

YAMHILL COUNTY ORDINANCE 776

GENERAL PROVISIONS

**FOR USE, CONSTRUCTION AND INSTALLATIONS IN
YAMHILL COUNTY PUBLIC ROAD RIGHTS OF WAY**

Table of Contents

<u>Section</u>		<u>Page</u>
1.	Purpose and Policy	2
2.	Definitions	2
3.	Permit	3
4.	Liability	3
5.	Insurance	4
6.	Bond	4
7.	Effective Period of Permit	4
8.	Other Agencies and Utilities	5
9.	Allocation of Costs	5
10.	Construction Details	5
11.	Pavement Details	7
12.	Traffic Control	7
13.	Emergency Maintenance and Hazard Repairs	7
14.	Inspection	8
15.	Maintenance	8
16.	Removal, Relocation or Repair	8
17.	Violation	9
18.	Authority	9

Section 1

Purpose and Policy

The purpose of these regulations is to establish the procedures for construction and activities conducted in the Public Rights-Of-Way under Yamhill County jurisdiction. [ORS 203.010, 368.011, 374.305-374.320 & 30.315]

Section 2

Definitions

2.1 “**Applicant**” is the company, corporation, agency, organization, or individual conducting or financing a utility activity or other regulated activity covered by these regulations.

2.2 “**Clear Zone**” is an unobstructed area that is available for errant vehicle recovery as defined by AASHTO standards and policies.

2.3 “**County**” is Yamhill County.

2.4 “**County Road Official**” or “**Public Works Administrator**” means the Public Works Director, Road Master, engineer, road supervisor, or other administrative officer designated by the county governing body as being responsible for administration of road activities of the county.

2.5 “**Emergency**” is a condition which (a) causes or poses an imminent risk to the public of an unsafe or unhealthy condition; (b) results in the loss of utility service to a customer.

2.6 “**Hazard**” is a condition that exposes traffic or pedestrians to imminent danger of personal injury or destruction of property.

2.7 “**Location**” is the placement of any utility facility described by depth, height, width, length, parallel distance from centerline or station and angle of crossing the county or public rights-of-way.

2.8 “**Maintenance Period**” is the length of time that an applicant is responsible to repair or maintain construction of a regulated activity covered by a permit, bond and or bond agreement. The time frame starts when the County acknowledges final acceptance of the project and will last for a period of one year.

2.9 “**Public Road**” is a road within Yamhill County over which the public has a right of use that is a matter of public record, but which is not a city street, state or federal highway.

2.10 “**Regulated Activity**” is the occupation, use, or performance of work in public road rights-of-way under County jurisdiction. Also included are utility facility construction, installation, maintenance, and repair.

2.11 “**Special Provisions**” includes specifications or requirements attached to or contained in the permit issued under these regulations.

2.12 “**Utility Facility**” or “**Facility**” is any pole, wire, cable, conduit, pipe, valve, manhole, junction box, pedestal, cabinet or other device which the County allows within the public road rights-of-way.

Section 3

Permit

3.1 A permit application is required for all regulated and utility activity within the public rights-of-way. Exemption may be allowed for aerial service and routine maintenance that does not involve excavation in the rights-of-way and will not disrupt traffic. A start of work notice is required. Applicant must notify the Yamhill County Public Works Department of scheduled work no earlier than 1 working day prior to the start of the regulated or utility activity and no later than 7:00 a.m. the day work commences. Scheduling must be made by telephone to the number specified in the general provisions of the permit and include a contact person, call back telephone number, location of work, type of work, time that the work is scheduled to start and permit number. A supplemental fax or e-mail with the required information can be sent for documentation but will not eliminate the telephone notification requirement. [ORS 374.305, 374.307, 374.310,]

3.2 Applicant shall submit with the permit application, plans showing in detail the location of the proposed facility or operations as described in the project description. Two (2) prints of the plans are required. The Department of Public Works will make its best efforts to take action on an application for a permit within 5 working days after the application is deemed complete, provided that the decision is wholly within the authority and control of the department.

3.3 The permit application will be reviewed by a public works administrator. The County road official will notify the applicant of any revisions needed to the plan and of the amount, if any, of the bond required for the permit. Upon receipt of the revised application (if required), the bond (if required), bond agreement (if required) and a certificate of insurance (if required), the permit will be issued to applicant.

3.4 Any violation of a permit (and/or any of its conditions) shall be a Class "A" violation pursuant to ORS 153.025. Failure to give the Public Works Department notice of start of work is also a Class "A" violation. Permit violations may result in the revocation of the permit and/or the violator being cited into Yamhill County Circuit Court. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law.

3.5 No person, firm, corporation, or other entity shall engage in or procure, aid or abet any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any specialty code, statute, ordinance, or county-issued permit or other regulation without first having obtained such permit, certificate, label or other formal authorization. Any such conduct shall be a Class "A" violation pursuant to ORS 153.025. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law.

Section 4

Liability

Applicant shall indemnify and hold harmless the County, its officers, employees or agents against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature, including reasonable attorneys fees, which may result from any physical injury to or the death of any persons or from the loss of or physical damages to property of any kind or nature, including the road and bridges, property or equipment used or owned by the County Public Works Department, and facilities which may now or may hereafter occupy the rights-of-way of the said road, when such injury, death, loss or damage arises out of the action of the applicant, its

employees or subcontractors in the operation of the activity authorized by the permit.

Section 5

Insurance

5.1 Applicant or applicant's contractor shall obtain and carry, for the period of time required to complete installation of the facilities authorized by permit, a liability and property damage insurance policy. Liability coverage shall include repair and restoration of the road facilities, where the applicant is legally liable under this Ordinance or otherwise, including the repair, relocation, or removal of facilities authorized by the permit. The policy shall include Yamhill County, its officers and employees as additional insured to the extent of applicant's indemnity obligations hereunder. The policy minimum dollar amounts of liability coverage shall be as specified in ORS 30.270. The policy must be issued by an insurance company duly authorized and licensed to do business in the State of Oregon. Applicant shall submit an insurance certificate evidencing coverage to the County Public Works Department.

5.2 Applicant shall be exempt from providing evidence of insurance with each permit application if applicant has on file with the County an annual certificate of insurance providing coverage for all activities of the permit holder.

5.3 Applicant may self-insure the required liability insurance coverage. Evidence of self-insurance shall be provided to the County Public Works Department.

Section 6

Bond

6.1 Applicant may be required to furnish a bond to insure final acceptance of construction and maintenance period. The bond shall be in the amount specified in the Special Provisions of the permit. If a bond is furnished, it must be written by a surety company duly qualified and licensed to do business in the State of Oregon and in a form satisfactory to the public works administrator.

6.2 A cashier's check or bond agreement may be submitted to County in lieu of a bond.

6.3 Applicant may not be required to furnish a bond if both of the following conditions are met:

- (a) County has on file at least five (5) permits that have been successfully completed.
- (b) County has not experienced difficulties in obtaining compliance from applicant for activities associated with previous permits.

Section 7

Effective Period of Permit

7.1 The permit shall be in effect for 180 days from the date of issue, except:

- (a) When the Special Provisions provide otherwise.
- (b) When the permit has been revoked by mutual consent of the department of public works and the applicant.
- (c) When the permit has been revoked by the County Board for failure of the applicant to abide by the terms and conditions of the permit.
- (d) When the permit has been revoked by operation of law.
- (e) When the applicant requests a reasonable extension of time from the Public Works Administrator and the request is approved.

7.2 Failure of applicant to abide by the special provisions and conditions of the permit, the regulations and terms outlined in these General Provisions, or any applicable law at time of permit

issuance shall be sufficient cause for revocation of the permit.

Section 8

Other Agencies and Utilities

8.1 Nothing in this permit is intended to grant rights or imply approval in areas not falling within the authority and jurisdiction of Yamhill County. It is the responsibility of applicant to determine the need for and obtain such licenses, permits or other form of approval that may be required from other city, county, state or federal agencies. It is also the responsibility of applicant to determine the location of other existing utilities within the road rights-of-way prior to excavation as per Oregon Utility Notification Laws.

8.2 Applicant may have joint use agreements with other utility companies for use of the same utility facility. Joint use of a utility facility does not exempt the utility company applicant from these permit requirements. A permit is required for each utility company, which attaches to aerial facilities or places facilities in conduit owned by others.

8.3 The permit and the privileges granted shall not be sold, assigned or in any manner transferred to any third party. In the event that a sale, assignment, or transfer is made, the permit shall become null and void. The person or entity to which transfer was made shall be required to apply to the County for a permit.

Section 9

Allocation of Costs

The entire cost of the regulated or utility activity and operations authorized by the permit shall be paid by applicant. No part of the cost of the utility facilities or regulated activity authorized by the permit shall be the responsibility of the County unless otherwise agreed to by the County in writing or as required in utility's published tariff.

Section 10

Construction Details

10.1 No person shall start a regulated or utility activity without an approved permit. A complete copy of the approved permit and construction plans shall be on site during actual construction.

