

7.704 INFORMATION AND PROCEDURE FOR ROAD VACATION

INFORMATION AND INSTRUCTIONS

FOR VACATION OF PUBLIC RIGHT-OF-WAY

What is right-of-way vacation?

A vacation is a legal abandonment or reduction in size and/or status of a public right-of-way (including a County Road) or any parts thereof (or any public property under the jurisdiction of the County Commissioners.

Who can initiate a vacation?

You have the right to request a vacation if the road or right-of-way is on or abuts your property by filing the proper petitions, forms and fees with _____ County.

Why would the County vacate a road right-of-way?

The County would vacate a right-of-way if it determines it to be in excess of the public's present and future needs.

Why might the County not vacate a road?

The County cannot vacate any right-of-way within a city or if the vacation denies access to any property owner. The County would not vacate a right-of-way if it were needed in the present or future.

Where can I obtain more information?

You can contact the Marion County Department of Public Works at:

_____ County Department of Public Works

Address:

Ph. (XXX) XXX-XXXX

FAX (XXX) XXX_XXXX

E-MAIL xxxxx@co.xxxxx.or.us

ROCEDURE FOR A ROAD VACATION

I. Initiating a Vacation

A. Petition by Landowners

A petition can be delivered by Petitioner(s), or their attorney along with the prescribed filing fee of \$_____ plus the \$_____ cost prescribed by Public Works to the _____ County Department of Public Works. Two checks shall be made out, one to _____ County Department of Public Works for \$_____ and one to _____ County for \$_____.

The petition must include:

1. A legal description of the road proposed to be vacated.
2. A statement of the reasons for requesting the vacation of the road.
3. Names and addresses of all persons affected by the road proposed to be vacated.
4. Notarized signatures of either owners of 60 percent of the land abutting the road proposed to be vacated or 60 percent of the owners of land abutting the road proposed to be vacated.

Sample petitions as well as help in writing the legal description are readily available from the Department of Public Works.

II. Reports and Hearings

- A. The Board of Commissioners directs the Department of Public Works to prepare a Written report on the proposed vacation.

The report must contain:

1. An assessment of whether the vacation would be in the public interest.
 2. A description of the ownership of the road proposed to be vacated.
 3. A description of the present use of the road proposed to be vacated.
- B. The Board of Commissioners, upon receiving the report, will set a time for a Public Hearing. Also they will cause notice of the Hearing to be posted on the road proposed to be vacated, published in a local newspaper and mailed to each person or utility with a recorded interest in the vacation.
 - C. The Board of Commissioners may grant a vacation without a Public Hearing if the Public Works Department assesses the vacation to be in the public interest and if the petition contains the notarized signatures of 100 percent of the owners of any private property abutting the road to be vacated.

III. Order of Vacation

- A. After considering the petition, the Public Works Department's assessment and any testimony from the Public Hearing, the Board of Commissioners will determine whether the vacation is in the public interest and shall enter an order granting or denying the vacation of the road.

IV. Ownership of Vacated Roadways

- A. If the Board of Commissioners grants the vacation, the vacated roadway shall be given to the rightful owner holding recorded title according to law. If the road has no title owner, it can be given to the abutting property owners to the center of the vacated road. The Board of Commissioners can make any other determination of ownership of the roadway vacated it deems appropriate.

7.706 ROAD OFFICIAL'S ADMINISTRATIVE GUIDE

ADMINISTRATIVE GUIDE FOR VACATION OF COUNTY ROADS, PUBLIC ROADS, SUBDIVISIONS, AND OTHER PUBLIC PROPERTY

I. AUTHORITY:

ORS 368.326 to 368.366 - County Roads

II. BASIC ASSUMPTIONS:

- A. A public right-of-way, for a road or other use, is a public trust and should be considered as such prior to any recommendation for approval of its vacation.
- B. The fact that abutting property owners are in agreement for a proposed vacation does not necessarily mean that the vacation should be granted.
- C. A roadway has not been opened for a use in past years and should not be vacated if probable or possible future area development could result in opening the roadway for use.

