

To request translation or disability-related accommodations, please contact us at DTDcompliance@clackamas.us | 503-742-4400.

Si quiere solicitar servicios de traducción o adaptaciones para la discapacidad, contáctenos en/al DTDcompliance@clackamas.us | 503-742-4400.

Чтобы запросить перевод или приспособления, связанные с инвалидностью, пожалуйста, свяжитесь с нами по:

DTDcompliance@clackamas.us | 503-742-4400.

Щоб попросити переклад або спеціальні послуги для осіб з особливими потребами, зверніться до нас, скориставшись такими контактними даними:

DTDcompliance@clackamas.us | 503-742-4400.

如需翻译服务或残障相关的协助，请与我们联系：

DTDcompliance@clackamas.us | 503-742-4400。

Để yêu cầu dịch vụ dịch thuật hoặc điều chỉnh liên quan đến tình trạng khuyết tật, vui lòng liên hệ với chúng tôi qua DTDcompliance@clackamas.us | 503-742-4400.



Clackamas County
www.clackamas.us



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

May 7, 2026

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

**Second Reading of an Ordinance 06-2026 to Amend County Code Chapter 7.03, Road Use.
No County General Funds are involved.**

Previous Board Action/Review: Policy Session - March 10, 2026; Public Hearing and First Reading – April 23, 2026

Performance Clackamas: Safe, Secure and Livable Communities and Healthy People

Counsel Review: Yes

Procurement Review: No

Contact Person: Mike Bezner 503-742-4651

EXECUTIVE SUMMARY: To comply with the Federal Clean Water Act (CWA), the Oregon Department of Environmental Quality (DEQ) has issued the County and other jurisdictions a Municipal Separate Storm Sewer System (MS4) permit. When DEQ most recently reissued the permit in 2021, it included a new requirement for the permit holders to implement a program to detect and eliminate illicit discharges (e.g., pollutants) into their MS4s. Also to comply with the CWA, DEQ has developed a Willamette Basin Mercury Total Maximum Daily Load (TMDL) and associated Water Quality Management Plan (WQMP), which impose similar illicit discharge requirements “outside of the MS4 permit coverage area.” To comply with the MS4 permit and TMDL, the County has prepared a Stormwater Management Program (SWMP) and TMDL Implementation Plan.

Consistent with the SWMP and TMDL Implementation Plan, staff are proposing a new County Code Section 7.03.250, which would regulate discharge into the County’s storm sewer system. Under the new section, only stormwater may be discharged into the County’s storm sewer system, other than the listed exemptions that include but are not limited to sources such as irrigation, foundation drains, lawn watering, individual and charity car washing, and fire hydrant flushing.

RECOMMENDATION: Staff recommends that the Board hold this public hearing, read the attached ordinance by title only, and adopt the attached ordinance.

Respectfully submitted,

Dan Johnson

Dan Johnson, Director
Department of Transportation and Development

ATTACHMENTS:
Ordinance with Exhibit

For Filing Use Only

Ordinance No. _____

An Ordinance Amending County Code Chapter 7.03, Road Use

WHEREAS, to comply with the Federal Clean Water Act (CWA), the Oregon Department of Environmental Quality (DEQ) has issued the County a Municipal Separate Storm Sewer System (MS4) permit, which requires the County to implement a program to detect and eliminate illicit discharges (e.g., pollutants) into its MS4; and

WHEREAS, also to comply with the CWA, DEQ has developed a Willamette Basin Mercury Total Maximum Daily Load (TMDL) and associated Water Quality Management Plan (WQMP), which impose similar illicit discharge requirements outside of the MS4 permit coverage area; and

WHEREAS, to comply with the MS4 permit and TMDL, the County has prepared a Stormwater Management Program (SWMP) and TMDL Implementation Plan; and

WHEREAS, consistent with the SWMP and TMDL Implementation Plan, staff have proposed a new county code section which would regulate discharge into the County's storm sewer system;

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

Section 1: County Code Chapter 7.03, Road Use, is hereby amended as shown on Exhibit "A," attached hereto and by this reference incorporated herein.

Section 2: This ordinance shall take effect on the 90th day after the date of its adoption.

ADOPTED this _____ day of _____ 2026.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Exhibit A

Chapter 7.03

7.03 ROAD USE

7.03.010 Purpose

This Chapter shall govern:

- A. Road use impediments, entrances, utility placements, and other activities within the right-of-way of County roads, local access roads, and public roads;
- B. Activities on private property which impact the safe use of these roads; and
- C. Vacation proceedings and road status changes.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03]

