for an appointment with customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

C. Communications between cable operators and cable subscribers:

1. Notifications to subscribers:
    a. The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

i. Products and services offered;
ii. Prices and options for programming services and conditions of subscription to programming and other services;
iii. Installation and service maintenance policies;
iv. Instructions on how to use the cable service;
v. Channel positions of programming carried on the system; and,
vi. Billing and complaint procedures, including the address and telephone number of the local franchise authorities cable office.

b. Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and/or in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

2. Billing
   a. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
   b. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.
3. Refunds. Refund checks will be issued promptly, but no later than 30 days after:
   a. Resolution of the request, or
   b. Return of all company equipment to the cable operator if service is terminated.
4. Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

D. Definitions
1. NORMAL BUSINESS HOURS means the term "normal business hours" are those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
2. NORMAL OPERATING CONDITIONS means the term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the

control of the cable operator include, but are not limited to: natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to: special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

3. SERVICE INTERRUPTION means the term "service interruption" is the loss of picture or sound on one or more cable channels.

This section does not preclude the County from requiring more stringent customer service standards in franchise agreements.

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

10.02.060 Consumer Protections

A. The County reserves the right to enforce customer service and consumer protection standards as such standards are established by State or Federal law or regulation as applicable to cable system operations. In addition the County reserves the right to establish additional specific customer service and consumer protection standards and procedures to the extent permitted by applicable law.

B. Negative Option Marketing: Franchisee shall not engage in "negative option" marketing, prohibited by State or Federal Law or regulation.

C. Billing Credit for Service Interruptions: Franchisee shall make provision for subscriber credit for service interruptions or poor watchable cable reception, as per written company policy filed in the County Cable Office.

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

10.02.070 Compensation for Franchise

A. Franchise Fee

1. As compensation for the franchise to be granted, and in consideration of permission to use the streets and public ways of the County for the construction, operation, and maintenance of a cable communications system within the franchise area and to defray the costs of franchise regulation, the cable operator shall pay to the County five percent (5%) of the gross receipts generated through the operation of the cable system in the area franchised by Clackamas County, as permitted by Federal law.

2. In the event Federal law limits franchise fees below the five percent (5%) of gross receipts required herein, the Franchisee shall pay the maximum

permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, the Franchisee shall pay the higher amount up to the maximum allowable by Federal law.

B. Payment of Franchise Fees

1. Payments due under this provision shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after the dates listed in the previous sentence. A quarterly report shall be made as hereinafter provided which shall contain the relevant facts necessary for the County to verify the amounts of franchise fee payments.
2. No acceptance of any payment shall be construed as accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim, the County may have further or additional sums payable under the provisions of the franchise. All amounts paid shall be subject to audit and re-computation by the County, not to exceed three (3) years from date of payment.

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

10.02.080 Intergovernmental Agreements

The Board of County Commissioners may enter into intergovernmental agreements as authorized by Oregon law, with any other jurisdiction to provide for the cooperative regulation and control of any aspect of a cable communications system. Such agreements may provide for the delegation of any and all powers of the BCC to an entity provided for in the intergovernmental agreement, except for the powers to enter into or revoke a franchise agreement.

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

10.02.090 Violation, Penalties, and Remedies

A. Violation and Penalties: Any violation of the terms of this chapter is punishable by a fine in an amount set by resolution of the Board of County Commissioners.

B. Injunctive Relief: Upon authorization by the Board of County Commissioners, the County may commence an action in the Circuit Court or other appropriate court to enjoin the continued violation of any provision of this chapter.

C. Violation by a franchisee of any provision of a franchise granted pursuant to this chapter is:

1. Subject to the enforcement provisions of the franchise;
2. Punishable by fines set forth above; and

3. Subject to injunctive relief as set forth above.

D. Cumulative Remedies: The rights, remedies and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies and penalties available to the County under any other Ordinance or law.

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

10.02.100 New and Existing Agreements

A. This chapter shall govern all new applications, transfers and renewal requests for franchises.

B. Terms and conditions in existing franchise permit agreements are not amended with the exception of 10.02.050, Customer Service; 10.02.060, Consumer Protection, 10.02.070, Compensation for Franchise, and 10.02.080, Intergovernmental Agreements.

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

Chapter 10.03

10.03 SOLID WASTE AND WASTES MANAGEMENT

10.03.010 Coverage Of Chapter

This chapter shall govern the collection, storage, transportation, and disposal of all solid waste and wastes. It shall also govern recycling, resource recovery, reuse and utilization of solid waste and wastes by franchisees and permittees. It shall govern solid waste management. It creates a program by which persons can be lawfully franchised to collect solid waste and wastes or operate a Disposal Site or Transfer Station, and which provides for franchisees or permittees to engage in recycling, resource recovery, or utilization of solid waste and wastes. No person shall collect solid waste or wastes or recyclable materials or operate a Disposal Site or Transfer Station for compensation or engage in recycling, resource recovery, or utilization of solid waste and wastes or recyclable materials except as provided for by this chapter or the Recycling License chapter.

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

10.03.020 Purpose and Policy

A. To protect the health, safety, and welfare of the people of Clackamas County and to provide a coordinated program on accumulation, collection, and disposal of solid waste and wastes and recyclable materials, it is declared to be the policy of Clackamas County to regulate the accumulation, collection, and disposal of solid waste and wastes; the recycling resource recovery and utilization of recyclable materials; and the creation and operation of disposal sites and transfer stations to:

1. Provide for safe and sanitary accumulation, storage, collection, transportation, and disposal of solid waste and wastes and recyclable materials. To accomplish this and other purposes of this chapter, it is the policy of the County and the intent of this chapter that all solid waste and wastes, including materials involved in recycling, resource recovery, reuse and utilization, be collected and transported by those persons holding a collection franchise under this chapter, or by their subcontractors under 10.03.30 A (59) of this chapter, or by those organizations or corporations holding a permit under this chapter, or by a licensee holding a license under the Recycling License Chapter.
2. Provide for a coordinated solid waste and wastes and recycling collection and disposal program with cities within Clackamas County so as to benefit all citizens of the County.
3. Provide the opportunity to recycle for every person in Clackamas County.

4. Provide for a recycling education, promotion and notification program on the reasons for recycling, recycling awareness and how to recycle.
5. Promote application of recycling systems by preventing or reducing at the source, materials which otherwise would constitute solid waste, thereby preserving and enhancing the quality of air, water and land resources.
6. Reduce the amount of solid waste generated; to reuse material for the purpose for which it was originally intended; and to recycle material that cannot be reused.
7. Provide a coordinated countywide program of control of solid waste and wastes and recyclable materials in cooperation with city, regional, state, and federal programs.
8. Provide for, and encourage research, studies, surveys, and demonstration projects on developing more sanitary, efficient and economical solid waste and wastes and recyclable materials collection and disposal systems and programs.
9. Develop a long-range plan to provide adequate disposal sites and disposal facilities to meet future demands.
10. Provide for cooperation and agreements between Clackamas County and other counties involving joint or regional franchising, licensing or permitting of solid waste and wastes disposal; provide for recycling, resource recovery, or utilization of recyclable and solid waste or wastes; and provide for recycling and solid waste and wastes management.
11. Reduce use of highways and roads and encourage highway safety by reducing unnecessary traffic in connection with solid waste and wastes and recyclables in order to encourage economic and efficient collection of same and to reduce wasteful use of fuel, equipment and capital by providing a franchised, licensed and/or permitted collection system.
12. Prohibit the accumulation of solid waste and wastes on private property when such accumulation creates a public nuisance, a health or safety hazard, or a condition of unsightliness and to provide for abatement of the same.
13. Prevent theft or vandalism of source-separated recyclable materials in order to preserve the economic viability of collection, transportation, disposal, storage or utilization of recyclables.
14. Prevent the unauthorized collection, transportation, disposal, storage, reuse or utilization of solid waste or wastes or recyclables.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2019, 6/11/19]

10.03.030 Definitions

A. For the purpose of this chapter, words used in the present tense include the future; the singular number, includes the plural; the word “shall” is mandatory and not

directory; and the term “this chapter” shall be deemed to include all amendments hereafter made to this chapter. The definitions applicable to this chapter are:

1. BOARD means Board of County Commissioners for Clackamas County.
2. BUSINESS: any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies.
3. CERTIFICATE means permission granted in writing by the Director to operate a Compactor/Train Waste Management System at a multi-family development subject to the criteria to establish said system as required by this chapter.
4. COLLECTION SERVICE means the collection, transportation, storage, or disposal, of solid waste or wastes for compensation, solid waste management and utilization as defined in this chapter, and reuse or recycling of recyclable materials.
5. COLLECTION SERVICE FRANCHISE means the Franchise issued for collection service.
6. COLLECTION SERVICE FRANCHISEE means the person to whom a Collection Service Franchise is granted by the Board.
7. COLLECTION VEHICLE means any vehicle used to collect or transport solid waste or wastes or recyclables.
8. COMMISSION means the solid waste and wastes Disposal Commission established by this chapter hereinafter referred to as the solid waste Commission.
9. COMPACTOR means any self-contained, power-driven, mechanical equipment designed for the containment and compaction of solid waste or wastes or recyclable materials.
10. COMPENSATION includes any type of consideration paid for service including, but not limited to, rent, the sale of recyclable materials, and any other direct or indirect provisions for payment of money, goods, or benefits by tenants, members, licensees, or similar persons. It shall also include any exchange of services, including the hauling of solid waste and wastes. Compensation includes the flow of consideration from the person owning or possessing the solid waste or wastes to the person collecting, storing, transporting, or disposing of solid waste or wastes.
11. COMPOST means the end product resulting from composting, commonly known as humus or soil amendments.
12. COMPOSTING means a controlled biological decay of organic waste where moisture, heat, bacteria, earthworms and microorganisms found in nature transforms the organic waste into compost in a manner which does not create offensive odors, a health or safety hazard, or a condition of unsightliness.

13. CONTAINER means a receptacle, one (1) cubic yard or larger in size, used to store solid waste or wastes or recyclable material, but not a drop box or compactor.
14. COUNTY ROAD means shall mean a public road under the jurisdiction of Clackamas County that has been designated as a County road pursuant to ORS 368.016.
15. CURBSIDE or ROADSIDE means a location within three (3) feet of a County Road, Public Access Road, State Road or Federal Road. This does not allow the garbage or recycling receptacle to be placed on the inside of a fence or enclosure even if the receptacle is within three (3) feet has said road or roads. For residences on "Flag Lots", private roads, or driveways, "Curbside or Roadside" shall be the point where the private road or driveway intersects a County Road, Public Access Road, State Road or Federal Road.
16. DEPARTMENT means the State of Oregon Department of Environmental Quality, cited as D.E.Q.
17. DIRECTOR means the Director of the Department of Transportation and Development of Clackamas County, or ~~his/her~~their authorized representative.
18. DISPOSE OR DISPOSAL includes accumulations, storage, collection, transportation and disposal of solid waste and wastes or recyclable materials.
19. DISPOSAL FRANCHISE means a franchise to create or maintain a disposal site.
20. DISPOSAL SITE means any land and facilities used for the disposal, handling or transfer of, or resource recovery from, solid waste and wastes including but not limited to dumps, landfills, sanitary landfills and composting plants, but does not include a landfill site which is not used by the public either directly or through a service and which is used by the owner or tenant thereof to dispose of soil, rock, or nonputrescible industrial waste products resulting from the process of manufacturing.
21. DROP BOX means a single container designed for the storage and collection of large volumes of solid waste or wastes or recyclable materials, which is usually ten (10) cubic yards or larger in size, and provides for transportation of large volumes of solid waste or wastes or recyclable materials and is transported to a disposal site for transfer, land-filling, recycling, materials recovery or utilization and then emptied, and returned to either its original location or some other location.
22. EQC means the Environmental Quality Commission of Oregon, cited as EQC.
23. ENERGY RECOVERY means recovery of all energy forms from any part of solid waste or wastes materials.

24. EXCHANGE means a mutual act of giving or taking of one item or service for another. This includes any transaction into which money enters either as the consideration or as a basis of measure.
25. FAIR MARKET VALUE means the cash price (or its equivalent in terms of savings on collection and disposal fees) that is at least equal to the cost of collection and disposal of a recyclable material or group of recyclable materials, that would be purchased or exchanged between the collector of said recyclable material or group of recyclable materials and the generator of said recyclable material or group of recyclable materials. Collection includes type, frequency, condition and extent of collection service, together with education and promotion for said service.
26. FAIR MARKET VALUE EXEMPTION means the exemption set forth under ORS 459A.075 wherein a source-separated recyclable material must be purchased from the generator, or exchanged between the generator and the franchisee or licensee with a resulting measurable savings in solid waste collection or disposal cost to the generator, in order to qualify for the exemption.
27. FOOD WASTE is solid waste generated from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, rinds, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization or any food collected to feed animals in compliance with applicable regulations.
28. FRANCHISE means a franchise granting the right and responsibility to provide collection service, a disposal site, or a transfer station pursuant to Section 10.03.140 of this chapter.
29. HEALTH OFFICER shall mean the Health Officer of Clackamas County or ~~his/her~~their duly authorized representative.
30. HAZARDOUS WASTE means solid waste or wastes that may, by itself or in combination with other waste, be infectious, explosive, poisonous, caustic, toxic, or otherwise dangerous or injurious to human, plant or animal life.
31. INCINERATOR means a combustion device specifically designed for the reduction by burning of solid, semi-solid or liquid combustible wastes.
32. INFECTIOUS WASTE means biological waste including medical waste described as:
    a. Blood and blood products, excretions, exudates, secretions, suctioning and other body fluids that cannot be directly discarded into a municipal sewer system, including solid or liquid waste from

renal dialysis and waste materials reasonably contaminated with blood or body fluids.

b. Cultures and stocks of etiologic agents and associated biologicals, including specimen cultures and disks and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals and serums and discarded live and attenuated vaccines; but does not include throat or urine cultures.

c. Sharps that have been removed from their original sterile containers, including needles, I.V. tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling, and syringes.

d. Pathological waste, including biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research, the bedding of the animals and other waste from such animals. Pathological waste does not include formaldehyde or other preservative agents.

33. INOPERABLE VEHICLE for the purpose of the Nuisance Abatement provisions of this chapter, shall mean a vehicle designed for use on a public highway which has been left on public or private property thirty (30) days or more and is not currently licensed, or not in operating condition, or which has been extensively damaged, vandalized or stripped, including, but not limited to, missing wheels, tires, motor or transmission. An inoperable vehicle shall not mean an unlicensed operable vehicle or vehicles, which are used on private property for the production, propagation or harvesting of agricultural products grown or raised on such lands.

34. LANDFILL means a disposal site operated by means of compacting and covering solid waste or wastes at specific designated intervals, but not each operating day.

35. LICENSE means permission granted (pursuant to the Recycling License Chapter) by the Director to a person to engage in a business or occupation or in an activity, which would otherwise be unlawful, for the purpose of providing recycling services which include collection, storage, reuse and utilization of recyclable materials.

36. MATERIAL RECOVERY means any process of obtaining from solid waste materials that still have useful physical or chemical properties and can be reused or recycled.

37. METROPOLITAN SERVICE DISTRICT (METRO) means a district organized under ORS Chapter 268 and exercising solid waste authority granted to such district under ORS Chapters 268, 459 and 459A.

38. NON-PROFIT CIVIC COMMUNITY, BENEVOLENT, OR CHARITABLE CORPORATION OR ORGANIZATION means a

Corporation or organization whose purpose is civic, community, benevolent, or charitable in nature, which distributes no part of its income to its members, directors or officers and which is not organized for purposes of profit, nor for the purpose of solid waste or wastes collection service. This may include but not be limited to churches, private or public schools, Boy Scouts, United Way, Lions and Kiwanis clubs or similar non-profit corporations or organizations.

39. NON-PUTRESCIBLE MATERIALS for purposes of this chapter shall include, but not be limited to, inoperable vehicles; vehicle parts; tires; residential, commercial and industrial appliances, equipment and furniture; scrap metal; residential, commercial and industrial building demolition or construction waste; plastic; glass; cardboard; and wastepaper.
40. NUISANCE means the unlawful use by a person of real or personal property contrary to the terms of this chapter.
41. ON-ROUTE COLLECTION means the ~~pick up~~pickup of source-separated recyclable materials from the generator at the place of generation.
42. OPERABLE VEHICLE means a vehicle that is currently licensed and in operating condition to be used on a public road or highway.
43. ORGANIC WASTE includes but is not limited to yard debris, dust, wood, sod, manure, agricultural and fruit and vegetable waste, and paper recyclable material which are generally a source of food for bacteria.
44. PERMIT means permission granted in writing by the Director to a non-profit organization or corporation that shall contain conditions for the collection of recyclable materials.
45. PERSON means, and includes: individuals, members, corporations, cooperatives, associations, firms, partnerships, joint stock companies, trusts and estates, municipalities, and any other legal entities whatsoever.
46. PUBLIC ACCESS ROAD shall mean any public road under the jurisdiction of Clackamas County which is not a County Road, State Highway, Federal Road, or road within the corporate limits of any city.
47. PURCHASE means the legal transmission of property from one person to another through a voluntary act or agreement, with compensation in the form of money paid or to be paid, by a buyer to a seller of the property.
48. PUTRESCIBLE MATERIAL means solid waste or wastes, including: bones; meat and meat scraps; fat; grease; fish and fish scraps; food containers or products contaminated with food wastes, particles or residues; prepared vegetable and fruit food wastes or scraps; manure; feces; sewer sludge; dead animals or similar wastes which cause offensive odor or create a health hazard, or which are capable of attracting or providing food for potential disease carriers, such as birds, rodents, flies and other vectors.

49. RECEPTACLE means a can, cart, container, drop box, compactor, recycling bin, or any other means of containment of solid waste or wastes or recyclable materials.
50. RECYCLING means the process by which waste materials are transformed into new products in such a manner that the original products lose their identity. It shall also include the collection, transportation or storage of products by other than the original user or consumer, giving rise to the product being in the stream of commerce for collection, disposal, recycling, resource recovery or utilization.
51. RECYCLING DEPOT means a center, depot, drop box, or other place for receiving source-separated recyclable materials with or without compensation. This shall not include a salvage, junk or auto wrecking yard.
52. RECYCLABLE MATERIAL means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same materials.
    a. Residential - A group of recyclable materials as designated from time to time by the Department of Environmental Quality or the County.
    c. Commercial/Industrial - Recyclable materials that are purchased or exchanged for fair market value from commercial or industrial sources.
    d. Exemption - An inoperable vehicle commonly designed of ferrous metals is not included as a recyclable material.
53. REGULATIONS mean regulations promulgated by the Board or Director pursuant to this chapter.
54. RESOURCE RECOVERY means any process of obtaining from solid waste and wastes, materials which still have useful physical or chemical properties after serving a specific purpose, and therefore can be reused or recycled for the same or other purpose.
55. REUSE means the return of a commodity into the economic stream for use in the same or similar kind of application as before, without change in its identity.
56. SERVICE means the collection, transportation storage, disposal, solid waste management and utilization by a private company of solid waste or wastes or recyclable materials for compensation.
57. SERVICE AREA means the geographical area, in which service, other than operation of a disposal site is provided.
58. SIGHT OBSCURING SCREEN means a structure or partition which is a minimum of six (6) feet in height, built for the purpose of separating properties, or uses, and arranged in such a way as to obscure normal human vision.

