

PROPOSED ORDINANCE NO. 96A
VACATION OF COUNTY ROADS OR RIGHTS-OF-WAY

ORDINANCE NO. 96A - AN ORDINANCE AMENDING ORDINANCE 96 ESTABLISHING EQUITABLE AND UNIFORM PROCEDURES FOR THE VACATION AND ABANDONMENT OF COUNTY ROADS, RIGHTS-OF-WAY OR PORTIONS THEREOF, REQUIRING BONDS FOR EXPENSES AND COMPENSATION THEREFOR.

Section 96.01. PURPOSE. The purpose of this ordinance is to provide an equitable and uniform method for the vacation and abandonment of county roads, rights-of-way or portions thereof, and to provide compensation to the county from persons benefitted thereby.

Section 96.02 AUTHORITY AND APPLICATION. County roads and rights-of-way shall be vacated in accordance with the provisions of Chapter 36.87 RCW as amended by Chapter 185, Laws of 1969, 1st Ex. Sess. and the supplementary provisions therein. This ordinance shall apply to all requests to the Board of Pacific County Commissioners seeking vacation and abandonment of a Pacific County road, right-of-way, or portion thereof initiated pursuant to Chapters 36.87, 58.11 or 58.12 of the Revised Code of Washington or in accordance with RCW 36.87.090 regarding roads and/or rights of way platted on or prior to March 12, 1909.

Section 96.03 REQUEST FOR VACATION.

1. Ten (10) or more freeholders residing in the vicinity of any county road may petition the Board of County Commissioners to vacate and abandon a county road, right-of-way or a portion thereof. The petition shall be on a form acceptable to Pacific County and shall describe the county road, right-of-way or portion thereof to be vacated and shall include a description of any interest in land held by the person or persons requesting said vacation.
2. The Board of County Commissioners may initiate proceedings to vacate and abandon a county road or right-of-way or any portion thereof if it is deemed by the Board to be in the best interest of Pacific County.
3. Individuals or other entities having a direct interest in property abutting rights-of-way platted prior to March 12, 1909 and not opened to the public for a period of five (5) years from the date that authority was granted to open the road may petition the Board to vacate the subject right-of-way.

Petitions shall be on a form acceptable to Pacific County and shall describe the county road, right-of-way or portion thereof requested to be vacated and shall include a description of any interest in land held by the person or persons requesting said vacation.

Section 96.04 CLASSIFICATION. Prior to vacation and abandonment of any county road, right-of-way or portion thereof said property shall be classified by the nature of the property interest held by Pacific County as follows:

1. Present interest subject to reversion upon vacation and abandonment.
2. Present interest not subject to reversion after vacation and abandonment.
3. Present interest subject to right-of-way platted prior to March 12, 1909, and subject to the provision of RCW 36.87.090.

Section 96.05 COMPENSATION. As a condition precedent to vacation and abandonment of a county road, right-of-way or portion thereof, Pacific County shall be compensated as follows:

1. If the property interest held by Pacific County is subject to reversion or right of re-entry, compensation shall be determined by the Board of County Commissioners based upon the reports received on the proposed vacation.
2. If the property interest held by Pacific County is not subject to reversion or right of re-entry, compensation shall be determined by the Board of County Commissioners based upon the appraised fair market value of the county road or right-of-way or portion thereof to be vacated.
3. If the right-of-way was platted prior to March 12, 1909, compensation may be waived by the Board.

The compensation determined to be paid shall be a condition precedent to the final order of vacation of any county road or right-of-way or portion thereof. When a road or right-of-way or portion thereof is vacated for a governmental agency, compensation may be based on Pacific County's costs incurred by the vacation and the original cost of acquisition.

The term compensation as used herein may, when it is in the best interests of Pacific County, include property of equivalent value.

Section 96.06 REPORT. In addition, but not limited to the information required in Chapter 36.87 RCW, the county engineer's report shall address the property interest held by the county and may include an estimate of the costs of acquisition, improvement and maintenance incurred by Pacific County and any other such information deemed pertinent by the county engineer.

If the petition includes rights-of-way subject to the provisions of RCW 36.89.090, the petitioner may be required to establish certain facts and provide certain information regarding the public use or lack thereof in order for the Board to make a determination. The burden of providing such information as the Board may require is the sole responsibility of the petitioner.

Section 96.07 PROCEDURE. The procedure for processing of petitions or requests to vacate and abandon county roads, rights-of-way or portions thereof shall be as follows:

1. Persons or agencies requesting information or assistance regarding vacation and abandonment of a county road, right-of-way or portion thereof, shall be referred to the Department of Public Works.
2. The Department of Public Works shall provide information and assistance regarding the procedure and, if necessary, assist in preparing the petition including a legal description of the proposed vacation. The total costs shall be estimated and shall include both the application bond and the County Assessor's estimate of fair market value of the area sought to be vacated which shall be obtained by the petitioner from the County Assessor's records.
3. The completed petition must be returned by the petitioner to the Board of County Commissioners within ninety (90) days of completion by the Department of Public Works and must be accompanied by funds in the amount of both the application bond and the amount of the County Assessor's estimate of fair market value compensation.
4. At its next regularly scheduled meeting the Board will order that the petition be referred to the County Engineer for examination and report. The Clerk of the Board will deposit the estimated compensation with the County Treasurer to be held in a Road Vacation Suspense Fund.
5. In accordance with Chapter 36.87 RCW, the County Engineer shall submit a report and recommendation to the Board of County Commissioners. The report may include a revised estimate of the fair market value compensation and other such information deemed pertinent to the petition and the proposed vacation. If the petition concerns rights-of-way subject to the provisions of RCW 36.87.090, the Board will consider such information as is required to be submitted by the petitioner as well as any information provided by the County Engineer and the public in making a determination.
6. a) If the vacation is granted by resolution of the Board of County Commissioners, the costs incurred by Pacific County shall be deducted from the bond and the remainder shall be refunded to the petitioner. The fair market value compensation shall be credited to the county road fund.

b) If the vacation is denied by resolution of the Board of County Commissioners, the cost incurred by Pacific County shall be deducted from the bond and the remainder shall be refunded to the petitioner and the fair market value compensation shall be refunded to the petitioner.

Section 96.08 APPLICATION BOND. In accordance with Chapter 36.87 RCW, each petition must be accompanied by a bond in the penal sum of one hundred (\$100.00) dollars, payable to Pacific County executed by one or more of such petitioners as principal or principals, and two (2) or more satisfactory sureties, and conditioned that the petitioners will pay into the county road fund of Pacific County the amount of all cost and expenses incurred in the examination, report, and all proceedings pertaining to such petition to vacate and abandon.

Section 96.09 COMPLIANCE WITH LAWS AND ORDINANCES. It is the sole responsibility of the petitioner to obtain all other required permits and approvals and to comply with all other rules, regulations or applicable laws. The process prescribed in this ordinance is subject to the Washington State Environmental Policy Act.

Section 96.10 SUPERSESION AND SEVERABILITY. If any portion of this ordinance is held invalid, such decision shall have no effect upon the validity of the remaining portions of this ordinance. The Board of County Commissioners of Pacific County hereby declares that it would have adopted this ordinance and each part or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 96.11 DATE OF EFFECT. This ordinance shall be in full force and effect on the date of signature.

PASSED by the BOARD OF COUNTY COMMISSIONERS OF PACIFIC COUNTY on this 23rd day of September, 1986, and signed in authentication of its passage.

APPROVED AS TO FORM:

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

Deputy
Michael Smith
Prosecuting Attorney for Pacific
County

Archie C. Newson
Chairman

ATTEST:

Don H. [Signature]
Commissioner

Vynelle C. Hill
Clerk of the Board

Bill Crossman
Commissioner