7.03.20 Definitions

- A. APPLICANT/OWNER – Shall mean the corporation, cooperative, company, firm, business, partnership, individual or individuals whose name and signature appear on a utility permit and to whom the permit is issued. The applicant/owner is presumed to have permanent care and maintenance of the utility.
- B. BOARD – Shall mean the Board of Commissioners of Clackamas County.
- C. CABLE/WIRE – Shall mean any and all aerial pole lines and direct buried cables and conduit protected cable.
- D. CLEAR ZONE – Shall mean the area outside the traveled portion of the roadway that is available for safe use by errant vehicles, vehicles forced off the roadway, and pedestrians avoiding traffic when necessary. The clear zone may extend outside the right-of-way. See Clackamas County Roadway Standards.
- E. COUNTY ROAD – See “ROAD/ROADWAY”.
- F. COUNTY ROAD OFFICIAL (“Road Official”) – As used in Chapter 368 and defined in ORS 368.001(2) shall refer to the Director of DTD. Any authority granted to or act required or permitted by the Road Official by statute may be exercised or done by the Director. Subject to approval by the County Administrator, the Director may adopt written policies designating employees of DTD that are authorized to act as the Road Official for specified purposes. (Amended by Ord. 02-2009, 3/5/09)
- G. CULVERT – Shall mean storm sewer pipe used for conveying storm water within the road right-of-way, and meeting the specifications of the Clackamas County Roadway Standards.
- H. DTD – Shall mean the Clackamas County Department of Transportation and Development.
- I. ENTRY PERMIT – Shall mean that written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. This written permission allows an applicant to place, build, or construct an entry, approach road, structure, culvert, ditch, or other facility, thing, or appurtenance on the right of way, or substantially alter a facility, thing or appurtenance, or change the manner of using the entry or approach road.

- J. FACILITY – Shall mean any and all cables, wires, conduits, pipe lines, pedestals and/or related appurtenances placed on or beneath the ground and authorized by a County issued permit.
- K. FIXED OBJECT – Shall mean any natural or man-made object, including vegetation, that could potentially cause harm to an errant vehicle or its’ occupants. ”Vegetation” specifically includes trees greater than 6 inches in diameter, among other things.
- L. GATES – Shall mean any framework or structure that can be opened or closed, placed or installed in the right-of-way for the purpose of controlling or restricting the public travel.
- M. INTERSECTION SIGHT DISTANCE (ISD) – See the Clackamas County Roadway Standards.
- N. LOCAL ACCESS ROAD – See “ROAD/ROADWAY”.
- O. MUTCD – Shall mean the Manual on Uniform Traffic Control Devices in its most recent Oregon adopted edition and Oregon adopted supplements.
- P. ORS - Shall mean Oregon Revised Statutes.
- Q. PERSON – Shall mean and include individuals, cooperatives, corporations, associations, firms, partnerships, joint stock companies, trusts and estates, municipalities, and any other legal entities whatsoever.
- R. PIPE LINE – Shall mean any and all pipe lines, hydrants, valve boxes, manholes, and/or related appurtenances authorized by the issuance of a permit.
- S. POLE LINE – Shall mean any and all poles, wires, guys, anchors, and/or related appurtenances authorized by the issuance of a permit.
- T. PRIVATE ROADWAY – Shall mean a roadway on private property, maintained with private funds, generally considered to provide practical and legal access to more than one parcel of property.
- U. ROAD/ROADWAY – See ORS 368. For purposes of this chapter, all of the following are “roads”:
1. PUBLIC ROADS: See ORS 368.
 1. COUNTY ROADS: See ORS 368.
 2. LOCAL ACCESS ROADS: See ORS 368.
- V. ROAD OFFICIAL - See "COUNTY ROAD OFFICIAL".
- W. RIGHT-OF-WAY (ROW) – Shall mean a legal use or right of passage, given to the public, over a strip of ground under the jurisdiction of county, state, or federal agencies.
- X. TRAFFIC CONTROL DEVICE – See ORS 801.540.
- Y. TRAIL – Shall mean any easement over land that is not part of a road right-of- way and does not provide motor vehicle access of the type provided by a road, but which permits travel between places. For the purpose of this chapter, a trail must be under the sole jurisdiction of Clackamas County, and must be an easement over which the public has a right of non motor vehicular use. (A change in use from a road to a trail shall not change the designation of any easement as road right of way.)
- Z. TRAVELED PORTION OF THE ROADWAY – Shall mean those areas used by and accessible to vehicles and pedestrians, including paved shoulders and bike facilities, and shall also include sidewalks or other pedestrian facilities.
- AA. UTILITY – Shall mean privately, publicly or cooperatively owned line, network, or system for communications, cable television, power, electricity, light, heat, gas, oil, crude products, potable water, surface water or storm water, steam, waste water not connected with roadway drainage, or any other similar commodity, including any fire or police

signal system, or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any substantially owned or controlled subsidiary. For the purposes of this ordinance, the term includes those utility-type facilities owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term utility includes facilities and appurtenances used solely by the utility that are a part of its operation.

BB. UTILITY PERMIT – Shall mean the written permission granted by the Road Official or designee in accordance with ORS 374.305-374.325. This written permission provides for the lawful construction of aerial pole lines, buried cables, pipe lines, and miscellaneous utility operations, and may include special permit provisions if deemed necessary by the Road Official.

CC. VIOLATION – Shall mean an activity that does not comply with the requirements of this chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2003, 1/23/03; Amended by Ord. 02-2009, 3/5/09; Amended by Ord. 07-2012, 7/26/12]

7.03.030 Compliance

Every person shall comply with the requirements of this chapter in the location, construction, and alteration of any approach road, driveway, underground utility or any other facility, road use impediment, thing or appurtenance on or in the right-of-way of any County road, local access road, or public road under the jurisdiction of Clackamas County.

The Road Official or the Board may take any action deemed to safeguard the best interests of the traveling public, regardless of the provisions of this Chapter. This specifically includes the authority to erect gates when necessary to safeguard a public interest, without seeking a permit.