59. SOLID WASTE OR WASTES shall include all putrescible and non-putrescible waste, including but not limited to, garbage; compost; organic waste; yard debris; brush and branches; land-clearing debris; sewer sludge; residential, commercial and industrial building demolition or construction waste; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires; special vehicles and equipment that are immobile and/or inoperable, mobile homes or trailer houses which are dilapidated, partially dismantled or fire damaged; manure; feces; vegetable or animal solid and semi-solid waste and dead animals; and infectious waste. Waste shall mean useless, unwanted or discarded materials. The fact that materials which would otherwise come within the definition of solid waste may, from time to time, have value and thus be utilized shall not remove them from the definition. The terms solid waste or wastes do not include:
    a. Environmentally hazardous wastes as defined in ORS Chapter 466.
    b. Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential non-agricultural purposes.
    c. Septic tank and cesspool pumping or chemical toilet waste;
    d. For purposes of Section 10.03.140 to 10.03.330 of this chapter, reusable beverage containers as defined in ORS 459A.
    e. Source-separated, principal recyclable materials as defined in ORS 459A and the rules promulgated thereunder and under this chapter, which have been purchased or exchanged for fair market value, unless said principal recyclable materials create a public nuisance pursuant to Section 10.03.060 to 10.03.080 of this chapter.
    f. Applications of industrial sludge or industrial waste by-products authorized through a Land Use Compatibility Statement or Management Plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the Land Use Compatibility Statement or Management Plan, but not to exceed 100 dry tons per acre annually.
    g. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations. Sludge derived products applied for beneficial uses on land in landscaping projects.
60. SOLID WASTE AND WASTES MANAGEMENT means the management of the accumulation, storage, collection, transportation, treatment, processing and final disposal or utilization of solid waste and

wastes or resource recovery from solid waste, and facilities necessary or convenient to those activities. The Collection Franchisee may contract with another person to provide service of any type under the Franchisee's Collection Service Franchise, but the Collection Franchisee shall remain ultimately responsible for solid waste and wastes management in the Collection Franchisee's franchised area.

61. SOLID WASTE STREAM means the total flow of solid waste and wastes and recyclable materials from residential, institutional, commercial, agricultural, construction and industrial generators to disposal and utilization facilities.
62. SOURCE-SEPARATED MATERIALS means that the person who last uses recyclable material separates the recyclable material from other solid waste.
63. SPECIAL VEHICLE OR EQUIPMENT for purposes of this chapter, shall include, but not be limited to, a travel or camp trailer, motor home, boat, recreational vehicle, tractor or farm implement, utility trailer, stock trailer, semi-trailer, motorcycle, snowmobile or any other equipment or mechanism designed to serve a special purpose or perform a special function.
64. SUBCONTRACT means a written contract for the performance of all or a portion of Franchised Collection Service.
65. TRANSFER STATIONS means a fixed or mobile facility normally used as an adjunct of a solid waste management system between a collection route and disposal site including, but not limited to, a stationary compaction drop box facility, processing center, railroad gondola, barge or facility that accepts solid waste or wastes for the purpose of removing the solid waste or wastes to a disposal site or utilization center.
66. TRANSFER STATION FRANCHISE means a Franchise to create or maintain a transfer station.
67. URBAN GROWTH BOUNDARY means that boundary adopted by the Metropolitan Service District pursuant to ORS 268.390.
68. UTILIZATION, and the terms utilize, utilization, or utilization of solid waste or wastes shall mean productive use through recycling, reuse, salvage, resource recovery, energy recovery, or land filling for reclamation, habitation, or rehabilitation of land.
69. WASTE REDUCTION means the reduction of solid waste, or of wastes generated, or of wastes that would otherwise be land filled.
70. WASTESHED means an area of the State having a common solid waste Disposal System, as designated by the Environmental Quality Commission, as an appropriate area of the State within which to develop a common waste reduction program.
71. WASTESHED AGENT means a person identified as the representative for the wasteshed to act as a contact between the affected persons in a

wasteshed and the Department of Environmental Quality (D.E.Q.) and METRO in matters relating to waste reduction and to the D.E.Q. Recycling Report.

72. YARD DEBRIS means grass clippings, leaves, tree and shrub pruning of no greater than four (4) inches in diameter, or similar yard and garden vegetation. Yard debris does not include dirt, sod, stumps, logs, tree and shrub pruning greater than four (4) inches in diameter, or rocks, plastic, animal waste or manure, cat litter, potting soil, prepared food wastes or non-putrescible material.

73. YARD DEBRIS PROCESSING CENTER means a facility which processes yard debris into compost or other products, through controlled mechanical and/or biological means.

[Codified by Ord. 05-2000, 7/13/00; Subsection 2 added and subsection 61 amended by Ord. 04-2009, 7/9/09; Amended by Ord. 04-2019, 6/11/19]

10.03.040 Administration

The Director, under the supervision of the Board, shall be responsible for the administration and enforcement of this chapter. In order to carry out the duties imposed by this chapter, the Director shall have authority to administer oaths, certify to all official acts, subpoena and require the attendance of witnesses at public hearings before the Commission or the Board; require production of relevant documents at public hearings; swear in witnesses; take testimony of any person by deposition; enter or authorize personnel to enter upon the premises of any person regulated by this chapter at reasonable times to determine compliance with this chapter and with the regulations promulgated by the Board pursuant thereto. [Codified by Ord. 05-2000, 7/13/00]

10.03.050 Persons and Agencies Exempted

A. Except as specifically provided by Section 10.03.060 to 10.03.080, this chapter shall not apply to:

1. areas within the incorporated limits of any city, or to Federal or State agencies, unless said city or agency enters into an intergovernmental agreement with the County for solid waste and wastes management services under this chapter; or
2. Those who contract with such agencies as to the terms or rates to be charged for the collection, storage, transportation, disposal or utilization of solid waste or wastes. This exemption shall not apply to a disposal site or transfer station operated by a franchise holder under this chapter.
3. Those persons who hold a valid, waste tire storage or carrier permit pursuant to OAR Chapter 340. Such persons shall not be regulated by Section 10.03.330 of this chapter.

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

10.03.060 Solid Waste or Wastes Accumulation Prohibited

A. Except as provided in subsection D of this Section, no person shall store, collect, maintain, or display on private property, solid waste or wastes or recyclable material that is offensive or hazardous to the health and safety of the public, or which creates offensive odors, or a condition of unsightliness. Storage, collection, maintenance, or display of solid waste or wastes in violation of this Section shall be considered to be a public nuisance which may be abated as provided in 10.03.070 of this chapter.

B. In addition to the provisions of subsection A, the following conditions or actions are also specifically identified as creating a public nuisance under this chapter:

1. Placing a tarp, plastic, cloth, or similar screening apparatus over or around solid waste or wastes for purposes of keeping it out of sight from the road or surrounding properties.
2. Placing a tarp, plastic, cloth, or similar screening apparatus over or around solid waste or wastes that is stored in a utility trailer, pickup truck, semi-trailer or similar device for purposes of keeping it out of sight from the road or surrounding properties.
3. Constructing a tire fence for any purpose.
4. Storing waste tires except as permitted pursuant to OAR Chapter 340.
5. Storing putrescible waste, whether it is visible or not visible from the road or adjacent properties, that is not kept in a rodent proof container with a tight fitting lid, and not removed from the property to an authorized disposal facility within seven (7) days.
6. Composting which causes offensive odors, or creates a health hazard, or which is capable of attracting or providing food for potential disease carriers such as birds, rodents, flies and other vectors.
7. Storing, collecting, maintaining, or displaying any licensed or unlicensed special vehicle or equipment that is immobile, inoperable, partially dismantled or dismantled, dilapidated, or fire damaged and is visible from the road or surrounding properties.
8. Storing, collecting, maintaining, or displaying a mobile home or trailer house, which is dilapidated or partially dismantled, or fire damaged, and is visible from the road or surrounding properties.
9. Storing, collecting, maintaining or displaying: residential, commercial and industrial appliances, equipment and furniture; vehicle parts; tires; scrap metal, or any other useless, unwanted or discarded material, or other similar non-putrescible solid waste or wastes, that is visible from the road or surrounding properties.
10. Storing, collecting, maintaining or displaying any antique, classic, race car or collectible vehicle that is inoperable and is visible from the road or surrounding properties.

11. Storing any inoperable vehicle or vehicles unless said vehicle or vehicles are housed within a permitted structure or development, except up to two vehicles per premise may be stored behind a sight-obscuring screen, in accordance with 10.03.060 C, and shall not be visible from the road or surrounding properties. For purposes of this Subsection 11, two or more contiguous tax lots that are under common ownership shall be considered one premises.
12. When commercial, industrial, multi-family or residential developments that use a compactor or compactors for on-site waste management, do not keep the areas around the compactor free of solid waste and debris, and washed down on a regular basis.

C. Any sight obscuring screen used to abate a solid waste nuisance shall consist of one of the following options:
1. Construct a wood fence unpainted or painted with neutral or earth tone colors of which the upright posts shall consist of a decay resistive material a minimum of four (4) inches in diameter and anchored a minimum of two (2) feet below ground level. There shall be a maximum post separation of eight (8) feet. The railings shall be a minimum of 2-inch by 4-inch lumber with the 4-inch side attached vertically to the posts. The attached vertical or horizontal fence boards shall be set with a maximum separation of 1/4 inch.
2. Construct a metal fence consisting of chain link or woven fabric with metal upright posts anchored a minimum of two (2) feet below ground level with metal railings and connectors. Water and insect resistive wood or plastic slats shall be inserted in the chain link or woven fabric, with a maximum separation of 3/8 inch between slats.
3. Construct a combination fence consisting of metal sheeting attached to wood framing as defined in Section C 1 above, or durable metal framing, which is painted a neutral or earth tone color.
4. Construct a wall consisting of solid material, built of concrete, masonry, brick, stone or other similar materials or combinations thereof.
5. Construct an earthen berm consisting of dirt, soil, sand, clay or any combination thereof and shall be planted with grass and/or ornamental plantings and shall be maintained at all times.
6. Plant a hedge consisting of evergreen plantings or other ornamental plantings a minimum of six (6) feet in height, planted not more than two (2) feet on center and which is maintained at all times.

In addition to the minimum fencing requirements, wood, metal, masonry fences or combination thereof greater than six (6) feet in height are subject to County review pursuant to the Oregon State Uniform Building Code, and all earthen berms are subject to County review pursuant to the County's Grading and Excavation Chapter.

For purposes of this chapter, no sight obscuring screen shall be located, placed, constructed or installed contrary to the Clackamas County Zoning and Development Ordinance.

D. 10.03.060 to 10.03.080 of this chapter do not apply to:
   1. Areas within the limits of incorporated cities unless a city enters into an Intergovernmental Agreement with the County for solid waste and wastes management services under this chapter.
   2. Disposal sites and transfer stations franchised under provisions of 10.03.180 to 10.03.210 of this chapter, provided that such disposal sites and transfer stations comply with rules promulgated by any State agency under ORS Chapter 459 and regulations adopted by Clackamas County pursuant to this chapter.

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

10.03.070 Abatement of Nuisance

A. The Director, which by definition includes an authorized representative, upon the written or oral complaint of any person, may make an investigation to determine whether or not storage, collection, maintenance, display or illegal dumping of solid waste or wastes is in violation of 10.03.060 or 10.03.080 of this chapter of if any person is in violation of 10.03.145 or 10.03.147. For the purpose of such investigation the Director may enter upon private property at reasonable times to determine compliance.

B. If, after investigation, the Director finds that a nuisance does exist as defined by 10.03.060 or 10.03.080 of this chapter, a notice shall be mailed to the property owner and/or person in possession by regular mail, giving them not less than ten (10) days to abate the nuisance. The notice to abate shall contain:
   1. A description of the property by tax lot number and/or address.
   2. The length of time in days that the property owner and/or person in possession has to abate the nuisance, from the receipt of the notice to abate.
   3. A description of the nuisance to be abated.
   4. A statement that unless the nuisance is abated by the property owner and/or person in possession within the given length of time, the County will cause the nuisance to be abated.
   5. That the costs of the nuisance abatement and/or civil penalties shall be collected from the owner and/or person in possession of the property, and may be made a lien against the property.

C. If the owner and/or person in possession of the property does not remove the solid waste or wastes so that no nuisance exists within the time specified by the Director pursuant to subsection B of this Section, the Director shall:

1. Order the violation referred to the Compliance Hearings Officer pursuant to the Compliance Hearings Officer Chapter and the rules and regulations promulgated thereunder for abatement of the nuisance, which may result in the imposition and collection of a civil penalty for the violation and/or costs of the nuisance abatement, and which if not paid, may be made a lien against the property; or
2. Order County Counsel to institute injunction, mandamus, or abatement proceedings which may result in a court order and the imposition and collection of a' civil penalty for the violation; or
3. Order a notice to be issued and served upon the owner of the property and the occupant of the property where the nuisance is alleged to be maintained, requiring the owner and/or person-in-possession occupant to appear before the Board at a time and place named in the notice, to show cause why a nuisance should not be declared to exist. The time for appearance shall not be less than ten (10) days after the service of the notice. The notice shall be served in the manner provided by law for the service of Summons. At the time and place fixed in the notice issued by the Board, the Board shall hold a hearing on the question of the existence of the nuisance and shall have power to subpoena witnesses to compel their attendance. If, after the hearing, the Board finds that a nuisance exists, it shall declare the existence of a nuisance by Order entered in its Journal, and shall order the nuisance abated within thirty (30) days after the entry of the Order.

If the owner and/or person in possession of the property fails to abate the nuisance within thirty (30) days after the entry of the Order of the Board, the Board may direct the County Counsel's Office of Clackamas County to institute suit in the name of Clackamas County for the abatement of the nuisance or the Board may direct the Director or ~~his/her~~their representative to cause the nuisance to be abated by removing from the subject property the solid waste or wastes found to be the cause of such nuisance.

D. In an emergency, the Director may order summary abatement of a nuisance. For purposes of this section, an emergency exists when the Director has reasonable cause to believe that a nuisance constitutes an immediate danger to the public health, safety and welfare. The Director shall not be required to give notice as set forth in subsection B of this section before proceeding with summary abatement. If the Director elects to proceed with summary abatement without prior notice to the owner, then notice of the action taken for abatement shall be sent to the owner immediately after it has been accomplished. When summary abatement of the nuisance is ordered, the nuisance shall be abated by the County's own forces, or forces contracted by the County.

E. If either the Board or the Compliance Hearings Officer declares that a nuisance exists and the owner and/or person in possession does not remove the solid waste or wastes within the time specified, then the removal from the subject property of

the solid waste or wastes found to be the cause of the nuisance may be done by the County, by contract or the utilization of County personnel and County equipment.

1. Where the Director determines that said removal would not be best accomplished by County personnel and County equipment, s/he shall (unless public bidding is otherwise required) contact the franchised collector of the area where the nuisance exists, providing said collector has the available equipment and personnel to remove the type of solid waste or wastes that was found to be the cause of the nuisance. The collector shall be given the option of removing the nuisance or refusing the job. If the collector accepts the job, ~~s/he~~they shall charge ~~his/her~~their approved hourly rate for cleanups. If the collector refuses the job, or does not have the available equipment or personnel, the Director may contract with another person to abate the nuisance. The Director shall keep an accurate record of expenses incurred by the County in abating the nuisance and shall submit a copy of this record to the County Clerk for filing.
2. After the removal of the solid waste or wastes by the County, the Director shall forward to the property owner and the person in possession by registered or certified mail, a notice stating:
    a. The total cost of the nuisance abatement.
    b. That the cost as indicated will be assessed to, and become a lien against, the property unless paid within thirty (30) days from the date of the notice.
    c. That, if the owner or the person in possession of the property objects to the cost of the abatement as indicated, ~~s/he~~they may file a written notice of objection with the County Clerk not more than ten (10) days from the date of the notice.
3. If within ten (10) days the written statement of objection as provided for in 2 C of this section is filed, the Board or the Compliance Hearings Officer, whichever has declared the nuisance, shall in its regular course of business herein determine the objections to the cost to be assessed. If the nuisance has been summarily abated, the Compliance Hearings Officer shall determine any objections to the costs to be assessed, or challenges to the need for summary abatement, and the County shall have the burden of proving by a preponderance of the evidence that a nuisance existed, and that the manner and costs of abatement were reasonable.
4. If the costs of the abatement are not paid within thirty (30) days from the date of notice, or from the date of the determination by the Board or Compliance Hearings Officer of the cost to be assessed pursuant to a written statement of objection, an assessment of the costs as stated or as determined by the Board or Compliance Hearings Officer shall be made. An assessment of costs by the Board shall thereupon be entered in the docket of County Liens, and upon such entry being made, shall constitute

a lien on the property from which the nuisance was removed and abated. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the legal rate established by State statutes for judgments from the date of entry of the lien in the Lien Docket. An error in the name of the property owner or person in possession shall not void the lien, nor will failure to receive the notice of the proposed lien render the lien void. An assessment of costs by the Compliance Hearings Officer may be collected in the same manner as any other debt allowed by law.

5. Where the nuisance is abated by the removal of the nuisance by the County, the County and its officers and employees shall not be liable for any trespass or conversion as to any real or personal property.

F. The provisions of this Section are in addition to, and not in lieu of, the penalty and enforcement procedures provided for in Section 10.03.390 and Section 10.03.400 of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Subsection B amended by Ord. 04-2009, 7/9/09; Subsection A amended by Ord. 04-2019, 6/11/19]

10.03.080 Unauthorized Dumping Prohibited

A. Except as provided in subsection C of this Section, it shall be unlawful to dispose of solid waste or wastes at any other place other than a disposal site approved by the Board, DEQ, or the Metropolitan Service District. The Board will, upon recommendation of the Commission, designate in writing the places at which solid waste and wastes collected in the County shall be disposed of.

B. No person shall use, or permit to be used, any land within unincorporated areas of the County as a public or private disposal site, unless recommended by the Commission and approved by the Board.

