

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** 8/7/18    **Approx. Start Time:** 11:00am    **Approx. Length:** 30 min

**Presentation Title:** Right of Way Gate Policy

**Department:** Department of Transportation and Development

**Presenters:** Nathan Boderman, Assistant County Counsel  
Mike Bays, Survey Group Supervisor

**Other Invitees:** Dan Johnson, DTD Director  
Mike Bezner, DTD Assistant Director of Transportation

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

Approval of a proposed policy related to the authorization of gates on County right of way. Any policy that is approved would be presented for formal adoption into the County Code at a later business meeting.

### EXECUTIVE SUMMARY:

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

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

1. No person shall install or allow the presence of any gate that blocks access to a road right-of-way unless:
  - a. The person has made application to the Board, describing the reasons for construction of the proposed gate, and has paid the required application fee;
  - b. The Board has held a public hearing, and met the notice requirements in ORS 368.086, to give interested parties an opportunity to describe their concerns regarding construction of the gate; and
  - c. The Board has approved the placement of the gate and issued a permit for the gate's construction pursuant to ORS 368.056.

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

Department of Transportation and Development staff are in the process of updating its existing policy and permit processes related to authorization of gates on public roads, and staff is asking the board to consider two changes to Clackamas County Code Section 7.03. The first change would add a requirement to 7.03.090(M)(1) whereby 100% of those affected by the proposed gate must provide consent as part of the application to the Board. This is being added to reduce the likelihood of complaints. The other change would be to eliminate the requirement to review the gate permit every five years. Staff is requesting that authorized gate permits only be reviewed when there is a change of conditions which may warrant removal of the previously authorized gate.

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

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

Unknown. However, staff would anticipate less staff time spent reviewing gate permit proposals if the requirements to apply for a gate permit were made more restrictive.

**STRATEGIC PLAN ALIGNMENT:**

- How does this item align with the County's Performance Clackamas goals?
  - Build public trust through good government.

**LEGAL/POLICY REQUIREMENTS:** ORS 368

**PUBLIC/GOVERNMENTAL PARTICIPATION:** None

**OPTIONS:**

1. Authorize the policy changes proposed by staff and direct staff to draft ordinance revisions to be presented for formal adoption into the County Code at a later business meeting.
2. Authorize the policy changes proposed by staff, as modified by the Board, and direct staff to draft ordinance revisions to be presented for formal adoption into the County Code at a later business meeting.
3. Decline to authorize changes to the existing gate regulations in Clackamas County Code Section 7.03.090.

**RECOMMENDATION:**

Staff requests that the Board authorize the policy changes proposed by staff and direct staff to draft ordinance revisions to be presented for formal adoption into the County Code at a later business meeting.

**SUBMITTED BY:**

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

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

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

For information on this issue or copies of attachments, please contact Nathan Boderman @ 503-655-8364
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