

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

93-652

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)	
to Revise the General Provisions)	
for Utilities Installations in)	ORDINANCE 558
Yamhill County Public Roads)	
Rights of Way; and Declaring an)	
Emergency)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board"), sat for the transaction of county business in regular session on September 15, 1993, Commissioners Debi Owens and Ted Lopuszynski being present.

WHEREAS, the "General Provisions for Utilities Installations in Yamhill County Public Roads Rights-of-Way" ("General Provisions") adopted by Board Order 91-274, govern the manner in which work may be done within the rights of way of Yamhill County; and

WHEREAS, the County Public Works Department has requested a revision in the General Provisions based on administrative necessity; and

WHEREAS, the Board desires to amend the General Provisions for the reasons requested by Public Works; and

WHEREAS, on August 4, 1993 a public hearing was held before the Board and the matter continued to September 15, 1993; and

WHEREAS, the attached Exhibit "A" contains the amendments to the General Provisions determined to be necessary by the Board to facilitate administration of the General Provisions by the Public Works Department; NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS as follows:

Section 1. The present "General Provisions for Utilities Installations in Yamhill County Public Roads Rights of Way", adopted by Board Order 91-274, are hereby repealed, and the "General Provisions" attached hereto and incorporated herein as Exhibit "A" are hereby adopted in lieu thereof.

Section 2. Severability Clause. If any section of subsection contained in this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall continue in full force and effect unless those parts, standing alone, are incapable of being executed in accordance with legislative intent.

Section 3. Emergency Clause. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County and an emergency having been declared to exist, shall be effective on September 15, 1993.

DONE at McMinnville, Oregon this 15th day of September, 1993.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS



~~CHARLES SHERIN~~
County Clerk
By: *Faynie Mitchell*
Deputy ~~FAYNIE MITCHELL~~

Debi Owens
Chairman DEBI OWENS

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

Accepted by Yamhill County
Board of Commissioners on
9-15-93 by Board Order
93-652

**GENERAL PROVISIONS
FOR UTILITIES INSTALLATIONS IN
YAMHILL COUNTY PUBLIC ROAD RIGHTS OF WAY**

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Section 1 Purpose and Policy

The purpose of these regulations is to establish the permit procedures for installing, maintaining, repairing, operating, or using pole lines, buried cable, pipe lines or other miscellaneous operations and facilities on Yamhill County public road rights-of-way.

Section 2 Definitions

2.1 "Applicant" is the company, corporation, agency, organization, or individual conducting or financing a utility activity covered by these regulations.

2.2 "Board" is the Yamhill County Board of Commissioners.

2.3 "County" is Yamhill County.

2.4 "Location" is the placement of any utility facility described by depth, height, width, length, parallel distance from centerline and/or station and angle of crossing the county or public right-of-way.

2.5 "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, or state or federal road.

2.6 "Utilities Administrator" is the Yamhill County Director of Public Works or the Director's authorized representative.

2.7 "Utility Activity" is any installation, maintenance, repair, replacement, removal or use of any utility facility.

2.8 "Utility Facility" is any pole line, buried cable, pipe line or any other similar facility located within the right-of-way of any public road, specifically excepting underground services to residences and businesses. "Utility Facility" also includes a non-utility facility which County allows within the public road right-of-way.

2.9 "Maintenance" is any utility activity required to continue use of the facility, short of total replacement of the facility.

2.10 "Emergency" is a condition which either causes a loss of utility service to a customer, or which causes an unsafe or unhealthy condition to the public.

2.11 "Special Provisions" means the special provisions contained on the face of the permit issued under these regulations.

Section 3 Permit Required; Application

3.1 A permit application is required for every utility facility. Any utility activity within Yamhill County rights-of-

ways requires an approved permit prior to commencement of the work. The permittee shall notify the Yamhill County Department of Public Works of commencement of work not less than 24 hours and not more than 2 working days prior to the start of new construction or replacement of existing facilities. However, no notice is required to be given to the department if the utility activity is only minor maintenance of utility facilities which were installed under a previously issued permit. As used in this section, "minor maintenance" shall mean tree limbing, brushing, and pole testing.

3.2 Applicant shall submit with the permit application prints of a satisfactory map and/or plan showing in detail the location of the proposed facility or operations as described in the permit application. Two (2) prints of the map and/or plan are required. A copy of the completed and approved permit and a set of construction plans showing in detail the location of the proposed facility or operations as described in the permit application shall be on site during actual construction. The Department of Public Works will make its best efforts to take final 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 the utilities administrator. The utilities administrator 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 by the utilities administrator of the revised application (if required), the bond (if required), and a certificate of insurance (if required), the permit will be issued to applicant.

