

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**

**Policy Session Worksheet**

**Presentation Date:** June 15, 2022                      **Time:** 10:30 am                      **Length:** 1 hour

**Presentation Title:** County Code Proposed Revisions

**Department:** County Counsel

**Presenters:** Scott Ciecko and Jeffrey Munns, Assistant County Counsels

**Other Invitees:** Martine Coblenz, Equity and Inclusion Officer, Cindy Becker, Project Manager

**WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

Authorization to proceed to a public hearing and first reading of revisions to the Clackamas County Code in Exhibit A.

**EXECUTIVE SUMMARY (why and why now):**

**Chapter, 2.07, Compliance Hearings Officer:**

This chapter is proposed to be amended to revise the process for enforcement of 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 6.08, 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 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 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 Coblenz that certain changes be made to the Code to eliminate bias and gender specificity that appears in the plain text. Ms. Becker and Ms. Coblenz 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 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 code changes to take immediate effect following the first reading of the Ordinance pursuant to ORS 203.045(4).

**FINANCIAL IMPLICATIONS (current year and ongoing):**

Is this item in your current budget?       YES  NO

What is the cost?      \$0

What is the funding source?      N/A

There are no fiscal impacts associated with the amendments to the County Code.

**STRATEGIC PLAN ALIGNMENT:**

The proposed changes as well as any further review of the County Code for potential bias are consistent with the County’s strategic priority of building public trust through good government and ensuring safe, healthy, and secure communities. In addition, the proposed County Code revision is consistent with County Counsel’s departmental strategic goal of providing easily accessible and understandable regulatory support.

**LEGAL/POLICY REQUIREMENTS:**

Amendments to the County Code are made by adoption of an ordinance pursuant to County Code Chapter 1.01 and in compliance with Oregon Revised Statutes. This may be done by a vote of the Board either after two public hearings, or in one meeting by unanimous vote of a quorum of the Board and compliance with notice and publication requirements.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

The changes suggested at this time come after review by County Counsel, Cindy Becker, and Martine Coblentz, as well as discussions with employees from departments that administer County Code provisions.

**OPTIONS:**

1. Adopt the ordinance as proposed and attached hereto as Exhibit A.
2. Adopt the ordinance as amended by the Board.
3. Do not adopt the ordinance.
4. Direct staff from departments that administer the County Code to collect data about the impacts of the code on protected and sensitive groups so that further amendments to the County Code can be made to reduce disparate impacts that are identified.
5. Direct no further review of County Code at this time.

**RECOMMENDATION:**

Option 1. Adopt the ordinance as proposed and attached hereto as Exhibit A.

**ATTACHMENTS:**

Ordinance adopting Exhibit A & Exhibit A – Revisions to County Code

**County Counsel Approval:** \_\_\_\_\_

SUBMITTED BY:

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact  
Scott Ciecko @ 503-742-5390

EXHIBIT A

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

**An Ordinance Amending Chapter, 2.07, Compliance Hearings Officer; Amending Appendix B: Fines; Amending Chapter 2.09, County Administrator; 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 1.01, Code Adoption, the Board finds it necessary to add authority for County Counsel to make final and formal code interpretations on behalf of the County; and

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 6.08, 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.

Ordinance No. \_\_\_\_\_  
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ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

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

Ordinance No. \_\_\_\_\_  
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## 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]

- 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**

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]

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 hearing, 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 from 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 1st)

Martin Luther King Jr. Day (Third Monday in January)

President's Day (Third Monday in February)

Memorial Day (Last Monday in May)

~~Juneteenth~~ ~~Juneteenth~~ (June 19th)

Independence Day (July 4th)

Labor Day (First Monday in September)

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~~ shethey believes 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 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 CommissionersBCC~~, 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 BCCit 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.~~ 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 identify, 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

**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.

## 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]

[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 citizenscommunity 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 citizenscommunity members located within the proposed village boundary (based on the latest U.S. census or most recent county-acknowledged survey) or 150 citizenscommunity 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 citizenscommunity 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.

- 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

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

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~~ their development 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~~ their condition 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;

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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.

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- 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;

- 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;

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- 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:

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- 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 ~~entititesentities~~, 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.

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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.

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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

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- 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~~themselves 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.
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## 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]

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## 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~~man-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, 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

**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.

## 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~~. 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~~. CONTROL: The authority to regulate, restrain, dominate, counteract or govern Property, or conduct that occurs on a Property.

- ~~EF.~~ GOOD CAUSE: Circumstances beyond the ability of a person acting with reasonable care and diligence to control.
- ~~FG.~~ 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.
- ~~GH.~~ PERMIT: To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.
- ~~HI.~~ PERSON: Any natural individual person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using Property in Clackamas County.
- ~~IJ.~~ 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.~~

~~JK.~~ 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.

~~KL.~~ 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.

~~ML.~~ 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, Building 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.

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- 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]

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**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]~~

#### ~~6.08.100090 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]~~

#### ~~6.08.1100 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~~

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## **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.

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- 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.

- 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.

