

WASHINGTON COUNTY
COUNTY ROAD STANDARDS

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1. HISTORICAL OVERVIEW

In 1887 the County of Washington was established by action of the Colorado legislature. On November 23rd of that year, the Board of County Commissioners declared that all section lines within the County would be public highways. Later, on July 5, 1910 the Board of County Commissioners, utilizing both federal and state legislation, adopted a resolution reaffirming the earlier declaration and established a uniform County roadway system of 30 feet on either side of all section lines within the County. (Book 108 Page 38). Thus historically, all section lines within the County were intended by the early Boards to be considered County Roads and in fact the majority of roads within the County today are currently along section lines.

However, historically most roadways have never been formally dedicated to the County. The problem is compounded by the fact that roads existed before Washington County became a County and also the fact that the County was established from Arapahoe and Weld Counties and the County assumed control over those former County roads. (See attached Appendix A) In addition, based upon the 1910 resolution, which incorporated the federal land patent mandates, patents granted after that date, are subject to the 30-foot public road requirement, but not before. But other roadways built either before or after that date where no initial patent was granted are subject only to the Commissioner's resolutions that attempted to establish the roadway system. Absent a specific dedication by deed or other instrument, it can be assumed that the County only holds an easement for roadway purposes if in fact, a road was constructed.

In 1952 the Board adopted Resolution 1952-24 which for the second time reconfirmed the earlier section line authorization for public roadways although this Resolution dealt with placing cattle guards across public roads. Thus, in reviewing the records of the County, the historical development of the Washington County roadway system encompasses a combination of 1.) assuming control of roads that existed before the County; 2.) the declaration of section line public rights of way by Board action; 3.) the land patent grant of right of way; 4.) the specific dedication of right of way for roadway purposes by individuals; and 5.) a historical system no longer in use which reserved rights of way in a "Road Book" as determined by a County surveyor and maintained by the County Clerk and Recorder.

2. CURRENT OVERVIEW

Notwithstanding the aforementioned, there is statutory authority for the Board of County Commissioners to regulate, control, establish and vacate County roads. Under the basic powers of a Board of County Commissioners as set forth within C.R.S. 30-11-107(1)(h) the Board has the authority to “lay out, alter, or discontinue any road running into or through the County, and also to perform such other duties respecting roads as may be required by law.” In addition, under Title 43, Article 2, Parts 1 and 2 the County has the authority to create and administer the County roadway system. Other statutory authority exists for the condemnation of property for roadway purposes (C.R.S. 43-2-112), the vacation of roadways (C.R.S.43-2-301 et. seq.) and the maintenance of the roadway system by imposition of a mill levy (43-2-203).

It is the position of the Board of County Commissioners that these roadway standards as duly adopted by the Board will confirm the current primary and secondary roadway system within Washington County and set forth regulations in relation thereto for use throughout the County regardless of the historical development and / or acquisition of the roadway system.

Attached as Appendix B is the delineation of the current primary and secondary roads throughout the County as determined by the appointed Road Supervisors for each Road District and as approved by the Board. As of the date of adoption of these standards, this is the official roads map for Washington County and the Board hereby determines that all roads shown on these maps are County Roads over which the Board has complete control and which will be maintained for the benefit of the citizens of Washington County. All County rights-of-way regardless of how acquired, shall be considered to be sixty feet in width.

Further, the Board by adoption of these standards hereby declares that of this date, the County reaffirms its position since 1887 that a thirty foot right of way exists on either side of all section lines within the County. Thus even those sections which do not as of yet have roads constructed adjacent to them may in the future be made available to the traveling public if circumstances warrant. However, it is the policy of the Board not to condemn property for right of way purposes except for extraordinary purposes, so that if a new road is sought along a section line, the Board will only accept petitions for possible construction as outlined hereinafter in Section 9. This is done in the interests of preserving the rights of individual property owners of the County.

In relation to the aforementioned, due to the fact that section lines have been heretofore reserved as possible public rights-of-way, the Board hereby determines that no building permits will be issued for any dwelling or other structure which straddles a section line and future building permits applications issued by the County will be modified to require that all buildings shall be subject to a 75 foot setback from each and every section line.