10.2 No person shall start any regulated or utility activity without the proper 'Start of Work' notice as outlined in Subsection 3.1. Delays of work longer than one day require additional notification.

10.3 Applicant's completed facility shall be in conformance with the plans referred to in the approved permit. The County Public Works Administrator may require reconstruction of the project if the construction deviated from the approved plans. Construction plans shall not be changed without prior approval from the original design source, developer/owner and all permitting agencies.

10.4 Work authorized by the permit shall be performed in a professional, clean and safe manner. Project activities shall conform to applicable rules and regulations of all federal, state, city and county agencies.

10.5 It is the responsibility of the applicant to determine the width and location of the public rights-of-way as they pertain to the regulated activity and insure that all facilities covered under provisions of the permit are within the public easement.

10.6 Unless approved in the Special Provisions, all longitudinal plowing, trenching or tunneling activities shall be outside the existing travel lanes. Location of the facility is to be a minimum of three (3) feet from the edge of the travel surface and with a minimum depth of three (3) feet of cover.

10.7 Diameter of boreholes under roadways shall not be more than one (1) inch larger than the outside diameter of the pipe or conduit fittings to be placed therein, except when void fillers are utilized. Bore pits are to be located a minimum of three (3) feet from the edge of the travel surface. A minimum depth of three (3) feet of cover is required for all buried facilities.

10.8 A tracer wire with a surface termination shall be installed with all nonmetallic buried utility facilities. A valve or meter may serve as a surface termination point if the tracer wire is accessible to public location. All operators of underground utility facilities in the public rights-of-way are required to join the Oregon Utility Notification Center as stipulated in ORS 757.557.

10.9 Trench width shall not exceed twenty-four (24) inches plus the outside diameter of the facility being installed or maintained.

10.10 No trench shall be left open or uncovered overnight. Applicant must comply with all applicable laws and safety requirements involving trenches.

10.11 When approved by the Special Provisions, trench activities in the roadbed, live load zone and shoulder areas, shall be backfilled with a minimum of 36" inches of ¾"-0 crushed rock and thoroughly compacted to 95% of AASHTO T-99 proctor or CDF (controlled density fill) as specified by the County. Ditch area excavation backfill requirements will be specified by the Public Works Administrator.

10.12 New above ground facilities shall be located outside the clear zone according to the AASHTO roadside design guide.

10.13 All debris, refuse, and waste shall be removed immediately upon completion of the associated project operation. The road rights-of-way must be restored as close as reasonably possible to its prior condition. All ditch lines disturbed by work performed under this permit must be restored to original condition or better and shall allow water to flow unrestricted. The ditch bank contour needs to be constructed with side slopes that are no steeper than 2:1. The horizontal unit of measurement shall be at least 2 times the vertical unit of depth. [ORS 368.251, 368.256]

10.14 County may take corrective actions to restore the road and rights-of-way if the work is not in compliance with the permit, the approved project plans or these General Provisions. County will charge applicant for all related costs. Prior to taking corrective actions, County will provide reasonable notice to the applicant and give applicant an opportunity to correct the problem. [ORS 374.320, 758.010]

10.15 If a public hazard is discovered due to a regulated or utility activity, County may, without prior notice to applicant, take corrective actions to protect the public. County will charge applicant for all related costs. County will notify applicant of any corrective actions taken as soon as practicable. [ORS 374.307(2)(a)&(b)]

10.16 Applicant shall be responsible for any and all survey monuments damaged or destroyed by activities of applicant or applicant's subcontractor(s). Applicant shall, in compliance with Oregon

Revised Statutes, replace any and all survey monuments so damaged or destroyed within 90 days of notification of the damage or destruction. [ORS 209.150]

Section 11

Pavement Details

11.1 Special permission is required in the Special Provisions for open cutting of the paved or surfaced portion of the road.

11.2 Trench edges in paved areas shall be saw cut or by other methods acceptable to the public works administrator prior to breaking the pavement slab.

11.3 Pavement restoration shall be made according to specifications of the special provisions and street cut detail.

11.4 County will require at least a temporary pavement cold patch on all paved or oiled roads. Temporary patching shall be completed at the end of each workday. Applicant shall maintain the trenched area until permanent pavement patching is completed. Unless otherwise specified in the special provisions, permanent pavement patching shall be completed within two weeks after pavement and patching material is available for purchase from a commercial hot asphalt plant.

11.5 During the maintenance period, the applicant shall repair all pavement patches that settle, crack, break or fail regardless of the source of the problem.