- 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]

**7.01.180 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

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## 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

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

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

#### **7.02.040 System of Off-Road Vehicle Trails and Facilities**

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

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

#### **7.02.050 Penalties**

- A. It shall be a violation of County law for any person to violate this chapter.
- B. Such a violator may be prosecuted by the County in the name of the people of the County, or may be redressed by a civil action, suit, or proceeding brought by the County. The Sheriff may arrest such person when ~~he/she is~~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]

any portion of the road right-of-way that abuts property ~~s/he~~they owns or occupies, including sidewalks, if it could create a potential hazard in the opinion of the Road Official:

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

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

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

The view necessary for safe use of the road by the public shall be described in the Clackamas County Roadway Standards..

C. Impediments that Compromise Clear Zone – No person shall allow any fixed object to exist within the road right-of-way, or on property that abuts a road that person owns or occupies, or in the airspace above a road if it compromises the clear zone criteria of the Clackamas County Roadway Standards.

D. Obstruction of Official Traffic Control Device –

1. No person shall allow any of the following things to exist within the road right-of-way, or on property that abuts a road that person owns or occupies, or in the airspace above a road in a manner that wholly or partially obstructs the visibility of an official traffic control device from a distance of 200 feet:
  - a. Vegetation;
  - b. Overhanging or projecting limbs;
  - c. Permanent or temporary structures;
  - d. Fences;

- 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/hethey~~ determines are necessary to protect the public interest. [Codified by Ord. 05-2000, Amended by Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12; 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.

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~~ she finds that the proposed construction or relocation is contrary to the public interest.
- B. Changing the Designated Location of Utilities; Costs; Notice/Orders.  
The Road Official has the authority to order the designated location of lines, fixtures and facilities operated by utilities to be changed, either temporarily or permanently, at any time the Road Official deems it expedient. The cost of any temporary or permanent relocation of any 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 ~~she~~ 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

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

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## 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

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.
- ED. Hyphenated or exceptionally long names shall be avoided as well as initials (such as A.J. Feely Street).
- FE. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the county.
- GF. 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.
- HG. 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.
- IH. Access roads in new manufactured dwelling parks shall be named.
- J. 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

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- 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.

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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 7.05.070.
    - b. Notice shall be given pursuant to sections 7.05.080.A and 7.05.080.B. A minimum of fifteen (15) days following the date of notice shall be allowed for comment on the application.
    - c. Staff shall render a decision pursuant to the road naming standards in section 7.05.040.
    - d. Staff decisions are the final decision of the county.
  4. Type IV Actions. The naming of newly constructed, public roads that are not part of a subdivision, partition, commercial or industrial park, multi-family development or manufactured dwelling park shall be considered Type IV actions and shall be processed pursuant to the following procedures:
    - a. The Planning Division receives a written request from the Engineering Division Manager to name the new road.
    - b. Planning staff shall make a recommendation to the County Administrator pursuant to section 7.05.040.
    - c. The County Administrator shall either approve or disapprove the recommendation from staff or defer the matter to the Board of County Commissioners for their decision pursuant to the public hearing process. If a hearing is scheduled, the Board of County Commissioners shall issue the decision.
    - d. Following the County Administrator's or the Board of County Commissioners' decision, the Planning Division shall give notice of this decision pursuant to sections 7.05.080.A and 7.05.080.B.
    - e. Such decisions are the final decision of the county.
  5. Type V Actions. The renaming of existing roads as mandated by state or federal agencies shall be processed pursuant to the following procedures:
    - a. The Planning Division receives notice from state or federal Agencies that specific street names shall be changed.
    - b. For roads with thirty or fewer properties that receive access from or front such roads the process listed in section 7.05.060.C.3 shall be followed.
    - c. For roads with thirty-one or more properties that receive access from or front such roads, Planning Staff shall make a recommendation to the County Administrator to name the road pursuant to the standards of section 7.05.040.
    - d. The County Administrator may approve or disapprove such recommendations or recommend a hearing with the Board of County Commissioners to consider proposed road names. If a hearing is scheduled, the Board of County Commissioners shall issue the decision.

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**TITLE 8**  
**BUSINESS REGULATION**

**Summary**

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## 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

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- 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.

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## 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

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## 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 (12:01 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]

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**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]

**TITLE 9**  
**BUILDINGS**

**Summary**

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# TITLE 9

## BUILDINGS

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## 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.

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]

**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/hers/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

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

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.

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.

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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

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.

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

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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/hethey shall charge his/hertheir 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/hethey 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. 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

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/hers~~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

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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

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- 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/hers/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/hers/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

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

- 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~~<sup>his/her</sup> 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.

## 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 receives 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 hethey owns or rents 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 theirhis 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 theirhis/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:

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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/hethey](#) 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

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## 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.

### 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

- 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

APPENDIX B - FINES

DEPARTMENT / DIVISION FINE DESCRIPTION	AUTH. LEGISLATION	FINE SET BY ORS	ORS AUTH. FINE	CODE AUTH. FINE	CURRENT FINE AMOUNT	COMMENTS
<b>CODE ENFORCEMENT</b>						
<b>CIVIL PENALTIES -</b> 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	
<b>CIVIL PENALTIES -</b> 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	
<b>FORFEITURES –</b> 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	