

~~CHAPTER 12.04 GENERAL PROVISIONS AND DEFINITIONS FOR UTILITIES IN THE PUBLIC RIGHT-OF-WAY~~
~~ROADS, CHAPTER 12.04 GENERAL PROVISIONS AND DEFINITIONS FOR ROADS, SIDEWALKS, AND PUBLIC PLACES~~

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HISTORY

Adopted by Ord. 2020-005 §1 on 1/1/2021

12.04.010 Short Title

Chapter 12.04 through 12.24 and amendments thereto may be collectively known as the "Deschutes County Road Utility Permit Ordinance."

HISTORY

Adopted by Ord. 203-7 §1.010 on 2/4/1976

Amended by Ord. 2020-005 §1 on 1/1/2021

12.04.020 Purpose

In accordance with the authority granted under applicable state law, it is considered in the public interest for utility facilities to be accommodated on the rights of way of all County roads and local access roads when such use and occupancy of the right of way do not interfere with the free and safe flow of traffic or otherwise impair the highway or its visual quality. the Board of County Commissioners to adopt rules and regulations for the control, administration, operations, improvement, and use of public road rights of way and other public places under the County's jurisdiction. In accordance with that determination and the provisions set forth in DCC 12.04.030, DCC 12.04 is adopted to provide a policy and procedure for such accommodation.

HISTORY

Adopted by Ord. 203-7 §1.020 on 2/4/1976

Amended by Ord. 2020-005 §1 on 1/1/2021

12.04.030 Statutory Authority

The Board is authorized by ORS 374.305 through 374.330, 758.010 and 758.020 to adopt reasonable rules and regulations and to issue permits for the use of all County road and local access road rights of way by public utility facilities, including privately owned lines. The United States Department of Transportation, Federal Highway Administration Regulations require regulation of such utility facilities occupying federal aid highway projects on County roads constructed after October 1, 1969, on a continuous basis in accordance with a satisfactory utility accommodation policy for the type of highway involved.

HISTORY

Adopted by Ord. [203-7](#) §1.025 on 2/4/1976

Amended by Ord. [2011-026](#) §1 on 1/30/2012

Amended by Ord. [2020-005](#) §1 on 1/1/2021

12.04.040 Editorial Revision

The County Legal Counsel may at any time direct such changes regarding currently maintained copies of DCC 12 and amendments as the legislative counsel is authorized to perform regarding acts of the Legislature, pursuant to ORS 173.160; provided, that such editorial revision be directed by written memorandum filed with the County Clerk, but subject to disapproval by the Board at its next regular meeting thereafter.

HISTORY

Adopted by Ord. [203-7](#) §1.060 on 2/4/1976

Amended by Ord. [2011-026](#) §1 on 1/30/2012

12.04.050 Interpretation of Provisions

1. The provisions of DCC 12 shall be liberally construed to effect the purposes set forth in DCC 12.04. Each provision requiring an applicant to furnish information shall be construed as intended to provide the County with all information which may be of assistance in evaluating the safety, utility, convenience, necessity and reliability of the applicant and its proposed facility.
2. The provisions of DCC 12 are declared to be minimum requirements. ~~fulfilling the applicant's obligations and where~~ Where any provisions of DCC 12 may be less restrictive than conditions imposed by any other provision of DCC 12, by and other law, rule or regulation of the County or another governmental unit, then the more restrictive shall apply.
3. DCC 12 shall at all times be interpreted to be consistent with the County Comprehensive Plan.

HISTORY

Adopted by Ord. [203-7](#) §1.030 on 2/4/1976

12.04.060 Definitions

The following definitions apply whenever the indicated term is used in DCC 12. Words used in the present tense include the future. Words used in the singular number include the plural and words used in the plural include the singular. The word "shall" is mandatory and not directory.

"AASHTO Standards" refers to the road safety and design standards set forth in the publication entitled American Association of State Highway and Transportation Officials Policy on Geometric Designs of Highways and Streets, current edition.

"Abandoned Facility" means an underground facility that is no longer in service and is physically disconnected from the operating facility that is in service.

"Access" means the right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

"Accessibility Requirements" means the measures and standards to uphold the accessibility of the county road system, including sidewalks and pedestrian areas, for individuals with disabilities in accordance with current ADA accessibility requirements.