C. Persons desiring to bury or dispose in any manner of their own, domestic solid waste or wastes generated on that subject property under their ownership, may do so in accordance with rules promulgated pursuant to ORS Chapter 459 and 459A and regulations promulgated by the Director pursuant to this chapter, provided that:

1. The subject property is located outside the urban growth boundary;
2. The subject property is a minimum of five (5) acres in size;
3. The solid waste or wastes is buried at least one hundred (100) feet from the nearest well;
4. The solid waste or wastes is buried at least one hundred (100) feet from adjacent property lines, except property lines between contiguous tax lots under common ownership;
5. The solid waste or wastes is not buried within one hundred (100) feet of a jurisdictional wetland, natural or manmade drainage way, creek, stream, river, pond or lake; and

6. The solid waste or wastes shall not fall within the DEQ definition of special or hazardous waste given the term in ORS Chapter 466.005; household hazardous waste as defined in ORS Chapter 459.005; or infectious waste as defined in ORS Chapter 459.386.

D. If any person uses a motor vehicle or other type of device that is so identified in the transport and illegal dumping of solid waste or wastes in any area of the unincorporated limits of the County, said identified motor vehicle or device shall be subject to impoundment by order of the Board. Such identified motor vehicle or device, if so impounded, shall be placed in storage and remain in custody of such persons authorized to receive the same, and be held as security in addition to any such fine or costs that may be assessed to further secure the clean-up and removal cost of any such solid waste and wastes so unlawfully deposited in violation of this chapter. In addition to the right of impoundment as provided in the preceding paragraph, if the violator, owner, or operator of said identified motor vehicle or device, or any party asserting lawful claim to said identified motor vehicle or device, fails to redeem said motor vehicle or device, or fails to post an adequate bond as security for the clean-up and relocation and removal of the solid waste and wastes that violated this chapter, then the Board authorized to enforce this chapter shall publish a notice of sale in a newspaper of general circulation in the County of Clackamas in conformity with applicable notice provisions of the law for repossession of said identified motor vehicles or devices. The Board shall be empowered to sell said identified motor vehicles or devices so impounded in satisfaction of said lien or costs and expenses for the removal of solid waste or wastes illegally dumped in the unincorporated areas of the County. If there is any money remaining after the costs of clean up are paid, said money shall be reimbursed to the owner of the identified motor vehicles or devices that were sold to pay for the cost of said clean up.

E. No person shall discard, deposit, throw, permit to be thrown, place or cause to be placed, or drain any rubbish, trash, debris, garbage, solid waste or wastes in a manner prohibited by ORS 164.775, 164.785 or 164.805. Any person violating this subsection shall be subject to a civil penalty to enforce the provisions of this subsection pursuant to ORS 459.108.

F. No person shall throw or place, or direct another person to throw or place, any rubbish, trash, debris, and garbage, solid waste or wastes in the receptacles of another person without the permission of the owner.

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

10.03.090 Solid Waste Commission

Under this solid waste and wastes management Chapter, there is hereby created a solid waste commission of seven members:

A. Director of the Department of Transportation and Development or ~~his/her~~their authorized representative.
B. Health Officer or ~~his/her~~their authorized representative.
C. One Member of the public.
D. One Member of the public.
E. One Member of the public.
F. One Collection Service Franchise holder.
G. One Collection Service Franchise holder.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16]

10.03.100 Bylaws

The solid waste commission shall have the power to promulgate such bylaws as may be necessary for the efficient operation of the commission. Bylaws that are inconsistent with any provisions of this Chapter shall be void.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16]

10.03.110 Duties of the solid waste Commission

In addition to other duties prescribed by this chapter, the Commission shall:

A. Make an annual report containing its recommendations, if any, regarding proposed changes or additions to regulations promulgated by the Board or amendments to this chapter, for the purpose of carrying out the intent of this chapter.
B. Cooperate with any regional or state authority, such as Metro (Metropolitan Service District) or D.E.Q., to develop a long-range plan to provide adequate disposal sites and disposal facilities to meet future demands and for regional disposal sites. If an authorized regional or state authority sites such a facility, the plan for such a site shall be recommended to the Board for approval.
C. Promote community involvement and make recommendations to the Board for wastes reduction and recycling programs.
D. Monitor franchise agreements between Clackamas County and its franchised solid waste collectors, and make recommendations to the Board to grant, modify or revoke a franchise. The Commission shall also hear all appeals for the granting, modifying, or revoking of permits or licenses issued by the Director.
E. Review collection fee changes and make recommendations to the Board for a specific action.
F. Make recommendations to the Department of Environmental Quality, Metropolitan Service District, and local political jurisdictions regarding local and regional policy and legislative changes in solid waste Management.
G. At the request of the Director, or upon a written request by a person, review the Department of Transportation and Development's enforcement action regarding

solid waste nuisance abatement appeals, as provided in 10.03.040 and 10.03.060 of this chapter.

H. Review changes in legislation affecting solid waste and materials management and recycling in the County and make recommendations to the Board for appropriate action.

I. Perform such other acts or duties as directed by the Board or as established by other chapters as may be necessary, proper, or desirable to carry out effectively the functions and duties of the Commission.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2016, 8/11/16]

10.03.120 Regional solid waste Commission

If agreement is reached with one or more counties pursuant to 10.03.370 of this chapter for regional cooperation in the collection, disposal or utilization of solid waste or wastes, the solid waste Commission shall serve on a Regional Committee established to advise the Board of Commissioners or County Courts of the affected counties.

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

10.03.130 Regulation

Upon recommendations of the Commission or Board, the Director may promulgate regulations pertaining to administration of this chapter.

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

10.03.140 Persons, Activities and Practices Regulated

A. Except as provided in 10.03.050 of this chapter, it shall be unlawful for any person to store, collect, transport, or dispose of any solid waste or wastes for compensation unless such person is franchised, in accordance with the provisions of Section 10.03.140 to 10.03.330 of this chapter, or is a subcontractor of a Collection Service Franchise holder under Section 10.03.260.

B. Except as provided in 10.03.050 and Section 10.03.140 of this chapter, it shall be unlawful for any person to create or maintain a disposal site unless METRO, DEQ and the County approve such site.

C. Except as provided in 10.03.050 and Sections 10.03.140 to 10.03.330 of this chapter, it shall be unlawful for any person to create or maintain a Transfer Station unless METRO, DEQ and the County approve such site.

D. No person shall collect, transport, or dispose of any solid waste or wastes or recyclable material of their tenant. The only exceptions are:

1. The use of an on-site compactor at multi-family developments whereby said development owners, management, or their employees transport the

on-site containers and empty their contents into the compactor, subject to the following conditions:

a. The development owner, management, their employees or agents shall apply for and receive an annual certificate, on forms provided by the County, prior to installing said system and shall pay an annual certification fee in an amount established by the County. The certificate shall require the owner, management, their employees or agents to comply with all criteria of this subsection. After final inspection by the County, when it is determined that the development owners, management, their employees or agents have complied with the criteria of this subsection, the County shall issue a Certificate of Compliance.
   A certificate holder shall be required to apply annually for re-certification not less than ninety (90) days prior to expiration of the original certification. Continued certification shall be subject to approval by the County, and payment of the annual re-certification fee.

b. The collection service for the compactor shall be provided by a Collection Service Franchisee or the Franchisee's authorized subcontractor.

c. The compactor and containers shall be compatible with the Collection Service Franchisee's or the Franchisee's subcontractor's equipment. The cost of retrofitting any collection equipment shall be the responsibility of the owners of the compactor.

d. All manufacturer standards for proper use and maintenance of said equipment shall be followed. In addition, the weight of said equipment and its contents when transported for disposal should not exceed the legal weight limits of state and local laws or the Collection Service Franchisee's equipment. Any costs associated with overweight violations on public roadways, including the costs of citations and down time, shall be the responsibility of the development owners, management, their employees or agents.

e. Collection service for the compactor shall be provided at least once every seven- (7) days and the compactor shall be sized to accommodate that period of on-site waste generation.

f. No on-site nuisance conditions shall be created as a result of infrequent container or compactor servicing.

g. The compactor and container location and the site development shall comply with design review and development standards of the Clackamas County Zoning and Development Ordinance and the Building and Structural Specialty Codes. All sites shall meet the accessibility requirements of the Collection Service Franchisee or the Franchisee's subcontractor, but such requirements shall not

exceed those set forth in the design review and development standards of the Clackamas County Zoning and Development Ordinance.

h. An on-site recycling program, approved by the County, shall be developed and implemented concurrent with the use of an on-site compactor.

i. A special waste management fee shall apply towards providing recycling collection services by the Collection Service Franchisee or the Franchisee's authorized subcontractor.

j. The area around the compactor shall be kept free of solid waste and debris and be washed down on a regular basis.

k. Only the development manager or their employees shall conduct the on-site transport and collection system of the containers or compactors, if a Collection Service Franchisee is not used for said transport.

2. If any condition in l. a. through l. k. of this Subsection D. is violated or fails to be implemented at a multi-family development by the owner, management, their employees or agents, then the exception allowed under this subsection shall terminate upon order of the Director and the certificate under this subsection shall be revoked.

3. When the on-site management or their employees collect and transport recyclable materials for the purpose of consolidating said recyclable materials at a central location or locations, for collection by a Collection Service Franchisee or the Franchisee's subcontractor

E. No person shall solicit, collect, transport or dispose of any residential recyclable material or materials, unless such person is franchised or permitted in accordance with the provisions of 10.03.330 of this chapter, or unless such person is the generator of said recyclable materials. In addition, no person licensed under the Recycling License Chapter shall solicit or collect any residential recyclable material at the place of residence of the generator of the material unless all of the materials identified as residential materials under 10.03.030 are simultaneously solicited for fair market value.

F. No person shall collect, transport or dispose of any recyclable material or materials, that are placed at the curb/road for residential collection by a Collection Service Franchise holder, unless such person is a subcontractor of a Collection Service Franchisee under 10.03.260

G. No person shall collect or transport any commercial or industrial recyclable material or materials without first obtaining a permit in accordance with 10.03.330 of this chapter, or first obtaining a license in accordance with the Recycling License Chapter, unless such person is exempt from the Licensing chapter or is the generator of said material.

H. No recycling depot, including a buy-back center or drop box, shall be located or placed at any location in the unincorporated area of the County in violation of land use and zoning laws.
I. No person shall remove the cover of a residential or commercial container or receptacle except when depositing or removing the contents, nor in any manner interfere with the container or its contents, except those authorized for such duty.
J. It shall be unlawful to deposit solid waste or wastes in the recycling receptacle or the solid waste receptacle of another person, dwelling unit, or establishment without the consent of the person in charge of the premises or receptacle.
K. No person shall place hazardous materials, chemicals, paint, corrosive materials, infectious waste or hot ashes into a receptacle intended for collection service. When materials, or customer abuse, or fire, or vandalism causes excessive wear or damage to a receptacle, the cost of repair or replacement may be charged to the collection service customer.
L. No person shall place solid waste or wastes or recyclable materials in a drop box or compactor in an amount that exceeds the legal weight limits of State and local laws, or which exceed the weight limits of the franchised collectors' equipment or manufacturers' specifications.
M. No person shall store putrescible materials in a receptacle in excess of seven (7) days. Said material shall be removed from the premises at regular intervals not to exceed the seven- (7) days.
N. No commercial recycling receptacle shall be constructed of materials other than those approved by the local fire marshal, nor shall the receptacle be placed in a location that violates the local fire ordinance.
O. An inoperable vehicle commonly designed of ferrous metals shall only be collected, transported, and disposed of by the owner of the vehicle or by a licensed auto wrecker or towing company.
P. Pursuant to OAR Chapter 340 no person shall store waste tires without first obtaining a waste tire storage permit from the Department of Environmental Quality.
Q. Any person picking up or transporting waste tires shall comply with the permit requirements of the DEQ.

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

10.03.145 Business Recycling Requirement

All businesses within the County shall comply with waste prevention, recycling and composting requirements as set forth in this Chapter and the regulations promulgated hereunder. Failure to comply with this section shall be considered a public nuisance which may be abated as provided in 10.03.070 of this chapter.

A. Business will source-separate all recyclable paper, cardboard, glass and plastic bottles and jars, and metal cans for reuse or recycling.
B. Businesses will ensure the provision of recycling receptacles for internal and/or

external maintenance or work areas where recyclable materials are collected, stored, or both.

C. Businesses will post accurate signs:
   1. Describing the location where recyclable materials are collected, stored, or both;
   2. Identifying the materials the business must source-separate for reuse or recycling; and
   3. Providing recycling instructions

D. Persons and entities that own, manage or operate premises with business tenants, and that provide garbage collection service to those business tenants, shall provide recycling collection systems adequate to enable those business tenants to comply with the requirements of subsections A, B and C of this section.

[Added by Ord. 04-2009, 7/9/09; Amended by Ord. 04-2019, 6/11/19]

10.03.147 Business Food Waste Requirement

All covered businesses in the County that fall within the Metro boundary shall comply with provisions set forth in this chapter and regulations promulgated hereunder. A covered business is a business or workplace that cooks, assembles, processes, serves, or sells food or does so as a service provider for other enterprises and generates more than 250 pounds per week of food waste. Failure to comply with this section or regulations promulgated hereunder shall be considered a public nuisance which may be abated as provided in 10.03.070 of this chapter.

A. Covered businesses must separate and collect food waste that is controlled by the business, agents, and employees. This requirement does not apply to food wastes controlled by customers or the public. At its discretion, a business may also collect food waste from customers or the public. K-12 schools may also include student-generated food waste from school cafeteria meals but must ensure that food wastes are free of non-food items.

B. Covered businesses must ensure that food waste collected in compliance with this chapter is free of non-food waste items.

C. Covered businesses must have correctly labeled and easily identifiable receptacles for internal maintenance or work areas where food waste may be collected, stored, or both.

D. Covered businesses must post accurate signs where food waste is collected and stored that identify the materials that the covered business must source separate.

E. All covered businesses must comply with this section by September 30, 2023;
   a. Covered businesses, that are not schools, generating greater than 1,000 pounds of food waste per week must comply with this section by March 31, 2021;
   b. Covered businesses, that are schools, generating greater than 500 pounds of food waste per week must comply with this section by September 30, 2022.

F. Persons and entities that own, manage or operate premises with tenants that are covered businesses, must allow or facilitate food waste collection service adequate to enable those tenants to comply with the requirements of this section.
G. A covered business may seek a temporary compliance waiver from the business food waste requirement subject to the following conditions:
    a. The temporary compliance waiver will not exceed twelve (12) months; and
    b. The business provides access to the County for a site visit to demonstrate that the covered business cannot comply with this section under criteria identified in Metro or County administrative rule; and
    c. The County approves a temporary compliance waiver under this section; and
    d. The County may perform periodic site visits to ensure the conditions allowing a temporary compliance waiver under this section are still in place and cannot be remedied.
H. The County may grant a renewal of a temporary compliance waiver.
I. Those cities with which the County has agreements for performing the work associated with the Annual Waste Reduction Plan may delegate the granting and administration of temporary compliance waivers to the County.

[Added by Ord. 04-2019, 6/11/19]

10.03.150 Applications

Applications for Franchises shall be on forms provided by the Commission. In addition to information required on the forms, the Commission may require the filing of special guarantees and indemnities, and any additional information it deems necessary, to insure compliance with this chapter.

A. Applicants for Collection Service Franchises shall state the type of service to be provided, and shall supply information required to determine qualifications for such franchise under Section 10.03.160 of this chapter.
B. Applicants for Disposal Franchises shall file a duplicate copy of the information required by the Department of Environmental Quality pursuant to Chapter 459, Oregon Revised Statutes.

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

10.03.160 Requirements for Collection Service Franchises

A. Existing Collection Services:
    1. Collection Service Franchisee's shall make application for renewal of their Collection Service Franchise within thirty (30) days of the County's written notice of the requirement for filing an application for renewal. The County will normally give such written notice to said Collection Service

Franchisee not less than one (1) year prior to expiration of the Collection Services Franchises. Upon filing an application for renewal, and furnishing required information for renewal of such Franchise, said applicant might continue to provide collection service until the Board makes a final decision on the application for renewal. Such person shall furnish the information required by subsection B of this Section and prove to the satisfaction of the Board that the applicant has a majority of the service accounts in the service area for which he/she is applying for renewal, which shall be evidenced by a list of customers served. If such person is also applying for an area which he/she is not currently serving, he/she shall also supply the information required by subsection C or D of this Section.

2. Franchisees shall submit to the Director any information necessary to satisfy which recyclables are being collected or received, methods of and/or copies of materials providing for public education and promotion or any other information required by the Director, METRO, and the Department of Environmental Quality pursuant to ORS Chapter 459 or 459A and Rules promulgated thereunder.

3. Upon proper application and a finding by the Board that the applicant is providing adequate service and otherwise qualifies for a franchise under this Section, the Board shall issue a Collection Franchise covering the area served by the applicant on the effective date of this chapter. However, if this Board finds that the applicant should not be granted a Collection Franchise on the basis of inadequate existing service or that the applicant does not meet the requirements of this Section, the Board may deny, or partially deny, the application or may specify additional requirements to be met by the applicant to guarantee service. By the same Order, the Board may grant, modify, or deny, in whole or part, an applicant's request to serve an additional area not being served on the effective date of this chapter, or may assign an additional service area. Any such order is subject to appeal and hearing as provided in 10.03.220 of this chapter.

B. Applicants for a Collection Service Franchise or renewal of said Franchise shall provide sufficient information to the Board to prove to its satisfaction that:

1. The applicant has available collection vehicles, equipment, facilities and personnel sufficient to meet the standards of equipment and service established by this chapter, and ORS Chapter 459 or 459A, and the rules and regulations promulgated thereunder.

2. The applicant has good moral character, or if the applicant is a firm or corporation, that the principal partners or officers are of good moral character.

3. The applicant shall use disposal sites authorized by the Board, DEQ, and METRO, and list such sites.

4. The applicant shall furnish the County with a Certificate of Insurance for comprehensive general liability insurance, including contractual and products/complete operations liability insurance in an amount established by the Board for combined, single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to the applicant's or any subcontractor's performance of this chapter.
5. The applicant 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, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
6. The insurance shall include the County as an additional insured and refer to and support the applicant'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.

C. In the matter of an application for a Collection Service Franchise, if the applicant is not already serving an area proposed to be served, the applicant shall show in addition that:
1. The defined service area has not been franchised to another person; or,
2. The holder of the franchise is not adequately serving the defined service area and there is substantial demand by customers within the area for a change of service to that area.

D. If the applicant for a Collection Service Franchise proposes to serve an area or portion thereof that is under franchise to another person, or to replace such person upon expiration of the existing franchise, he/she shall have available, on the day beginning the proposed franchise term, adequate personnel, collection vehicles, containers, and other equipment for the service to be rendered. The Board shall require that such applicant supply a corporate bond, or cash, or acceptable negotiable securities to guarantee such availability to the satisfaction of the Board.

E. If it appears to the Board through its own knowledge, or through knowledge of its agents, or through written notice from any person, that there are conflicting claims to a Service Area, then a public hearing shall be called by the Board to resolve such conflicting claims and the claim shall be resolved by the Board, upon the

basis of the recommendation of the Commission, the requirements of this chapter for Collection Service Franchises as set forth in this Section, and the Board's determination as to which applicant can best serve a given service area in the public interest. The decision of the Board in resolving any conflict between persons claiming the Service Area shall, in addition, be made by the Board upon its finding of which person or applicant has the greatest claim to the Service Area or portion thereof the Commission's recommendation shall be based on a review as to past Service of record in the area and the requirements of this chapter. The Board's decision shall be final.

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

10.03.170 Issuance of Collection Service Franchises

Applications for Collection Service Franchises and renewal of Collection Service Franchisees shall be reviewed by the Commission and by the Director. They shall make such investigation, as they deem appropriate. The Commission shall give written notice to the current Collection Service Franchisees when any person applies for a franchise within an established franchised area.

Upon the basis of the application, evidence submitted and results of any investigation by the Commission and by the Director, the Commission shall review the qualifications of the applicant pursuant to the requirements for a Collection Service Franchise under 10.03.160 and shall determine whether additional areas should be included or additional service or equipment should be provided.

On the basis of its review, the Commission shall recommend to the Board whether the application should be granted, be denied, or be modified. The Board shall issue an Order granting, denying, or amending the application.

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

10.03.180 Disposal Franchise Requirements

A. Applicants for a Disposal Franchise shall provide sufficient information to determine compliance with the requirements of this chapter; the regulations promulgated thereunder and rules of Federal, State and local agencies having jurisdiction.

B. Applicants shall specify the type of disposal site and the disposal method to be employed together with any proposed special regulations dealing with hazardous wastes, recyclable materials or what waste or recyclable material will be accepted or rejected at the disposal site.

C. The applicant must show to the satisfaction of the Board that he/she:

1. Has available land, equipment, facilities, and personnel to meet the standards established by this chapter and ORS Chapter 459 or 459A, and the rules and regulations promulgated thereunder and that he/she has insurance equal to that required by 10.03.150 of this chapter.
2. Has good moral character or, if the applicant is a firm or corporation that the principal partners or officers are of good moral character.
3. The Board shall require the applicant to submit a corporate surety bond in the minimum amount of $50,000, or such other sum as the Board may require, or such other acceptable guarantees or substitutes in an amount to be designated by the Board, guaranteeing full and faithful performance by the applicant of the duties and obligations of the franchise holder under provisions of this chapter and applicable Federal, State, and local laws and rules or regulations. In determining the amount of bond to be required, the Board shall give due consideration to the size of the site, the method of disposal proposed, the population to be served, adjacent or nearby land uses, and the potential danger for failure of service.

D. Where the applicant is providing disposal service on the effective date of this chapter, and has filed ~~his/her~~their application within thirty (30) days thereafter, ~~he/she~~they may continue service until the final decision of the Board on ~~his/her~~their application.

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

10.03.190 Issuance of a Disposal Franchise

The Commission shall review applications for Disposal Franchise. The Commission shall give written notice of the application to any person who holds a Disposal Franchise for Service to all or part of the area that reasonably would be served under the application. Upon the basis of the application, evidence submitted, and results of any investigation, the Commission shall make a finding on the qualifications of the applicant and whether or not additional service, personnel, land, equipment or facilities should be provided and what conditions of service should be imposed including, but not limited to, whether the site should be opened to the public and under what conditions, whether or not certain types of wastes, solid waste, hazardous wastes or recyclable materials should be excluded from the site or should be required to be accepted at the site, and shall make a finding as to whether or not the site is economically feasible, whether or not the site may be integrated with existing private or county-owned or operated sites, and further that the site complies with all rules and regulations adopted pursuant to ORS Chapter 459 or 459A, and by this chapter.

On the basis of its review, the Commission shall recommend to the Board whether or not the application should be granted, be denied, or be modified. The Board shall issue an Order granting, denying, or amending the application.

These provisions are in addition to, and not in lieu of, any provisions of the Clackamas County Zoning and Development Ordinance and the Clackamas County Comprehensive Plan.
[Codified by Ord. 05-2000, 7/13/00]

10.03.200 Transfer Station Franchise Requirements

A. Applicants for a Transfer Station Franchise shall provide sufficient information to determine compliance with the requirements of this chapter, the regulations promulgated thereunder and rules of Federal, State or regional agencies having jurisdiction.

B. Applicant must show to the satisfaction of the Board that he/she:
   1. Has available land, equipment, facilities, and personnel to meet the standards established by this chapter and ORS Chapter 459 or 459A, and the rules and regulations promulgated thereunder.
   2. Has good moral character, or if the applicant is a firm or corporation, that the principal partners or officers are of good moral character.
   3. Shall furnish the County with a Certificate of Insurance for comprehensive general liability insurance, including contractual and products/completed operations liability insurance in an amount established by the Board for combined, single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, or damage to property, including loss of use thereof, in any way related to the applicant's or any subcontractor's performance of this chapter.
   4. 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, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
   5. Has insurance which shall include the County as an additional insured, and which shall refer to and support the applicant'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~~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.

C. Where the applicant is providing transfer service on the effective date of this chapter, and has filed ~~his/her~~their application within thirty (30) days thereafter,

~~he/she~~they may continue service until the final decision of the Board on ~~his/her~~their application.

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

10.03.210 Issuance of a Public Transfer Station Franchise

A. The Commission shall review applications for Transfer Station Franchises. The Commission shall give written notice to any person who holds a transfer station franchise for service to all or part of the area that reasonably would be served under the application.

B. On the basis of the application, evidence submitted, and results of any investigation, the Commission shall make a finding on the qualifications of the applicant and whether or not additional personnel, service, land, equipment or facilities should be provided, and what conditions of service should be imposed, including but not limited to whether or not certain types of wastes, sold wastes, hazardous wastes or recyclable materials should be excluded from the transfer station or should be required to be accepted at the transfer station, and the Commission shall make a finding as to whether or not the transfer station may be integrated with existing private or County-owned or operated transfer stations, and further that the transfer station complies with all rules and regulations adopted pursuant to Chapter 459 or 459A. On the basis of its review, the Commission shall recommend to the Board whether or not the application should be granted, be denied, or be modified. The Board shall issue an Order granting or denying a Transfer Station Franchise to the applicant.

C. Provisions of this section of this chapter are in addition to, and not in lieu of, any provisions of the Clackamas County Zoning and Development Ordinance, the Clackamas County Comprehensive Plan or rules or regulations of the Oregon Department of Environmental Quality and the Federal Government.

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

10.03.220 Appeal of a Franchise

If the Order of the Board is adverse to the applicant or to the holder of an existing franchise, it shall not become effective until thirty (30) days after the date of said Order, unless the Board finds that there is an immediate and serious danger to the public, or that a health hazard or public nuisance would be created by a delay. The applicant or a franchise holder may request a public hearing before the Board upon the Board's Order by filing a written request for an appeal hearing with the Board within thirty (30) days after the date of said Order. On the filing of such request for an appeal hearing, the Board shall set a time and place for a public hearing upon its Order, which hearing shall be not more than thirty (30) days from the date of said request for an appeal hearing. The applicant or franchise holder may submit relevant evidence to the Board upon the Board's Order. Other interested persons or affected public or private agencies may appear

and offer oral or written testimony. The Board may, following the public hearing, affirm, modify or rescind its prior Order.

Subject to provisions of 10.03.410, the determination of the Board after conclusion of said public hearing should be final.

If the Board makes a final Order rejecting all or part of the application for a franchise, the applicant may not submit another application for the same service area or portion thereof, or for the same disposal site, for a period of six months unless the Board finds that the public interest requires reconsideration within a shorter period of time.
[Codified by Ord. 05-2000, 7/13/00]

10.03.230 Exclusive or Joint Service Under a Collection Service Franchise

Upon recommendation of the Commission, if the Board finds that an applicant for a Collection Service Franchise cannot provide adequate Service for the collection of solid waste or wastes, or the curbside/roadside collection of recyclable materials to a single customer, a group or type of customer, or for a particular type or unusually large quantity of solid waste or wastes, or for recyclable material, it may issue a franchise for joint service with another person who can provide that service; provided, however, that in all cases where the Board finds that the applicant is able to provide adequate service within the defined Service Area, it shall issue an exclusive Collection Service Franchise.

If the holder of a Collection Service Franchise is unable to provide service for particular types, or unusually large quantities, of solid waste or wastes or recyclable materials, the Board may issue a temporary or permanent Collection Service Franchise to another person for the purpose of providing limited service to the customer or customers having such particular types or unusually large quantities of solid waste or wastes or recyclable materials.

Upon recommendation of the Commission, if the Board finds that the need for service justifies action before a complete investigation and final determination can be made, it may issue a temporary Collection Service Franchise valid for a stated period not to exceed six months, entitling a person to serve a defined Service Area or customers.
[Codified by Ord. 05-2000, 7/13/00]

10.03.240 Transfer of Franchise

The holder of a solid waste or wastes Collection Service Franchise may transfer ~~his/her~~their franchise and/or right to provide residential curbside/roadside or multi-family collection service of recyclable materials, or a portion thereof, to other persons only upon

written notice to, and approval by, the Board.

Upon recommendation and finding of the Commission, the Board may approve the transfer if it finds that the transferee meets all applicable requirements met by the original Collection Service Franchise holder. The Board shall approve or disapprove any application for transfer of a Collection Service Franchise and/or right to provide residential curbside/roadside or multi-family collection of recyclable materials within thirty (30) days of receipt of notice by the Board, unless the Board finds there is substantial question of public health or safety involved which requires additional time for investigation and decision.

Upon recommendation of the Commission, the Board may permit a Collection Service Franchise to be pledged as a security for purchase of land, equipment, or facilities that are needed to provide service, or to finance purchase of a business providing service under this chapter. The Board may attach whatever condition it deems appropriate to guarantee maintenance of service.
[Codified by Ord. 05-2000, 7/13/00]

10.03.250 Change In Control of Franchises

The holder of a solid waste or wastes Collection Service Franchise shall promptly notify the County of any proposed change in control, or transfer of a controlling interest in stock ownership. 'Change in control' shall mean the occurrence of either A or B of this Section:

A. Any person, corporation, limited liability company, partnership, trust or association, or any group within the meaning of Section 13 D 3 of the Securities Exchange Act of 1934, as amended, 15 USC §78m D 3, and the rules and regulations promulgated thereunder, 17 CFR §240.13d-3, (the "Exchange Act") shall have acquired, after the date hereof, beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act), directly or indirectly, of common stock representing fifty percent (50%) of the combined voting power of all common stock of the franchise holder, or of any parent company of the franchise holder, immediate or otherwise, (hereinafter called a 'Controlling Person'). "Common stock" as used in the preceding sentence shall mean common stock eligible to vote in the election of directors, or other securities convertible into such common stock, other than securities having such voting power only by reason on the happening of a contingency. Or

B. A majority of the Board of Directors or the franchise holder shall cease for any reason to consist of:

    1. Individuals who are currently serving as directors of the franchise holder; and

2. Individuals who subsequently become members of the board if such individuals' nomination for election, or election to, the board is recommended or approved by a majority of the board of directors or stockholders of the franchise holder, provided that use of the provisions of this clause shall not be used to evade the intent of this section.

C. For purposes of paragraph A above, a person or group shall not be a Controlling Person if such a person or group holds voting power in good faith and not for the purposes of circumventing this provision as an agent, bank, broker, nominee, trustee, or holder of revocable proxies given in response to a solicitation pursuant to the Exchange Act, for one or more beneficial owners who do not individually, or, if they are a group acting in concert, as a group, have the voting power specified in paragraph A.

D. The franchise holder shall give County a written request to approve the change in control prior to any change in control taking effect. If a change in control occurs without written notice to County, such change shall be grounds for revocation of franchise by the County, at its sole discretion.

E. A change in control shall make a franchise subject to revocation, unless and until the Board, after receiving the recommendation of the Commission, has approved the change in control. The Board shall approve or disapprove any change in control within ninety (90) days of receipt of written request to enter into the transaction and receipt of all information required in writing by the County. For the purpose of determining whether it will consent to such change in control, the County may inquire into the qualifications of the prospective controlling party to perform under the County's solid waste collection system and the effects of the change on that system. The franchise holder shall assist the County in any such inquiry.

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

10.03.260 Responsibilities of Franchise Holders

A. The holder of a Collection Service Franchise:

1. Shall provide required service, personnel, equipment and facilities, but not less than the service, personnel, equipment and facilities commensurate with existing service provided within the Service Area defined in the franchise, within one month from the date of issuance of the Collection Service Franchise or renewal of the Franchise, unless the Commission extends the time upon showing of reasonable grounds by the franchisee. Where an area is not receiving service on the date of the application for a Collection Service Franchise covering such area, the Commission may order that Service be provided at such time as it finds to be reasonable.
2. Shall not voluntarily discontinue service to the Service Area, or substantial portion thereof, or any customer without giving ninety (90) days written notice of the proposed discontinuance of service to the Commission and to

the customers within the franchised Service Area, and shall not discontinue the service without receiving the approval of the Board. Nothing in this section shall prohibit a franchisee from refusing to provide service to a customer if the customer refuses to pay for the service in accordance with waste management fees established pursuant to this chapter, or for other reasons as may be established by the Board or Director by regulation; provided, however, in no event shall the holder of the Collection Service Franchise terminate such service without seven (7) days prior written notice to the customers of the franchisee's intention to terminate service. The franchisee shall retain a copy of said notice. A Collection Service Franchise holder who has discontinued service on the basis of refusal of a customer to pay for such service may require a reasonable deposit to guarantee payment for future services before reinstating such service or demand advance payment for service. Nothing in this subsection shall apply to any Order for a change, restriction, or termination of service by any public agency, public body or court having jurisdiction.

3. May subcontract with another person to provide service, or a particular type of service, within a Service Area after giving written notice to, and obtaining approval of, the Board.
4. May refuse Service to a customer where service at a particular location would jeopardize the safety of the driver of the collection vehicle, or the motoring public, or cause damage to the collection vehicle or equipment, or where the customer has not provided reasonable access to the pickup point for the receptacle(s) storing solid waste or wastes or recyclable materials. Service may also be refused where there is undue hazard or risk to the person providing service due to natural or manmade constraints, such as overhanging branches, slope, topography, wet ground conditions; vicious animals; or private roads, driveways, or bridges where damage may occur to said road, driveway, or bridge, or equipment from the weight of the collection vehicle or equipment whether empty, partially full, or full. In addition, weather conditions may temporarily prevent service to a particular customer or customers. The Board, Commission, or Director, may from time to time, develop regulations establishing adequate standards of safety for the driver of a collection vehicle, the motoring public, and the public generally, and the solid waste or wastes or recyclable materials collection vehicle or equipment. If a customer is refused service for any condition other than temporary weather conditions, a written notice stating the reasons for refusal of service shall be given to said customer and the Director within seven (7) days from when service is first refused by the Collection Service Franchisee.
5. Shall provide the opportunity to recycle as follows:
   a. Shall provide at least weekly residential on-route curbside/roadside

collection of recyclable materials and weekly on-route collection of yard debris within the urban growth boundaries of Clackamas County and cities within the Metropolitan Service District.

b. Shall provide other on-route collection of recyclable materials as required by the County or State law.

c. Shall have the right to compete in the purchase or exchange for fair market value in the collection of commercial/industrial source-separated recyclable materials.

d. Shall design, commit resources, and provide an education, promotion and notification program to enhance recycling awareness and to provide the opportunity to recycle as provided by this chapter and ORS Chapter 459 or 459A and the rules promulgated thereunder.

e. Shall report to the County on recycling activities and supply all necessary information for purposes of preparing the D.E.Q. or METRO recycling report.

f. At the request of a permit holder shall haul any load of recyclable materials collected by the permit holder to a legally established utilization facility and may charge a fee pursuant to 10.03.330 to cover the cost of this service. The franchisee shall remit to the permit holders all revenue derived from the sale of this material at the utilization facility.

6. Shall indemnify Clackamas County, the Board, the Commission, the Director and any of their employees or agents, and save them harmless from any and all loss, damage, claim, expense or liability arising out of operation by the Collection Service Franchise holder under ~~his/her~~their franchise. In the event that any suit or action is brought for injury or damage to persons or property of others against Clackamas County, the Board, the Commission, the Director or any of their employees or agents, based upon, or alleged to be based upon, any loss, damage, claim, expense or liability arising out of operations by the franchise holder under ~~his/her~~their franchise, the Collection Services Franchise holder shall defend the same at ~~his/her~~their own cost and expense; provided, however, that Clackamas County, the Board, the Commission and the Director reserve the right to retain counsel of their own choosing and join in the defense of any such suit or action.

B. The holder of a Disposal Franchise:

1. Shall not voluntarily discontinue service without giving at least ninety (90) days written notice of the proposed discontinuance of service to the Commission and to any Collection Service Franchisee using ~~his/her~~their disposal site; and further, shall receive the approval of the Board prior to discontinuing said service. This paragraph shall not apply to any order for

closure or restriction of use by any public agency, public body, or court having jurisdiction.

2. May contract with another person to operate the disposal site after giving written notice to, and obtaining the approval of, the Board.
3. May refuse disposal service to any customer if the customer refuses to pay for the service in accordance with the rates established pursuant to this chapter. A Disposal Franchise holder who has discontinued service for refusal of a customer to pay for such service, may demand that the customer provide a reasonable deposit in advance to guarantee payment for future service prior to reinstating such service, or may demand advance payment for service.
4. Shall provide the necessary service and facilities for collecting source-separated recyclable materials as designated by D.E.Q., METRO, or the County. This shall also include development of education and promotion literature on the opportunities to recycle and recycling awareness for distribution to the user.
5. Shall indemnify Clackamas County, the Board, the Commission, the Director and any of their employees or agents, and save them harmless from any and all loss, damage, claim, expense or liability in any manner occurring in connection with, or arising out of, operations under this Disposal Franchise. In the event any suit or action is brought for injury or damage to persons or property of others against Clackamas County, the Board, the Commission, the Director or any of their employees or agents based upon or alleged to be based upon any loss, damage, claim, expense or liability in any manner occurring in connection with or arising out of operations under this Disposal Franchise, the Disposal Franchise holder shall defend the same at ~~his/her~~their own cost and expense; provided, however, that Clackamas County, the Board, the Commission, and the Director reserve the right to retain counsel of their own choosing and join in the defense of any suit or action.

C. The holder of a Transfer Station Franchise:

1. Shall not voluntarily discontinue service without giving at least thirty (30) days written notice of the proposed discontinuance of service to the Commission and to any Collection Service Franchisees using ~~his/her~~their Transfer Station; and further shall receive the approval of the Board prior to discontinuing said service. This subparagraph shall not apply to any order, foreclosure, or restriction of use, by any public agency, public body, or Court having jurisdiction.
2. May contract with another person to operate the Transfer Station after giving written notice to, and obtaining approval from, the Board.
3. May refuse service to any customer if the customer refuses to pay for this service in accordance with the rates established pursuant to this chapter. A Transfer Station Franchise holder who has discontinued service for refusal

of a customer to pay for such service, may demand that the customer provide a reasonable deposit in advance to guarantee payment for future service prior to reinstating that service or may demand advance payment for service.

4. Shall provide the necessary service and facilities for collecting source-separated recyclable materials as designated by D.E.Q., METRO or the County. This shall also include development of education and promotion literature on the opportunities to recycle and recycling awareness for distribution to the user.
5. Shall indemnify Clackamas County, the Board, the Commission, the Director and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense, or liability in any manner occurring in connection with or arising out of operations under the Transfer Station Franchise. In the event any suit or action is brought for injury or damage to persons or property of others against Clackamas County, the Board, the Commission, the Director or any of their employees or agents, based upon or alleged to be based upon any loss, damage, claim, expense or liability, in any manner occurring in connection with or arising out of operations under ~~his/her~~their Transfer Station Franchise, the franchise holder shall defend the same at ~~his/her~~their own cost and expense; provided, however, that Clackamas County, the Board, the Commission, and the Director reserve the right to retain counsel of their own choosing and join in the defense of any such suit or action.

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

10.03.270 Enforcement of Franchise Provisions

The Commission shall, upon reasonable cause, make an investigation to determine if there is sufficient reason and cause to suspend, modify, revoke, or refuse to renew a franchise as provided in this section. If, in the opinion of the Commission, there is sufficient evidence to constitute a violation of this chapter or ORS Chapter 459, or 459A, or the rules or regulations promulgated thereunder, the Commission shall notify the holder of the franchise in writing of the alleged violation and the steps necessary to be taken to cure the violation. Upon a finding that a violation exists and that the franchisee is unable to, or refuses to, cure the violation, the Commission shall make a recommendation to the Board that the franchise be suspended, modified, revoked, or that it not be renewed.

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

10.03.280 Suspension, Modification, Revocation or Refusal to Renew a Franchise

A. Upon recommendation by the Commission, or upon its own motion, the Board may suspend, modify, revoke, or refuse to renew a franchise upon finding that the holder thereof has:
   1. Willfully violated this chapter or ORS Chapter 459, or 459A, or the rules, or the regulations promulgated thereunder; or
   2. Willfully misrepresented material facts or information given in the application for the franchise; or
   3. Willfully refused to provide adequate service in a defined Service Area or at the franchised Disposal Site, Transfer Station or Depot after written notification and a reasonable opportunity to do so; or
   4. Willfully misrepresented the total number of collection service customers in the Franchised Service Area.

B. In lieu of immediate suspension, modification, revocation, or refusal to renew a franchise, the Board may order compliance and make the suspension, modification, revocation, or refusal to renew a franchise or permit contingent upon compliance with the Order within the period of time stated in said Order.

C. If the Board suspends, modifies, revokes, or refuses to renew the franchise, the action shall not become effective until thirty (30) days after the date of the Order, unless the Board finds that there is a serious and immediate danger to the public health, or that a public nuisance would be created. The holder of a franchise may request a public hearing before the Board upon the Board's Order by filing a written request for such hearing with the Board within thirty (30) days after the date of said Order. Upon the filing of said request for hearing, the Board shall set a time and place for a public hearing; and upon its Order, said hearing shall not be more than thirty (30) days from the date of filing of said request for hearing. The franchise holder and other interested persons or affected public agencies may submit oral or written evidence to the Board relevant to the Board's Order. The Board may, following the public hearing, affirm, amend, or rescind its prior Order. Subject to provisions of Section 10.03.410, the determination of the Board, after conclusion of said public hearing, shall be final.

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

10.03.290 Preventing Interruption of Service

The holder of any franchise agrees, and it is a condition of ~~his/her~~their obtaining and holding the franchise, that whenever the Board finds that the failure of service would result in creation of a health hazard or a public or private nuisance, the Board shall, after reasonable notice of not less than 24 hours to the franchisee, and a public hearing, if the franchisee requests such hearing, have the right to authorize another franchise holder or another person to provide service, or to use and operate the land, facilities or equipment of the franchise holder, for reasonable compensation to provide emergency service in the

event of a serious interruption of service to all, or to a class, or group of customers for so long as such interruption continues.
[Codified by Ord. 05-2000, 7/13/00]

10.03.300 Terms of Franchises

A. Franchises, other than Collection Service Franchises, shall be renewable unless grounds exist for refusal to renew pursuant to Section 10.03.280 of this chapter.
B. The term for a Disposal Franchise shall be determined by the Board upon the recommendation of the Commission, based upon site longevity, population to be served, and probable use.
C. The term for a Transfer Station Franchise shall be ten (10) years, unless upon recommendation of the Commission, the Board may adjust the term of the franchise as deemed necessary due to the cost of land, equipment, or facilities.
D. Unless grounds exist for suspension, modification, or revocation of the Collection Service Franchise under Section 10.03.280 of this chapter, each Collection Service Franchise shall be considered as a continuing ten- (10) year term. Beginning January first (1st) of each year, the Franchise will be considered renewed for an additional ten (10) year term, unless at least thirty (30) days prior to January first (1st) of any year the County notifies all the Franchisees of intent to terminate the continuing franchise system. Upon the giving of such notice, the Franchisees will each have a Franchise which will terminate on the January first (1st) which is ten years from the date of the last renewal prior to the notice of termination.
E. The County may initiate proceedings for suspension, modification, or revocation of a Collection Service Franchise under Section 10.03.280 of this chapter, at any time, whether or not a review is being conducted.
F. Collection Service Franchises shall be subject to a review by the Director every five (5) years. The Director shall provide a report of the review to the Commission and the Board. Upon recommendation by the Commission, or upon its own motion, the Board may order that conditions be attached to a Collection Service Franchise or that modifications be enacted by a Collection Service Franchisee, based upon the review. Any such order for conditions or modifications shall be subject to the notification and hearing process set forth in Section 10.03.280 C of this chapter.

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

10.03.310 Franchise Fees

A. The Board shall collect in the manner and at the time provided in this Section, from the holder of:

1. Any Collection Service Franchise, an annual fee based on gross cash receipts from collection service provided to the service area included in the Collection Service Franchise. Said fee shall be in an amount established by the Board and shall not include cash receipts from the sale of recyclable materials.
2. Any Disposal Franchise, an annual fee based on gross annual disposal fees. Said fee shall be in an amount established by the Board.
3. Any Transfer Station Franchise, an annual fee based on gross annual disposal fees. Said fee shall be in an amount established by the Board.
4. These fees may be changed by resolution of the Board, upon thirty- (30) days written notice, to give an opportunity for each franchisee to be heard.

B. Annual Collection Service Franchise fee shall be computed quarterly and shall be paid on a quarterly basis, not later than thirty (30) days after the end of each calendar quarter.

C. Within sixty (60) days after the end of each calendar year, a Collection Service Franchise holder shall file with the Board a sworn and verified statement of ~~his/her~~their total gross cash receipts; and, in order that the Board may have a way of keeping up with the total number of customers in the franchised areas, the Collection Service Franchise holder shall include in the sworn and verified statement the figure for ~~his/her~~their total number of customers.

D. The annual Disposal Franchise fee shall be computed monthly and paid by the 20th of the following month. Within sixty (60) days after the end of each calendar year, a Disposal Franchise holder shall file with the Board a sworn and verified statement of ~~his/her~~their total gross cash receipts for disposal; and, in order for the Board to have a way of keeping up with the volumes disposed, the Disposal Franchise holder shall submit a sworn statement of the total volumes disposed during the previous calendar year.

E. Every Collection Service Franchise holder, Disposal Franchise holder or Transfer Station Franchise holder shall maintain books and records disclosing the total number of customers in their~~his/her~~ franchised area, which records shall be open at reasonable times and places for audits by authorized personnel of Clackamas County.

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

10.03.320 Use of Franchise Fees

Fees collected pursuant to Section 10.03.310 of this chapter shall be placed in a fund to be known as the Solid Waste Disposal Fund and shall be used only for the purposes outlined in 10.03.020 of the Purpose and Policy Statements of this chapter, unless transferred to another fund by budget transfer approved by the Board of County Commissioners. The solid waste disposal fund shall not be used for general County purposes unless first transferred by such a budget transfer. Said fund shall be kept and accounted for separately and apart from the Clackamas County General Fund or any

other fund.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 09-2001, 9/27/01]

10.03.325 Reduction of Per Ton Solid Waste Rate

A. Notwithstanding any other provision of the Clackamas County Code, in the event that Metro reduces or is required by a court or otherwise to reduce its per ton solid waste rate, "tip fee," or any similar charge charged by Metro on a per ton basis and paid by any Collection Service Franchisee providing Collection Services to consumers in Clackamas County, the Waste Management Fee for Collection Services set by the Board shall be reduced commensurately so that one hundred percent of the reduction in fees paid to Metro as a result of Metro's reduction inures to the benefit of residents paying for Collection Services in the form of a reduced Waste Management Fee paid by those residents.

B. The requirements of Section A apply to any reduction of Metro's fees described therein that will last more than 30 days in duration. If the reduction of Metro's fees described in Section A is the result of a court order, the commensurate reduction in the Waste Management Fee for Collection Services a Collection Service Franchisee may charge to residents described in Section A shall be implemented as soon as reasonably practicable without the need to pass through the process for Determination of Waste Management Fees set forth in Clackamas County Code Section 10.03.340. Otherwise, the process for Determination of Waste Management Fees set forth in Clackamas County Code Section 10.03.340 shall apply to the implementation of the requirements of Section A, provided, however, that the Board shall complete its process for Determination of Waste Management Fees as soon as reasonably practicable after receiving notice of any reduction in Metro's fees and that if, in setting the new Waste Management Fee, the Board finds that the Waste Management Fee must cover any unrelated increase in costs, the Board may implement the reduction in the Waste Management Fee required under Section A as an offset to those unrelated increases in costs and that offset shall be deemed to inure to the benefit of residents paying for Collection Services as an effective reduction of the Waste Management Fee those residents otherwise would be paying.
[Added by Ord. 01-2021, 4/15/21]

10.03.330 Permit for Civic Community, Benevolent or Charitable Non Profit Organization or Corporation

A. Unless franchised under Section 10.03.140 to 10.03.330 of this chapter, any civic, community, benevolent or charitable nonprofit organization or corporation

conducting activities for the collection, transportation, processing or disposal of recyclable materials, shall apply for a permit therefor from the Director on forms supplied by the Director. The Collection Service Franchise holder for the area in which the permittee shall conduct such activities shall be notified of the issuance of the permit. There shall be no fee for such a Permit. The duration of the permit shall be twelve (12) months or such other time as fixed by the Director. The Director shall furnish the permittee a list of applicable regulations and such available information as may assist the permittee in their~~his/her~~ endeavor. The Director may reject a permit application on the grounds that the applicant is unable or unwilling to meet the standards or requirements applied by the Director. The Director may apply any reasonable standard or requirement to such permit to prevent the creation of health, fire or safety hazards, the sustenance leading to the production of vectors or anything leading to a condition of unsightliness or foul odors. Any condition applied by the Director shall become a part of the permit, and violation by the permittee of any such condition shall automatically revoke the permit granted.

B. The permittee shall make arrangements to have the recyclable materials transported to market and shall designate who is to transport the recyclable materials when the permit is applied for. The assistance of the Collection Service Franchise holder whose Collection Service Area the recyclables are taken from may be used. If the Collection Service Franchise holder participates in transporting the recyclable materials, the said franchisee shall have the right to charge a fee pursuant to Section 10.03.340 to cover the cost of this service. Said Franchisee shall remit to the permit holder all revenue derived from the sale of the material.

C. The Director may suspend, modify, revoke, or refuse to issue or renew a permit upon the grounds set forth in A of this section. The applicant for a permit, or the permittee, may appeal any such decision of the Director to the Commission for their decision on the matter. If the Commission suspends, modifies, revokes or refuses to renew the permit, the action shall not become effective until thirty (30) days after the date of the Commission's decision, unless the Commission finds that there is a serious and immediate danger to the public health, or that a public nuisance would be created. The holder of a permit may request a public hearing before the Commission by filing a written request for such hearing with the Commission within thirty (30) days after the decision of the Commission. Upon filing of said request for hearing, the Commission shall set a time and place for a public hearing, and upon its Order, said hearing shall not be more than thirty (30) days from the date of filing of said request for hearing. The permit holder and other interested persons or affected public agencies may submit oral or written evidence to the Commission relevant to the Commission's decision. The Commission may, following the public hearing, affirm, amend or rescind its prior decision. The determination of the Commission, after conclusion of said public hearing, shall be final.

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

10.03.340 Determination of Waste Management Fees (WMF)

A. Upon recommendation of the Commission, the Board may establish uniform Waste Management Fees (WMF) for collection service throughout the County, or may establish uniform WMF for collection service within zones based upon the length of haul or other factors which may, in the opinion of the Board, justify establishment of WMF differentials. The Board may also establish WMF by class of collection service customer for recycling collection costs, if said costs exceed the revenues produced by sale of recyclable materials collected. In no case shall a customer that recycles be charged more than one that does not recycle.

B. Upon recommendation of the Commission, the Board shall consider Disposal or Transfer Station WMF based upon the type of site, the cost of operation of such site, whether or not the site is open to the public, the type of waste to be disposed of, and the cost of compliance with Federal, State and local laws and regulations together with such other factors which may, in the opinion of the Board, affect the WMF to be charged. The Board may establish uniform WMF for all Disposal sites or Transfer Stations, or may establish different WMF based upon the factors specified in this Section.

C. Increases or decreases in WMF approved under this Section may not be made by the Board unless the Board, upon the recommendations of the Commission, finds that the increase or decrease is based upon an increase or decrease in the cost of doing business, or an increased cost of additional, better, or more comprehensive service.

D. In determining the proposed WMF for Collection Services, the Commission and the Board shall give due consideration to: the investment in facilities and equipment; the services of management; local wage scales; the concentration of collection service customers in the service area; methods and costs of storage, collection, transportation and disposal; the length of haul to disposal facilities; a reasonable return and operating margin for the owner(s) of the business; the future service demands of the area or site which must be anticipated in equipment, facilities, personnel or land; extra charges for special pickup or pickups on days where service is not normally provided on a route; extra charges where the type of character of solid waste or wastes, including, but not limited to wastes with peculiarly offensive odors, requires special handling or service; extra charges for providing janitorial services on the premises where service is provided; and extra costs for providing the opportunity to recycle under ORS 459 and 459A.

E. The Board may require an investigation by the Commission of any proposed WMF increase or decrease. For the purpose of making this investigation, the Commission, in cooperation with the Director, is authorized to hold public hearings, and to take and receive testimony relevant to the consideration to be

made by the Board, in allowing or denying the WMF increases or decreases under this chapter. Upon completion of its investigation, the Commission shall make a report of the public hearing and shall make recommendations to the Board regarding the proposed WMF.

F. In considering WMF increases or decreases, the Board must find that the WMF will be just, fair, reasonable, and sufficient to provide required service to the public. The Board may consider the WMF charged by other persons performing the same or similar service in the same or other areas.

G. Where no WMF has been established for a particular type of service, the Commission may establish an interim WMF until the Board makes a final determination on the WMF for that type of service. In establishing such a WMF, the Commission shall give due consideration to all the factors established as a guideline for the Commission and Board in this Section.

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

10.03.350 Waste Management Fee (WMF) Preference Prohibited

A. No Collection Service Franchise holder subject to Waste Management Fee (WMF) regulation under this chapter shall give any WMF preference to any person, locality, or type of solid waste or wastes or recyclable materials stored, collected, transported, disposed or utilized.

B. Nothing in this Section is intended to prevent:

1. The reasonable establishment of uniform classes of WMF for collection service based upon length of haul; type of solid waste or wastes or recyclable materials stored, collected, transported, disposed or utilized; the number, type, and location of customers served; or upon other factors as long as such WMF are reasonably based upon costs of the particular service and are approved by the Board in the same manner as other WMF.
2. Any Collection Service Franchisee from volunteering collection or recycling service at reduced cost for a charitable, community, civic or benevolent purpose.

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

10.03.360 Responsibility for Payment Charges for Service

Any person who receives service shall be responsible for payment for such service. The owner of any premises shall be responsible for payment for services provided to those premises to the extent permitted by Oregon Law.

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

10.03.370 Agreement for Joint Franchises

The Board may enter into agreements with any city or county for joint or regional franchising of collection or disposal service.
[Codified by Ord. 05-2000, 7/13/00]

10.03.380 Agreements for Allocation of Franchise Fees

The Board may enter into agreements with any city or county providing for allocation of franchise fees where the franchise service areas crosses city or county boundaries.
[Codified by Ord. 05-2000, 7/13/00]

10.03.390 Abatement

A. The accumulation, storage, collection, transportation, disposal, or illegal dumping of solid waste or wastes by any person in violation of this chapter, or regulations promulgated thereunder, is a nuisance, and the Board or County Counsel may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, and/or collection of a fine for the violation, or any other appropriate legal proceedings to temporarily, or permanently, enjoin or abate such accumulation, storage, collection, transportation, disposal, or illegal dumping.

B. It is unlawful for any person to collect, store, transport, dispose, utilize, destroy, vandalize in any fashion, steal or take source-separated recyclable materials set out or deposited for recycling collection, without the consent of the generator and the intended recipient of such materials, and without first obtaining a franchise, subcontract, recycling license or permit.

   If any person is in violation of this Section, or this chapter, or the regulations thereunder, the Board or County Counsel may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, and/or collection of a fine for the violation or any other appropriate legal proceedings to temporarily, or permanently, enjoin or abate the violation.

C. In addition to the provisions of subsections A and B of this section, if any person is in violation of these Sections or this chapter, and the regulations thereunder, the Board or Director may, in addition to other remedies provided by law, refer said violation to the Compliance Hearings Officer pursuant to the Compliance Hearings Officer Chapter to abate the violation and/or collect civil penalties or costs for the violation.

D. The provisions of this Section are in addition to, and not in lieu of, any criminal prosecution as provided by this chapter or State law.

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

10.03.400 Penalties

A violation of Section 10.03.060, 10.03.070, 10.03.080, 10.03.140, 10.03.310 or 10.03.340 of this chapter shall be punishable by a civil penalty in an amount set by resolution of the Board of County Commissioners, or any other penalty to the extent permitted by State law.

