

TITLE 6

PUBLIC PROPERTY — ACQUISITION, DISPOSITION, AND MAINTENANCE

CHAPTER 690

RIGHT-OF-WAY REGULATION CODE

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I. GENERAL PROVISIONS

690.005 Title

This Chapter, LCC 690.005 to 690.900, shall be known and may be cited as the “Linn County Right-of-way Regulation Code” or simply as the “Right-of-way Regulation Code.”

[Adopted 99-058 §6 eff 3/3/99]

690.010 Definitions

As used in this Chapter:

(A) “**Board**” means the Linn County Board of Commissioners.

(B) “**County road**” has the meaning given in ORS 368.001 (1) for which Linn County has jurisdiction.

(C) “**Closure permit**” means a permit issued under this Chapter authorizing a fence or gate across a right-of-way which closes or otherwise restricts public travel on the right-of-way.

(D) “**Encroachment permit**” means a permit issued under this Chapter for all work in a right-of-way but does not include a fence or gate which closes or otherwise restricts public travel on the right-of-way.

(E) “**Local access road**” has the meaning given in ORS 368.001 (3) and is limited to roads outside a city for which Linn County has jurisdiction.

(F) “**Permit**” means an encroachment permit or a closure permit or both.

(G) “**Person**” means person, firm, partnership, corporation, municipal corporations, and the State of Oregon and the Federal Government and agencies thereof.

(H) “**Right-of-way**” includes not only the surface area but the space below and above it.

(I) **“Road”** has the meaning given in ORS 368.001 (6).

(J) **“Road that is subject to this Chapter”** means a county road or a local access road.

(K) **“Roadmaster”** means the Linn County Roadmaster or designee thereof. The term also means the “road official” as that latter term is used in ORS Chapter 368.

(L) **“Roadway”** means that portion of the road normally used for vehicular traffic.

(M) **“Work”** includes such activities as placement, building, constructing, planting, excavating, removing, and altering.

[Adopted 95-176 §1 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

690.020 Local access roads

(A) From the date of adoption of this chapter, the authority in ORS 374.305 to 374.324 relating to county roads applies to any facility, thing or appurtenance in a local access road.

(B) The requirements for local access roads are the same as for county roads except as otherwise provided by regulations adopted to carry out this chapter.

[Adopted 95-176 §4 eff May 10, 1995]

II. PERMIT REGULATIONS

690.100 Regulations; prohibitions

(A) Except as provided otherwise in this Chapter, no person may work on any facility, thing, or appurtenance in the right-of-way of a county road or of a local access road without first applying for and obtaining a permit from the County approving that work.

(B) Before there is a change of use on property having an approach road that connects to or intersects a county road or local access road, the landowner must first apply for and obtain a permit from the County approving that change of use.

(C) No person may perform any work in violation of a permit issued to that person.

(D) No person may violate any regulations adopted under this Chapter that have been imposed by a permit issued to that person.

(E) No person may perform work in a right-of-way that is subject to this Chapter unless a permit has been first applied for and issued authorizing that work.

(F) No person may close any road that is subject to this Chapter unless a permit has been first applied for and issued authorizing that closure.

(G) No person may fail to maintain a key that opens any gate that has been installed across a road that is subject to this Chapter.

[Adopted 95-176 §1 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

690.110 Work in a right-of-way requiring an encroachment permit

(A) An application for work in a right-of-way shall be made on the form approved by the Roadmaster.

(B) Work authorized by an encroachment permit obtained under this Chapter includes but is not limited to the following:

(1) Constructing, grading or surfacing an access to a private driveway or approach road pursuant to LCC Chapter 935 (Access Improvement Standards Code).

(2) Placement of pipe lines, or conduits, or underground cables.

(3) Placement of overhead wires.

(4) Construction of under-crossings or over-crossings for animals, equipment or other purposes.

(5) Construction of retaining walls, fences, gates, or sidewalks.

(6) Planting of trees or other vegetation.

(7) Any excavation in, removal from, or alteration to any right-of-way of a county road or local access road.

(8) Construction of mail receptacles approved by the United States Postal Service and meeting the minimum break-away standards set by Oregon Department of Transportation in the Oregon State Standards Specification.

(9) Installing roadside plantings.

[Adopted 95-176 §2 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

690.120 Work in a right-of-way requiring an road improvement permit

Work required to accommodate traffic on a new development access may not be conducted in a right-of-way without an application, plan review and issuance of a road improvement permit.

[Adopted 99-058 §3 eff 3/3/99]

690.130 Use of a right-of-way requiring an special use permit

Parades, bike tours, walk-a-thons, foot racing, and other activities which is in the general public interest and which requires the use of a right-of-way may not be conducted in the right-of-way without application, a plan review, if required by the Roadmaster, and issuance of a special use permit.

[Adopted 99-058 §3 eff 3/3/99]

690.140 Work in a right-of-way requiring a road closure permit

(A) Work authorized by a closure permit obtained under this Chapter includes the construction of any wall, fence, or gate across the right-of-way that in any way restricts the movement of travelers on the road.

(B) The issuance of the closure permit is subject to LCC 690.200 and 690.250.

(C) The issuance of a closure permit is not required when a right-of-way is temporarily closed by a public body if the purpose of the temporary closure is to perform maintenance on facilities owned by the public body.

[Adopted 95-176 §2 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

690.150 Work in a right-of-way not requiring a permit

(A) Notwithstanding the requirement for a permit for the work described in LCC 690.110, a permit is not required for performing maintenance or minor improvement to existing facilities if the existing facilities were installed by the owner of the facilities. If the applicant for the work described in this subsection is different from the person or entity who installed the facilities, a permit is required for the work. For purposes of this subsection “performing maintenance or minor

improvements” includes but is not limited to the utilization of existing facilities as intended when installed such as:

(1) Installing additional wires or service connections when new poles or cross arms are not required.

(2) Inserting cables in existing conduits or making service connections within a terminal structure.

(3) Utilization that is expressly acknowledged by prior permit provisions.

(4) Interpretations set forth in the regulations adopted to carry out this Chapter.

(B) An abutting property owner’s development or care of the portion of the right-of-way from the property line to the curb or roadway shoulder where such development or care is in compliance with county regulations.

[Adopted 95-176 §8 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

690.160 Regulations adopted under this Chapter

(A) The Board may by order adopt permit fees and regulations that establish standards or otherwise implement this Chapter.

(B) Regulations adopted to carry out this Chapter may provide different requirements for different classes of roads.

(C) Forms to be used for applications and permits shall be adopted by the Roadmaster.

[Adopted 95-176 §8 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

III. PERMIT ISSUANCE

690.200 Permit issuance; generally

(A) Permit applications may be obtained from the Roadmaster.

(B) An application for work in a right-of-way shall be made on the form approved by the Roadmaster.

(C) Within thirty (30) days following submission of a completed permit application to the Roadmaster, the Roadmaster shall approve, approve with conditions, or deny the permit application. The Roadmaster shall notify the applicant within fifteen (15) days of receiving an

application if the application is incomplete and the notice shall contain a description of the missing information needed to complete the application.

(D) If, after reviewing an application for a permit required under this Chapter, the Roadmaster determines that the work will comply with this chapter, any regulations adopted to implement this chapter, and any applicable state requirements, or can be made to comply by the imposition of conditions on a permit, the Roadmaster shall approve the permit or approve the permit with conditions.

(E) If, after reviewing an application for a permit required under this Chapter, the Roadmaster determines that the work will not comply with this chapter, any regulations adopted to implement this chapter, or any applicable state requirements, or can not be made to comply by the imposition of conditions on a permit, the Roadmaster shall deny the permit.

(F) If the Roadmaster determines the requirements of the chapter or regulations do not appear to fully address the proposed work or if the applicant disagrees with the Roadmaster's interpretation of requirements, either party may refer the application to the Board.

(G) An application and permit fee shall be paid at the time the application is submitted in an amount established by the county regulations.

(H) The Roadmaster shall arrange for whatever field study and inspection of the official determines is appropriate to assure compliance with requirements.

[Adopted 95-176 §7 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

690.250 Permit issuance; road closures

(A) The Roadmaster may issue a revocable road closure permit subject to the approval of the Board authorizing the placement of a fence or gate across a road. A road closure permit shall not be issued and shall not be effective until the permit is reviewed and approved by the Board pursuant to ORS 368.056.

(B) A road closure permit may be issued only if the permittee enters into an agreement acceptable to the County wherein the permittee

accepts all liability for injuries to persons and property caused by the closure and holds the County harmless from such liability and promises to indemnify the County for all costs to defend a claim or any other action based thereon.

(C) The permit may be revoked, modified or suspended by the Board at any time for any reason without notice to the permittee.

(D) The permittee may not lock any gate for which a road closure permit has been issued unless the permittee specifically requests permission to lock the gate and the request is approved in writing on the permit. The permittee shall at the time the permit is issued, provide at the permittee's expense a key that opens any gate that is subject to the permit.

(E) Any permit issued to close any road by any method is revocable at any time without notice to the permittee.

(F) The permit, without notice of any kind to the permittee, is subject to LCC Chapter 235 (Emergency Procedures Code).

(G) If a road closure would prevent unrestricted access at any and all times to persons other than the applicant and the road to be closed provides access to their property, the Roadmaster may not approve a permit to close the road unless notice is first given to all such persons and an opportunity is provided for a hearing before the Board. The Board may not authorize the closure of the road unless all such persons approve of the closure. If the closure is approved, the permittee shall provide at the permittee's expense a key to every such person to any lock on any gate for which the permit authorizes.

[Adopted 99-058 §5 eff 3/3/99]

IV. PENALTIES

690.900 Penalties

(A) A violation of any provision of LCC 690.100 is a Class A infraction.

(B) Infractions may be enforced under LCC Chapter 240 (Enforcement Code).

[Adopted 95-176 §9 eff May 10, 1995; amd 99-058 §5 eff 3/3/99]

Statutory References and Other Authorities:

ORS 96.650 to 98.654; 105.810, 105.815;
203.035; 368.056; 368.251 to 368.281; 368.942 to
368.990; 374.305 to 374.340; 374.420 to 374.430;
552.438; 758.010 to 758.020; 818.240 to 818.330

Legislative History of Chapter 690:

Adopted 95-176 eff 5/10/95

Amendments to 95-176:

#1 99-058 §3 eff 3/3/99

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