

# TITLE 6

## PUBLIC PROPERTY — ACQUISITION, DISPOSITION, AND MAINTENANCE

### CHAPTER 680

### ROAD LEGALIZATION CODE

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### I. GENERAL PROVISIONS

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#### 680.005 Title

This Chapter, LCC 680.005 to 680.260, shall be known and cited as the “Linn County Road Legalization Code.” This Chapter may also be cited as the “Road Legalization Code.”

[Adopted 99-058 §11 eff 3/3/99]

#### 680.010 Definitions

(A) “**Board**” means the Linn County Board of Commissioners.

(B) “**County road**” has the meaning given in ORS 368.001 (1) for which Linn County has jurisdiction.

(C) “**Legalize**” means the action of the Board pursuant to this Chapter to clarify or correct the record as to the location of the right-of-way for a road.

(D) “**Local access road**” has the meaning given in ORS 368.001 (3) and is limited to roads outside a city for which Linn County has jurisdiction.

(E) “**Owner**” has the meaning given in ORS 368.001 (4).

(F) “**Person**” means person, firm, partnership, corporation, municipal corporations, and the State of Oregon and the Federal Government and agencies thereof.

(G) “**Road**” has the meaning given in ORS 368.001 (6).

(H) “**Road that is subject to this Chapter**” means a county road or a local access road.

(I) “**Right-of-way**” includes not only the surface area but the space below and above it.

(J) “**Road**” has the meaning given in ORS 368.001 (6).

(K) “**Roadmaster**” means the Linn County Roadmaster or designee thereof. The term also means the “road official” as that latter term is used in ORS Chapter 368.

[Adopted 95-203 §1 eff May 17, 1995; amd 99-058 §11 eff 3/3/99]

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## II. ROAD LEGALIZATION PROCEDURES

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### 680.100 Legalization under statutory procedure

(A) The procedures of this Chapter shall be followed in using ORS 368.201 to 368.221 to locate the exact boundaries of an existing county road through the procedure known as legalization.

(B) The provisions of this Chapter and ORS 368.201 to 368.221 shall be followed to legalize a public road that is not a county road in the same manner as one that is a county road.

[Adopted 95-203 §2 eff May 17, 1995]

### 680.120 Roadmaster report

When the Roadmaster determines there is a need to legalize a road, the Roadmaster shall have the road surveyed and prepare a written report regarding the road based on that survey and on records and other information including the following:

(A) Information on the survey showing the location of the road as it would be legalized.

(B) Significant data on the history of the road and the reason for the uncertainty that needs resolution.

(C) Information on encroaching structures.

(D) Other information the Roadmaster determines may be helpful in considering the legalization.

[Adopted 95-203 §3 eff May 17, 1995; amd 99-058 §11 eff 3/3/99]

### 680.130 Scheduling legalization hearing

On receiving the Roadmaster's report the Board may schedule a hearing to determine whether legalization is in the public interest.

[Adopted 95-203 §4 eff May 17, 1995]

### 680.140 Hearing notice

The Roadmaster shall cause the required notice of the hearing to be given as provided in LCC 680.200 to 680.260.

[Adopted 95-203 §5 eff May 17, 1995; amd 99-058 §11 eff 3/3/99]

### 680.150 Legalization hearing

(A) After considering the matters presented in a proceeding to legalize a road under this

Chapter, the Board shall determine whether legalization of the road is in the public interest and shall enter an order abandoning or completing the legalization procedures on the road.

(B) If the Roadmaster's report and subsequent information indicate no apparent areas of uncertainty will remain if the legalization is completed, the Board may enter an order completing the legalization under ORS 368.216.

(C) If areas of uncertainty appear to remain, the following shall be completed before entering an order legalizing the road:

(1) If information provided by an affected property owner is the source of the uncertainty, the information shall be reexamined. Unless determined to have no effect on the legalization, action legalizing the road shall be taken only after the Board has made reasonable efforts to resolve the issues of uncertainty with the affected property owner.

(2) If the uncertainty may be related to a property owner who has not responded to the proceedings, the owner shall be served with a notice in the same manner as required for the hearing, which describes the matter in question and provides not less than 10 calendar days following service for a response. Any information received from this notice shall receive the same consideration as prior information. If no response is received and a potential claim of taking property without compensation may be at issue, an effort shall be made to determine the reason for the non-response, whether notice has been received, and whether the issue is understood. Once reasonable efforts have been made, the legalization may be completed, based on the information on hand, even if no response is received.

(D) Orders legalizing a road shall contain a survey fixing the location of the right-of-way for the road.

(E) When a road is legalized, the Board shall comply with ORS 368.106.

