

810
11/18/03

Ordinance No. 745, 2003

An ordinance amending Chapter 9.04 of the Clallam County Code,
to set forth and clarify the procedure for the vacation of county roads

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Chapter 9.04

ROAD VACATION—~~COMPENSATION TO COUNTY~~

Sections:

- 9.04.010 Purpose~~Classification~~.
- 9.04.020 Classification~~Compensation~~.
- 9.04.030 Definitions.
- 9.04.040 Application.
- 9.04.050 Compensation.
- 9.04.060 Severability

SOURCE: ADOPTED:
 Ord. No. 55, 1974 10/03/74

9.04.010 Classification~~Purpose~~.

The purpose of this chapter is to provide uniform criteria for the application, valuation, and reimbursement to Clallam County for vacation of county roads within Clallam County pursuant to the Road and Bridges Vacation Act (Chapter 36.87 RCW). ~~The County Engineer and Road Department are hereby directed to classify all County roads for which public expenditures were made in the acquisition, improvement or maintenance of the same, according to the type and amount of expenditures made and the nature of the County's property interest in the road; and they are further directed to separately classify County roads for which public expenditures have not been made in the acquisition, improvement or maintenance of the same, according to the nature of the County's property interest in the road.~~

9.04.020 Classification.

The County Engineer and Road Department ~~are~~ is hereby directed to classify all County roads for which public expenditures were made in the acquisition, improvement, or maintenance of the same, according to the type and amount of expenditures made and the nature of the Clallam County's property interest in the road; and ~~they are~~ is further directed to separately classify County roads for which public expenditures have not been made in the acquisition, improvement or maintenance of the same, according to the nature of the Clallam County's property interest in the road.

9.04.030 Definitions.

- (1) "County" means Clallam County, State of Washington.
- (2) "County Road" means a public right of way which lies outside the limits of any incorporated city, and that has been dedicated to, deeded to, established by usage, maintained, or otherwise established by the County. Such County roads shall be classified as follows:
- (3) "Class A" means any County road right of way, public use right of way and/or active county road located in the unincorporated areas of the County and/or

(a) which has been assigned a County road number or is in the County road maintenance system or

(b) which has had public funds spent in the acquisition, development, improvement, maintenance, or management of said right of way or road.

(4) "Class B" means any County road right of way or public use right of way located in the unincorporated areas of the County which are either opened or unopened, and;

(a) which has had no public funds spent in the acquisition, development, improvement, maintenance, or management of said right of way and

(b) was acquired by plat dedication, waiver, right of way deed or easement.

(5) "Class C" means any right of way where any public interest in that right of way was extinguished (or vacated) automatically by operation of law, prior to March 12, 1904, because they remained unopened for five years after authority was granted for opening them in accordance with Section 32, Ch. 19, F. 603, Laws of 1889-1890. As such, the County does not offer any procedure, formal or informal, that would recognize or formalize this automatic extinguishment of the public's interest in a Class C right of way.

9.04.0240 Compensation.Application.

Petitions for Class A and Class B road vacations shall be submitted, along with fees as provided by the Board of County Commissioners, in writing to the Department of Public Works. The petition shall be signed by the owners of a majority of the frontage of the County road or portion thereof proposed to be vacated. The petition shall name a principal petitioner, show the land owned by each petitioner, and set forth that the County road is useless as a part of the County road system and that the public will be benefited by its vacation and abandonment. There shall be required, prior to the vacation of any County road, compensation for said road in an amount equal to the appraised value of the vacated road as of the effective date of vacation. Costs of County appraisals of roads pursuant to this section shall be deemed expenses incurred in vacation proceedings, and shall be paid in the manner provided by RCW 36.87.070, as enacted or hereafter amended.

9.04.50 Compensation.

The valuation basis for compensating the County for the "land value" component on any right of way being vacated will be determined by the "across the fence value." The "across the fence value" will be the adjacent parcel's current fair market assessed land valuation as established by the Clallam County Assessor's Office, or by County acquisition documents of record, whichever value is greater. In the absence of a fair market assessed land value being determined by the County Assessor's Office or if the County determines a separate appraisal is warranted, a current appraisal will be performed by County staff. Any and all costs associated with appraisal(s) will be reimbursed to the County according to RCW 36.87.120.

For purposes of calculation of the "land value" component, Class A land will be compensated at 100 percent using the above valuation basis and Class B land will be compensated at 50 percent of said above valuation basis; EXCEPT any right of way which qualifies under RCW 36.87.090 and has not otherwise had public rights reacquired. Right of way which qualifies under said RCW will have no compensating value to the County.

For purposes of calculation of the "improvement value" component, Class A land will be compensated at the rate of \$3.00 per square foot of road or at a rate as adjusted periodically by the County Engineer to reflect the current costs of improved roads, plus the value of special improvements, if any, such as bridges, large culverts, and similar structures. The area of road surface on that portion of right of way being petitioned for vacation will be calculated by a method found reasonable by the County Engineer. The surface area will be calculated between the

outermost margins of the developed portion of roadway, such as to the edge of the cut bank or fill slope, back of ditch, edge of shoulder, or edge of traveled surface.

Right of way held in fee will be considered Class A land for calculating "land value" and disposed of as provided for under RCW 36.34.010 and the petitioner(s) would need to be the successful bidder at public auction administered by the Clallam County Treasurer; EXCEPT if it is involved in and disposed of in a land exchange approved by the Superior Court of Clallam County as outlined in RCW 36.34.330.

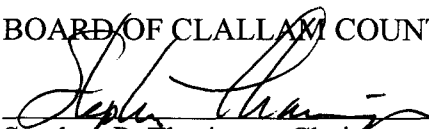
Compensation Requirement: The principal petitioner will be responsible to pay all costs and fees associated with the road vacation process, regardless of the County's approval of vacation. Additionally, the petitioner will be responsible for reimbursement to the County for the value of the land, improvements, and for appraisals, before such vacation shall become effective. EXCEPTION: Compensation for the value of land and/or improvements may be waived by the County Commissioners for right of way being vacated if the land will remain open and accessible to the public without fee or restriction. Under this exception, compensation will still be required for expenses to the County for costs to process the vacation request.

9.04.060 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter and each section, subsection, paragraph, sentence, clause, and phrase thereof would have been adopted irrespective of the fact that any one or more other sections, subsections, paragraph, sentences, clauses, or phrases be declared invalid or unconstitutional.

PASSED AND ADOPTED this 18th day of November 2003.

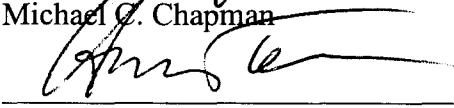
BOARD OF CLALLAM COUNTY COMMISSIONERS



Stephen P. Tharinger, Chair

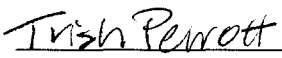


Michael G. Chapman



Howard V. Doherty, Jr.

ATTEST:



Trish Perrott, Clerk of the Board