"Applicant" means a corporation, company, firm, business, Municipal Corporation, partnership, individual or individuals named as such in the permit, together with their agents, employees, representatives, contractors, heirs and assigns.

"Apron" means the portion of the driveway approach extending from the property side of the curb to the sidewalk section and lying between the end slopes of the driveway approach.

"Backfill" means replacement of soil around and over a pipe.

"Bicycle" means a vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter or having three wheels in contact with the ground, any of which is more than 14 inches in diameter.

"Bicycle facilities" means a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities, all bikeways, and shared roadways not specifically designated for bicycle use.

"Bike route" means a segment of a bikeway system designated with appropriate directional and information markers by the jurisdiction having authority.

"Bikeway" means Any road, path or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The five types of bikeway are: bike path, bike lane, shoulder bikeway, shared roadway and mountain bike trail.

1. Bike Path. A bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway or road right of way or within an independent right of way.
2. Bike Lane. A portion of a roadway which has been designated by striping, signing and permanent markings for the preferential or exclusive use of bicyclists.
3. Shoulder Bikeway. A bicycle facility where the bicycle travels on the paved shoulder of the roadway.
4. Shared Roadway. A bicycle facility where the bicycle shares the normal vehicle lanes with motorists.

"Block" means an area of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights of way, lines or shore lines or waterways, or corporate boundary lines of a city.

"Board" means the Deschutes County Board of Commissioners.

"Boring" means directional boring or horizontal directional drilling (HDD), a trenchless technique for installing underground utilities like pipes, conduits, and cables.

"Buried cable" means any and all cables, wires, conduits, pedestals or related fixtures authorized in the permit.

"Carrier" means pipe directly enclosing a transmitted fluid, liquid or gas.

"Casing" means a larger pipe enclosing a carrier or conduit.

"Clear roadside policy" means the policy employed by a highway authority to increase safety, improve traffic operation and enhance the appearance of highways by designing, constructing and maintaining highway roadsides as wide, flat and rounded, as practical and as free as practical from physical obstructions above the ground.

"Conductive" means having the property or capability of conducting electricity.

"Conduit" means an enclosed tubular runway for protecting wires or cables.

"Contiguous" means that which touches or connects, including that which only connects or touches a common point; the touching together of two or more tracts of land which lie alongside one another or which touch or connect with one another for any length or distance whatsoever, no matter how finite.

"Cross-section" means a profile of the ground surface perpendicular to the centerline of a street, stream or valley bottom.

"Cul-de-sac" means a short street having one end open to traffic and terminated by a vehicle turnaround.

"Deschutes County Transportation System" means the comprehensive network of transportation infrastructure within Deschutes County, including roads, bridges, and related facilities.

"Direct burial" means installing a utility facility underground without carrier or conduit enclosing the facility.

"Driveway" means an area on private property where automobiles and other vehicles are operated or allowed to stand.

"Driveway approach" means an area, construction or improvement between the roadway of a public street and private property, intended and used for ingress and egress of vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway or a door. The component parts of the driveway approach are termed the apron, the end slopes or the curb return, and the sidewalk section.

"Easement" means a grant of the right to use a parcel of land for specific purposes, but in which ownership of the land is not transferred.

"End slopes" means the portions of the driveway approach which provide a transition from the normal curb and sidewalk elevations to the grade of the apron, either by means of a sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.

"Facility" means the public or private utility that is installed within the public right-of-way.

"Frontage" means that portion of a parcel of property which abuts a dedicated public street or highway or an approved private way (except an alley).

"Jacking" means a trenchless method of installing pipes by applying force to push the pipe through the ground while controlled excavation occurs.

"Improvements" mean and include, but are not limited to, streets, alleys, curbs, gutters, roadbed, road surface, storm drains and appurtenances, sidewalks, street lights, street signs, fire hydrants, sanitary sewers and appurtenances, public water supply and water distribution systems and other utilities.

"Improvement plans" means the plans, profiles, cross-sections and drawings or reproductions thereof, approved by a registered professional engineer, which show the details of the work to be done on improvements.

"Interests" means and includes a lot or parcel, share, undivided interest or membership which includes the right to occupy land overnight, and a lessee's interest in land for more than three years or less than three years if the interest may be renewed under the terms of the lease for a total period more than three years. "Interest" does not include any interest in a condominium or any security interest under a land sales contract, trust deed or mortgage. "Interest" does not include divisions of land created by lien foreclosure or foreclosure of recorded contracts for the sale of real property.