3. ROAD DISTRICTS

Pursuant to C.R.S. 43-2-111(3), Washington County historically has elected to maintain three Road Districts. The boundaries of each District are the same as the Commissioner Districts and are attached hereto as Appendix C. Each District is administered by a Road Supervisor who is appointed for a one-year term by the Board of County Commissioners (C.R.S.43-2-111 (1)). Each Road Supervisor reports specifically to the Commissioner for that District and generally to the entire Board. Although the Board develops the road system policies, the actual implementation of Board directives is carried out by the Road Supervisors.

In addition to supervising the employees of each District, the Road Supervisors develop and present an annual budget for operations to the Board of County Commissioners. They also develop and maintain maintenance schedules for County roads.

4. DESIGNATION OF COUNTY ROADS BY CLASSIFICATION

a) Primary County Roads:

Pursuant to C.R.S. 43-2-109 the Board of County Commissioners “shall select the County primary system of roads on the basis of greatest general importance” and this system shall be designed to be “an integrated system”. Based upon this statutory requirement, the Board has designated the roadways colored in red in Appendix B as the primary road system within the County. These roads are considered the main County arterials that connect to state highways. In addition, they constitute major north-south and east-west corridors to traverse the County.

b) Secondary County Roads:

Pursuant to C.R.S. 43-2-110 all roads under the jurisdiction of the County that are not designated as primary county roads are considered secondary roads. These roads are generally those which service local residents and are not heavily traveled. They are considered feeder roads to the primary road system and in most cases do not generally extend more than a few miles. The Board has designated the secondary roadway system in blue on the map attached as Appendix B.

c) Minor Secondary County Roads:

Classified as part of the secondary road system, minor roads are still considered public roads within the County. These roads exist for the benefit of one or two County families and generally provide access to the road system from their property or agricultural operations. In many instances, these roads are simply flat bladed with no additional base other than site materials. Although, these roads generally dead-end at a residence some are utilized to traverse cross county. These roads are generally the width of the maintainer but may also be simply two tracks. They do not exceed 20 feet in width and are not maintained to overall County maintenance standards due to the limited use by the traveling public.

d) Maintenance of the County Roadway System:

The county has an affirmative duty to maintain the roadway system and levies a tax into a Road and Bridge Fund pursuant to C.R.S. 43-2-203 to provide funding in part for this purpose. The County also receives Highway Users Tax Fund monies and the Board has been successful in obtaining many federal and state grants for roadway purposes.

As stated above, the Road Supervisors, with the approval of the Board of County Commissioners, establish an annual maintenance schedule to preserve the County roadway system. It is the policy of the Board to maintain the primary system first and foremost, the secondary system is periodically maintained and the minor roads of the secondary system at least once per year. Depending on the number of road miles in each District and the varying road conditions based upon weather factors, road usage, etc. the Board attempts to provide consistent annual maintenance in each District. However it is impossible to guarantee specific maintenance at any time for a specific roadway problem because the County must maintain 2,344.7 miles of county roadways, thus the Road Supervisors must prioritize repair and maintenance schedules.

In conjunction with maintaining the primary roads first, the Board hereby declares that it is the policy of the County to provide snow removal in the same consistent manner. Thus primary roads will generally be plowed first and secondary roads next. The Board, using the management of the road supervisor, will endeavor to open school bus and mail routes as deemed necessary. Roads used frequently by emergency vehicles such as the Sheriff's Office and the Ambulance Service will be given priority. Due to the nature of possible heavy snowfall, secondary roads may not be plowed until the second day after a blizzard or heavy snowfall. However, the Board will attempt to open the primary system as soon as possible after snows have ended and the winds subside.

5. CONSTRUCTION STANDARDS

On March 19, 1990 at the regular meeting of the Board of County Commissioners, they determined that the traveled portions of all County primary and secondary roads should be at least 24 feet in width. The Board of County Commissioners continues to direct the Road Supervisors to meet this standard. Minor secondary roads, however, shall be a minimum of 20 feet.

The basic design criteria for all County roads within unincorporated Washington County are found at Appendix E. The travel lanes shall be 12 feet for primary, 11 feet for secondary, in width with a 1 foot clear zone on either side. The ditch banks as well as the opposite up slope, where applicable, will strive to have a 1:4 slope. A ditch bottom capable of carrying run off water will be allowed at the bottom of the 1:4 slope both from the road and the up slope. Both sides will have a 1:4 slope 4 feet in width. A minimum 2-foot level ditch shall be in place for drainage and the up slope on the other side shall also be a minimum 1:4 slope. County primary and secondary roads will be graveled with a minimum of 2 inches base materials and covered with ½ to 1 inch of gravel spread across the road. All roads shall be sloped a minimum of two percent from the centerline. Minor secondary County roads may or may not be graveled. All roads shall be sloped a minimum of two percent from the centerline. As with any design criteria, the minimum standards may be determined to be inappropriate or cannot be justified due to terrain and use characteristics. In those cases the Board may determine site-specific standards. The results of road construction will be measured at least one year after that construction.

Accesses to County roads are set forth in Section 8 hereinafter.

The angle of intersection for all County roads shall strive to be 90 degrees. The Board reserves the right to determine site specific angle standards where appropriate. Existing roads with intersection angles less than 90 degrees shall be maintained but no future roads will be built with lesser angles unless the Board determines that this standard is inappropriate or cannot be justified due to terrain characteristics.

All County roads are subject to a sight distance triangle and no obstructions, including crops, private signs, trees, etc. shall be allowed within the triangle. The basic standard for the sight distance triangle shall be the maintained County right of way to the section line. Therefore, assuming a 60-foot right of way and a minimum of 12 feet graveled portion of a roadway from either side of the section line, the sight distance shall be 48 feet from the edge of the graveled portion of the roadway on all sides. The Board hereby determines that it is necessary to maintain sight triangles due to the traffic hazards to the citizens of the County.

Finally, Washington County generally follows the published policies and standards set forth in the Colorado Division of Highways *Roadway Design Manual* and all future County roads will be constructed using the manual as a guideline. The Board hereby acknowledges the provisions of C.R.S. 43-2-114 for the County primary road system.

6. RIGHT OF WAY, ROAD CUT AND CROSSING PERMITS

On April 22, 2002 the Board of County Commissioners adopted Resolution 2002-47, which established regulations for the granting of road cut permits. The regulations were modified on February 11, 2003 by the approval of Resolution 2003-46. The permit format as presently in use and approved concurrently herewith is attached hereto as Appendix D. Any person, firm, entity or public utility who desires to either cross a County road or place cable, pipe, electrical lines, etc within a County road right of way shall be required to meet the standards as contained within the permit application.

It shall be the policy of the Board of County Commissioners that no natural gas pipelines be allowed to run parallel within the traveled portion of the right of way and preferably not within the boundaries of any County right of way. Due to the potential explosive nature of these pipelines, a potential threat exists for the residents of the County and thus the Board encourages natural gas pipelines to be placed upon private property adjacent to County Roads. The only exception will be perpendicular crossings for major pipelines or a crossing to serve a local commercial service or a residence. Under these circumstances, the Board will require assurances as to the depth of the line and additional appropriate signage to delineate the crossing.

7. SPECIAL TRANSPORT PERMITS

In the early 1990's Washington County developed special transport permits for utilization of County roads by drilling rigs and other vehicles and / or loads which exceed the load limits authorized by statute. The necessity and cost of the permits is based upon the degradation to County roads by such vehicles. The permits are bifurcated into one for drilling rigs and the other for all other purposes. They are attached hereto as Appendix F and G. The permits mandate that the applicant be financially responsible for any damages to the County roadways necessitated by the applicant's usage of the roadways. It is the opinion of the Board that this is required to lessen the burden on the taxpayers of Washington County in maintaining County roads.