Section 4

Liability

4.1 Applicant shall indemnify and hold harmless County, its officers, employees or agents against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature, including attorneys fees, which may result from any injury to or the death of any persons or from the loss of or 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 right-of-way of the said road, when such injury, death, loss or damage arises out of any utility activity covered or authorized by the permit.

4.2 After reasonable prior notification to affected permit holders of impending construction or maintenance activities, County, its officers, agents or employees, except for negligent acts, shall not be held responsible or liable for injury to the applicant, its officers, employees and agents, or damage to applicant's property that may arise out of any such activities that may be carried out by or under the direction of either County or any duly authorized representative of County.

Section 5

Insurance

5.1 Applicant or applicant's contractor shall obtain and carry, for the period of time required for complete installation of the facilities authorized by permit, a liability and property damage insurance policy providing coverage for all of the liabilities specified in Section 5.1 of these regulations.

Liability coverage shall include repair and restoration of the road facilities, and shall be in effect for future periods of time when operations are performed involving the repair, relocation, or removal of facilities authorized by the permit. The policy shall include Yamhill County as additional named insured, and County's officers, agents, and employees for personal injury to any officers, agents, and employees of the County, or damage to any of its property or their property. The policy minimum dollar amounts of liability coverage shall be as specified in ORS 30.270. The policy shall be issued by an insurance company duly authorized and licensed to do business in the State of Oregon. A copy of all policies or an insurance certificate evidencing same shall be submitted to the utilities administrator.

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. Liability limits and coverage shall be the same as for the individual permit insurance coverage.

Section 6

Bond

6.1 Applicant may be required to furnish a bond for one year or for the period of time required for the complete installation of the facilities authorized by the permit, including the repair and restoration of the road facilities, whichever is longer. 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 utilities administrator.

6.2 A cashiers check may be submitted to County in lieu of a bond.

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

A. County has no past history of difficulties in obtaining compliance from applicant for activities associated with previous permits.

B. County has on file at least five (5) permits which have had the installation, including repair and restoration of the road facilities completed.

Section 7

Effective Period of Permit

7.1 The permit shall be in effect for an indefinite period of time from and after the date the permit issued, except:

- (a) When the Special Provisions provide otherwise; or
- (b) When the permit has been deemed null and void under the 180 day rule provided in Section 7.5;
- (c) When the permit has been revoked by mutual consent of the department and the permittee; or
- (d) When the permit has been revoked by the Board for failure of the applicant to abide by the terms and conditions of the permit;
- (e) When the permit has been revoked by operation of law; or
- (f) When the utility facility for which the permit was issued is removed from operation.

7.2 Failure of applicant to abide by any of the terms and conditions of the permit, these regulations, or any applicable law shall be sufficient cause for revocation of the permit. Cancellation of the permit may be caused without prior notice and shall be effective upon mailing of a notice of cancellation by certified mail to applicant at the address stated on the application and permit.

7.3 The permit and the privileges granted thereunder shall not be sold, assigned or in any manner transferred to any third party without the prior written consent of the utilities administrator. In the event that such a sale, assignment, or transfer is made without prior written consent, the permit shall be deemed null and void and all privileges thereunder shall be deemed forfeited.

7.4 Applicant may have joint use agreements with other utility companies for use of the same utility facility. A permit is required for each utility company which is party to the joint use agreement.

7.5 If applicant fails to begin installation of the utility facility covered by the permit within one hundred eighty (180) days from the date the permit is issued, the permit shall be deemed null and void and all privileges thereunder forfeited, unless a written extension of time is obtained from the utilities administrator.

Section 8

Other Agencies and Utilities

Nothing in this permit is intended to grant rights or to imply approval in areas not falling within the authority and jurisdiction of County. It is the responsibility of applicant to determine the need for and to obtain such licenses, permits or other form of approval which may be required by other state

agencies, federal agencies, cities and/or counties of Oregon. It is also the responsibility of applicant to determine the location of other utilities within the road right-of-way. County may inform applicant of any other uses by other utilities which are known by County to be within the road right-of-way which may conflict with the proposed use by applicant.

Section 9 Allocation of Costs

9.1 The entire cost of any utility-conducted activity in any way incident to the utility facilities or operations authorized by the permit shall be paid by applicant.

9.2 Applicant shall only be responsible for the expenses of County which are specified within these regulations.

Section 10 Construction Details

10.1 No person shall start utility activity requiring a permit under Section 3 of these regulations without first obtaining a permit issued for such utility activity in accordance with these regulations.

10.2 No person shall start utility activity requiring a permit under Section 3 of these regulations without first providing the form of notice before commencement of work as required under Section 3.1 of these regulations. If the permittee fails to provide the advance notice as required in Section 3 of these regulations, the County may require test holes to be excavated at permittee's expense. The number and location of the test holes shall be determined by the County as needed to verify placement and depth of buried facilities.

10.3 Applicant's completed facility shall be in conformance with the plans referred to in the approved permit. County shall be informed of any changes in the construction from approved plans. County may require any construction which substantially deviates from the plans to be changed if approval for the change was not obtained prior to the construction.

10.4 All work authorized by the permit shall be done in a neat and workmanlike manner. The details of construction shall conform to the applicable rules and regulations of all federal, state, and county agencies.

10.5 No trench shall be excavated with a top width in excess of twenty-four (24) inches more than the outside diameter of the pipe, conduit or cable or other facility being installed or maintained, except for tie-in holes.

10.6 No trench shall be left open or uncovered overnight without prior written authorization from County and all safety requirements being met.

10.7 Unless exempted in the Special Provisions, the diameter of the bored holes 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.

10.8 Unless exempted in the Special Provisions, trenching or tunneling shall be no nearer than three (3) feet of either edge of the surfaced portion of the road.

10.9 All debris, refuse, and waste of all kinds which may have accumulated upon the road right-of-way by reason of the operations of applicant shall be removed immediately upon completion of the operations. The road right-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.

10.10 County may take corrective actions to restore the roadway and/or road right-of-way if the work is not being done in compliance with these construction details. 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. In case of a hazardous condition, County may take corrective action without prior notice to applicant.

10.11 Applicant shall be responsible for any and all survey monuments damaged or destroyed by activities by 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 45 days of notification of the damage or destruction.

10.12 All utility installations shall be located within three (3) feet of the outer edge of the county right-of-way line when conditions allow.

10.13 Unless exempted in the Special Provisions, a minimum of 36 inches of cover is required over any and all buried utility lines. Cover falls into 3 general categories: 1) Outside the roadbed proper; 2) Within a graveled roadbed or shoulder area; and 3) Within a paved road section. In all instances lying outside the road, native backfill will be allowed, except within ditches or projects underway during inclement weather. The projects will require backfill using crushed rock of a size, placement and compaction method as determined by the utilities coordinator.

On graveled roadbeds and shoulders cover shall be of compacted 3/4"-0 with no native backfill allowed. All backfill shall use approved materials, installation, and compaction procedures, and shall be guaranteed by the applicant for a period of one year. Unless exempted in the Special Provisions, in trenches through paved sections, backfill shall be by controlled density fill using the following minimum specifications:

CLASS OF C.D.F.	A.	B.	C.
Max. compressive strength, p.s.i.	100	300	300
Max. gals of mixing water per c.y.	50	50	30
Lbs. of cement per c.y., approximate	30	50	50
Lbs. of fly ash per c.y., approximate	200	250	250
Lbs. of dry aggregate per c.y., approximate (assumed SP. G. 2.67)	3200	3200	3200

Yamhill County will establish the Class of Controlled Density Fill for utility cuts on a case-by-case basis.

Note: If air entrainment or water-reducing admixture is used for flowability, total water and aggregates may be adjusted for yield. Coarse aggregate size of 3/4" minus assumed. For flowable or excavatable C.D.F. 3/8" minus or sand is recommended. Weights may be adjusted for flowability.

10.14 A tracer wire shall be used on all nonmetallic installations. The terminator of the tracer wire shall be noted on the construction drawings, and if the as-built terminator location differs from the design location, a note or drawing identifying the terminator location shall be submitted to the utility administrator.

10.15 It is the responsibility of the applicant to determine the width and location of the right-of-way of the public road under application. It is the responsibility of the Applicant to insure that all facilities installed and maintained under the provisions of this permit lie within the public road right-of-way as applied for in the permit.

Section 11 Roadway Crossings

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 sawed or cut to neat lines by methods satisfactory to the utilities administrator prior to breaking the pavement slab.

11.3 County reserves the right to specify materials to be used for backfill under the roadway in the "Special Provisions". Backfill under all roadways shall be thoroughly compacted.

