

## **Whatcom County Code - Chapter 12.20 ROAD VACATIONS**

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### **12.20.010 Authority.**

This chapter is enacted pursuant to authority contained in RCW 36.87.120. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.010).

### **12.20.020 Scope and application.**

This chapter shall apply to all applications to the Whatcom County council seeking vacation and abandonment of a Whatcom County road, or any portion thereof, initiated pursuant to RCW Chapters 36.87 and 58.17. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.020).

### **12.20.030 Petition – Fees.**

A. Every petition to the Whatcom County council for vacation and/or abandonment of any road or portion thereof shall conform to the requirements of the applicable state statute and shall be accompanied by an appraisal fee and application fees as set forth in the Whatcom County Unified Fee Schedule.

B. The petition form, along with the full fees for application and appraisal shall be submitted to the Whatcom County public works department.

C. The appraisal fee may be refunded by the council at the recommendation of the county engineer if no appraisal has been carried out in connection with the road vacation petition. Said refund may be given only after the council makes its final decision in connection with the road vacation petition in question.

D. The portion of the application fee designated for recording the final order of vacation may be reimbursed to the petitioner if the council denies the petition.

E. A portion of the application fee, but no more than 30 percent of that application fee, may be reimbursed to the petitioner by the council at the time the application is approved, if the vacation was granted pursuant to the Territorial Land Act of 1890. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.030).

#### **12.20.040 Petition – Format.**

A. Owners of the majority of the frontage on any county road or portion thereof may petition for the vacation and/or abandonment of that same county road or portion thereof by completing a form prepared by Whatcom County.

B. Included on the petition and submitted by the petitioner shall be the signatures and addresses of five persons owning property within a one-mile radius of the road to be vacated, as part of the public notification process, unless the petitioner can demonstrate to the transportation department that fewer than five people own property within a one-mile radius of the road to be vacated; in which case the petitioner shall submit an affidavit stating the same, along with the signatures of as many people as do own property within a one-mile radius of the road to be vacated.

C. By signing the petition the property owners are acknowledging that they are notified of the petitioner's intent to seek vacation of the county road or portion thereof. They are not agreeing to become co-petitioners for the road vacation. (Ord. 94-059 Exh. A)

#### **12.20.050 Engineer's report.**

A. The county road engineer shall examine and, if necessary, perform an appraisal of the road proposed to be vacated; the engineer shall perfect the legal description of the road proposed to be vacated, and report upon such vacation and abandonment to the Whatcom County council. Said report shall be in the form of a resolution by which the Whatcom County council either authorizes or denies the petition to vacate the county road.

B. The engineer shall file the petition and resolution with the Whatcom County council upon completion of his/her report. The clerk of the council will schedule a public hearing on the resolution after its arrival in the council office, with public notice to be given as provided in Chapter 36.87 RCW.

C. The Whatcom County council shall consider the petition in resolution form. Action on the resolution will be the council's final action in the matter.

D. The petition shall be deemed to have been denied if a motion to approve of the resolution fails, or if by other means a majority of the council denies approval of the resolution or petition.

E. If the engineer recommends, by resolution, that a petition be denied and the council disagrees with the engineer's recommendation to deny, the council may amend the resolution to indicate that it is approving of the petition despite the engineer's recommendation.

F. If the Whatcom County council passes the resolution and there is a provision seeking payment by the applicant of further costs or appraised value of the area being vacated, the clerk of the council shall notify the applicant that he/she has six calendar months in which to pay for such costs.

G. If the applicant pays such money as is owed the county within the six calendar months after the date of passage of the resolution, or if upon passage of the resolution no money is owed the county by the petitioner, the clerk of the council shall prepare an order of vacation and have it, along with the resolution, recorded by the county auditor. If the applicant fails to make payment as required, the council's authorization the vacation becomes null and void.

H. The vacation becomes official only after an order of vacation and the resolution are recorded by the county auditor. (Ord. 94-059 Exh. A)

### **12.20.060 Resolution requirements.**

The resolution shall contain the following information, in addition to the requirements of RCW 36.87.040:

A. The petitioner's name and mailing address, the date the petition was filed with the transportation department, a statement that the application and report fee has been paid, and a short description of the roads or portion of roads to be vacated;

B. A legal description of the roads or portions thereof to be vacated;

C. A statement that the applicant has six calendar months from the date the resolution is passed to pay any remaining fees to the Whatcom County council office, with checks made payable to the Whatcom County treasurer, prior to the vacation becoming effective, including but not limited to the appraised value of the area sought to be vacated;

D. A statement that the petitioner has met all of the petition requirements as set forth by this chapter, and by all other applicable laws;

E. The fair market value of the area sought to be vacated as determined by appraisal;

F. The classification of the road area and the nature of the county's interest therein, according to the following classification:

1. Class A. Public expenditure made,
2. Class B. No public expenditures made or nonascertainable from records,
3. Class 1. No part thereof lies in any plat,
4. Class 2. Part or all lies within a platted subdivision,
5. Class 3. Did not remain unopened for public use for a period of five years after the authority was granted for opening it,
6. Class 4. Remained unopened for public use for five or more years after the order made or authority granted for opening it,
7. Class 5. Is contained within that portion of a plat which is to be replatted,
8. Class 6. Abandoned in fact due to relocation of right-of-way,
9. Class 7. Informalities exist in the records of title which are construed to invalidate and divest the public of any right, title or interest in the right-of-way.

G. A statement that the vacation does not become effective until the fees are paid, and the final order and the resolution are recorded with the county auditor. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; prior code § 7.40.060).

### **12.20.070 Payment of costs when.**

Recompense in the amount of the appraised value and all certified costs and expenses incurred in the proceedings above and beyond those covered by the application and appraisal fee shall be tendered within six months of the hearing on the petition for vacation; provided, however, that at the time of the hearing the county council may waive payment of the appraised value, or any portion thereof, if it finds that the granting of such vacation will be of some specific benefit to Whatcom County. Said waiver shall be included as a part of the resolution approving of the vacation. (Ord. 94-059 Exh. A; Ord. 93-080 Exh. P; Ord. 80-15 § 1; prior code § 7.40.070).