8. ACCESS TO COUNTY ROADS

Pursuant to Colorado Revised Statutes 43-2-147, the Board of County Commissioners has the authority to regulate vehicular access to the County roadway system "from or to property adjoining the roadway in order to protect the public health safety and welfare, to maintain smooth traffic flow, to maintain right of way drainage, and to protect the functional level of county roads. The Board of County Commissioners does not construe this law to deny reasonable access to the county road system. However, in order to protect the users of the system, the Board is of the opinion that access has to be regulated.

Generally, accesses to newly created parcels are created at the time of the approval of the subdivision exemption or the use by special review. As part of the planning process, applicants are required to show proposed access at the time of plan submission. Unless otherwise stated by the Board at time of approval, the access shown is deemed approved. The applicant shall be responsible for the installation of appropriate culverts and notification and consultation with the Road Supervisor is required to assure proper roadway drainage at the point of access.

If access is sought outside of the planning process, individuals must obtain an access permit from the County. A copy of the permit is attached hereto as Appendix H. The access permit requirement is to assure that access points are not closer than 100 feet from a County road intersection so that access does not interfere with the sight triangle distance, so that the appropriate County Road Supervisor may inspect the roadway to determine if culverts are necessary, and so that the access does not degrade the adjacent County roadway. Only one access is generally allowed to any parcel under 10 acres. Failure to receive an approved permit may result in the relocation of the access to the property and / or financial responsibility for roadway damage.

9. CONSTRUCTION OF NEW COUNTY ROADS

a) Petitions:

Although the Board of County Commissioners has the authority to condemn land for roadway purposes (C.R.S. 43-2-112) as stated in Part 2, the Board has determined not to undertake such action except in extraordinary circumstances. Such circumstances will be determined on a case-by-case basis. Therefore, if citizens desire the construction of a roadway, where one does not currently exist, the party shall petition the Board in writing for the construction of a roadway. The petition shall demonstrate contact with other affect property owners. Upon presentation of the petition to the Board, they shall consider the request and may schedule a public hearing on the matter.

b) Dedication:

If the Board decides that circumstances warrant the construction of a road, they shall require the dedication of the right of way which shall be given without remuneration to the landowners.

c) Acceptance:

Once the dedications are made to the County for roadway purposes, the Board shall adopt a formal resolution accepting the dedication. It is only then that the County will undertake construction of the proposed road and at that time shall designate such roadway as either part of the primary road system or the secondary road system.

The aforementioned process shall be applicable only to section line roads, where additional roads may benefit the traveling public. If any individual seeks to establish a County road for servicing a residence, commercial activity, ranch or farm operation and that road generally will traverse within a parcel with a terminus to a specific location, that landowner must also petition the Board. However, under these circumstances, not only will dedication and acceptance be required by the County, but also the cost of construction must be borne by the individual requesting the proposed roadway.

10. NEW COUNTY ROADS IN RELATING TO SUBDIVISION APPROVALS

As part of the subdivision process, new development applicants may request the construction of interior County roads to service the subdivision. In that case, the County shall provide cost estimates for the construction of the proposed roadways pursuant to C.R.S. 30-28-133 (3)(c) (VII) and shall require that said costs be reimbursed for the actual construction, or that appropriate security exists if the developer desires that a private contractor construct the roadways. All such roads shall be constructed to County standards as set forth hereinabove for County primary roads with appropriate drainage and culvert considerations.

In conjunction with approval of the subdivision, the plat shall dedicate the roadways to the County with appropriate language as determined by the Board. Once approved and remuneration made to the county, the roads will be constructed. A developer may phase the road construction with individual lot sales as may be determined by the Board.

Any subdivision which seeks interior private roads shall be allowed so long as a note is added to the plat which states that the roads are private and shall be solely maintained by the developer. In the cases where developers determine to construct private roadways, the Board will refer the application to the appropriate fire department and they shall have the right to comment on the proposed roadways. No design will be approved unless and until the fire department determines that the system is adequate to protect the health, safety and welfare of the persons who will reside or otherwise utilize the proposed property.

11. VACATION OF EXISTING COUNTY ROADS

Pursuant to C.R.S. 43-2-301 et. seq. the Board of County Commissioners has the authority to vacate roadways within unincorporated Washington County. The process for vacation of a County Road is as follows.