[Codified by Ord. 05-2000, 7/13/00; Amended Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12]

7.03.040 Conflicting Requirements

The provisions of this chapter are minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law, rules, regulations, resolutions, easements, covenants or other agreements between parties, the provisions of this chapter shall control. Where other provisions of law are more restrictive than this chapter, the more restrictive provision shall control.

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

7.03.050 Violation as Nuisance

A violation of this chapter is hereby declared to be a public nuisance and shall continue to be a nuisance until the offending road use violation is brought into compliance with this chapter.

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

7.03.060 Issuance of Violation Notice

The Road Official or the Road Official's designee may issue violation notices. If issued, such notices shall give a brief description of the violation and shall be served upon the person responsible for the offense. The notice shall also contain:

- A. The contact information for the County department and division issuing the violation,
- B. The date the violation was issued, and
- C. A statement that failure to correct the violation or to contact the appropriate County department within a specified time period, may result in civil or Compliance Hearings Officer proceedings to abate the nuisance.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.070 Remedies

In addition to any other remedies provided by law, if the violation has not been corrected within a minimum of ten (10) days after a violation notice is received, the County may refer the matter to the Compliance Hearings Officer for enforcement under the Compliance Hearings Officer Chapter or institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, correct or remove the installation which is in violation of the requirements of this chapter. These remedies shall exist in addition to all other remedies provided by law.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.080 Penalties

Violation of the provisions of this chapter may be sanctioned in any manner provided for by law, including, but not limited to:

- A. For violations of Sections 7.03.090 – 7.03.230, by imposing civil penalties in the amounts authorized under ORS 203.065(1).
- B. For violations of Sections 7.03.240 – 7.03.290, by imposing civil penalties in an amount to be set by the Board and as determined by the Compliance Hearings Officer.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3/13/0; Amended by Ord. 07-2012, 7/26/12]

7.03.090 Road Use Impediments – Prohibited Activity

- A. Potential Hazards – No person shall allow any of the following things to exist on any portion of the road right-of-way that abuts property they own 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 they own or occupy, 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.
- A. Obstruction of Official Traffic Control Device –
1. No person shall allow any of the following things to exist within the road right-of-way, or on property that abuts a road that person owns or occupies, or in the airspace above a road in a manner that wholly or partially obstructs the visibility of an official traffic control device from a distance of 200 feet:
 - a. Vegetation;
 - b. Overhanging or projecting limbs;
 - c. Permanent or temporary structures;
 - d. Fences;
 - e. Berms;
 - f. Natural or man-made objects.
 2. When the traffic control device is a “Stop” sign, a “Yield” sign, or a traffic control signal, nothing shall obstruct its visibility from the distance described in the MUTCD, if that distance is greater than the 200 feet necessary for other traffic control devices under) D 1 of this subsection.
- B. Flow of Water Impeding Safe Use of traveled portion of the roadway. No owner or lawful occupant of property abutting any road shall allow water to overflow, seep or otherwise discharge into the traveled portion of the roadway that abuts their property, if the water creates a nuisance condition or impedes the safe use of the traveled portion of the roadway. The source of the water flow shall be irrelevant to liability under this

subsection.

- C. Prohibition Against Blocking Drainage or Traveled Portion of the Roadway – No person shall allow any soil, rock, earthen material, dirt, bark dust, compost or similar processed vegetative material to erode, flow, discharge or otherwise be placed or deposited in the traveled portion of the roadway, or to block any drainage system within the road right-of-way.
- D. Regulation of Basketball Hoops, Skate Board Ramps & Cycle Ramps –
 - 1. No person shall allow the following to exist on or in the road right-of-way, or on property abutting a road, if its placement encourages approach from, or use in conjunction with the road right-of-way:
 - a. Basketball hoop;
 - b. Skateboard ramp;
 - c. Cycle ramp;
 - d. Any other thing or structure capable of being used from the road right-of-way.
 - 2. Notwithstanding the prohibition set forth above, a basketball hoop, backboard and supporting structure may be located on dead-end local residential streets and local residential streets having expected traffic volumes of less than 250 vehicles per day, if all of the following conditions apply:
 - a. The basketball hoop is no closer than 150 feet from any street intersection.
 - b. Sight distance to the basketball hoop for approaching vehicles must not be less than 150 feet.
 - c. No portion of the basketball hoop shall be located closer than 20 feet from an adjacent property line.
 - d. In no case shall court markings be placed on the roadway.
 - e. In no case shall the basketball hoop be used between the hours of 10 PM and 7 AM.
- E. Regulations for Mail boxes, Newspaper Boxes, Other Receptacles – No person shall allow any mail box, newspaper box or other receptacle to exist on the road right-of-way unless it conforms to the safety standards outlined in the most recent editions of the AASHTO Roadside Design Guide, the clear zone standards of the County Roadway Standards, or the standards of the United States Postal Service.
- F. Regulations for Portable Storage Containers – No person shall allow the placement of a portable storage container within the traveled portion of the roadway or within the clear zone.
- G. Regulations for Roadside Memorials –
 - 1. A roadside memorial may be authorized pursuant to Clackamas County's Roadside Memorial policy;
 - 2. Unauthorized roadside memorials may be removed if:
 - a. The roadside memorial is a safety hazard in the opinion of the Road Official;
 - b. The roadside memorial creates a safety/operational/productivity issue for Transportation Maintenance personnel and/or equipment in the opinion of the Road Official, or;
 - c. The County receives a complaint regarding the unauthorized roadside memorial.

3. If an unauthorized roadside memorial is to be removed, DTD will attempt to contact the person responsible for the roadside memorial. If contact is made with the person, 14 days will be provided to allow for removal. After a minimum of 14 days, DTD may remove the roadside memorial.
- K. Regulations for Written or Graphic Displays – No person shall post, paste, paint, brand or otherwise place or attach notices, signs, pictures, advertisements, cards, posters, bills, notices or any other form of written or graphic display to any building, fence, gate, bridge, tree, rock, board, structure, utility pole, traffic control device or its supporting structure, or anything whatever within the road right-of-way unless it is authorized under ORS 368.942–368.960.
- L. Regulations on Obstructing View by Vending or Advertising Merchandise – No person shall allow the following things to be present on the traveled portion of the roadway or on property abutting a road, if it could obstruct the view of, or cause danger to, persons who use the road:
1. Any vehicle that facilitates vending or merchandise sales;
 2. Any object or structure that facilitates vending or merchandise sales;
 3. Any object or structure that advertises, sells or offers merchandise for sale;
 4. Any utility trailer;
 5. Any recreational vehicle;
 6. Any mobile or modular home.
- M. Prohibition of Gates on Roads – Public roads are open to the traveling public and should not be gated. Only under the most extraordinary circumstances will a gate be allowed. When extraordinary circumstances create an exception, the Board’s express preference will be for permitted gates to be unlocked.
1. No person shall install or allow the presence of any gate that blocks access to a road right-of-way unless:
 - a. The person has made application to the Board, describing the reasons for construction of the proposed gate, and has paid the required application fee and can obtain the approval of 100% of the land owners that access from or adjoin the road right-of-way to be gated; and
 - b. The Board has held a public hearing, and met the notice requirements in ORS 368.086, to give interested parties an opportunity to describe their concerns regarding construction of the gate; and
 - c. The Board has approved the placement of the gate and issued a permit for the gate’s construction pursuant to ORS 368.056.
 2. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board shall place the following conditions on the permit:
 - a. Except under extraordinary circumstances or when necessary for the health, welfare and safety of the public, the gate shall not be locked in a way that prevents access by the traveling public on the road right-of-way;
 - b. If the road right-of-way has attained its public status due to ten years or more of adverse use under ORS 105.620, or ten years or more of uncontested public use under ORS 12.050, then the question of the road’s status shall be considered in the public hearing on the gate permit, and a finding shall be made and written into the language of the permit that the road’s public status has been clearly established and can no longer be

contested; (This action shall fulfill the requirements of ORS 368.073(1) and ORS 368.096(2)(c).)

- c. If any condition existing when a gate permit is granted changes, the Board may evaluate whether to revoke the permit and require the gate to be removed.
3. Whenever the Board issues a permit for a gate that blocks access to a road right-of-way, the Board may place the following conditions on the permit:
 - a. Specifications regarding the method and means of construction of the gate;
 - b. A requirement that the person issued the permit shall bear all costs of construction and maintenance of the gate; and/or
 - c. Any other conditions the Board deems reasonable.
- N. Road Official's Authority to Issue Revocable Permit – Pursuant to ORS 374.305, the Road Official is authorized to make a case-by-case determination to allow structures, objects or other things to exist in public right-of-way, including sidewalks, so long as the things could not create a potential hazard or impediment. If the Road Official makes a determination to authorize such a thing, the Road Official may issue a revocable permit reflecting that revocable permission, and may impose any conditions they determine 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; Amended by Ord. 03-2022, 7/21/22]

7.03.095 Vacation Proceedings and Road Status Changes

- A. Vacation Proceedings.
 1. Vacation of any public property listed in ORS 368.326 shall be carried out pursuant to ORS 368.326–368.366.
 2. Partial vacations of public property, with reservations of rights in the form of easements (utility, ingress/egress, etc.) shall also be carried out pursuant to ORS 368.326–368.366.
 3. A vacation of public property may eliminate rights of public access, but no vacation of public property shall be allowed if the vacation would deprive an owner of access to their property without their consent.
 4. In determining whether vacation of public property is in the public interest, the Board shall consider the following criteria:
 - a. Whether the vacation would inhibit or preclude access to an abutting property, and whether an access reservation would be adequate to protect that access;
 - b. Whether it is physically possible to build a road that meets contemporary standards over the existing terrain or right of way;
 - c. Whether it is economically feasible to build a road that meets contemporary standards over the existing terrain or right of way;
 - d. Whether there is another nearby road that can effectively provide the same access as the right-of-way to be vacated;
 - e. Whether the right-of-way to be vacated has present or future value in terms of development potential, use in transportation linkages, or use in

