

## PROCEDURE FOR THE ESTABLISHMENT, ALTERATION, OR ABANDONMENT OF COUNTY ROAD RIGHT-OF-WAY

The procedure for the establishment, alteration, or abandonment of a county road right-of-way, public right-of-way, or street under the County's jurisdiction is set out in Montana statutes, [MCA 7-14-2601 through 2617](#). The following information is not intended to supplant these statutes and should be considered only as supplementary to the statutes. The petition form we provide is not required. We provide it to assist the petitioner in complying with the statutory requirements. If the petitioner meets the statutory requirements, the petition will be considered legal and acceptable.

Establishment means creation of a new public road right-of-way; alteration means change, move, or relocate the right-of-way easement; abandonment means end of use of the right-of-way easement with no intention to reclaim or use again; it is sometimes called vacation. Missoula County offers the following steps to assist landowners in providing sufficient information to request the establishment, alteration, or abandonment of a county road or street:

1. A petition form requesting the establishment, alteration, or abandonment can be downloaded from the surveyors webpage using this link: [Road Petition](#). Alternately a petition form can be obtained from the Missoula County Surveyors Office. As stated above, this form is not required. The petition requires signatures of a minimum of 10 (ten) freeholders of the Missoula County road district. Since Missoula County is a single road district, the freeholders may own an interest in land anywhere in the County. Simply stated, a freeholder is a landowner. If you chose to include our form in your petition, additional sheets can be included to provide more information about your request.

2. The petition must set forth:

- (a) the particular road or roads to be affected;
- (b) the general route thereof (preferably shown on a map exhibit);
- (c) the lands and owners affected;
- (d) whether the owners who can be found consent thereto;
- (e) where consent is not given, the probable cost of the right-of-way;
- (f) the necessity for and advantage of the petitioned action.

3. Prior to obtaining the necessary signatures, it is recommended the petitioner(s) have the Missoula County Surveyors Office review the petition for accuracy and completeness. This review is to assure that all parties understand the location and extent to which the road will be affected. It also minimizes the chance a petitioner will obtain signatures on an inadequate petition and have to request new signatures.

4. The County may not abandon a county right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment. The petition should include signatures of all owners of land

accessed by the road, granting their consent to the abandonment. When granting consent, all affected property owners must be listed and sign (e.g. both husband and wife). Trusts must have all members sign or provide trust documents that allow one member to sign on behalf of the trust. Businesses must provide documentation the signing party is authorized to sign on behalf of the business.

5. When these requirements have been carried out, the completed petition needs to be delivered by the petitioner(s) along with a non-refundable **\$300.00 fee for abandonments only**, to the Missoula County Clerk and Records Office who will process and verify the contents of the petition. This required fee is for carrying out the necessary administration and public notice costs associated with the processing of the petition. There is no fee for petitions for establishment or alteration.

6. A public hearing will be commenced before the Board of County Commissioners within 30 days of submission of the completed petition. Notice of the hearing is given by publishing it in the public notice section of the newspaper twice prior to the hearing, with at least six days separating each publication. Additionally, all owners of the land abutting the road or street, as listed on the last county assessment roll, are given notice of the public hearing by mail.

7. At the opening of the public hearing, the Board of County Commissioners will listen to comments regarding the petition. After hearing comments, the County Commissioners will arrange for an on-site investigation of the area affected by the petition. Road viewers are appointed, being one member of the Board of County Commissioners and a member of the Missoula County Department of Public Works, whom shall investigate the feasibility, desirability, and cost of the proposed action and determine the merits or demerits of the petition. A date and time will also be established for continuance of the public hearing after completion of the investigation.

8. At the second session of the public hearing, the road viewers will report their findings. After listening to the report and any further comments, the Board of County Commissioners may then make their decision.

9. Within 10 days of making their decision, the Board of County Commissioners shall cause notice of its decision to be sent by certified mail to all owners of land abutting on the road or street affected by the petition.

# PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

This form is not a requirement of the road petition process and is provided to assist in complying with state law.

This is a petition brought pursuant to Montana Code Annotated, Title 7, Chapter 14, Part 26, to affect that certain county road or public right-of-way under the jurisdiction of Missoula County, specifically described as:

Name of road or general description: \_\_\_\_\_

Located in: Section \_\_\_\_\_, T \_\_\_\_ N, R \_\_\_\_ W; and in (if applicable): Section \_\_\_\_\_, T \_\_\_\_ N, R \_\_\_\_ W.

Beginning at (from): \_\_\_\_\_

Ending at (to): \_\_\_\_\_

A map or diagram is attached that illustrates the proposed action, which is incorporated herein by reference.

The County Commissioners are requested to [choose one of the following]:

Establish the right-of-way described above:

Alter the right-of-way as follows: \_\_\_\_\_

Abandon the right-of-way described above.

The establishment, alteration, or abandonment is necessary and advantageous for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_

All land and owners affected by the proposed action are listed below.\*

\* Note: Missoula County may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all the landowners agree to the abandonment. When granting consent, all affected property owners must be listed and sign (e.g. both husband and wife). Trusts must have all members sign or provide trust documents that allow one member to sign on behalf of the trust. Businesses must provide documentation the signing party is authorized to sign on behalf of the business.

	Property description or Tax ID No.	Owner Name(s)	Owner mailing address	Signature(s) granting consent to the action proposed in this petition
1.				
2.				
3.				
4.				
5.				

The landowners named below have thus far not given consent to the proposed abandonment or alteration:

\_\_\_\_\_  
\_\_\_\_\_

Where consent is not given for an establishment or alteration, the probable cost of the right-of-way:

\_\_\_\_\_

If more space is needed, attach additional sheet(s).

Therefore, we, the undersigned being at least ten freeholders of the road district of Missoula County, do hereby petition the Board of Missoula County Commissioners to establish, abandon, or alter [name or general description of road:] \_\_\_\_\_, as further described on the first page above.

[Note: A minimum of ten valid signatures from owners of real property in Missoula County must appear on the petition. It is recommended additional signatures be gathered to avoid delay from any difficulty verifying signatures.]

	Signature	Date	Printed name	Mailing address
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

Primary contact for the petitioners [name and contact info]: \_\_\_\_\_  
 \_\_\_\_\_

**Following section for office use only**

\$300 processing fee received for road abandonments only, payable to the Missoula County Clerk and Recorder. No fee for establishment or alteration petitions. (Ref. County Resolution No. 2019-118).

Clerk: \_\_\_\_\_ Date: \_\_\_\_\_

Petition reference number assigned: \_\_\_\_\_

Signatures Verified:

All signatures verified.

The following signatures cannot be verified: \_\_\_\_\_  
 \_\_\_\_\_

Clerk: \_\_\_\_\_ Date: \_\_\_\_\_

Descriptions and Exhibits:

Approved: Descriptions of the road and exhibits have been approved for adequacy and accuracy.

Deficient: See Memorandum dated \_\_\_\_\_.

Surveyor: \_\_\_\_\_ Date: \_\_\_\_\_