11.4 The paved surface shall be patched with class "D" asphaltic concrete mix with a compacted depth as specified in the Special Provisions. The cut vertical edges of the asphalt shall be coated with tack oil prior to placement of restorative asphaltic concrete.

11.5 Pavement patching shall be completed within a reasonable time after the trench has been backfilled. 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 local commercial asphalt hot plant. Applicant shall maintain the trenched area until permanent pavement patching is completed. County will require at least a "cold patch" temporary pavement patch on all paved or oiled roads.

11.6 For a period of one year following the permanent patching of the paved surface, applicant shall be responsible for the condition of pavement patches. During that time applicant shall repair any patches which become settled, cracked, broken, or are otherwise faulty, whether caused as a direct result of poor materials or workmanship involved with either the trench, its backfill, or restoration of the road base and or pavement to conditions which existed prior to the permitted work.

11.7 County may repair any unmaintained or defective roadway patch or trench without prior notice to applicant and charge

applicant for all related costs. County will attempt to notify applicant prior to County performing the work.

Section 12 Traffic Control

12.1 During the course of any permit-authorized utility activity or any subsequent repair, removal, or relocation thereof, applicant shall at all times maintain such flaggers, signs, lights, flares, barricades and other safety devices as specified in the ODOT/Oregon OSHA "Short-Term Traffic Control Handbook". Where the Handbook indicates engineering judgment is required to establish the specific requirements for traffic control, the utilities administrator decision shall be final.

Applicant shall maintain all signs, lights, flares, barricades, and other safety devices during nonworking hours, and the utilities administrator shall be furnished the telephone number of the person who is responsible for their maintenance.

12.2 Applicant shall conduct operations to result in a minimum interference with or interruption of traffic along the road.

12.3 Closure of roadways, intersecting streets, road approaches or other access points for more than ten (10) minutes will require a plan for satisfactory control or re-routing of routine

date on which the work will be completed and ready for final inspection by the County.

(b) If the utility activity under the permit is completed in more than 5 working days, then the pre-inspection notice shall be given to the County not sooner than 24 hours before the construction is actually completed and ready for inspections.

If the permittee fails to provide the pre-inspection notice as required in this section, the County may require test holes to be excavated at permittee's expense. The number and location of the test holes shall be determined by the County as needed to verify placement and depth of buried facilities.

14.2 Any supervision and/or control exercised by the utilities 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 provided in Section 5.1 of these regulations.

Section 15 Maintenance

Applicant shall at all times keep facilities authorized by the permit in a good state of repair in order to maintain the safety of the public.

Section 16 Removal, Relocation or Repair

16.1 County may require applicant to remove, relocate, or repair any utility facility lying within public rights-of-ways covered by the permit at the sole cost of applicant. Nothing in this section shall be construed to require removal from, or relocation within easements or other compensable interests owned by the utility. This section does not authorize the County to require a utility to remove or relocate utility facilities if:

(a) The removal or relocation of the utility facilities is necessitated by a major road improvement project related to commercial or residential development; and

(b) Acquisition of additional right-of-way by the permittee would be required to relocate the utility facilities.

16.2 Upon receiving written notice from the Board or utilities administrator to remove, relocate, or repair any utility facility, applicant shall arrange to remove, relocate, or repair at applicant's sole cost, in accordance with the notice. The required removal, relocation, or repair shall be completed within a reasonable time.

16.3 Should applicant fail to remove, relocate, or repair the facility as provided above, County may remove, relocate, or repair same and submit a statement of all related costs to applicant. All such costs shall be immediately due and payable by applicant.

Section 17

Prohibition

Any utility activity which 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 may result in issuance of a "Stop Work" order by County.

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.

pw\utltttxa.wod

Yamhill County
Public Works Department

ALL PERSONS ARE HEREBY ORDERED TO

STOP WORK

IN THIS RIGHT-OF-WAY LOCATION AT ONCE

Report to the Yamhill County Department of Public Works
Administration Division, Permit Section, (503) 434-7515

Violation _____

Posted _____ 199____ By _____

Number _____

In addition to civil remedies, the construction, erection or repair of a facility in the right-of-way, in violation of Yamhill County Ordinance No. _____ is, as provided by ORS 374.305 (1), 374.307 and 374.990, and ORS 161.555 - 161.655, punishable upon conviction by a fine not to exceed \$ 1000 or by one (1) year imprisonment or both.