- road replacements;
 - f. Whether there are present and future likely benefits of the right-of-way to the traveling public;
 - g. Whether anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated;
 - h. Whether the right-of-way proposed to be vacated leads to a creek, river, or other waterway that can be used for public recreation; and
 - i. Whether the right-of-way proposed to be vacated leads to federal, state or local public lands that can be used for public recreation.
5. The Order issued pursuant to ORS 368.356 at the conclusion of any vacation proceeding shall not be a land use decision, but may be appealed by Writ of Review under ORS 34.102.
- B. Road Status Changes.
- 1. The Board has the discretion to determine that it is necessary to change the status of a County road, local access road, public road or trail.
 - 2. In order to change the status of any such right-of-way, the Board shall designate the proposed new status as a local access road, public road, or trail, and shall use the same procedure set forth in ORS 368.026 for withdrawal of County right-of-way status.
 - 3. In determining whether to enter an Order changing the status of a right-of-way under this subsection, the Board shall consider the following criteria:
 - a. County's cost of maintenance under existing status, given the general public benefit of such maintenance;
 - b. Existing or reasonable future use of property or bodies of water being accessed by subject road,
 - c. Impact to public facilities (e.g., public water supply) being served by subject road,
 - d. Existence of a long history of inappropriate use of the right-of-way, e.g., dumping of refuse/hazardous materials onto the right of way, trespassing onto or damaging of abutting property.
 - 4. A change of status may temporarily or permanently eliminate rights of public access, but no change of status may deprive a recorded owner of access to their property. If a public right-of-way is to be changed into a private right-of-way, the Board Order shall follow ORS 368.326-368.366 and ensure that necessary rights of access are reserved through appropriate easements.
- C. Simultaneous Acceptance and Vacation of Roads.
 If the circumstances of a specific road project require both vacation of an existing right-of-way and acceptance of a new right of way, the vacation and acceptance may be consolidated for hearing before the Board when consolidation is likely to maximize the efficiency of the road project.

[Added by Ord. 01-2003, 1/23/03; Amended by Ord. 07-2012, 7/26/12]

7.03.099 Utilities' Use of County Right of Way

- A. Designating Location of Utilities; Costs; Construction Approval.

The Road Official has the authority to designate the location where lines, fixtures and facilities operated by Utilities may be located upon roads under Clackamas County's jurisdiction.

1. Except as provided in this Chapter, utilities shall not begin construction of a new facility or relocate an existing facility on County roads without doing the following things first:
 - a. When the proposed work is more significant than routing service connections and ordinary maintenance, utilities must provide written notice to the Road Official, including plans and specifications of the proposed construction in the form and to the scale required by the Road Official; or
 - b. When the proposed work is routine routing of service connections and ordinary maintenance, utilities must provide telephone or other appropriate notice to the Road Official; and
 - c. No matter the scope or scale of the proposed work, utilities must first obtain the Road Official's approval of the proposed construction or relocation of an existing facility.
2. No advance approval shall be required when construction or relocation is necessitated by an emergency, but utilities shall give notice of work undertaken no later than the first workday following the emergency.
3. The Road Official shall approve utilities work proposals unless they find 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 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; Amended by Ord. 03-2022, 7/21/22]

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 their successor or assign;
 - 2. By order of the Board or the Road Official, if the applicant/owner or their successor or assign fails to abide by the terms and conditions of the permit;
 - 3. By operation of law.
- B. Effect of Violations of Permit Terms or Conditions – Any violation of the conditions or terms of the permit by the applicant/owner shall be cause to suspend, modify, annul and forfeit any and all rights acquired by the applicant/owner under the terms stated in the permit or these provisions. The applicant/owner acquires no rights in the road right-of-way through obtaining a permit, and is presumed to have waived any claims for damages or compensation as a result of revocation of the permit as described in subsection A of this Section.
- C. Rules Regarding Commencement of Installation and Placement of Utility – If the applicant/owner fails to commence installation and placement of the utility by the starting date specified on the permit, the permit shall be deemed null and void, and all privileges there under shall be forfeited, unless a notice and acknowledgment of a different start date is confirmed with the Road Official. Change of a starting date may require a revision to the conditions of approval, which must be set out in special provisions.
- D. Commencement of Surety Repair Period – Upon initial completion of the permitted installation and restoration repairs, the applicant/owner shall notify the Road Official. A Department inspection will be performed within 30 days of notification. If necessary, a corrective work list will be generated. Following a Road Official inspection that results in a finding that the installation and the repaired right-of-way are within County standards, a three year surety repair period shall begin, as set out in Section 7.03.130 of this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12; Amended by Ord. 03-2022, 7/21/22]