"Intersection return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the end slopes of a driveway approach.

"Land development" means the subdividing or partitioning of land for any purpose into parcels or the creation of units or parcels for the purpose of sale or lease for a term of one year or more. "Land development" includes intent to dispose of any land, whether contiguous or not, including any land divided, lots, parcels, unit or interests offered as a part of a common promotional plan of advertising by a single developer or a group of developers acting in concert. If the land is contiguous or is known, designated or advertised as a common unit or by a common name, the land shall be presumed, without regard to the number of lots covered by each individual offering, to be offered for disposition as part of a common promotional plan.

"Manhole" means an opening in an underground system which workmen or others may enter for the purpose of making installations, inspections, repairs, connections and tests.

"Monument" means a permanent and fixed survey marker conforming to the requirements established by state law and the regulations of the County.

"MUTCD" means the Manual of Uniform Traffic Control Devices, Federal Highway Administration.

"New utility installations" means both the initial installation and replacement of existing facilities with those of a different type or the replacement at a new location. Any replacement of an existing facility or portion thereof with another of the same type at the same location shall be considered maintenance rather than new utility installation.

"Normal" means crossing at a right angle.

"OTTCH" means *The Oregon Temporary Traffic Control Handbook* which provides a reference for the standards and practices related to establishing temporary traffic control work zones in place continuously for three days or less on public roads in Oregon.

"Owner" means the owner of the title to real property or the authorized agent thereof having written notarized authorization recorded with the County Clerk, or the contract purchaser of real property of record as shown on the last available complete tax assessment roll or County Clerk's records. "Owner" does not include an interest created for security purposes.

"Partition" means the act of partitioning land or an area or tract of land partitioned.

"Permit Administrator" means the Road Department Director or the Director's authorized representative.

"Person" means an individual, firm, partnership, corporation, company, association, syndicate or any legal entity, whether he, she or it is acting for himself, herself or itself, or as the servant, employee, agent or representative of another.

"Pipe" means a tubular product made as a production item for sale as such. Cylinders formed from plate in the course of the fabrication of auxiliary equipment are not pipe as defined in DCC 12.08.

"Pipeline" means any and all pipelines, hydrants, valve boxes, manholes, conduits or related fixtures authorized in the permit.

"Plat" means a final map, diagram, drawing, replat or other writing containing all descriptions, specifications, locations, dedications, provisions and information concerning a subdivision or partition.

"Pole line" means any and all poles, wires, guys, anchors or related fixtures authorized in the permit.

"Pressure" means relative internal pressure in psig (pounds per square inch gauge).

"Property line" means the division line between two units of land.

"Right of way" means the area within the boundary line of a public roadway, including an alley.

"Rigid pipe" means a welded or bolted metallic pipe or reinforced, prestressed or pretensioned concrete pressure pipe designed for diametric deflection of less than one percent.

"Road" or "street" means a public or private way that is created to provide ingress and egress to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress and egress to land in conjunction with the use of such land for forestry, mining or agricultural purposes.

1. "Alley" means a public way through the middle of a block, giving access to the rear of parcels or buildings.
2. "Arterial" includes three types of arterials, Principal Arterial, Urban Minor and Rural Minor Arterial, defined as follows:
 1. "Principal Arterial" means a road which carries the major portion of trips entering and leaving the urban areas and outlying rural and recreation areas (state highways).

2. "Urban Minor Arterial" means a road that interconnects with and augments the principal arterial system and provides service to intra-urban/intra-community areas.
3. "Rural Minor Arterial" means a road that connects with the principal arterial system and forms the rural road network that links cities and unincorporated communities (as that term is defined in DCC Title 18).
3. "Collector" means a restricted access street supplementary to the arterial street system used or intended to be used primarily for the movement of traffic between arterials and local streets.
4. "Frontage road" means a street parallel and adjacent to an arterial providing access to abutting properties, but protected from through traffic.
5. "Industrial road" means a street to or through property zoned industrial.
6. "Local street" means a street which provides access to property abutting the public right of way; this includes vehicular and pedestrian access. Moving traffic is a secondary function of a local street and it should not carry through traffic.
7. "Modernization" means the widening or reconstruction of an existing County road to an adopted County standard.
8. "Special pedestrian way" means a sidewalk or pathway not located within a public road right of way which enables pedestrian access to a street, school, park or other similar facility or service.
9. "Stubbed street" means a street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or developments on adjacent lands.

"Road and street project" means the construction and maintenance of the roadway, bicycle lanes, sidewalks or other facilities related to a road or street. Road and street projects shall be a Class I, Class II or Class III project.

1. Class I Project. Land use permit required. "Class I Project" is a major project such as:
 1. A new controlled-access freeway;
 2. A road or street project of four or more lanes on a new location; and
 3. A major project involving the acquisition of more than minor amounts of rights of way, substantial changes in access control, a large amount of demolition, displacement of a large amount of residences or businesses, or substantial change in local traffic patterns.
2. Class II Project. Land use permit required. "Class II Project" is a
 1. Modernization where a road or street is widened by more than one lane;
 2. Traffic safety or intersection improvement which changes local traffic patterns;
 3. System change which has significant land use implications; or,

4. The construction of a new County road or street within a dedicated public right-of-way, where none existed before.

3. Class III Project. No land use permit required. "Class III Project" is a modernization, traffic safety improvement, maintenance, repair or preservation of a road or street.

"Roadbed" means the graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

"Roadside" means the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

"Roadway" means that portion of a street developed for vehicular traffic.

"Sidewalk" means a pedestrian walkway with permanent surfacing.

"Sidewalk section" means the portion of the driveway approach lying between the back, or property edge of the sidewalk and the end slopes measured at the front, or street, edge of the sidewalk.

"Special provisions" means those provisions shown under the heading "Special Provisions" in the permit. In all cases of conflict between the special provisions and general provisions, the special provisions shall have precedence.

"Street" means a highway as defined in DCC 12.08.060.

"Structure" means any bridge, box culvert, culvert pipe, storm sewer pipe, catch basin or manhole.

"Subdivision" means the act of subdividing land or an area or a tract of land subdivided, as defined in DCC 17.08.030.

"Traveled way" means the portion of the roadway for the movement of vehicles, inclusive of shoulders and auxiliary lanes.

"Trenched" means installed in a narrow open excavation.

"Tunneling" means a trenchless method of sewer construction. The tunneling process is remotely controlled and can be used to install larger diameter pipes and longer pipe runs than the Jack and Bore method.

"Use" means the purpose for which land or a structure is designated, arranged or intended, or for which it is occupied or maintained.

"Utility" means a public utility, as defined in ORS 757.005, or a telecommunications utility or competitive telecommunications provider, as those terms are defined in ORS 757.005.

"Vent" means an appurtenance to discharge gaseous contaminants from casings.

~~"Administrator" means the Road Department Director or the Director's authorized representative.~~

~~"Applicant" means a corporation, company, firm, business, Municipal Corporation, partnership, individual or individuals named as such in the permit, together with their agents, employees, representatives, contractors, heirs and assigns.~~

~~"Auxiliary lanes" means the portion of the roadway adjoining the traveled way for parking, speed change, turning, storage for turning, weaving, truck climbing, and other purposes supplementary to through traffic movement.~~

~~"Backfill" means replacement of soil around and over a pipe.~~

~~"Bedding" means organization of soil to support a pipe.~~

~~"Board" means the Deschutes County Board of Commissioners.~~

~~"Buried cable" means any and all cables, wires, conduits, pedestals or related fixtures authorized in the permit.~~

~~"Bury" means the depth of the top of the pipe below grade of roadway or ditch.~~

~~"Cap" means rigid structural element surmounting a pipe.~~

~~"Carrier" means pipe directly enclosing a transmitted fluid, liquid or gas.~~

~~"Casing" means a larger pipe enclosing a carrier.~~

~~"Clear roadside policy" means the policy employed by a highway authority to increase safety, improve traffic operation and enhance the appearance of highways by designing, constructing and maintaining highway roadsides as wide, flat and rounded, as practical and as free as practical from physical obstructions above the ground, such as trees, drainage structures, massive sign supports, utility poles and other ground-mounted obstructions.~~

~~"Coating" means material applied to or wrapped around a pipe.~~

~~"Conduit" means an enclosed tubular runway for protecting wires or cables.~~

~~"County" means Deschutes County, a political subdivision of the State of Oregon.~~

~~"County road" means a public road under the jurisdiction of a county that has been designated as a county road under ORS 368.016 and maintained by Deschutes County.~~

