RESOLUTION NO. 13-2020

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

Whereas, Jefferson County has in place Policies and Procedures to Establish, Change, Abandon, or Discontinue a Road in Jefferson County; and,

Whereas, the current version of Policies and Procedures to Establish, Change, Abandon, or Discontinue a Road in Jefferson County was adopted on April 6, 1983 and has not been revised since its adoption; and,

Whereas, Mont. Code Ann. §§ 7-14-2601 through 2617 set forth 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; and,

Whereas, the updated version of the Procedure for the Establishment, Alteration, or Abandonment of a County Road Right-of-Way is not intended to supplant or abrogate Montana law and is intended only to assist individuals who wish to undertake the process to petition for the establishment, alteration, or abandonment of a county road right-of-way. In the case of a discrepancy between this procedure and Montana law, Montana law shall control; and,

Whereas, the Jefferson County Commission has determined adoption of the updated version of the Procedure for the Establishment, Alteration, or Abandonment of a County Road Right-of-Way will better serve individuals seeking to establish, alter, or abandon a county road right-of-way by providing updated information which is in accord with changes to Montana law.

ACCORDINGLY, IT IS RESOLVED, Resolution No. 13-2020, and the revised

Procedure for the Establishment, Alteration, or Abandonment of a County Road Right-of-Way is hereby approved and adopted. A copy of the Procedure for the Establishment, Alteration, or Abandonment of a County Road Right-of-Way is appended to this resolution.

IT IS FURTHER RESOLVED, Resolution No. 13-2020 shall supercede any prior Resolutions related to the establishment, alteration, or abandonment of county road right-of-ways in Jefferson County.

Dated this 24th day of March, 2020.

Jefferson County Commission

Leonard Wortman

Leonard Wortman
Chair

Bob Mullen

Bob Mullen
Commissioner

Cory Kirsch

Cory Kirsch
Commissioner

Attest:

Bonnie Ramey

Bonnie Ramey
Jefferson County Clerk and Recorder

JEFFERSON COUNTY OFFICIAL SEAL STATE OF MONTANA

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 Jefferson County provides is not required; however, using this document will help assist the petitioner in complying with the statutory requirements. If the petitioner meets the statutory requirements, the petition will be considered legal and acceptable.

For the purposes of a petition, the following definitions shall apply:

- Establishment means the creation of a new public road right-of-way.
- Alteration means to change, move, or relocate the right-of-way easement
- Abandonment means to end the use of the right-of-way easement with no intention to reclaim or use again. This is also sometimes called a vacation.

Jefferson 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 right-of-way:

1. The petition requires signatures of a minimum of 10 (ten) freeholders (landowners) of the Jefferson County road district. Since Jefferson County is a single road district, the freeholders may own an interest in land anywhere in the County.

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; and
   f. the necessity for and advantage of the petitioned action.

3. It is recommended that the petitioner(s) work with the Jefferson County Planning Department to create the petition and have the Clerk & Recorders Office review and verify the petition for accuracy and completeness prior to collecting signatures. This process helps 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 road or right-of-way that provides access to a federal patented mining claim or that provides existing legal access to public land or waters, including access for public recreational use unless another public road or right-of-way provides substantially the same access. 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 landowners 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 processing fee, to the Jefferson County Clerk and Recorders Office who will process and verify the contents of the petition. The required fee helps cover the costs of administration and public noticing requirements associated with processing the petition.

6. The Board of County Commissioners will hold a public hearing within 30 days of receiving 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 appoint road viewers and arrange for an on-site investigation of the area affected by the petition. Road viewers shall consist of one County Commissioners and the County Surveyor. They 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 make a decision regarding the petition request.

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

10. The County Attorney will prepare any deeds that are necessary to transfer the County's interest to adjacent property owners if a right-of-way is being altered or abandoned. <u>If a survey is necessary, the petitioners will be responsible for covering all surveying costs associated with the request and for covering any recording fees for the survey or any other documents.</u>

11. If the County Commission votes to close a road, but does not abandon or vacate the county right-of-way, the Commission minutes shall clearly reflect the action only closed the road, and additional Commission action is required to abandon or vacate the right-of-way.