By Petition:

If an individual or a group of individuals desire to close an existing County road, they may petition the Board. The petition process is the same as that for proposed roads. Primary County roads will generally not be vacated if they are major north-south or east-west roadways as shown in Appendix B. The Board will schedule a public hearing on the proposed vacation and may post the roadway to provide notice to the traveling public of the Board's receipt of a vacation petition. At the close of the public hearing, if the Board determines to vacate the road, they will adopt a resolution to that effect.

By Board Initiative:

If the Board determines that it is in the public health, safety and welfare interest to vacate a County road, pursuant to C.R.S. 43-2-303 (2) (b), they shall mail a notice to any property owner who owns more than one acre along the proposed vacation, advising them of the proposed action of the Board which will be considered at a public hearing to be held at least 10 days from the date of mailing. The Board may also post the roadway to provide notice to the traveling public advising them of the proposed vacation. At the close of the public hearing, if the Board determines to vacate the road, they will adopt a resolution to that effect.

Once the Board adopts a resolution authorizing the vacation of any roadway, the vacated portion will generally return to the ownership of the adjacent property owners in equal shares. There are some exceptions to this methodology, and they are found at C.R.S. 43-2-302 and the Board is mandated by this statute to follow the procedures set forth therein.

12. COUNTY ROAD MAINTENANCE COMPLAINTS

The Board hereby determines that all complaints regarding roadway conditions or maintenance should be directed to their attention. The complaint needs to be specific enough so that the Board can identify the roadway problem and which County roads it concerns. Complaints should be documented with a date and signature. Upon receipt of a complaint, the appropriate road supervisor will be notified and the complaint forwarded to them for resolution. They will also be requested to contact the person or persons who filed the complaint, and outline a proposed course of action to address the matter. In the event that corrective action cannot be undertaken and / or after discussing the matter with the complainant, the issue cannot be resolved, the Board will schedule a meeting during their regular Board meeting time with both the road supervisor and the complainant(s) to discuss the problem. Any decision reached by the Board at the conclusion of the meeting will be final.

13. FENCES ALONG COUNTY RIGHTS OF WAY

The Board of County Commissioners respects the integrity of fencing one's property for various reasons. Nevertheless, permanent fences along County right of way should be set back thirty feet from either side of the centerline of each section, when abutting a primary or secondary County Road. Permanent is defined as a fence in place for 12 months or more. Historically, where fences have encroached upon the County rights of way along Primary and Secondary Roads, the County has not required relocation but reserves the right to require same in the event the Board determines to improve the roadway for the traveling public. In addition, if the sight distance triangle is less than 42 feet from the center of any intersection of two County roads, as set forth in Section 2 supra, the Board may require relocation of fences in order to protect the traveling public and the citizens of Washington County.

Where no County Road currently exists, fences may be built upon the section line. However, the Board reserves the right to claim a section line right of way as set forth within the historical overview (Section One) of these Standards which dates back to 1887. Since the Board will generally only construct new section line roads upon presentation of a Petition as set forth in Section 9 supra; under these circumstances, the owners requesting a new Roadway will be required to meet the thirty foot setback on either side of the section line, and voluntarily relocate their fences.

In relation to Minor Secondary County Roads, many landowners have built fences that encroach within the County right of way or in some cases one landowner has the entire public right of way upon their property. Since the nature of the minor road system is to benefit one or two families, the Board historically has not intervened to require road relocations to the center of the section line or to require fence relocations to meet the thirty-foot setback from the center of the section line.

In the event of a dispute between landowners regarding a minor County secondary road and the placement of fences within the 60-foot County reserved right of way, the Board determines to adopt the following dispute resolution procedure.

1. Any landowner aggrieved by an adjacent landowner's conduct in relation to a minor secondary road issue, shall provide written notice to the Board of County Commissioners that a dispute exists and efforts to resolve the dispute have been unsuccessful.