[Adopted 95-203 §6 eff May 17, 1995; amd 99-058 §11 eff 3/3/99]

### **680.200 Notice procedure**

Pursuant to ORS 368.011, LCC 680.200 to 680.260 replaces the procedure for giving notice to certain persons under ORS 368.401 to 368.426. Where use of the statutory procedures is specified, the procedure of LCC 680.200 to 680.260 shall be used for proceedings initiated after the effective date of this Chapter.

[Adopted 95-203 §5 eff May 17, 1995]

### **680.210 Notice by service**

When the county is to give notice under this Chapter by service the procedure is as follows.

(A) The county official responsible for serving notice shall attempt to personally serve the notice but is not obligated to travel outside the county for this purpose. The official shall prepare a notice to be mailed by certified mail, return receipt requested, at least 30 calendar days before the date of the proceeding that is the subject of the notice. The notice shall be mailed to the address of persons who did not receive personal service before the mailing.

(B) The official shall accomplish notice that is personally served by obtaining a signed acknowledgment of receipt of notice from:

- (1) The person being served; or
- (2) A person 18 years of age or older who resides at the address of the person being served.

(C) A person's refusal to sign a receipt for notice that is personally served or mailed under this section is a waiver of any objection based on non-receipt of the notice in any proceeding.

(D) Except where the county official has personal knowledge of a more appropriate address for the notice, the address to be used for notice personally served or mailed under this section is the address of the person to be served as shown on the tax rolls.

(E) If a receipt has not been received from a person who appears entitled to notice by service under this section by the 20th day before the proceeding that is the subject of notice, the county official shall post a notice at an entrance to the person's property that is expected to be affected

by the proceeding. A notice posted under LCC 680.220 will substantially fulfill this requirement.

[Adopted 95-203 §5 eff May 17, 1995; amd 99-058 §11 eff 3/3/99]

### **680.220 Notice by posting**

When the county is to give notice under this Chapter by posting, the procedure is as follows:

(A) The county official responsible for posting notice shall post notices in no less than three places. The places where notice may be posted include any of the following:

- (1) The property subject to the proceeding that is the subject of the notice; or
- (2) Property within the vicinity of the property described in paragraph (1) of this subsection.

(B) Notice that is posted on property under this section must be plainly visible from a traveled public road.

(C) Notwithstanding subsection (A) of this section, the county official may post fewer than three notices if the small size of the property limits the value of the number of postings.

(D) The official shall post the notice at least 20 calendar days before the date of the proceeding that is the subject of the notice.

[Adopted 95-203 §5 eff May 17, 1995; amd 99-058 §11 eff 3/3/99]

### **680.230 Notice by publication**

When the county is to give notice under this Chapter by publication, the procedure is as follows:

(A) The county official responsible for providing notice shall have the notice published in a newspaper of general circulation in the county where the property that is the subject of the proceeding is located or may publish the notice in a newspaper of general circulation in the portion of the county containing the property.

(B) The official shall publish notice once at least 15 calendar days before and once within 10 calendar days of the date of the proceeding that is the subject of the notice.

[Adopted 95-203 §5 eff May 17, 1995; amd 99-058 §11 eff 3/3/99]

**680.240 Record of notice**

The county official responsible for this Chapter shall complete and sign an affidavit containing a record of the procedure followed to provide notice under those sections. The official shall file the affidavit with the record of the proceedings for which the notice is required.

[Adopted 95-203 §5 eff May 17, 1995]

**680.250 Contents of notice**

Any notice under this Chapter shall include all of the following:

(A) A short plain statement of the subject matter of the proceeding that requires the notice.

(B) A statement of matters asserted or charged or action proposed to be taken at the proceeding.

(C) An explanation of how persons may obtain more detailed information about the proceeding.

(D) A statement of any right to hearing afforded any parties under law.

(E) The time and place of any proceeding that will take place.

(F) A reference to particular sections of statute, charger, Chapter or rule that provide the jurisdiction and process for the proceeding that is the subject of the notice.

[Adopted 95-203 §5 eff May 17, 1995]

**680.260 Supplemental information**

The county official responsible for serving notice under this Chapter may use other appropriate means in seeking to inform affected parties of a pending action.

[Adopted 95-203 §5 eff May 17, 1995]

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**Statutory References and Other Authorities:**  
ORS 203; 368.011; 368.001 (3), (6); 368.036; 368.041; 368.106; 368.201 to 368.221; 368.401 to 368.426

**Legislative History of Chapter 680:**

Adopted 95-203 eff 5/17/95

Amendments to 95-203:

#1 99-058 §11 eff 3/3/99

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