

Rightway Ordinance

Jim

BEFORE THE BOARD OF COMMISSIONERS

APR 20 4 52 PM '83

FOR MARION COUNTY, OREGON

EDWIN B. HOFFMAN
MARION COUNTY CLERK

BY *Mj* DEPUTY

In the matter of approval and)
establishing permits regarding)
approach roads to County Roads)
and Public Road Rights-of-Way)

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APR 22 1983

MARION COUNTY ENGINEER

ORDINANCE NO. 651

THE BOARD OF COMMISSIONERS FOR MARION COUNTY

ORDAINS AS FOLLOWS:

SECTION 1. Purpose

The purpose of this Ordinance is to protect the public health, safety and welfare in MARION County by elimination of the hazards of unrestricted and unregulated entry onto County Roads and Public Road Rights-of-Way from adjacent properties such as, but not limited to, subdivisions, planned unit developments, partitionings, residential and commercial properties.

SECTION 2. Authority

The Board of Commissioners pursuant to ORS 203.035 and ORS 374.305 may issue written permission for the construction of any approach road, or appurtenance thereto,

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1 or a substantial alteration of any such approach road or
2 appurtenance or the change in use of such approach road
3 adjacent to any County Road or Public Road Right-of-Way.

4 SECTION 3. Delegation of Authority

5 .The Marion County Board of Commissioners finds that
6 the Director of Public Works is equipped by reason of
7 knowledge and information to administer the issuance of
8 written approval, in the form of a permit as prescribed by
9 the Director, for the construction, reconstruction,
10 alteration or change in use of any approach road. The Board
11 hereby delegates to the Director of Public Works the
12 authority to implement the provisions of this Ordinance.

13 SECTION 4. Definitions

14 As used herein, unless the context requires otherwise,
15 the following terms are defined as follows:

16 (1) "Applicant" means: Any person, firm or
17 corporation, public or private, being the owner in fee of
18 the property abutting the roadway or the lessee or other
19 holder of a lawful interest in the property abutting the
20 roadway with the written permission to construct an approach
21 road adjacent to a County Road or Public Road right-of-way.
22 A person who is the holder of a lawful easement or other
23 similar holder of a property interest may also be an
24 applicant under the terms of this Ordinance.

25 (2) "Approach road" means: Any public or private
26 roadway or driveway connection between the outside edge of

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1 the shoulder or curb line and the right-of-way line of a
2 Public or County Road, intended to provide vehicular access
3 to, from, or across said Public or County Road and the
4 adjacent or adjoining property.

5 (3) "Change in use" means: Any activity which
6 substantially increases the traffic volume, speed or
7 character of the types of vehicle using the approach road.

8 (4) "County Road" means: Any public road under the
9 jurisdiction of Marion County that has been designated as a
10 County Road pursuant to ORS 368.016.

11 (5) "Department" means: The Marion County
12 Department of Public Works.

13 (6) "Director" means: The Director of Marion County
14 Public Works Department.

15 (7) "Engineer" means: A registered professional
16 civil or traffic engineer, licensed by the State of Oregon.

17 (8) "Permit" means: A written approval by the
18 Director of Public Works in the manner prescribed by the
19 Director. The permit shall include all special provisions
20 deemed necessary by the Director.

21 (9) "Public Road" or "Public Road Right-of-Way"
22 means: Any public road or local access road, as defined by
23 ORS 368.001, under the jurisdiction of Marion County.

24 (10) "Residential use" means: Any building or
25 facility used as a single-family dwelling or any structure
26 in conjunction with the residential use of the property.

1 (11) "Subdivision" means: An area or tract of land
2 from which four or more lots have been created.

3 (12) "Utility" or "utilities" means: Any water, gas,
4 sanitary or storm sewer, electrical telephone, drainageway,
5 wire, or television communication service.