~~"Cradle" means rigid structural element below and supporting a pipe.~~

~~"Direct burial" means installing a utility facility underground without encasement, by plowing.~~

~~"District Attorney" means the District Attorney of the State of Oregon for Deschutes County.~~

~~"Drain" means an appurtenance to discharge liquid contaminants from casings.~~

~~"Duct" means a conduit as defined in DCC 12.04.060.~~

~~"Encasement" means the structural element surrounding a pipe.~~

~~"Encroachment" means unauthorized use of highway rights of way or easements as for signs, fences, buildings, etc.~~

~~"Facility" means the public or private utility that is installed within the public right-of-way.~~

"Flexible pipe" means a plastic, fiberglass or metallic pipe having large ratio of diameter to wall thickness which can be deformed without undue stress.

"Gallery" means an underpass for two or more pipelines.

"Grounded" means connected to earth or to some extended conducting body which serves instead of the earth whether the connection is intentional or accidental.

"Grout" means cement and sand mortar.

"Highway" means a public way for purposes of vehicular travel, including the entire area within the right of way.

"Jacket" means an encasement by concrete poured around a pipe.

"Local Access Road" means any public street or road which is not maintained by the County but over which the County has jurisdictional authority.

"Manhole" means an opening in an underground system which workmen or others may enter for the purpose of making installations, inspections, repairs, connections and tests.

"New utility installations" means both the initial installation and replacement of existing facilities with those of a different type or the replacement at a new location. Any replacement of an existing facility or portion thereof with another of the same type at the same location shall be considered maintenance rather than new utility installation.

"Normal" means crossing at a right angle.

"Oblique" means crossing at an acute angle.

"Overfill" means backfill above a pipe.

"Pavement structure" means the combination of subbase, base course and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

"Pipe" means a tubular product made as a production item for sale as such. Cylinders formed from plate in the course of the fabrication of auxiliary equipment are not pipe as defined in DCC 12.04.

"Pipeline" means any and all pipelines, hydrants, valve boxes, manholes, conduits or related fixtures authorized in the permit.

"Pole line" means any and all poles, wires, guys, anchors or related fixtures authorized in the permit.

"Pressure" means relative internal pressure in psig (pounds per square inch gauge).

"Right of way" means land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

"Rigid pipe" means a welded or bolted metallic pipe or reinforced, prestressed or pretensioned concrete pressure pipe designed for diametric deflection of less than one percent.

"Road" means a highway as defined in DCC 12.04.060.

~~"Roadside" means the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.~~

~~"Roadway" means the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.~~

~~"Road construction project limits" means the entire construction area, whether inside or outside the right of way.~~

~~"Semi-rigid pipe" means a large diameter concrete or metallic pipe designed to tolerate diametric deflection up to three percent.~~

~~"Sidefill" means backfill alongside a pipe.~~

~~"Slab (floating)" means a slab between but not contacting pipe or pavement.~~

~~"Sleeve" means short casing through pier or abutment of highway structure.~~

~~"Special provisions" means those provisions shown under the heading "Special Provisions" in the permit. In all cases of conflict between the special provisions and general provisions, the special provisions shall have precedence.~~

~~"Street" means a highway as defined in DCC 12.04.060.~~

~~"Structure" means any bridge, box culvert, culvert pipe, storm sewer pipe, catchbasin or manhole.~~

~~"Traveled way" means the portion of the roadway for the movement of vehicles, inclusive of shoulders and auxiliary lanes.~~

~~"Trenched" means installed in a narrow open excavation.~~

~~"Untrenched" means installed without breaking ground or pavement surface, such as by jacking or boring.~~

~~"Use and occupancy agreement" means the document by which the highway authority regulates and/or gives approval of the use and occupancy of highway rights of way by utility facilities or private lines.~~

~~"Utility" means a public utility, as defined in ORS 757.005, or a telecommunications utility or competitive telecommunications provider, as those terms are defined in ORS 757.005.~~

~~"Vent" means an appurtenance to discharge gaseous contaminants from casings.~~

~~"Walled" means partially encased by concrete poured alongside the pipe.~~

HISTORY

Adopted by Ord. 203-7 §§1.500-1.950 on 2/4/1976

Amended by Ord. 95-035 §1 on 5/17/1995

Amended by Ord. 2011-026 §1 on 1/30/2012

Amended by Ord. 2020-005 §1 on 1/1/2021