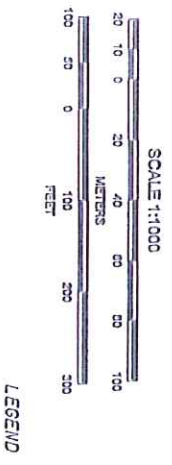
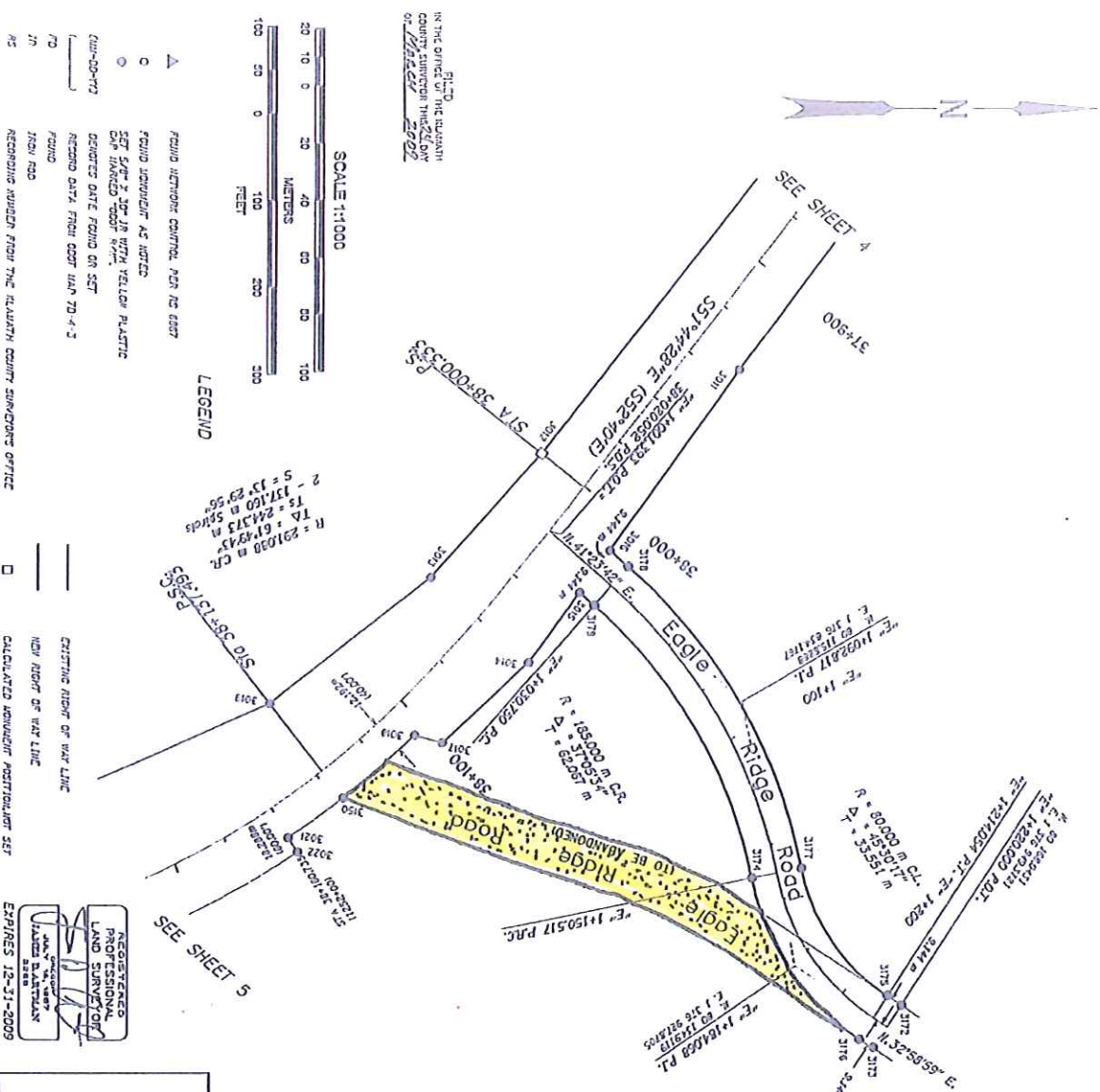
III. ITEMS TO BE CONSIDERED IN ANY VACATION INVESTIGATION:

- A. Legality of Signers: Are the signers to the petition legally qualified?
- B. Terrain: Is it economically possible to construct a road over the terrain that exists?
- C. Replacement: Has the right-of-way been replaced or superseded by a nearby road relocation?
- D. Location: Is the location in a strictly rural area or is it close to an area that is developing or has potential development? If within Urban Growth Boundary of any City, does that City approve of vacation?
- E. Relationship: What is the physical relationship of the right-of-way to other public or County roads? Does it lend itself to the development of the abutting properties into adequately sized lots and blocks?
- F. Benefit: What benefit would accrue to the petitioners if the right-of-way were vacated? Is there any benefit to the general public?
- G. Development: Does the petitioner have an immediate plan for development which would require vacation?
- H. Denial of Access: Would vacation deny access to any property owner?
- I. Growth: What is the anticipated growth in the area:
- J. Assessed Valuation: What is the current assessed valuation of the abutting properties and what would it likely be after vacation?

- K. Zoning: What is the present zoning and what would it likely be after vacation? How does this affect the need for a roadway?
 - L. Proportion: What is the percent of requested vacation area to total area of abutting property? What is the proportion of public right-of-way to the total tract in the case of vacation of the entire subdivision?
 - M. Other Departments: How would vacation affect responsibility of other County departments? County Assessor - County Surveyor and the Planning Commission? What are their comments?
 - N. Value: If vacation is in conjunction with right-of-way acquisition, the value of the right-of-way to be acquired should be a part of the consideration for vacation. This should not limit the price of the proposed right-of-way merely to an average acreage value. Consideration should also be given to the benefit the entire parcel would receive as a result of the said vacation.
 - O. Utilities: Have all utilities and emergency services been contacted to determine whether they are or might be utilizing the right-of-way vacated?
 - P. Exchange of Right-of-Way: If vacation is related to a road realignment, is the petitioner willing to exchange right-of-way within his property needed for the new alignment?
 - Q. When a street or roadway in a subdivision is vacated, the adjacent lots should also be vacated.
 - R. What are special considerations not listed above which apply to this particular vacation?
- IV. It is imperative that an on-site investigation be conducted. Improper vacation actions cause additional expense and inconvenience to the public.

SE 1/4 SEC. 4, T37S, R7E, W.M.

TO BE VACATED -



- LEGEND**
- ▲ FOUND NETWORK CONTROL, PER THE OWNER
 - SET 5/8" x 3/8" IN WITH YELLOW PLASTIC CAP MARKED '000' IN SET
 - DENOTES DATE FOUND ON SET
 - RECOVER DATA FROM COST MAR 73-4-3
 - FOUND
 - RECOVERING BENCH FROM THE KLAUMUTH COUNTY SURVEYORS OFFICE
 - EXISTING RIGHT OF WAY LINE
 - NEW RIGHT OF WAY LINE
 - CALCULATED MONUMENT POSITION, NOT SET

REGISTERED PROFESSIONAL LAND SURVEYOR
 JAMES B. PATTERSON
 EXPIRES 12-31-2009

Sta.	Station	Offset	Bearing	Feet
3179	1+030.750	9.144ft	80063.222	1370799.995
3178	1+030.750	9.144ft	80075.315	1370766.276
3174	1+150.517	9.144ft	80139.226	1376996.820
3177	1+150.517	9.144ft	80137.176	1376921.170
3175	1+214.054	9.144ft	80166.084	1376938.284
3176	1+214.054	9.144ft	80156.077	1376935.805
3172	1+220.000	9.144ft	80173.821	1376941.702
3173	1+220.000	9.144ft	80162.916	1376956.684

STATE OF OREGON
 DEPARTMENT OF TRANSPORTATION
 147 AVENUE NE, SALEM, OREGON 97331

MAP FOR
 RIGHT OF WAY DEMONSTRATION
 ON
 LAKE OF THE WOODS HIGHWAY
 OREGON HIGHWAY PROJECT
 KLAUMUTH COUNTY, OREGON.

SRM 1+001235 PART TO SRM 1+001200 PART OF EAGLE RIDGE ROAD
 SHEET 21 OF 21
 SCALE = 1:1000