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

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

This is a petition brought forth 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 Jefferson County.

Road Information:

Name of road or general description: _____

_____

Road under consideration is located in: Section _____, T _____ N, R _____ W; and *(if applicable)* in Section _____, T _____ N, R _____ W

Beginning at (from): _____

Ending at (to): _____

□ **A map or diagram that illustrates the proposed action is attached and is incorporated herein by reference.**

Petitioners List:

The petition must be accompanied by the signatures from a minimum of ten (10) Jefferson County freeholders (landowners). While only ten (10) signatures are required for the petition, it is beneficial to include additional signatures to avoid any delay from any difficulty verifying signatures. Section A contains a form that may be used to gather the list of required signatures.

□ **Section A form or a list is attached containing the signatures of at least ten (10) Jefferson County freeholders (landowners).**

Action Requested:

The County Commissioners are being petitioned to take the following action *(check 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):

_____
_____
_____
_____
_____

Consent from Affected Landowners:

Jefferson 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 landowners must be listed and sign. Section B contains a form that may be used to gather the required signatures. Additional signature pages may be included if necessary.

□ **Section B form or a list is attached containing the signatures of all benefitted landowners and if they consent to the abandonment.**

Federal Patented Mining Claims, Public Access, Utilities:

Is the road providing access to federal patented mining claims? _____

If yes, explain and provide the location of federal patented mining claims on the attached map.

_____
_____
_____
_____
_____
_____

Is the road providing access to public lands or waters? _____

If yes, explain and provide the location of public lands and waters on the attached map.

_____
_____
_____
_____
_____
_____

Does the road or portion of the road contain any utilities? _____
If yes, list the utilities present below and the local service providers. Provide the approximate location of utilities on the attached map.

_____
_____
_____
_____

Survey Requirements:
Is a legal survey needed? _____
If a survey is necessary, petitioners will be responsible for covering all surveying costs associated with this request and any fees associated with recording the survey and accompanying documents.

Contact Information & Processing Fee:
If there are questions regarding the petition and associated information, the following person(s) will serve as the contact(s) for the petition:

Name: _____
Mailing Address: _____
Email Address: _____
Phone Number: _____

Name: _____
Mailing Address: _____
Email Address: _____
Phone Number: _____

□ **A check is attached to cover the $300.00 processing fee for the petition request.**

THE FOLLOWING SECTION IS FOR COUNTY USE:

□ **$300 processing fee received:** Check No./Submitter _____
Clerk: _____ Date: _____

□ **Signature Verification:**
□ All signatures have been verified
□ The following signatures cannot be verified: _____
_____
Clerk: _____ Date: _____

□ **Descriptions and Exhibits:**
□ Approved: The descriptions of the road and exhibits have been reviewed and approved for adequacy and accuracy.
□ Deficient: A letter has been sent regarding the deficiencies that must be addressed.
Clerk: _____ Date: _____

□ **Documents Needed to Finalize Action:**
□ Deeds are required and have been prepared by the County Attorney
□ A survey must be completed and submitted by adjacent landowners
□ Documents and recording fees have been submitted
Clerk: _____ Date: _____

SECTION A

JEFFERSON COUNTY FREEHOLDER (LANDOWNERS) WHO WISH TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

PRINTED NAME	SIGNATURE	PROPERTY ADDRESS *or* LEGAL DESCRIPTION

SECTION B

JEFFERSON COUNTY FREEHOLDERS (LANDOWNERS) ABUTTING AND/OR AFFECTED BY THE PETITIONED ROADWAY

(ATTACH ADDITIONAL SHEETS IF NECESSARY)

PRINTED NAME	SIGNATURE	PROPERTY ADDRESS *or* LEGAL DESCRIPTION	CONSENT	
			YES	NO