A penalty imposed for a violation of Section (E) of 10.03.080 may, in addition, be increased as permitted in ORS 459.108 to include all of the costs incurred by the County in removing rubbish, trash, debris, garbage, solid waste or wastes polluting substance unlawfully placed on the property and eliminating the effects of such unlawful placement.
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03]

10.03.410 Court Appeal

All decisions of the Board under this chapter shall be reviewable by the Circuit Court of the State of Oregon for the County of Clackamas by Writ of Review as provided in ORS 34.010 – 34.100.
[Codified by Ord. 05-2000, 7/13/00]

10.03.420 Appeals From Decisions of the Director or Commission

The Commission or the Board, upon their own motion, or upon the request of an interested person or affected public agency, may review decisions of the Director or Commission made pursuant to this chapter.
[Codified by Ord. 05-2000, 7/13/00]

Chapter 10.04

10.04 RECYCLING LICENSE

10.04.010 Purpose

The Board of County Commissioners of Clackamas County has determined that Chapter 459 of Oregon Revised Statutes, requires the County to develop a program of recycling recyclable materials, which includes public information and advertising to promote recycling; and, in order to further the development of recycling in Clackamas County, it would be appropriate to develop a recycling licensing program for those persons doing business as recyclers who are not covered under the Solid Waste and Waste Management Chapter. Accordingly, this chapter is enacted to promote recycling, collect information on recycling volumes, provide public education and promote the welfare of the citizens of Clackamas County. This chapter will raise funds from recycling operators who will benefit from the program, that will be used to offset the costs of administering the licensing program.

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

10.04.020 Definitions

A. DEPOT OPERATOR means a person who does business from a location at which ~~he~~ they receive~~s~~ and stores source-separated recyclable materials.

B. FAIR MARKET VALUE means the cash price (or its equivalent in terms of savings on collection and disposal fees) that is at least equal to the cost of collection and disposal of a recyclable material or group of recyclable materials, that would be purchased or exchanged, between the collector and the generator of said recyclable material or group of recyclable materials. Collection includes type, frequency, condition and extent of collection service.

C. PERSON means an individual ~~natural~~ person, partnership, joint venture, solicitor, association, club, trust, estate, corporation, or any other entity capable of doing business, but does not include cities or municipal or quasi—municipal corporations or political subdivisions of the State of Oregon.

D. RECYCLABLE MATERIALS means any waste material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the

cost of collection and disposal of the same materials. Collection includes the type, frequency, condition and extent of collection service.

E. RECYCLING BROKER means a person who buys from a recycling operator and sells source-separated recyclable materials or a group of recyclable materials, or who collects them for the purpose of selling them at a profit. This does not include common carriers that only transport material, which they do not buy or sell.

F. RECYCLING OPERATOR means a person who collects and purchases and/or exchanges for fair market value from various locations within unincorporated Clackamas County, source-separated recyclable materials or group of recyclable materials. This does not include common carriers that only transport material, which they do not buy or sell.

G. RECYCLING RECEPTACLE OPERATOR means a person who does business delivering empty receptacles (containers or drop boxes) which ~~he~~they own~~s~~ or rent~~s~~ to various locations for the purpose of soliciting deposits of source-separated recyclable materials, and who returns periodically to collect the receptacles, or the materials deposited therein.

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

10.04.030 License Required

No person shall operate a business within unincorporated Clackamas County as a depot operator, recycling broker, recycling receptacle operator or recycling operator without first paying a license fee and obtaining a recycling license under this chapter.

[Codified by Ord. 5-2000, 7/13/00]

10.04.040 Exemption

The following persons are exempt from the licensing requirement:

A. A person who sells their~~his~~ own source-separated recyclable material, or group of recyclable materials, generated from their residence or business, excluding those source-separated recyclable materials or group of recyclable materials generated by their~~his/her~~ tenant(s).

B. Persons who are authorized by permit or franchise, under the Clackamas County Solid Waste and Waste Management Chapter to collect recyclables.

C. Persons who transport recyclable materials from outside Clackamas County, or through Clackamas County, to markets within the County.

D. Persons who collect, dispose of, or recycle:

1. Renderings from animal products;
2. Forest products (not to include principal recyclable materials as determined by the State Department of Environmental Quality from time to time);
3. Industrial residues (not to include principal recyclable materials as determined by DEQ from time to time); or
4. Materials used for productive purposes in agricultural operations.

E. Persons licensed by the State of Oregon and engaged in conducting business as an auto wrecker or dismantler.

F. Any retail outlet that accepts used motor oil from the public at no charge.

G. Persons whom the County is prohibited from licensing under the Constitution or laws of the State of Oregon or of the United States.

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

10.04.050 Term of License

Each license shall be dated as of the first day of the month in which it is issued, or when required to have been obtained, and shall expire one year from that date.

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

10.04.060 Record Keeping

Each person required to be licensed under this chapter shall furnish to the Director of the Department of Transportation and Development of Clackamas County, on such forms as ~~s/he~~they shall provide, the following information:

A. The manner in which recyclables are being collected or received; and

B. The amounts of such materials received.

Such report shall be furnished every six months at times designated by the Director. Failure to furnish such information as required by the Director shall be grounds for refusal to issue another recycling license upon expiration of the current license.

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

10.04.070 Fee

The Board of County Commissioners shall determine the fee for a recycling license issued under this chapter. Such fees shall be expended for programs which, in the opinion of the Director of the Department of Transportation and Development, will be used to

police, promote, and report on recycling in Clackamas County.

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

10.04.080 Fee as Debt

The fee imposed by this chapter, and any interest and penalties, shall be a debt due and owing to Clackamas County and may be collected by civil action in the name of Clackamas County. [Codified by Ord. 05-2000, 7/13/00]

10.04.090 Enforcement

In the case of violations of this chapter, County Counsel may initiate legal proceedings to enforce the terms and provisions of this chapter. Such proceedings may be commenced either by filing a complaint with the compliance Hearings Officer, or by filing a civil action in Circuit Court, or both. The County may, in addition to other remedies provided by law, institute injunction, mandamus, or other appropriate legal proceedings to temporarily or permanently enjoin such violation or collect any civil penalty or debt under this chapter. [Codified by Ord. 05-2000, 7/13/00]

10.04.100 Civil Penalty

The civil penalty for violation of this chapter shall be in an amount set by County Code Chapter 2.07 as determined by the Compliance Hearings Officer, or any other penalty to the extent permitted by state law.

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

TITLE 11

DEVELOPMENT REGULATION

Summary

Note: All building and development in unincorporated Clackamas County must be done consistently with the Zoning and Development Ordinance. The Zoning and Development Ordinance is a part of this Code.
It can be obtained from:

Clackamas County Department of Transportation and Development
150 Beavercreek Rd., Oregon City, OR 97045
(503) 742-4400 Voice

The Zoning and Development Ordinance can also be accessed on the internet at:
http://www.co.clackamas.or.us

TITLE 11

DEVELOPMENT REGULATION

Table of Contents

CHAPTERS

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Chapter 11.01

11.01 COUNTY SURVEYOR PLAT REVIEW STANDARDS

11.01.010 Purpose

The purpose of this chapter is to establish standards and requirements for the review and approval of survey maps, partition plats, condominium plats, subdivision plats, property line adjustments and replats of partitions, condominiums, subdivisions, and cemeteries for the following reasons:

A. The review and approval of survey maps, partition plats, condominium plats, subdivision plats and replats of partitions, condominiums, subdivisions, and cemeteries in an accurate, efficient, consistent and timely manner is necessary for the promotion of economic development and protection of property rights; and

B. Although benefiting the public in general, such services are user oriented. The long standing policy of the Board is that the most fair and sound method of ensuring adequate funding of such services is a user fee not to exceed the reasonable estimate of actual County Surveyor costs.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2018, 2/22/18]

11.01.020 Plat Boundary Survey and Other Requirements

In addition to the requirements of ORS Chapters 92, 94, 100, and 209, and other applicable laws, chapters, and rules, the following shall be provided:

A. For subdivision and condominium plats, a final boundary survey map of the proposed plat, accompanied by the report required in subsection B of this section, shall be submitted to the County Surveyor a minimum of 30 days prior to the submission of the final plat. If warranted, the County Surveyor may waive this requirement.

   1. In addition to the requirements of ORS 209.250, the survey map shall show all obvious encroachments or hiatuses created by deeds, building, fences, cultivation, occupation, previous surveys and plats and any other conditions that may indicate ownership lines as surveyed may be different than those shown on the survey;
   2. Any encroachment or hiatus affecting any partition plat submitted for review shall be brought to the attention of the County Surveyor at the time of submittal;
   3. The County Surveyor may refuse to approve a plat if the County Surveyor finds an encroachment or hiatus. Evidence that the encroachment or hiatus has been eliminated may be required prior to final plat approval.

B. All partition, condominium, or subdivision plats submitted for approval shall be accompanied by a report, issued by a title insurance company, or agent authorized to perform such services in Oregon, setting forth ownership and all easements of record, together with a copy of the current deed, easements, and restrictions for the platted property and copies of the deeds for all abutting properties, and other

documentation as required by the County Surveyor. The report shall have been issued no more than 15 days prior to the submittal to the County Surveyor of the survey map or plat. The County Surveyor may require a supplemental report. Condominium plats shall be submitted with a copy of the condominium declaration. Prior to approval of a condominium plat, the final version of the condominium declaration, approved by the State of Oregon, shall be submitted.

C. All partition, condominium, and subdivision final plats, including those inside city limits, shall be checked and approved by the County Surveyor. Items to be checked include, but are not limited to, compliance with Oregon Statutes, city and county ordinances, proper boundary resolution, and resolution of apparent gaps and overlaps. If the city has chosen to have the plat checking service performed by a city surveyor under ORS 92.100(1), the County Surveyor shall perform an office review and indicate approval on the plat. The fee for performing this service shall be established by resolution of the Board of County Commissioners. No plat shall be recorded without the approval of the County Surveyor.

D. The actual approval, or notice of intent to approve, of a plat by the County Surveyor shall be valid for 30 days only, unless recorded prior to the 30 day expiration.

E. Centerline monuments of public and private roads created by any subdivision or partition plat shall be placed in a monument box meeting the specifications of the County Surveyor. Said monument boxes shall be placed at locations as determined by the surveyor preparing the subdivision or partition and approved by the County Surveyor. In accordance with ORS 92.060(2), the point of intersection of the curve may be set in lieu of the beginning and ending points. The County Surveyor may authorize the setting of another type of monument in circumstances where setting the required monument is impracticable. If a phasing plan and schedule allow final plat review to occur in two or more phases, each of which includes a portion of the subject property, is approved by the local government with land use planning jurisdiction, it shall be submitted to the County Surveyor for review of the phasing sequencing and lot numbering. The lot numbering shall be continuous and connected from phase to phase.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2004, 4/8/04; Amended by Ord. 01-2018, 2/22/18]

11.01.030 Final Plat Requirements

A. If a preliminary plat for a subdivision, partition, or replat is approved by the local government with land use planning jurisdiction, then finalizing the subdivision, partition, condominium or replat requires the completion of a final plat review pursuant to section 11.01.030(B), except that a final plat is not required for a partition in which all parcels are larger than 80 acres. In all cases, the form and content of the final plat or replat shall comply with the local government with land use jurisdiction's final decision approving the subdivision or partition application and applicable provisions of Chapters 11.01 and 11.02 of the County Code, ORS Chapter 92, 94 and 100 and ORS 209.250.

B. Unless waived by the County Surveyor, the final plat shall contain, at a minimum,

the following information:

1. The lines and names of all streets and other public ways, parks, playgrounds, and easements dedicated to the public or granted for the use of the owners within the plat and to whom the easement will be conveyed;
2. The length and bearings of all straight lines, curves, radii, arcs, and the semi-tangents of all curves. Line tables and curve tables are subject to approval by the County Surveyor.
3. All dimensions along the lot lines of each lot or parcel, to the nearest hundredth of a foot, with the bearings and any other data necessary for the location of any lot line in the field.
4. Suitable primary control points, approved by the County Surveyor, and description and ties to these control points, to which all dimensions, angles, bearings, and similar data given on the plat shall be referred.
5. The location and complete physical descriptions of all permanent monuments found or set, including full physical descriptions of Public Land Survey Corners (monument and accessories) shown on the plat. Record references for the found monuments shall be cited.
6. The plat numbers and, if applicable, names of all platted subdivisions, partitions, condominiums, and cemeteries, and the legal numbers and names of all roads adjacent to the plat.
7. The date(s) monuments were set (so identified), the date(s) the final plat was prepared (so identified), a north arrow, and graphical engineering scales.
8. The boundary of the divided land, with the bearings, curves, and distances marked, as determined by a field survey made by an Oregon registered professional land surveyor, and to close with a mathematical linear error of closure of not more than one foot in 10,000 feet. In addition, the survey shall be performed with the reference to the Federal Geodetic Control Committee guidelines for third order class II.
9. Any easements, restrictions, or notes required by the County, City, or other public service providers and the locations, widths, and purposes of all proposed easements and existing easements of record, including instrument numbers. For any non-public (private) easements the beneficiary, access, use and maintenance shall be noted on the plat or discussed in detail in a separately recorded document that will be noted on the final plat. All access from the plat to a public road shall be shown.
10. Open space and common ownerships shall be labeled on the final plat as tracts. Labeling of tracts shall be alphabetical beginning with the letter “A”, and no missing letters shall be allowed. The ownership, purpose, use, and maintenance of tracts shall be identified on the plat. In addition, a deed conveying the tract to the intended recipients shall accompany the final plat mylar and be recorded immediately after the plat and noted on the plat.

C. All declarations for a planned community, articles of incorporation, bylaws, easements, maintenance agreements, or other similar items required or proposed shall be submitted with the final plat for review by the County Surveyor.

1. The County Surveyor shall not approve the final plat until any applicable declarations for a planned community, articles of incorporation, bylaws easements, maintenance agreements, or other similar items required or proposed have been approved by the County Surveyor and are filed with the appropriate state agency, if necessary.
2. The declaration for a planned community, articles of incorporation and bylaws shall be consistent with ORS Chapter 92, 94 and 100, if appropriate.
3. When applicable, a certificate of formation of a nonprofit corporation, with a state seal, for the homeowners association shall be submitted with the final plat.
4. Easements created by or within the declaration for a planned community and any additional restrictions shall be noted on the final plat.

D. Review and recording of the final plat shall be as follows:
1. The County Surveyor shall submit the final plat to the Planning Director for review.
2. Unless waived by the County Surveyor, after Planning Director approval, the final plat shall be submitted to the County Assessor for review and approval, as well as the County Road Official for review and approval when final plat is for a subdivision.
3. After signature by the County Surveyor, the Planning Director, the County Assessor and, if necessary, the County Road Official, the final plat shall be submitted to the County Clerk for recording. When the County Clerk is satisfied with the final plat, it shall be signed, assigned a permanent file number, and place in the permanent plat records of the County.

[Added by Ord. 01-2018, 2/22/18]

11.01.040 Property Line Adjustments

A. The record of survey memo map shall be filed with the County pursuant to the standards and procedures of the County Surveyor's Office and relevant provisions of ORS Chapters 92 and 209. Additionally, revised legal descriptions of the properties affected by the adjustment (for new deeds) shall be prepared by a registered professional land surveyor, refer to the record of survey map that is filed with the County, and be recorded with the County Clerk.

B. A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents, and signatures of all parties with proper acknowledgement.

[Added by Ord. 01-2018, 2/22/18]

Chapter 11.02

11.02 Delegation of Authority to Accept Certain Interest in Land Dedicated on Partition Plats; Delegation of Subdivision Plat Approval Authority.

11.02.010 Purpose

It is the purpose of this chapter to delegate the Board of Commissioners' authority to approve subdivision plats, and to accept certain dedications of interests in land for road, drainage, utility, sidewalk, or signing related purposes from members of the public, in order to reduce delays for local development projects, to simplify the final formal requirements for approval prior to recording, and to reduce staff time and expenses incurred in the process of seeking Board acceptance. The authority granted in this Chapter is in addition to any other grants of authority to County officers to acquire interests in real property on behalf of the County.
[Added by Ord. 06-2004, 4/8/04]

11.02.020 Dedications in Conjunction with Land Partitions

When made in conjunction with land partitions, dedications of interests for road, drainage, utility, sidewalk, or signing related purposes may be completed by specific notation on the face of the partition, without need for a separate deed.
[Added by Ord. 06-2004, 4/8/04]

11.02.030 Updating Official Road Registers

Each time a new right-of-way dedication of any nature that abuts an existing County road or local access road is accepted under this Chapter, the County's official road register for these County or local access roads shall be updated by the staff of the person in possession of and responsible for that road register, in order to reflect acquisition of the new interest in land. The person accepting the new dedication under the authority of this Chapter must promptly communicate with the person in possession of and responsible for the affected road register, advising ~~him or her~~them to update it to reflect the new acceptance. [Added by Ord. 06-2004, 4/8/04]

11.02.040 Designation of Authorized Persons

The Board of County Commissioners delegates authority to each of the following persons and their written designee(s) to accept dedications of public rights-of-way and related or appurtenant easements on behalf of the County when made on the face of a partition plat under this Chapter, and to approve subdivision plats on behalf of the Board of County Commissioners:

A. The County Surveyor; or

B. If the County Surveyor is unavailable, then the Deputy County Surveyor.

[Added by Ord. 06-2004, 4/8/04; Amended by Ord. 03-2006, 6/22/06]

11.02.050 Further Delegations of Authority

The persons designated in Section 11.02.040 may, from time to time, make a further delegation of the authority granted by this Chapter, to another County staff person or another County staff person's designee upon approval of the County Administrator. Such further delegations must be limited in duration, and must be in writing. Any further delegation from the persons designated in Section 11.02.040, written or otherwise, that purports to be a *permanent* delegation of the authority granted by this chapter shall be null and void.
[Added by Ord. 06-2004, 4/8/04]

11.02.060 Modifications to Designations of Authorized Persons

The designations of authorized persons and delegations of authority in this Chapter may be modified at any time by ordinance of the Board of County Commissioners.
[Added by Ord. 06-2004, 4/8/04]

11.02.070 Savings Clause

Should any section, clause, phrase or word in this Chapter be held to be invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of the remainder of this Chapter. All portions of this Chapter not stricken under the court's decision shall continue in full force and effect.
[Added by Ord. 06-2004, 4/8/04]

Chapter 11.03

11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE

11.03.010 Purpose

A. New Development within Unincorporated Clackamas County contributes to the need for increased capacity on transportation facilities and related improvements, and therefore should contribute to the funding for such facilities. The TSDC will fund a portion of the needed auto, bicycle and pedestrian system capacity for New Development.