7.03.120 Liability, Control and Responsibility for Utilities

- A. Necessity for Additional Permits – The applicant/owner shall be responsible for securing any other permits necessary or required from cities, counties, corporations, districts, state and federal governments or individuals.
- B. Restoration or Repair of Roadway – If it is evident to the Road Official that the physical character of the roadway has been changed, degraded or damaged by the applicant/owner, the applicant/owner shall restore or repair the damage in compliance with the Clackamas County Roadway Standards, whether that damage is discovered at the time of utility installation or at a later date. If the applicant/owner fails to satisfactorily restore or repair the roadway, the Road Official may employ enforcement provisions of this Ordinance or make the necessary restoration or repairs using contractor or County forces. The applicant/owner under the terms set out in Section 7.03.200 shall pay all costs incurred by the County under these circumstances.
- C. Responsibility for Relocating or Adjusting Pre-Existing Utilities – The applicant/owner shall be responsible for relocating or adjusting any other utilities located on County right-of-ways or other right-of-ways under the jurisdiction of the County if this is required to accommodate the utility or operation applied for. Construction of the utility or conduct of an operation by the applicant/owner, its agent or contractor, will be permitted only after the applicant/owner has furnished evidence to the Road Official that satisfactory arrangements for such relocations or adjustments have been made with the owners of the other affected utilities.
- D. Notifying Abutting Property Owners about Impact of Utility or Utility Work – Mailboxes, lawns, landscapes and rain drain connections are considered the possession of abutting property owners or lawful occupants. The applicant/owner shall be responsible for notifying the abutting property owners and restoring or replacing any materials that are disturbed or removed because of utility construction, maintenance, or operation. The applicant/owner shall accomplish restoration or replacement of materials as expediently as possible. This responsibility continues through the life of the permit. The surrounding area shall always be restored to a comparable or better condition from that which it was in prior to commencement of utility work.
- E. Liability for Injury or Damage to a Utility Covered by a Permit – The County, DTD, or employees thereof, shall not be responsible or liable for injury or damage that may occur to a utility covered by a permit, if caused by substandard installations, misallocated, non-located or non-locatable utilities, by reason of County maintenance and construction operations, or by motorist or road user operations, or County contractor or other permittee operations.
- F. County Supervision Shall Not Impact Liability of applicant/owner – Any supervision or control exercised by County personnel shall in no way relieve the applicant/owner of any duty or responsibility to the general public, nor shall such supervision or control relieve the applicant/owner from any liability for loss, damage or injury to persons or property as provided in this Section.
- G. Recorded and Unrecorded Public and Private Rights To be Honored, Regardless of Board Consent – The applicant/owner is subject to all existing public and private rights recorded and unrecorded within and appurtenant to the right-of-way of the roads. Consent of the

Board for installation and operation of permitted utilities is only to the extent that the Board has legal authority to grant such consent. The expressed understanding is that the Board is granting said consent free of charge to the applicant/owner as a mere license, and the applicant/owner shall assume the entire responsibility incidental thereto.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.130 Required Insurance and Performance Bond for Utility Work

- A. Comprehensive General Liability Insurance Requirement – The applicant/owner or its contractor shall furnish a certificate of insurance for comprehensive general liability insurance to the Road Official, in an amount established by Clackamas County’s Risk Management Division. The insurance shall be for a combined single limit for personal injury and property damage for the protection of the County, its officers, commissioners and employees. It shall protect against liability for damages of any nature caused by the conduct or operation of the applicant/owner, its agents, subcontractors or employees, resulting in personal injury, bodily injury, death, or damage to property, including loss of use thereof, in any way related to the physical location, installation, construction, maintenance, repair, operation or use of said utility, repair, and restoration of the roadway, or in conducting any operation of this ordinance. The applicant/owner may submit evidence of insurance coverage annually in lieu of individual submissions for each permit.
- B. Acceptable Substitutions – A utility company, cooperative or municipal authority may be relieved of the obligation of submitting a certificate of insurance if it submits satisfactory evidence that it is insured, or has adequate provisions for self-insurance, in accordance with the requirements of this section.
- C. Indemnification Requirement – Both the applicant/owner and its contractor shall indemnify, save harmless and defend the County, its officers, commissioners and employees from and against all claims and action, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the applicant/owner, any subcontractor, anyone directly or indirectly employed thereby or anyone for whose acts they may be liable, regardless of whether it is caused in part by a party indemnified hereunder.
- D. Additional Assurances Required – The insurance shall include the County as an additional insured and refer to and support the applicant’s/owner’s obligation to hold harmless the County, its officers, commissioners and employees. Such insurance shall provide thirty (30) days written notice to the County in the event of cancellation, non-renewal, or material change, and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance.
- E. Performance Bond Requirements
 1. The applicant/owner’s contractor shall furnish a performance bond and a minimum of \$1000 cash deposit for the period of time necessary to construct or install a utility or conduct an operation authorized by permit through a specified period of time determined by DTD following surface repair.
 2. The dollar amount assigned to the performance bond shall equal the amount noted in the permit special provisions, and shall be based upon the estimated cost for the

- trench and surface repairs.
3. Bonds furnished must be written by a surety company duly qualified and licensed to do business in the State of Oregon, upon a form provided by DTD, certifying bond limits as set out in the permit's special provisions.
 4. No work shall be commenced under the permit until the performance bond and cash deposit has been submitted to and received by DTD.
 5. In lieu of furnishing a cash deposit and/or a performance bond, the applicant/owner, or its contractor, may file a security agreement form securing their performance through assignment of a savings account kept in a reputable savings institution, in an amount equal to the amount required in the permit's special provisions. The security agreement shall be on a form provided by DTD and shall be returned for review and acceptance.
 6. A public utility company or municipal authority may be relieved of the performance bond and cash deposit requirements.
- F. Rules for Retaining and Releasing Bonds and Cash Deposits – When the applicant/owner advises that all work set out in the permit has been completed and verified by DTD inspection, all bonds and cash deposits shall be held and shall remain in full force and effect for a three year surety repair period. At the end of this period, the Road Official shall cause the release and/or refund of all bonds, cash deposits, or other sureties to the provider after a DTD inspection confirms satisfactory surface restoration. If DTD incurs costs to achieve satisfactory surface restoration, those costs will be deducted from the surety bond or cash deposit prior to release or refund of the remainder.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.200 Allocation of Costs Connected to Utility Placement

- A. Costs Incurred Incident to Utility Placement or Continuing Operation – The applicant/owner shall pay the entire cost of locating, constructing, installing, maintaining, repairing, operating, using or relocating and adjusting the utility. Any expense, whatsoever, which is incurred incident to the utilities or the operations authorized by the permit, shall also be paid by the applicant/owner.
- B. Expense Reimbursement to County – The applicant/owner shall, in addition to Section 7.03.200.A, reimburse the County for any reasonable and necessary expenses that the County may incur in connection with and related solely to the installation of the utility or conducting the operation authorized by permit. A detailed cost breakdown of County incurred expenses may be requested and obtained from the County, and payment shall be made within thirty (30) days after receipt of billing from the County. When the Road Official deems it necessary to obtain an advance deposit, during the permit application and review process, the amount required shall be filed with DTD before the permit work is begun.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.210 Protection of Survey Monuments in the Vicinity of Utilities

- A. Location & Protection of Monuments as Responsibility of applicant/owner – It shall be the responsibility of the applicant/owner to determine the location of and to protect all

survey monuments in the vicinity of a utility installation during the construction, operation and subsequent maintenance of the utility.

- B. Removal, Disturbance or Destruction of Survey Monuments – Should it become necessary to remove, disturb or destroy any survey monument(s) of record in the course of the applicant’s/owner’s operation, the applicant/owner shall cause a registered professional land surveyor to preserve the monument(s) and shall do so in the manner described in ORS 209.140-209.150. The costs of referencing and replacing the survey monuments shall be paid by the applicant/owner and shall be ensured by the performance bond. Failure to comply with these terms may be prosecuted as stated in ORS 209.990.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.220 Maintenance and Operation of Utilities

- A. Required Upkeep of Utilities Authorized by Permit – The applicant/owner shall at all times keep utilities authorized by the permit in a good state of repair to keep the roadway protected from damage and to protect the public from injury. If the County is notified of non-compliance with this provision, the County will respond by taking the corrective measures necessary to abate the hazard in accordance with ORS 368.251-368.281. The applicant/owner will be advised of the circumstances as soon as practical. The County will also respond by requiring the applicant/owner to undertake repairs or corrective action within six hours of advisement by the County when a defect endangers the public. Payment of all County costs shall be as stated in Section 7.03.200.
- B. Pre-Approval Required for Some Maintenance Work – Prior to operating or performing any maintenance work on a permitted utility which will interfere with or interrupt traffic upon or along the roadway, the applicant/owner shall obtain prior approval from the Road Official.
- C. Removal of Abandoned Utilities – All abandoned utilities belonging to the applicant/owner shall be removed from the right-of-way by the applicant/owner, unless the Road Official allows the utilities to remain by permit. No exemptions shall be made for aerial network. Should the County have to remove any such utilities, a bill will be presented to the applicant/owner. Reimbursement of all County costs shall be as stated in the earlier section, “Allocation of Costs”.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.230 Removal, Relocation or Repair of Utilities

- A. Response Time Required Upon County Notification of Need for Aid – If utilities are encountered in day-to-day County maintenance operations, the County shall notify the applicant/owner, and the applicant/owner shall respond as soon as practical, or no later than 24 hours from the time of notification, to aid in the maintenance efforts and further protect the utilities.
- B. Interest in Right-of-Way Supersedes Interest in Utility – Permits are issued by the County pursuant to state law, which authorizes the County to require the applicant/owner to remove, relocate or repair a permitted utility at the sole cost of the applicant/owner at any time subsequent to initial installation. If the Road Official determines that the presence of the utility is detrimental to the right-of-way itself, or to the proper repair, maintenance

or reconstruction of the right-of-way, the Road Official may give written notice of the concern, and require the applicant/owner to remove, relocate or repair the utility.

C. Required Accommodations for Capital Improvements – In the case of a roadway capital improvement, the following will apply:

1. Upon receipt of written notice as stated in Section 7.03.230(B), the applicant/owner shall, within 30 days or within the time frame contained in the notice, respond with a time estimate for accomplishing the required action.
2. After the applicant/owner has provided an estimated time requirement for removal, relocation or repair of the relevant utility, the Road Official may schedule a pre-construction meeting to coordinate the requested activity with the applicant/owner, County personnel, and affected contractors.
3. In a second written notice, the Road Official shall direct the applicant/owner to complete the removal, relocation or repair of the utility, within a specified time frame and consistent with a coordination plan. The time frame outlined in this notice shall take into consideration the applicant's/owner's estimated time requirements. The costs of removal, relocation, or repair shall be paid by the applicant/owner as set out in the second notice and instructions received from the Road Official.
4. Before commencing removal, relocation or repair, the applicant/owner shall furnish insurance in the manner provided for in Section 7.03.130.
5. Should the applicant/owner fail to remove, relocate or repair the utility as provided in this section, the Road Official may remove, relocate or repair it by any means, and submit a statement of total costs for this work to the applicant/owner. Upon receiving the cost statement, the applicant/owner will reimburse the County in full, either:
 - a. Immediately; or
 - b. Within a period of time agreed on by the applicant/owner and the Road Official.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.240 General Requirements for Road Entry Permits

- A. Road Entry Permit Required.
An entry permit is required:
1. For any new construction which requires a building permit;
 2. For any new entry constructed onto a public, County or local access road;
 3. For any change of occupancy (as defined under the Uniform Building Code);
 4. For any driveway entry or approach road onto a public, County or local accesses road which, in the opinion of the Road Official or designee, affects traffic of any kind, including vehicular and pedestrian traffic.
- B. Exceptions to the Requirement for a Road Entry Permit – Road entry permit standards shall not apply to single family residential replacements, single family residential remodels, additions to existing single family dwellings, or construction of accessory structures to single family dwellings, unless the driveway entry must be rebuilt or relocated, or a development permit is required by the Road Official or designee per the County Roadway Standards.

