

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 all 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. Broadwater 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 found using the link at the top of this page. Alternately a petition form can be obtained from the Broadwater County Surveyors Office that is located in the Clerk and Recorder's office. The petition requires signatures of a minimum of 10 (ten) freeholders of the Broadwater County road district. Since Broadwater 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 (shown on a map);
 - 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 Broadwater 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, and to ensure all the required information is provided. 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 \$_____ fee, to the Broadwater 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.
6. The petition will be put on a Commission agenda. At this meeting, road viewers are appointed, being one member of the Board of County Commissioners and the County Surveyor or their representative, whom shall investigate the feasibility, desirability, and cost of the proposed action and determine the merits or demerits of the petition.
7. Once the investigation is complete, a public hearing will be scheduled. Notice of the hearing is given by publishing it in the notice section of the newspaper prior to the hearing. In addition, an agenda will be posted on the Broadwater County website, and physically posted at the Courthouse and the Flynn Building. Notice of the hearing will also be mailed to all owners of the land abutting the road or street as listed in the county assessment rolls.
8. At the opening of the public hearing, the Board of County Commissioners will listen to comments regarding the petition, and will review the report they received from the viewer's 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.

Commented [JH1]: Any fee that is charged must be set by the Commission in a resolution. (See 7-4-2821)

Road Abandonment Check List for Staff Review

Initial Review:

- Petition for Abandonment of County Road given to County Surveyor prior to signatures being obtained for review.
 - County Surveyor review document to ensure all information has been provided. If not all information has been received, Surveyor requests additional information.
- To be complete the petition ***must*** contain the following:
 - The particular road to be affected
 - The general route thereof (shown on a map)
 - The lands and owners affected
 - Address for the owners affected
 - Whether the owners can be found consent thereto
 - This should contain a signature from the landowner to prove consent, but the signature is not required by law.
 - Where consent is not given, the probable cost of the right of way
 - The necessity for and advantage of the petition action
- Once County Surveyor is satisfied that all information has been received, a copy of the petition will be forwarded to the County Attorney's office and the Public Works Supervisor for review. The Deputy County Attorney and Public Works Supervisor will provide comments within 48 hours of receiving the document.
- If any additional information is needed, the County Surveyor will contact the petitioner to request additional information.
- Once it has been verified that everything is complete the County Surveyor will notify the petitioner that the next step is to obtain signatures.

Petition with Signatures Received:

- Date petition received: _____
- Once a petition is received with signatures of 10 freeholders, the County Surveyor verifies there are 10 signatures and they are people who own land in the county.
- If the petition is complete, the County Surveyor notifies the County Commission and requests to have the petition put on the agenda for a committee meeting.
 - This meeting must happen within 30 days of the petition being received.
 - Sample language for the agenda: "Discussion/Decision, Angie Paulsen County Surveyor, Petition to Abandon (insert street name here)."

Choosing People to Do the Investigation

- The Commission will meet and appoint one Commissioner and one County Surveyor to review the road (See §7-14-2603, MCA). They perform an investigation on the feasibility, desirability and cost of granting the petition completed by the reviewers.
 - Name of Commissioner: _____
 - Name of Surveyor: _____
- Date report complete: _____

Public Hearing

- Once the report is complete, schedule a public hearing.
 - o Date notice sent out to owners affected: _____
 - o Date notice put in newspaper: _____
- Date of public hearing: _____
- Date Decision Made: _____

Notice to Abutting Landowners

Notice of the decision on the petition must be sent by certified mail to all owners of land abutting the road that the decision was made on within **10 days** of the decision being made. The owners are those listed in the last county assessment roll. (§7-14-2604, MCA)

- Date notice sent to owners of land: _____

PETITION TO ABANDON COUNTY ROAD

TO: THE BOARD OF COUNTY COMMISSIONERS, BROADWATER COUNTY, MONTANA

COME NOW the undersigned freeholders of the road district consisting of Broadwater County, Montana, in its entirety and petition this Board pursuant to Title 7, Chapter 14, Part 26 MCA, to abandon a county road or right-of-way ("road") located in Broadwater County, Montana and represent as follows:

(This information can be obtained on Montana Cadastral at <https://svc.mt.gov/msl/mtcadastral/>)

1. The description of the road or portion of the road to be abandoned in Section _____ Township ____ Range _____ is as follows:

2. The general route of the road or portion of the road to be abandoned is described as follows *(Attach a map(s) that shows the location of the road or portion of road to be abandoned and shows all property within a one (1) mile radius):*

3. The lands and owners affected by this abandonment *(include **printed** names and addresses of property owners which abut the road or portion of road to be abandoned or owner of private land to which the road gives access)* are as follow(s):

a. Landowner(s) Name: _____

Landowner Mailing Address: _____

Legal Description of Property in Section: _____ Township: _____ Range: _____

Signature(s) granting consent to the action proposed in this petition: _____

b. Landowner(s) Name: _____

Landowner Mailing Address: _____

Legal Description of Property in Section: _____ Township: _____ Range: _____

Signature(s) granting consent to the action proposed in this petition: _____

c. Landowner(s) Name: _____
Landowner Mailing Address: _____
Legal Description of Property in Section: _____ Township: _____ Range: _____

Signature(s) granting consent to the action proposed in this petition: _____

d. Landowner(s) Name: _____
Landowner Mailing Address: _____
Legal Description of Property in Section: _____ Township: _____ Range: _____

Signature(s) granting consent to the action proposed in this petition: _____

e. Landowner(s) Name: _____
Landowner Mailing Address: _____
Legal Description of Property in Section: _____ Township: _____ Range: _____

Signature(s) granting consent to the action proposed in this petition: _____

4. Do all the landowners who abut the road to be abandoned or owners of private land to which the road gives access listed in Section 3 above consent to the abandonment? _____

If no, list those landowners and their reasons for not consenting:

5. If an abutting landowner listed in Section 3 cannot be found to determine the landowner's consent, identify the landowner and state the efforts made to locate the landowner:

6. The necessity for and advantage of the abandonment is as follows:

7. Is the road providing access to public lands or waters? If yes, explain and provide location of public lands and waters on the attached map.

8. Does the road or portion of the road contain any utilities?

State of _____

County of _____

I swear that the information contained herein is correct and complete to the best of my knowledge.

Signature of Petition Gatherer

Signed and sworn to (or affirmed) before me on _____ by _____.

(Seal, if any) Signature of Notarial Officer: _____
Name (*typed, stamped or printed*): _____
Title and/or Rank: _____
Residing at: _____
My Commission Expires: _____

Dated this _____ day of _____, 20_____.

Signatures of Freeholders

The undersigned state that they are freeholders in the Broadwater County Road District and Petition to abandon the road set forth herein. If more than 10 freeholders sign, please use additional pages.

1.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

2.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

3.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

4.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

5.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

6.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

7.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

8.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

9.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone:

10.

Signature:	Address:
Printed Name:	City, State, Zip:
Date:	Phone: