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Structures in the Right of Way - Code Implementation Policy (FINAL DRAFT)

The purpose of the following Implementation Policy is to differentiate between the letter of the law and the spirit of the law regarding the implementation of Article 4 of the Coos County Code, particularly as it relates to fences and other structures in the right of way.

DEFINITIONS:

Right of Way: Refers to a strip of land given to the public for specific uses including roadways, bridge structures, public utilities, etc. Rights of way are available for use by the public at large and are administered by the jurisdiction (City, State or County) in which they lie. The most common County right of way is an easement for roadway purposes granted to the County by a private landowner.

Travel way: That portion of a public right of way that is improved for use by self-propelled vehicles or bicycles, including paved or gravel areas and any other area intended for vehicle movement.

Coos County Code Article 4 may need minor revision from time to time, but it is understood generally to be needed in some situations. For instance, if a landowner is unwilling to accommodate the needs of safety or maintenance of a right of way as identified by the Roadmaster, then the code provides a mechanism for enforcement action.

In most cases, however, enforcement will likely not be required because most landowners are willing to accommodate the needs of public roads in the county. The code should always be interpreted as emphasizing right-of-way safety, sound right-of-way maintenance, individual land rights, and good relations between the County and landowners.

1. Any perceived violation of County Code as it pertains to structures in the right of way should begin with a landowner conversation. In this context, concerns may be addressed, and

the landowner afforded an opportunity to take corrective measures of their own volition in cases where the violating structure is at odds with safety, right-of-way maintenance, or other identifiable concerns.

2. Existing, previously permitted structures within the right of way should not require removal unless the structure is at odds with safety, right-of-way maintenance, or other identifiable concerns. Non-permitted structures that exist in the right of way as of the date of adoption of this Policy should be allowed to remain, provided the structure is not at odds with safety, right-of-way maintenance, or other identifiable concerns, and provided the landowner obtains a retroactive permit from the County Roads department to enhance county records.

3. The County will pursue issuing permits for new structures within county rights-of-way, provided structures are 10 feet or more from the travel way. The County may issue permits for existing structures less than 10 feet from the travel way based on a determination by the Roadmaster. In all cases referenced in this section, the permit will require the landowner to maintain vegetation between the structure and the travel way.

4. Permits are not required for emergency repair to structures in the right of way due to damage caused by vehicular traffic, livestock breakage, or other such event, provided there are no major changes to the structure or its placement and no work will be performed in the travel way.

5. Implementation of the code will be prioritized to address structures that interfere with safety, right-of-way maintenance, or other identifiable concerns regarding the right of way.

6. The County will develop an appeal process for right-of-way permit denials, with final review by the Board of Commissioners.

7. Permits to construct in rights of way will generally be issued, unless deemed impermissible due to safety, right-of-way maintenance, or other identifiable concerns. Such permits will define placement of the structure.

8. Citations will not be issued without reasonable efforts to first secure cooperation from the landowner.

9. Every reasonable attempt shall be made to consider and respect longevity of a structure, subject to the foregoing provisions of this Implementation Policy.

10. Permits for existing structures per section 2 above shall incur no cost for issuance, but such permits may require the landowner to provide certain documentation (photos, etc.) as deemed appropriate by the Roadmaster. Permits for new structures per section 3 above shall incur a cost per the Coos County Roads Fee Schedule.