Section 12

Traffic Control

12.1 During the course of a regulated or utility activity, applicant or applicant's subcontractor shall maintain flagging personnel, signs, lights, flares, barricades and other safety devices as specified in the ODOT "Short-Term Traffic Control Handbook". Where the "Handbook" indicates engineering judgment is required to establish the specific requirements for traffic control, the County Public Works Administrator's decision shall be final. Applicant shall furnish the name and telephone number of the person who is responsible for traffic control maintenance. [ORS 810.200, 184.619]

12.2 Applicant shall conduct operations to minimize interference with or interruption of traffic along the road.

12.3 Restriction to traffic flow or closure of roadways, intersecting streets, road approaches or other access points for more than fifteen (15) minutes, will require a traffic control plan. Said plan(s) shall be reviewed and approved by the Public Works Administrator.

Section 13

Emergency Maintenance and Hazard Repairs

13.1 In case of an emergency or hazard, applicant shall notify the Yamhill County Sheriff's Office and Yamhill County Public Works of a need to close any roadway.

13.2 In case of an emergency or hazard, applicant may begin necessary work. Applicant shall notify the County Public Works Administrator as soon as possible of the work in process. Following completion of the work, applicant shall submit a permit application for any new or expanded installation. County reserves the right to require changes to any utility facilities installed during an

emergency, at no cost to County.

13.3 In case of an emergency or hazard, applicant may trench across or into a roadway without prior notice to County. Permanent back fill and patching requirements are to be made according to these General Provisions.

13.4 In case of an emergency or hazard and applicant does not complete work required under this section within a reasonable period of time, the County may perform necessary activities to protect the public. County will charge the applicant or other responsible parties for all related costs.

Section 14

Inspection

14.1 The applicant shall be responsible to notify the County of all required inspections. To insure compliance with the terms and conditions of the permit and plans, County may designate an inspector to the job during periods deemed necessary and appropriate by the Public Works Administrator. The inspector may require the applicant to correct all construction that deviates from the terms and conditions of the permit.

14.2 The applicant shall not perform construction activities that will interfere with the appropriate inspection without advanced notice to the County. If the applicant fails to provide the advanced notice as required in this section, County may require test holes to be excavated at applicant 's expense. The number and location of the test holes shall be determined by County as needed to verify proper construction of specified facilities or improvements.

14.3 Any requirement and/or correction exercised by the County Public Works Administrator shall in no way relieve applicant of any duty or responsibility to the general public, or relieve applicant from any liability for loss, damage, or injury to persons or property as required in these regulations.

Section 15

Maintenance

Applicant shall at all time keep facilities authorized by the permit in a good state of repair in order to maintain the safety of the public. [ORS 374.315]

Section 16

Removal, Relocation or Repair

16.1 County may require applicant, to remove, relocate, or repair any facility or other improvements lying within public rights-of-way covered by the permit at no cost to the County. If relocation is required, the County may provide alternative locations, within the Public Rights-Of-Way that are consistent with sound engineering practices or applicable state and local law.

16.2 Upon receiving written notice from the County Board or Public Works Administrator to remove, relocate, or repair a facility or other condition, applicant shall arrange to comply in accordance with the notice at applicant's sole cost. Compliance shall be completed within 30 days, unless an extension of time is requested in writing and agreed to by the Public Works Administrator. [ORS 374.320]

16.3 If an applicant fails to complete the removal, relocation, or repair of facilities or conditions required pursuant to this section, County may cause such removal, relocation, or repair to be

completed using qualified contractors in accordance with Oregon law, and charge the applicant or other responsible parties for the expenses incurred by the County. County may recover for such expenses from the bond, bond agreement or security deposit submitted by the applicant.

Section 17

Violation

Any regulated or utility activity that is contrary to the terms of these regulations or any permit issued herein is prohibited. Any violation of current Oregon Revised Statutes or Administrative Rules or Yamhill County ordinances or regulations or these general provisions shall be a Class “A” violation. Failure to give the Public Works Department notice of start of project is also a Class “A” violation. Permit violations may result in the revocation of the permit and/or the violator being cited into Yamhill County Circuit Court. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law. No person, firm, corporation, or other entity shall engage in or procure, aid or abet any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any specialty code, statute, ordinance, or county-issued permit or other regulation without first having obtained such permit, certificate, label or other formal authorization. Any such conduct shall be a Class “A” violation pursuant to ORS 153.025. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law [ORS 30.315, ORS 153.025, 203.065]

Section 18

Authority

The Yamhill County Public Works Department has authority to impose any conditions to a permit deemed necessary to meet the standards of the American Association of State Highway and Transportation Officials (AASHTO standards), or to make the road safe for travel, or to otherwise ensure compliance with these regulations. [ORS 368.011]