2. The Board shall contact all owners of property adjacent to the affected right of way and shall conduct a public hearing to determine the issues surrounding the dispute. The hearing will be held after posting notice of the hearing date and time upon the affected right of way.

3. At the hearing the parties and members of the public will be allowed to participate and present evidence in relation to their concerns to the Board. Credible survey evidence must be produced by either party at said hearing so as to delineate the actual section line. Depending upon the testimony and evidence presented at the hearing the Board may take one or more of the following actions.

- a. The Board may require relocation of existing fences of both parties to meet the 30-foot setback on either side of the section line.
- b. The Board may rebuild the road on the centerline of the section.
- c. The Board may assess the costs of rebuilding the road to the parties who desire the reconstruction.
- d. The Board may close the Road and vacate the right of way.
- e. Or the Board may take no formal action, which effectively preserves the status quo. Preserving the status quo does not inhibit the rights of the parties to a private civil action for enforcement of their rights.

4. All actions taken by the Board shall be done by adoption of a Resolution which shall be the final action of the Board. In the event that the Board determines to reconstruct the road and the landowner(s) assessed the costs of the reconstruction are unwilling to pay same, the Board shall not be obligated to proceed with reconstruction. In the event that the Board reconstructs the roadway and upgrades the minor secondary road to a primary or secondary roadway, any fences not removed from within the 60 foot reserved right of way shall be treated as an obstruction within the County right of way pursuant to Section 14 of these standards.

14. OBSTRUCTIONS UPON OR WITHIN COUNTY RIGHTS OF WAY INCLUDING FLOWS FROM SPRINKLER SYSTEMS

Pursuant to Colorado Revised Statutes 43-5-301, it is a misdemeanor to place or erect any fence, house or other structure, or dig pits or holes in or upon any County road, or place thereon or caused to be placed thereon any stones, timber, or trees or any obstruction whatsoever. In addition, this statute allows the Board of County Commissioners to file a civil action for the removal of any obstruction. It is the policy of the Board to seek voluntary compliance for the removal of any obstructions within the County's right of way, and not seek criminal prosecution, except for the dumping of animal carcasses, building materials, toxic wastes, sludge or garbage.

In the event that a violation of the aforementioned statute exists and either through citizen complaints or observation by the District Road Supervisors or otherwise the Board becomes aware of an obstruction, the Board shall provide written notice to the landowner that remedial action is necessary to remove the obstruction. Failure to undertake remedial action shall result in the County filing a civil action to compel the removal.

Agricultural crops, which are planted within County right of way, are not exempt from this section, if they constitute a threat to the traveling public. In the opinion of the Board such a threat exists if the crops exceed three feet in height. It is the determination of the Board that the small amount of additional economic gain by planting within the right of way is not worth the life of any resident of the County who cannot safely traverse an intersection due to impaired visibility caused by planting within the County right of way which in some cases is to the graveled or traveled portion of the road.

When the Board becomes aware of a growing crop situation which obstructs visibility at County road intersections and interferes with the established sight distance triangle as set forth hereinabove, the landowner shall be notified in writing and advised of the danger in allowing said situation to continue. As stated above, the Board desires to seek voluntary compliance from property owners because safe roads benefit all of the citizens of Washington County. However, due to the danger that arises from failure to timely remove the crops and after reasonable notice to the landowner, the County may so remove them immediately and then seek judicial relief to enjoin any future violations or any reoccurrence of plantings within the County right of way.

Colorado Revised Statutes 43-5-303 states that no person shall willfully or negligently cause or allow water to flow, fall or sprinkle from any ditch, pond drain, flume or agricultural crop sprinkler on any County road so as to damage said road or create a hazard to vehicular traffic. Violation of this statute is a misdemeanor and the Board has no ability to seek alternative civil remedies to prevent continued damage to County roads. Landowners whose sprinkler systems are overflowing upon County roads and causing a deterioration of same will be notified in writing and requested to institute preventative measures or install available devices upon the end gun so as to prevent further discharges upon a County road. Failure to take corrective or remedial action by the landowner will result in the Board requesting that charges be filed to stop further discharges upon County roads, which create a danger to the traveling public.