6 SECTION 5. Permit

7 (1) An application for a permit may be made by an
8 agent (i.e., contractor, subdivider, builder, employee,
9 etc.) of the applicant. This action will not relieve the
10 property owner, lessee, easement holder or other holder of a
11 legal or lawful interest in the property for which a permit
12 has been made of any privileges or obligations made under
13 the permit or terms of this ordinance.

14 (2) A permit shall be obtained from the County by
15 any person, firm, or corporation prior to building or
16 constructing on the right-of-way of a Public or County Road,
17 ~~any approach road or appurtenances thereto~~, or substantially
18 ~~altering any approach road or appurtenance~~, or changing the
19 use of an existing approach road, public right-of-way or
20 County Road.

21 (3) Failure to obtain a permit may result in the
22 removal or repair of the installation of the approach road.
23 Any action for the removal or the repair of the approach
24 road constructed without a permit will be done in accordance
25 with ORS 374.307.
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1 (4) Application for a permit will be made in the
2 manner and the form approved by the Director.

3 (5) Plans prepared by an engineer shall be submitted
4 to the Director, unless waived by the Director, for the
5 proposed approach roads, from whatever source, and approval
6 of said plans shall be considered as part of the permit
7 process under this Ordinance.

8 (6) The applicant ~~shall place a marker~~, such as a
9 stake or lath, at the right-of-way line where the centerline
10 of the proposed approach road will intersect with a Public
11 or County Road.

12 (7) No permit will be valid until signed by the
13 Director. No work can begin on the approach road, County
14 Road or Public Road right-of-way until the applicant has
15 obtained a valid permit.

16 (8) The applicant shall be responsible for
17 relocating any utility within the right-of-way.
18 Construction of the approach road shall not begin until the
19 relocation of the utility has been completed to the
20 satisfaction of the Director and the affected utility.

21 (9) The applicant shall be solely responsible for
22 providing correct and complete information as required by
23 the Director. If the Director determines that any fact
24 provided by the applicant which is/was material to the
25 assessment of the approach road's impact upon traffic
26 safety, convenience or the property rights of any person, is

1 false, incorrect or omitted, the Director may deny or revoke
2 the permit and may require the applicant to remove the
3 approach road or to modify the approach road to a condition
4 acceptable to the Director. All expenses incurred will be
5 the responsibility of the applicant.

6 (10) The Director may require the applicant to
7 provide, at the applicant's expense, such additional
8 safeguards and design features as the Director deems
9 reasonably required for the protection of the Public or
10 County Road and the traveling public.

11 SECTION 6. Improvements and Engineering Requirements

12 (1) If it is determined by the Director that
13 additional traffic controls (e.g., acceleration or
14 deceleration lanes, widening of the roadway to provide left
15 turn refuges, traffic warning lights, traffic signals or
16 other similar control devices) or right-of-way therefore are
17 necessary on the approach road, or Public or County Road to
18 protect the traveling public, the applicant shall dedicate
19 the required right-of-way and construct the required
20 improvements at the applicant's own expense, except as may
21 otherwise be provided by the County, including the entire
22 cost of design, construction and installation.

23 (2) In making a determination whether additional
24 traffic controls are reasonably necessary, the Director may
25 require the applicant to submit a traffic study prepared by
26 a traffic engineer to assess:

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- (a) The extent and nature of the change in use of the approach road, Public or County Road (if applicable); and
- (b) In light of current and projected conditions, traffic speeds, sight distances, and road conditions on both the Public and County Road and the approach road, whether additional traffic controls are necessary and which controls or combinations thereof would be necessary to adequately ensure the safety and convenience of the traveling public.

SECTION 7. Location

(1) Approach roads shall be located where they do not create a hazard or undue interference with the free movement of normal roadway or pedestrian traffic. Approach roads located on sharp curves, steep grades, areas of restricted sight distance or locations which interfere with the placement and proper functioning of traffic control signals, signs, lighting or other devices will not be permitted.

(2) No facilities shall be constructed at locations where rights of access to or from the abutting property have been previously restricted.

(3) One approach road will be allowed to a single lot except where the Director determines that additional

1 approach roads are necessary to accommodate and serve such
2 traffic as may be reasonably anticipated.