- C. Prior Status of Road Entrances Preserved – Any lawfully constructed approach road, structure, culvert, ditch, or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way prior to the adoption of this chapter shall be maintained by the occupant of the property being served and may remain in place unless it is determined by the Road Official that a traffic or pedestrian hazard is created by this facility, thing, or appurtenance. That facility, thing, or appurtenance deemed in need of removal, repair, or maintenance shall be corrected to the satisfaction of the Road Official.

The applicant shall comply with the requirements of the Clackamas County Roadway Standards with regard to the permitting, design and construction of road entries.[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2012, 7/26/12]

7.03.250 Illicit Discharge

- A. Purpose and Intent.
1. The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the County through the prohibition of illicit discharges into the Municipal Separate Storm Sewer System (MS4) associated with the County road system.
 2. The purpose of this section is also to implement the requirements of the Federal Clean Water Act (33 USC § 1251 *et seq.*), the National Pollutant Discharge Elimination System (NPDES) MS4 Permit issued to the County by the Oregon Department of Environmental Quality (DEQ), and the Total Maximum Daily Loads (TMDLs) for the Tualatin, Willamette, Molalla-Pudding, and Sandy River Watersheds developed by DEQ and the U.S. Environmental Protection Agency.
 3. The purpose of this section is also to establish legal authority and procedures to carry out all inspection, surveillance, and monitoring necessary to ensure compliance with this section.
- B. Applicability.
1. This section applies to areas within the jurisdictional boundary of the County.
 2. For areas within the service boundary of a city, Water Environment Services (WES), or the Oak Lodge Water Services District (OLWS), the County will coordinate enforcement of this section with the city, WES, or OLWS. The County retains the right to enforce this section where compliance cannot be obtained by the city, WES, or OLWS.
- C. Definitions.
1. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - a. Owned or operated by the County;
 - b. Designed or used for collecting or conveying stormwater;
 - c. Which is not a combined sewer; and

- d. Which is not part of a Publicly Owned Treatment Works as defined at 40 CFR § 122.2. See 40 CFR § 122.26(b)(8).
3. PERSON is defined in Section 7.03.020.
4. POLLUTANT means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewerage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. See 40 CFR § 122.2.

D. Prohibition and Exemptions.

1. Unless otherwise permitted under this section, no person shall discharge or cause to be discharged into the MS4, directly or indirectly, anything not composed entirely of stormwater.
2. The following non-stormwater discharges into the MS4 are allowed:
 - a. Uncontaminated water line flushing.
 - b. Landscape irrigation if pesticides and fertilizers are applied in accordance with manufacturer's instructions.
 - c. Diverted stream flows.
 - d. Uncontaminated groundwater infiltration (as defined at 40 CFR § 35.2005(20)) to separate storm sewers.
 - e. Rising groundwaters.
 - f. Uncontaminated pumped ground water.
 - g. Potable water sources (including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs).
 - h. Startup flushing of groundwater wells.
 - i. Foundation, footing and crawlspace drains (where flows are not contaminated).
 - j. Uncontaminated air conditioning or compressor condensate.
 - k. Irrigation water.
 - l. Springs.
 - m. Lawn watering.
 - n. Individual residential car washing.
 - o. Charity car washing (provided that steam and heated water are not used, that only phosphate-free soaps/detergents are used, and that washing is restricted to the outside of the vehicle with no rinsing or washing of engines, transmissions, or undercarriages).
 - p. Flows from riparian habitats and wetlands.
 - q. Dechlorinated swimming pool and hot tub discharges free of pollutants such as bromine and copper (heated water must be cooled for at least 12 hours prior to discharge).
 - r. Fire hydrant flushing and emergency firefighting activities.
 - s. Street and pavement wash waters, including for bridges or pedestrian bridges (provided that chemicals, soaps, detergents, steam, or heated water are not used and the areas to be washed are swept prior to washing and the sweepings are collected for proper disposal outside the MS4).

- t. Routine external building wash-down (provided that chemicals, soaps, detergents, steam or heated water are not used).
 - u. Water associated with dye testing activity.
 - v. Discharges of treated water from investigation, removal and remedial actions selected or approved by DEQ pursuant to ORS Chapter 465.
 - w. Any other discharge deemed as *de minimis* by DEQ.
3. If any allowable non-stormwater discharge into the MS4 is or becomes a significant source of pollutants, the County shall require the implementation of appropriate best management practices to reduce the discharge of pollutants associated with the source before discharge into the MS4.

[Codified by Ord. _____, 05/07/26]