B. ORS 223.297 through 223.314 grant the County the authority to impose a TSDC to equitably spread the costs of essential capacity increasing capital improvements to New Development. The County may enact one or more charges in areas that are smaller than the entire unincorporated County.

C. The TSDC is incurred upon the issuance of a permit to develop property at a specific use or density. The TSDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it relates a development's fee to receipt of services based upon the nature of that development.

D. The TSDC is not a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section.

E. The TSDC shall be established and may be revised by resolution of the Board. The resolution shall set the amount of the charges (Rate Schedule), the Methodology for calculating the charges, and the list of TSDC Capital Improvement Projects intended to be funded by Improvement Fees (referred to as the TSDC Capital Project List).

F. The TSDC constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 – 223.314, and is intended as a financing mechanism for the increased transportation system capacity associated with New Development, and does not represent a means to fund maintenance of existing roads.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 10-2012, 10/24/12; Amended by Ord. 12-2017, 11/30/17]

11.03.020 Definitions

All terms not defined below shall be defined by the permitting jurisdiction in the Clackamas County Zoning and Development Ordinance.

A. ACCESSORY DWELLING UNIT means a unit complying with Clackamas County ZDO 839. Accessory Dwelling Units will be charged the adopted rate for the Institute of Transportation Engineers (ITE) classification of "220 - Apartment."

B. AFFILIATE is any entity that directly controls, is controlled by or under common control with the applicant. As used herein, the term "control" or "controlled by" means the power to direct the management of such entity through voting rights, ownership or contractual obligations.

C. ARTERIAL means that term as defined and used in Chapter 5 - Transportation System Plan of the County Comprehensive Plan.

D. AVERAGE WEEKDAY TRIPS means the average 24-hour total of all vehicle trips counted to and from a study site from Monday through Friday. Average Weekday Trips are calculated by using the Institute of Transportation Engineers (ITE) Manual or as otherwise provided by this Chapter.

E. ASSIGNMENT refers to the transfer of a credit voucher or portion of a credit voucher that is transferred to another party.

F. BOARD means the Board of County Commissioners of Clackamas County, Oregon.

G. BUILDING OFFICIAL means that person, or ~~his or her~~their designee, certified by the State and designated as such to administer the State Building Codes for the County.

H. BUILDING PERMIT means that permit issued by the Building Official pursuant to the most recently published versions of the State of Oregon Structural Specialty Code, and the Oregon Residential Specialty Code. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the Building Official, relating to the placement of manufactured homes.

I. BUS TRANSIT CORRIDOR includes current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).

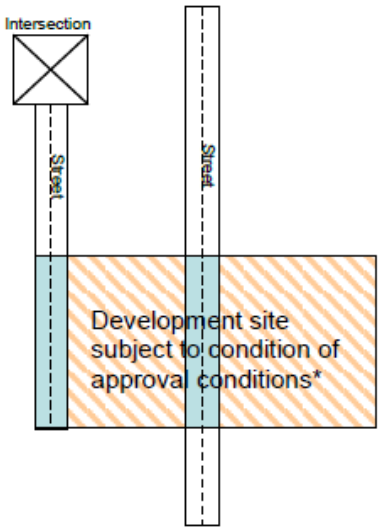
J. COLLECTOR means that term as defined and used in Chapter 5 – Transportation System Plan of the County Comprehensive Plan.

K. COMPREHENSIVE PLAN means the County generalized, coordinated land use map and policy statement that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation facilities, recreational and natural resources and air and water quality management programs.

L. CONSTRUCTION COST INDEX means that index published by the Engineering News Record (ENR) Northwest (Seattle, Washington) titled

"Construction Cost Index."

M. CONTIGUOUS means that a property and an improvement or portion thereof share a common boundary line. A determination of contiguous includes all property subject to the development approval. The boundary lines and area of an improvement shall be determined by the Right-Of-Way and easement areas for the improvement. In addition, multiple properties under common ownership separated by features such as a common area, non-motorized vehicle or pedestrian way, creek, wetland, park, or similar areas; up to a distance of not more than 100 feet between the properties at the boundary with the improvement, are deemed to include the feature in their combined boundary line. Any portion of an improvement that is located beyond the frontage of a property, as determined by the extension of boundary lines perpendicular to the frontage of the property, is not deemed to be contiguous to that property. An intersection improvement shall be deemed contiguous to all property with frontage on the intersection, or that touches the intersection at a point.



All intersection and street improvements are conditions of development approval. Shaded portion of streets are considered Contiguous to the development site; remainder of streets and intersection are non-contiguous.

* "Contiguous" is defined based on frontage of site prior to subdivision or partition.

N. COUNTY means Clackamas County, Oregon.

O. DEVELOPMENT AGREEMENT means the tool the County may use to secure the developer's compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the Station Area and/or Mixed-Use reduction provisions.

P. DEVELOPMENT PERMIT means a grading, excavation, engineering, building, land use or similar permit issued by the County that approves New Development as defined by this ordinance.

Q. DEPARTMENT means the Clackamas County Department of Transportation and Development.

R. DEPARTMENT DIRECTOR means the Director of the Clackamas County Department of Transportation and Development, or ~~his or her~~their designee.

S. FLOOR AREA RATIO (FAR) means the ratio of the total amount of enclosed Gross Floor Area within a structure to the amount of buildable acreage. For purposes of calculation, both floor area and net site area shall be converted to square feet. (For example, a single-story building constructed on one-quarter of the net developable site would have a floor area ratio of 0.25. If a second story were added, the floor area ratio would increase to 0.50, etc.)

T. GROSS FLOOR AREA for the purposes of this ordinance will mirror the definition in the most recent ITE Trip Generation Manual.

U. GUEST HOME means a unit complying with Clackamas County ZDO 833.

V. HEARINGS OFFICER is defined as the Hearings Officer for the Department, or other official as appointed by the Board.

W. IMPROVEMENT FEE means a fee for costs associated with capital improvements to be constructed.

X. INTERNAL CAPTURE RATE is defined as a percent reduction of trip generation for component land uses to account for trips made internally on site. A reduction of trip generation rates can potentially decrease traffic impact and help reduce external congestion. The Internal Capture Rate is the percent reduction of trip generation estimates for land uses to account for trips made internally on a Mixed-Use Development site.

Y. ITE TRIP GENERATION MANUAL means the most recently published edition of the manual entitled Trip Generation, published by the Institute of Transportation Engineers. A copy of the ITE Trip Generation Manual shall be kept on file with the Department

Z. LIGHT RAIL TRANSIT STATION AREA is defined as the passenger station platform along a fixed-route light rail alignment.

AA. LEGAL COUNSEL means the Office of County Counsel for Clackamas County, Oregon.

BB. LONG TERM FINANCING means debt instruments issued by the County or a component unit to finance a capital improvement in accordance with applicable state law.

CC. METHODOLOGY means the narrative, formulas and charts that serve as the framework for determining the TSDC.

DD. MIXED-USE DEVELOPMENT is generally planned as a single real-estate land development project with a structure, or structures, containing two or more different and interacting land uses. These areas are characteristically higher density, compact walkable areas. Mixing of uses typically includes residential (townhomes, apartments, or detached homes on small lots), retail

(mostly specialty and convenience), restaurants, hotels, office buildings, movie theatres, and any other compatible and complimentary uses. For further definition of project requirements to qualify for a Mixed-Use Development reduction, reference Table 2 – Mixed-Use Development TSDC Reduction Requirements, in Section 11.03.030(G).

EE. MULTI-MODAL means vehicular, transit, bicycle, pedestrian and wheel chair transportation.

FF. NEW DEVELOPMENT means site improvements that increase overall trip generation.

GG. QUALIFIED PUBLIC IMPROVEMENT means a capital improvement that is required as a condition of development approval, identified in the TSDC Capital Project List adopted by resolution and is:

a. Not located on or Contiguous to the New Development site, or

b. Located on or Contiguous to the New Development site, and as demonstrated in the traffic study for the New Development is required to be built larger or with greater capacity (over-capacity) than is necessary for the New Development to mitigate for transportation system impacts attributable to the New Development.

HH. RATE SCHEDULE means the TSDC rate associated with New Development types, as adopted by resolution.

II. RIGHT-OF-WAY means that portion of land that is dedicated for public use. Public uses may include but are not limited to pedestrian facilities (e.g., sidewalks, plazas), utility placement, signage, etc.

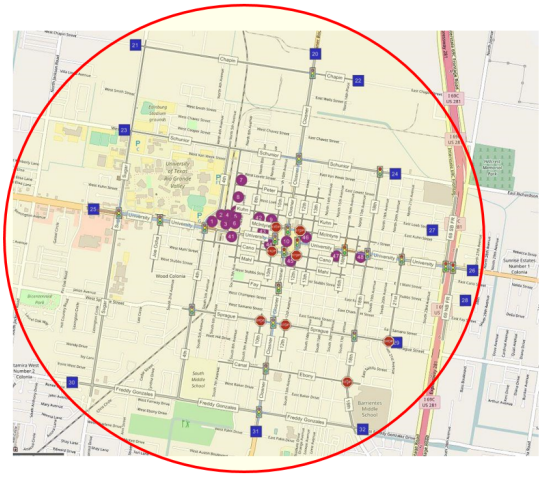
JJ. STATION AREA includes parcels with some portion of the development site located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a Light Rail Station Platform or a Bus Transit Corridor, both of which facilitate travel to multiple geographic routes, typically resulting in reduced impact to the transportation system by encouraging Multi-Modal transportation and reducing the impact on the surrounding transportation system. For further definition of project requirements to qualify for a Station Area reduction, reference Table 1 – Station Area Development TSDC Reduction Requirements, in Section 11.03.030(F).

KK. TRANSPORTATION SYSTEM DEVELOPMENT CHARGE (TSDC) means the fee to be paid pursuant to Section 11.03.030 of this Chapter.

LL. TSDC CAPITAL PROJECT LIST means a list of capital projects adopted by the Board identifying the estimated cost, timing, and portion of project costs to be funded by the TSDC.

MM. ZONE OF INFLUENCE shall be identified by drawing a border around the outermost intersections/facilities studied in the Traffic Impact Analysis to develop a boundary. If the improvements that generated the original credits are within the Zone of Influence boundary of the development receiving the credit, the credits may be reassigned because the two developments have similar

impacts and traffic patterns.



[Codified by Ord. 05-2000, 7/13/00; Amended by Section 2 of Ord. 01-2002, 1/10/02; Amended by Ord. 10-2012, 10/24/12; Amended by Ord. 12-2017, 11/30/17]

11.03.030 Application

A. A TSDC may be imposed upon all New Development within unincorporated Clackamas County for which a Development Permit is required.

B. The applicant for a Development Permit shall, at the time of application, provide the Department with all of the necessary and applicable information, such as the description of use, number of dwelling units or square footage of structures, information about occupancy and size of any existing use on the site, necessary to calculate the TSDC. The Department shall notify the applicant of the right to appeal the decision on the calculation of the charge pursuant to Section 11.03.080.

C. The amount of the TSDC shall be determined as identified in the Methodology and Rate Schedule adopted pursuant to Section 11.03.010(E), and amended pursuant to Section 11.03.030(D), and Section 11.03.090 or adjusted pursuant to Section 11.03.030(F) or 11.03.030(G).

D. If the County has not assigned a TSDC category for the identified land use listed in the adopted Rate Schedule, the Department shall at its option either:

1. Identify the land use category that is most similar to the use in question and apply that rate.

2. Consider trip generation data, gathered in a credible manner, preferably by a registered traffic engineer, for the same or similar use. Such a study shall be prepared at the applicant's expense and must be submitted at least two weeks prior to expected issuance of a Development Permit. The Department Director has the right to accept, accept in part, modify, or reject the calculations offered under this option.

3. The following guidelines apply to data collection under Section

11.03.030(D)(2) for land uses not in the ITE Trip Generation Manual.

a. The applicant shall submit a list of similar uses with similar characteristics in Oregon, Washington, California, or preferably in the Portland region. Uses must have been open for business for at least a year.

b. The Department will determine the number of sites and locations, and if applicable for consolidated land use categories, the types of uses for which the applicant will be required to submit traffic counts.

c. The applicant shall supply the Department with the following information for each site:

   i. Monthly adjustment factors to adjust trip generation to the fourth highest business (earnings) month.

   ii. Standard days and hours of operations.

   iii. Counts from sites on a weekday (mid-week – two day minimum) from 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m. Actual counting time and days may vary depending on uses and standard days of operation and shall be approved by the Department. Data collection shall be compliant with the ITE Trip Generation Manual.

   iv. Quantification of pass by, pedestrian, bicycle and transit trips when applicable.

   v. A vicinity map for each site.

d. The applicant shall adjust this data as follows:

   i. Adjust a.m. and p.m. trips to Average Weekday Trips based on the proportion of similar uses in the current edition of the ITE Trip Generation Manual.

   ii. Adjust daily number to Average Weekday Trips if weekend data are collected.

   iii. Adjust Average Weekday Trips to the fourth highest month based on monthly adjustment factors supplied by the applicant.

   iv. Adjust pass by, pedestrian, bicycle, and transit trips for potential trip reduction.

e. The Department shall review the applicant's data collection and adjustments, and the Department Director shall issue a final ruling to the applicant regarding which data and adjustments will be used for calculating the TSDC. A fee will be charged for the review of formal alternate trip generation data. The fee will be set by resolution.

E. Any developer requiring the execution of a formal Development Agreement to clarify TSDC assessments, reductions for Station Area Development (Table 1), or reductions for Mixed-Use Development (Table 2) will be required to pay a deposit (as set by Resolution) prior to staff drafting the agreement.

F. Station Area developments reduce vehicle trips on the adjacent roadway. Projects meeting the development density requirements that fall within a Station Area are eligible to receive a reduction that correlates to the reduced impact of the eligible development. An approved Station Area Development is eligible for a reduction on TSDC assessments as outlined in Table 1 (below) when some portion of the development site is located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a light rail station platform or a Bus Transit Corridor route alignment. This reduction may be combined with any applicable Mixed-Use Development reduction (Table 2).

Table 1 – STATION AREA DEVELOPMENT TSDC REDUCTION REQUIREMENTS			
REDUCTION LEVEL	**TSDC REDUCTION** (% TRANSPORTATION IMPACT REDUCTION)	**TRANSIT ACCESS REQUIREMENT** (WITHIN 0.25 MILE RADIUS OF:[1])	**DEVELOPMENT DENSITY REQUIREMENT(S)**
Level 1	5% Vehicle Trip Reduction	Bus Transit Corridor[2]	Minimum residential density of 24 units per acre Minimum FAR of 2.0 per acre for non-residential development
Level 2	10% Vehicle Trip Reduction	Bus Transit Corridor2	Minimum res. density of 24 dwellings per acre **AND** minimum FAR of 2.0 per acre for non-res. development
Level 3	5% Vehicle Trip Reduction	Light Rail Transit Station3	Minimum residential density of 12 dwellings per acre[4] Minimum FAR of 1.0 per acre for non-res. development
Level 4	% Vehicle Trip Reduction	Light Rail Transit Station3	nimum Res. Density of 24 dwellings per gross acre

Table 1 – STATION AREA DEVELOPMENT TSDC REDUCTION REQUIREMENTS

REDUCTION LEVEL	**TSDC REDUCTION** (% TRANSPORTATION IMPACT REDUCTION)	**TRANSIT ACCESS REQUIREMENT** (WITHIN 0.25 MILE RADIUS OF:[1])	**DEVELOPMENT DENSITY REQUIREMENT(S)**
Level 5	15% Vehicle Trip Reduction	Light Rail Transit Station3	Minimum Res. Density of 24 dwellings per acre ***AND*** at least 15% of the total gross res. & non-res. floor area devoted to commercial/retail uses
			Minimum FAR of 2.0 per acre for non-res. development
Level 6	20% Vehicle Trip Reduction	Light Rail Transit Station3	Minimum res. density of 24 dwellings per acre ***AND*** minimum FAR of 2.0 per acre for non-res. development

[1] Some portion of the development site must be located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a Light Rail Station Platform or a Bus Transit Corridor route alignment to qualify for TSDC reduction.

[2] Bus Transit Corridors include current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).

[3] Light Rail Transit Station Area is defined as the passenger station platform along a fixed route alignment.

[4] The stated residential density for this TSDC reduction level has been interpolated based on ITE Trip Generation Manual results.

Source: ITE, Trip Generation Handbook, 2nd Edition, Appendix B, with noted exception.

G. Mixed-Use developments generate internal trip capture, thus reducing external trip generation rates on surrounding roads. In such event, the Department, for purposes of establishing the TSDC for a Mixed-Use Development, shall apply a Mixed-Use Development TSDC reduction to the eligible structure, or structures, which correlate to the internal trip capture of the proposed development as detailed in Table 2 (below). This reduction may be combined with any applicable Station Area Development reduction (Table 1).

Table 2 - MIXED-USE DEVELOPMENT TSDC REDUCTION REQUIREMENTS		
REDUCTION LEVEL	TSDC REDUCTION (% TRANSPORTATION IMPACT REDUCTION)	DEVELOPMENT DENSITY REQUIREMENT(S)
Level 1	7% Vehicle Trip Reduction	Mixed-Use Development with at least two different land use types (e.g., retail and office) within the same tax lot or master-planned area
Level 2	10% Vehicle Trip Reduction	Mixed-Use Development with a minimum residential density of 12 dwellings per gross acre **AND** minimum of 0.3 FAR per gross acre for non-residential development
Level 3	14% Vehicle Trip Reduction	Mixed-Use Development with a minimum res. density of 24 dwellings per gross acre **AND** minimum of 0.3 FAR per gross acre for non-residential development
Level 4	16% Vehicle Trip Reduction	Mixed-Use Development with a minimum residential density of 32 dwellings per gross acre **AND** minimum of 0.3 FAR per gross acre for non-residential development
Level 5	18% Vehicle Trip Reduction	Mixed-Use Development with a minimum residential density of 40 dwellings per gross acre **AND** minimum of 0.5 FAR per gross acre for non-residential development
Source: derived using EPA Mixed-Use Trip Generation Model v4.0.		

H. If the proposed development includes more than one parcel of land and/or more than one structure, the Mixed-Use Development and/or Station Area reductions shall be authorized as part of a development approval outlining the final build-out of the master plan development area. The applicable reduction shall be memorialized in a Development Agreement (the tool the County will use to secure the developer's compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the Station Area and/or Mixed-Use reduction provisions) and recorded as a right-to-lien against each parcel included within the approved development area, allowing for renewal on active development projects.