3 SECTION 8. Design

4 (1) Approach roads shall be designed to allow
5 movement to and from the roadway by vehicles which can
6 reasonably be expected to utilize the approach road without
7 undue conflict with other traffic.

8 (2) Residential and commercial access roads will be
9 constructed in accordance with current County design
10 standards. Business or commercial activity which the
11 Director reasonably expects to generate traffic of the
12 volume and character requiring additional traffic controls
13 (e.g., channelization and signalization) must be designed on
14 an individual basis. When an individual design is required
15 by the Director, the applicant shall submit a traffic study
16 which shall include plans and specifications for the
17 required traffic improvements. The traffic engineer may
18 include recommendations that are based upon phased
19 construction for the applicant's property or the proposed
20 users of the approach road.

21 (3) The applicant may be required to construct
22 curbing along its frontage, and to pave the area between the
23 existing roadway pavement and the curbing. The applicant
24 may be required to install drainage facilities as part of
25 the road approach permit. The applicant may be required to
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1 construct curbing, sidewalks, guard rails, ditches or
2 plantings to limit access to the abutting property as part
3 of the approach road permit.

4 (4) Permits for approach roads serving business,
5 commercial or farm buildings, or paved areas may include
6 provisions for connecting the paved area to the roadway
7 drainage system. If the Director finds the roadway drainage
8 system is not adequate to handle the accelerated runoff,
9 applicant shall make suitable provisions to prevent surface
10 runoff from the paved areas into the roadway drainage
11 system. All costs for providing drainage from the property
12 shall be borne by applicant.

13 SECTION 9. Construction

14 (1) Applicant or his contractor shall advise the
15 Director's office at least 48 hours in advance of commencing
16 construction of a facility approved by permit.

17 (2) The facility shall be constructed in conformance
18 with County standards and the terms of the permit, including
19 the special provisions of the permit and exhibits attached
20 thereto.

21 (3) Applicant shall notify the Director when
22 construction of the facility has been completed. The
23 Director shall inspect the completed facility. If any
24 deficiencies are noted, applicant shall promptly correct
25 them as required by the Director.

1 (4) The planting or placing of adornments not
2 prohibited by law on the right-of-way by applicant shall be
3 limited to low growing shrubs, grass, or flowers that do not
4 attain sufficient height to obstruct clear vision in any
5 direction. No curbs, posts, signs or other structures shall
6 be placed on the roadway right-of-way unless applicant has
7 obtained a permit to do so from the Director.

8 SECTION 10. Maintenance

9 (1) Maintenance of an approach road shall be the
10 responsibility of applicant unless the approach road is a
11 public right-of-way and the roadway has been formally
12 accepted into the County road system. All driveway approach
13 roads shall be maintained by applicant from the outside edge
14 of the Public or County road shoulder or curb line to the
15 right-of-way line.

16 (2) In all cases where traffic signals have been
17 required, all maintenance will be performed by the County at
18 no cost to applicant unless the special provisions in the
19 permit or other contractual agreement require applicant to
20 bear the cost of signal maintenance.

21 SECTION 11. Effective Period

22 (1) Unless otherwise provided in the special
23 provisions, the permit shall be in effect for an indefinite
24 period of time from the date issued, unless sooner revoked
25 by mutual consent, or by the Director for failure of
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1 applicant to abide by the terms and conditions of the
2 permit, or by operation of law.

3 (2) Failure of applicant to comply with any of the
4 terms and conditions of the permit or to maintain the
5 approach road and facilities shall be sufficient cause for
6 cancellation of the permit and may result in removal of the
7 approach road and facilities by the County at applicant's
8 expense as provided in ORS 374.320.

9 (3) The permit, including all of the privileges and
10 obligations of applicant therein, shall be binding upon the
11 successors and assigns of applicant.

12 (4) If applicant fails to complete installation of
13 the approach road and facilities covered by the permit
14 within the period specified in the permit, the permit shall
15 be deemed null and void and all privileges thereunder
16 forfeited, unless a written extension of time is obtained
17 from the Director.

18 (5) The construction, maintenance, operation and use
19 of the approach road and facilities are subject to the
20 paramount control of the Board of Commissioners over the
21 Public and County roadway system, and no right or privilege
22 granted by the permit shall be deemed or construed to be
23 beyond the power or authority of the Board of Commissioners
24 to control the roadway system.

25 SECTION 12. Responsibility of Cost

1 (1) The entire expense of right-of-way, design,
2 construction, and installation of the approach road and
3 facilities shall be borne by applicant. This shall also
4 include the cost of all materials, labor, signs, signals,
5 structures, equipment, traffic channelization and other
6 permit requirements.

7 (2) Costs of any items, or portion thereof,
8 described under Subsection (1) above may become the
9 responsibility of the County, provided they are a part of
10 the terms and conditions of the permit or other written
11 agreement.

12 (3) Any widening or other improvement of the
13 approach road or facilities at the applicant's request shall
14 be done only under authority of a new permit and at the
15 expense of applicant.

16 (4) The cost of maintenance of the approach road
17 from the outside edge of the Public or County road shoulder
18 or curb line to the right-of-way line shall be the
19 responsibility of applicant, unless the approach road
20 becomes a County maintained road through formal acceptance
21 into the County system by the Board of Commissioners.

22 (5) If the roadway surface or facilities are damaged
23 by applicant, applicant shall be held liable for all costs
24 to replace or restore the roadway or facilities to a
25 condition satisfactory to the Director of Public Works.
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1 (6) Work performed under the permit shall be in
2 accordance with the current "Manual on Uniform Traffic
3 Control Devices for Streets and Highways" as amended or
4 supplemented by the County or the Oregon Transportation
5 Commission, and be at applicant's expense.

6 SECTION 13. Liability

7 Applicant shall be responsible and liable for all
8 damage or injury to any person or property resulting from
9 the construction, maintenance, repair, operation or use of
10 the facility for which applicant has been granted a permit
11 and for which applicant may be legally liable, and applicant
12 shall indemnify and hold harmless Marion County, the
13 Director, Department, and all officers, employees or agents
14 of the Department against any and all damages, claims,
15 demands, actions, causes of action, costs and expenses of
16 whatsoever nature which they or any of them may sustain by
17 reasons of the acts, conduct or operation of applicant, his
18 agents or employees in connection with the construction,
19 maintenance, repair, operation or use of said approach road
20 and facilities.

21 SECTION 14. Fees

22 (1) An administrative and inspection fee shall be
23 required for each approach road access permit issued. Such
24 fees shall be as ordered by the Board of Commissioners from
25 time to time.

1 (2) Any revenue received pursuant to this Ordinance
2 shall be deposited in the Marion County Road Fund.

3 (3) The Director may waive the fee if applicant is a
4 federal, state, city or other public body.

5 (4) No fee will be charged for work being done by or
6 under a contract with Marion County.

7 SECTION 15. Repeal

8 This Ordinance shall supersede and repeal any other
9 ordinance, or part thereof, which is in conflict herewith.

10 SECTION 16. Separability Clause


11 Should any article, section, subsection, paragraph,
12 sentence, clause or phrase of this Ordinance be declared
13 invalid, such declaration shall not affect the validity of
14 any other article, section, subsection, paragraph, sentence,
15 clause, or phrase; and if this Ordinance or portion thereof
16 should be held to be invalid on one ground but valid on
17 another, it shall be construed that the valid ground is the
18 one upon which said Ordinance or such portion thereof was
19 enacted.


20 SECTION 17. Effective Date

21 This Ordinance shall become effective on the first day
22 of the month following 90 days after passage.

23 DATED at Salem, Oregon, this 20th day of April,
24 1983.

MARION COUNTY BOARD OF COMMISSIONERS


Chairman


Recording Secretary

APPROVED AS TO FORM:


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