I. If a development avails itself of the Mixed-Use Development and/or Station Area reductions and does not construct the development within the term of the Development Agreement, the County will capture any unwarranted reduction provided by the Department at the time of permitting any built structures based on the original conceptual plan that the final built development does not warrant, by:

1. The Developer paying the TSDC reductions that were attributed to a built structure within the Mixed-Use Development and/or Station Area; or

2. The County collecting the TSDC reductions that were attributed to a built structure within the Mixed-Use Development and/or Station Area by filing a lien against the benefitting parcels.

J. Notwithstanding any other provision, the rates adopted pursuant to 11.03.030(C) shall, annually, be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in the Construction Cost Index.

The Construction Cost Index shall be used by County staff to adjust the TSDC Rate Schedule each fiscal year, unless it is otherwise adjusted by the Board based on adoption of an updated Methodology or TSDC Capital Project List.

[Codified by Ord. 05-2000, 7/13/00; Amended by Section 6 of Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 10-2012, 10/25/12; Amended by Ord. 12-2017, 11/30/17]

11.03.040 Collection

A. The TSDC is due and payable at the time of issuance of the Development Permit. The Development Permit shall not be issued, except as provided in Section 11.03.040(C)(3) or 11.03.040(D) of this Section, until payment is made. The TSDC rate in effect at the time that a complete Development Permit or Building Permit, whichever submittal is received last by the County will be applied to that permit.

B. That TSDC rate is effective for 180-days from the date the land use approval is given or the Development Permit is submitted to the Building Department,

whichever comes last. At the expiration of the 180-day period, if the permit is not yet issued, any adjustments adopted pursuant to this Ordinance can be applied to the permit.

C. Notwithstanding Section 11.03.030(A), the following are exempt from the TSDC:

1. Guest Homes will not be charged a TSDC assessment because these units share a kitchen and laundry facility with the primary dwelling on the parcel, and as such are not used for boarding, lodging, or rental.

2. Alteration permits for tenant improvements, new construction or remodeling where:

   a. no additional dwelling unit(s) or structure(s) are created; or

   b. a change of use, building addition, or other modification which does not result in an increase in Average Weekday Trips as determined in the manner set forth in a Methodology adopted pursuant to Section 11.03.010(E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.

3. Relocation of any structure originally located on property that the County acquires in-fee as a part of a capital transportation project that results in a building encroachment over public Right-Of-Way or easements, when the remaining remnant will not be redevelopable, such that the structure is relocated to another parcel within the same system development charge district. Except to the extent such relocation creates additional dwelling units and/or additional Average Weekday Trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.

4. Replacement of any structure located on excess property that the County acquires in-fee as a part of a capital transportation project that can be marketed, or available for occupancy, except to the extent such remodeling or replacement creates additional dwelling units and/or additional Average Weekday Trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable, provided:

   a. The agency has been provided a reasonable period of time to meet public notification requirements for sale or other disposition (i.e., public auction); and

   b. Upon completion of the project, after access has been restored and/or recorded whichever is the later, such that the property has legal ingress/egress for development or occupancy purposes.

D. Payment of the TSDC by a person who is also eligible for a credit voucher for construction of an increased capacity facility may be delayed until a date certain to be set by the Department at the time of development or Building Permit issuance.

Payment may only be delayed for the same development which is associated with the construction of the capital improvement for which credit is given, and the

permittee shall provide the Department with security to secure payment of the Charge. The security shall be in an amount determined by the Department, and must be in a form outlined in Section 11.03.040(D)(1), (2) or (3) below, or an alternative method approved by Legal Counsel.

A permittee eligible for delay of payment of the TSDC pursuant to this section shall secure payment of the assessment, prior to issuance of the development or Building Permit, by any of the following:

1. Placing cash in the amount of the assessment in an escrow account accessible by the County. Permittee shall reconcile any remaining balance after applying the credit voucher to the outstanding balance, or revenue in the escrow account shall be withdrawn to cover the balance. Once the balance is reconciled any remaining revenue in the escrow account shall be released, but not later than 180-days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050.

2. Issuing a letter of credit in the amount of the assessment which is accessible by the County. Permittee shall reconcile any remaining balance after applying the credit voucher to the outstanding balance, or the County shall send a demand to draw down on the letter of credit to cover the balance. Once the balance is reconciled any remaining balance on the letter of credit shall be released, but not later than 180-days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050.

3. Applying for delay of payment of the TSDC pursuant to ordinance Section 11.03.040(D). Once the credit voucher is issued, the permittee can apply all (or a portion of) the credit voucher toward the principal and interest balance on the account, or continue making installment payments in accordance with the payment plan throughout the duration of the loan. If the installment plan is continued, the applicant would pay an administrative fee at a rate adopted by resolution and interest would begin accruing on the principal balance as of the date of credit voucher issuance.

E. When a TSDC is due and payable, the parcel owner may apply to the County for payment in twenty (20) semiannual installments, secured by a lien on the property upon which the development is to occur, to include interest on the unpaid balance.

1. A parcel owner may request installment payments for up to $500,000 in TSDC assessments; any remaining balance must be paid in full prior to issuance of the Development Permit.

2. The County shall prepare the agreement for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The application fee for this option shall be set by resolution.

3. The applicable interest rate shall be determined as follows:

4.

Principal	Interest Rate
$0-24,999	Current US Federal prime rate plus 3.0 percentage points
$25,000-$500,000	Current US Federal prime rate plus 2.0 percentage points

5. An applicant requesting installment payments shall have the burden of demonstrating the authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien. The Department Director may order the imposition of the lien as recommended by the Department.

6. Upon the order of the Department Director, the Department shall cause the lien to be recorded on the lien docket kept by the County Clerk. From that time the County shall have a lien upon the described parcel for the amount of the TSDC, together with interest on the unpaid balance at the rate established by the Department Director. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. Upon satisfaction of the obligation the Department Director shall request the County Clerk to release the lien.

F. With the passage of Article XI, Section 11 B of the Oregon Constitution, progressive payment shall be taken for all unpaid debt. The Department Director will be notified immediately by the Department of any account thirty (30) days or more past due. The Department Director shall then send a letter to the defaulting party demanding payment no later than thirty (30) days following the date of the demand letter. The demand letter shall require payment of all amounts to bring the account current including any applicable interest or other penalty and shall demand full compliance with a “time is of the essence” clause according to the type of obligation at issue. The time for payment to bring the account current shall be left to the best professional judgment of the Department Director depending upon the type of debt and amount owed but in no event shall time for payment exceed the next payment due date or any other requirements imposed by debt instruments executed by the County in favor of any third party or other agreements that may have been executed by the County.

1. If payment has not been made following the first notice, the County shall send a second notice detailing the prior defaults and notices thereof indicating that further action, including legal action, will be taken.

2. Unless payment is received in the time period designated in the second notice, the County may proceed with any action in law or equity to enforce its rights and collect the debt, and that upon such failure the entire amount outstanding shall immediately become due and payable.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 10-2012, 10/25/12; Amended by Ord. 12-2017, 11/30/17]

11.03.050 Credit

An applicant for a Development Permit, shall be entitled to a credit against the TSDC for payment of a fee-in-lieu of construction or for the construction of a Qualified Public Improvement. Calculation of any TSDC credit value will be based on this Ordinance and the Methodology in place as of the date the County receives a complete TSDC credit application. The applicant shall have the burden of demonstrating in its application for credit that a particular improvement qualifies for credit.

A. The County shall provide credit for the documented, reasonable cost of construction (whether paid via fee-in-lieu of or a constructed improvement) of all or part of a Qualified Public Improvement listed in TSDC Capital Project List, adopted pursuant to 11.03.010(E), based on the following criteria:

1. Transportation improvements located neither on nor contiguous to the property that is the subject of development approval shall be considered for credit at 100% of the cost of the qualified improvements.

2. Transportation improvements located on or contiguous to the property that is the subject of development approval, and required to be built larger, or with greater capacity than is necessary for the particular development project shall be considered for credit. Credit for these improvements may be granted only for the cost of that portion of the improvement that exceeds the capacity needed to serve the particular development project or property.

3. Developers are constructing Qualified Public Improvements in lieu of the County capital projects group. In accordance with County Code Section 7.03.099(B), utility relocations to accommodate these road designs should be performed at no cost to the developer.

4. No more than 13.5 percent of the total qualifying construction cost shall be creditable for survey, engineering, and inspection.

5. No credits shall be granted for Oregon Department of Transportation (ODOT) facilities unless clearly identified as a Qualified Public Improvement listed in the TSDC Capital Project List.

6. Road Right-Of-Way dedicated pursuant to the applicable development conditions shall be considered for credit as follows:

   a. Road Right-Of-Way located neither on nor contiguous to the property that is the subject of development approval shall receive credit for the dedication.

   b. Road Right-Of-Way located on or contiguous to the property that is the subject of development approval, and required to be built larger, or with greater capacity than is necessary for the

particular development project shall be considered for credit to the extent necessary to construct the facility in excess of the capacity needed to serve the particular development project or property.

c. Credit for right of way shall be allowed based on:

i. Reasonable market value of land purchased by the applicant from a third party and necessary to complete the improvement; or

ii. A certified market appraisal, paid for by the applicant, that establishes the land value when the property was donated for the needed right of way; or

iii. A per square foot value using the then current real market value for the real property shown in the records of the County Tax Assessor.

B. All requests for credit vouchers must be in writing and filed with the Department not more than ninety days after acceptance of the improvement. Improvement acceptance shall be in accordance with the practices, procedures and standards of the Department.

C. The amount of any credit shall be determined by the Department and based upon the actual cost incurred by the applicant to construct the improvement, as supported by contract documents, and other appropriate information, provided by the applicant for the credit. In the request, the applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements of this section.

D. The applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the Department's opinion, the improvement(s) meets the requirements of this section and the Department concurs with the proposed value of the improvement(s), a credit shall be granted for the eligible amount.

E. The value of the credits under this Section shall be determined by the Department based on the actual cost of construction and Right- Of- Way, as applicable, as verified by receipts and other credible evidence submitted by the applicant. Upon a finding by the Department that the contract amounts, including payments for Right-Of-Way, exceed prevailing market rates for a similar project, the credit shall be based upon market rates.

F. The Department shall respond to the applicant's request in writing within 45 days of receipt of a complete request. The Department shall provide a written explanation of the decision on the credit request.

G. Upon approval, the Department shall provide the applicant with a credit voucher signed by the Department Director, on a form provided by the Department. The credit voucher shall state a dollar amount that may be applied against any TSDC imposed against the subject property. In no event shall a

subject property be entitled to redeem credit vouchers in excess of the TSDC imposed on the subject property, except as provided for in Section 11.03.050(J).

H. A credit shall have no cash or monetary value and a remaining balance on a voucher shall not be a basis for any refund. A credit shall only apply against the TSDC and its only value is to be used to reduce the TSDC otherwise due, subject to all conditions, limitations, and requirements of this chapter.

I. When issued by the Department, a credit shall be the personal property of the applicant. Applicant may transfer all or part of any earned credit to one or more Affiliates of the applicant. Credits shall remain the personal property of the applicant, unless transferred by the applicant or its authorized agent as transferor. Any person claiming the right to redeem a credit shall have the burden of demonstrating ownership of the credit.

J. Prior to permit issuance, upon written application to the Department, a credit shall be applied to the TSDC on a permit for development on a lot or parcel within the confines of the property originally eligible for the credit. In the case of multi-phase development, excess credit generated in one phase may be applied to reduce the TSDC in subsequent phases of the original development project.

K. Credits may be reassigned from the applicant to another individual or entity for use on another property if all the following conditions are met.

1. A request for Assignment of a credit voucher must be made in writing with a notarized letter to the Department signed by the person who owns the credit. The request for Assignment of a credit voucher shall contain all the information necessary to establish that such an Assignment is allowable under this subsection. The burden of proof that an Assignment is allowable is on the applicant. The Department shall respond in writing to the applicant's request for Assignment within 30 days of receipt of the request.

2. Credits may be Assigned if the Department determines that either:

   a. The lot or parcel that is to receive the credit is adjacent to and served by the transportation improvements that generated the credits, or

   b. The transportation improvements that generated the original credits are located within the Zone of Influence of the Department traffic impact analysis for the development receiving the credit.

3. When a credit voucher or portion of a credit voucher is Assigned, a notarized Assignment of Transportation SDC Credits notice shall be sent from the Department to both parties clarifying the Assignment. The amount Assigned shall be deducted from the transferor’s credit voucher balance and Assigned to the transferee.

a. The Assignment shall reference the original credit voucher number, which is associated with the property to which the initial credit was issued.

b. The Assignment shall have the same expiration date as the initial credit voucher.

c. The credit shall be applied to the TSDC on a permit for development on a lot or parcel within the confines of the property eligible for Assignment as described in subsection 11.03.050(I) of this section.

4. An Assigned credit voucher shall follow all rules regarding redemption of credits.

5. The Department may charge a fee, as set by resolution, for administering the Assignment of credits.

L. Any credit must be redeemed not later than the issuance of the Development Permit. The applicant is responsible for presentation of any credit prior to issuance of the Development Permit. Except as provided in Section 11.03.060, under no circumstances shall any credit redemption be considered after issuance of a Development Permit.

M. Credit vouchers shall expire on the date ten years after the acceptance of the applicable improvement. No extension of this deadline shall be granted.

N. The Department Director can delegate signature authority for credit vouchers to a designee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 10-2012, 10/25/12; Amended by Ord. 12-2017, 11/30/17]

11.03.060 Refunds

A. Refunds may be given by the County upon finding that there was a clerical error in the calculation of the TSDC. Refunds shall not be allowed for failure to claim credit, as provided for in Section 11.03.050, at the time of Development Permit issuance. The refund must be requested within six (6) months of the date the assessment was paid; failure to avail oneself of this grace period forfeits any future right to receive a refund and the value of the TSDC paid will remain with the parcel for future development.

B. A fee (set by Resolution) will be charged on any refund of an assessment paid on development that did not commence. The fee may be paid in cash or the applicant can opt to reduce the amount of the refund to cover the cost of the fee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 10-2012, 10/25/12; Amended by Ord. 12-2017, 11/30/17]

11.03.070 Dedicated Funds, Project Lists

A. All monies derived from the TSDC shall be placed in the County TSDC Fund. TSDC revenue shall be used to fund those projects identified in the TSDC Capital Project List adopted pursuant to Section 11.03.010(E), and costs related to compliance with the provisions of this ordinance, as provided by ORS 223.307.

B. The TSDC shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

C. The TSDC shall not be expended for costs of the operation or routine maintenance of capital improvements.

D. The TSDC Capital Project List adopted pursuant to Section 11.03.010(E) may be amended from time to time by Board Resolution. If the Rate Schedule will be increased by a proposed modification of the TSDC Capital Project List to include capacity increasing capital improvement cost(s):

1. The County shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.305(6).

2. If the County receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption, the County shall hold a public hearing.

3. Notwithstanding ORS 294.160, a public hearing is not required if the County does not receive a written request for a hearing.

4. The decision of the County to increase the Rate Schedule by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100.

[Codified by Ord. 05-2000, 7/13/00; Amended by Section 15 of Ord. 01-2002, enacted 1-10-02; Amended by Section 5 of Ord. 02-2002, 2-28-02; Amended by Ord. 10-2012, 10/25/12; Amended by Ord. 12-2017, 11/30/17]

11.03.080 Appeal

A. A person challenging the expenditure of TSDC revenues may appeal the expenditure to the Board by filing a written request with the Department Director. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

After providing notice to the appellant, the Board shall determine whether the expenditure is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314. If the Board determines that there has been an improper expenditure of TSDC revenues, the Board shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

B. Appeals of any other decision required or permitted to be made by the Department under this ordinance must be filed with the Hearings Officer by filing a written

request and paying the appeals fee with the Department within fourteen (14) days of the Department's decision, or payment of the assessment, whichever comes first. The individual acting as the Hearings Officer will be appointed by the Board.

a. After providing notice to the appellant, the Hearings Officer shall determine whether the Department's decision is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions.

b. The fee for formally appealing a decision to the Hearings Officer will be set by resolution.

C. The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100. The person who has appealed a decision shall be notified of this right to review of the decision.

D. A legal action challenging the Methodology adopted by the Board pursuant to Section 11.03.010(E) shall not be filed later than 60 days after adoption. A person shall contest the Methodology used for calculating a TSDC only as provided in ORS 34.010 to ORS 34.100.

[Codified by Ord. 05-2000, 7/13/00; Amended by Section 16 of Ord. 01-2002, 1/10/02; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 10-2012, 10/25/12; Amended by Ord. 12-2017, 11/30/17]

11.03.090 Annual Review

Prior to January 1 of each year the County shall provide an annual accounting for the activity occurring in the dedicated funds created by 11.03.070 for the previous fiscal year. The accounting shall show by fund the total amount of system development charges collected, the amount spent on each project that was funded in whole or in part in that fiscal year, and the amount attributed to the costs of complying with the provisions of ORS 223.297 to 223.314.

[Codified by Ord. 05-2000, 7/13/00; Amended by Section 17 of Ord. 01-2002, 1-10-02; Amended by Ord. 10-2012, 10/25/12; Amended by Ord. 12-2017, 11/30/17]

DEPARTMENT / DIVISION FINE DESCRIPTION	AUTH. LEGISLATION	FINE SET BY ORS	ORS AUTH. FINE	CODE AUTH. FINE	CURRENT FINE AMOUNT	COMMENTS
CODE ENFORCEMENT						
CIVIL PENALTIES - DTD/Code Enforcement Compliance Hearings Officer - Covering the Zoning & Development Ordinance and the following chapters: 10.03, Solid Waste & Waste Management; 9.03, Excavation & Grading; 7.03, Road Use; 9.01, Abatement of Dangerous Buildings; and 10.04, Recycling License; 6.11, Graffiti	Code §2.07.120			x		MODIFIED DESCRIPTION. Updated the fee description to clarify the fee structure.
Violation Classification 1					Min. $750; Max. $3500	
Violation Classification 2					Min. $500; Max $2500	
Violation Classification 3					Min. $250; Max $1500	
Violation Classification 4					Min. $100; Max $1000	
CIVIL PENALTIES - 9.02, Building Code	ORS Chapter 455		x			MODIFIED DESCRIPTION. Updated the fee description to clarify the fee structure.
Violation Classification 1					Min. $750; Max. $1000	
Violation Classification 2					Min. $500; Max $1000	
Violation Classification 3					Min. $250; Max $1000	
Violation Classification 4					Min. $100; Max $1000	
FORFEITURES – Standard Citation Policy	Code 2.07.030(D)			x		Adding existing fines to the COUNTY CODE - APPENDIX B; these were originally adopted by the BCC in Resolution 2003-34.
Violation Classification 1					$500	
Violation Classification 2					$400	
Violation Classification 3					$300	
Violation Classification 4					$200	