

REQUIREMENTS FOR OPENING/VACATE A SECTION LINE

1. Must complete the petition to open/vacate a road. Petition can be picked up in the Board of County Commissioners Office, 115 E. Carl Albert Pkwy, Room 100, McAlester, OK 74501, or found online at pittsburg.okcounties.org.

Petition must be signed by at least 12 property owners located within the area of the section line requested open/vacated.

2. Petition must be brought before the Board of County Commissioners during a regular meeting. Petition is placed on the Board's agenda and must be turned into the Board of County Commissioners Office no later than 5:00 the Thursday before the meeting. Meetings are held every Monday morning at 9:00 a.m. Board of County Commissioners will vote to either approve or deny the petition.

3. If denied - no further action is required.
If approved - the Board of County Commissioners will request that a Public Hearing be held. The Board will approve a "Notice of Public Hearing" where the hearing date will be set for no less than 25 days from the date the "Notice" is approved. The County Clerk is required to send notice to any and all property owners who may be affected by the opening/vacating.

Note: State law required 21 days before the hearing can be held, 4 days are added to ensure notification from the McAlester News Capital, that the newspaper has received the request for publishing and that the "Notice" is published within the 21 days required by State Law.

NOTE: Publication costs and Certified Mail costs to notify landowners are the responsibility of the petitioner and must be paid to the County Clerk on the date of the public hearing. Commissioners will not render a decision until publication costs and reimbursement for Certified Mailings are paid.

4. Once the public hearing is held the Board of County Commissioners will approve or deny the petitioner's request and a resolution to open/vacate the road will be placed on the next week's agenda.
5. Once the road is opened, it is the petitioner's responsibility to have the section line surveyed by a licensed surveyor. A copy of the surveyor must be supplied to the Board of County Commissioners.
6. The petitioner is responsible for having the road built at his/her own expense. If the petitioner is requesting that the road be maintained by the County, the road must be built to county specifications.
7. The petitioner is responsible to replace any existing fences along the section line and if fences do not exist the petitioner is required to place fences on both sides of right-of-way.

PLEASE NOTE: Once a section line is open, it is opened to the public. Gates and cattle guards are strictly prohibited.

§69-646. Condemnation procedures – Indian or federal lands.

A. The board of county commissioners may open, establish, reserve or condemn roads on section lines and may vacate, alter, widen, change or lay out other new roads according to the following procedure:

1. A proposal for action to vacate, alter, widen, change or locate a road shall be upon a petition to the board of county commissioners signed by at least twelve freeholders residing in the vicinity of the road affected or by resolution of the board of county commissioners;

2. The petition shall state the proposed action and clearly show on a map of the area the location and terminals of the road. If the petition is in proper form, the board of county commissioners shall promptly investigate the proposal to determine if the petition has merit;

3. The board of county commissioners may conclude, upon investigation, that action concerning the road is unnecessary and impractical and deny the petition. Should the board determine that the petition has merit, the board shall set the date of the hearing and provide notice as prescribed by this section;

4. At such time it is determined that the petition has merit, the board of county commissioners shall set a hearing date. The county clerk shall then notify those landowners whose property is immediately affected by the road, in such a way that the road may cross their property, abut to their property, or in some manner provide ingress or egress to their property. The notice shall be given by regular mail at least twenty-one days (21) prior to the hearing date;

5. Legal notice to the public shall be given by advertisement in a newspaper of general circulation in the county setting forth the facts and the date when the hearing will be held and the petition acted upon. The notice shall be published once per week for three (3) consecutive weeks at least twenty-one (21) days prior to the hearing date. A record of all such procedures shall be made by the county clerk;

B. In a petition proposing that a road be altered, widened, changed or located where the owners of the land to be taken agree in writing to the property location or changes by providing an easement to the county for such purpose, or donate the land required, the board of county commissioners shall then cause to be prepared a cost estimate for the proposed project. The cost estimate shall include the cost to survey the road or the proposed changes. If the estimated cost is reasonable and the road or the proposed changes serve the general public by providing a better route safer, the board of county commissioners may order and establish the road as a county highway, or order the proposed changes to be made and make the appropriate record thereof. However, no work shall be performed until a survey is completed and easements are secured. If the board determines that the expense cannot be justified in whole or in part, the board may order the petitioners must bear the responsibility to adequately fund the proposed action in whole or in part. If easements are not granted freely, the easements shall be obtained in the manner provided by law and shall be considered in the cost estimate of the proposed action.

C. In a petition proposing that a road be vacated, the board of county commissioners shall, upon receiving the petition, attest that according to their records the road in question is within their jurisdiction and is considered to be open for use by the general public, through grant or ownership, by easement or dedication, by adverse possession, or by open and notorious use, regardless of the frequency of maintenance or lack thereof. In considering the proposal to vacate the road, the board shall hear testimony provided by the petitioners and others who may testify at the hearing as to whether the road shall be vacated. Upon a decision by the board to vacate the road, the boards shall issue an order to void any easement pertaining to the road, if such easement exists, and require that the road be closed, obstructed or vacated in any manner except as provided by this section. Every person who shall close, obstruct or attempt to vacate a road in a manner

other that set forth in this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). In addition, such person shall be liable for the cost incurred by the county to remove, repair or otherwise return the road to open travel by the public. Nothing in this section shall prohibit the temporary closing of any road by law enforcement or emergency personnel in the performance of their official duty, public utilities with regard to routine maintenance and construction or other such entities as authorized by the board of county commissioners.

9. Wherever in those counties the amount of Indian lands or those exempt from taxation by reason of the operation of any federal law is thirty percent (30%) or more of the total area of the county, then the board of county commissioners may, upon its own initiative, and if the public interests demands it, move to secure roads over, adjacent to, or for the benefit of all such exempted lands as set forth in the subsection. The board shall call upon the Director of the Oklahoma Department of Transportation as a disinterested part to undertake and make such surveys, plans and estimates and obtain all other essential data and records as are required to make a full and complete statement and report upon the interest involved, and to make such recommendations as in the premises may be proper. When so prepared, the Department of Transportation shall then advance the matter to the Department of the Interior of the United States, or to any other federal department concerned, through its proper local representative, if there be one, with the request that the matter be considered and disposed of as speedily as possible. If the project be so approved and authorized, then the work may proceed under the special supervision and direct administration of the Department of Transportation and subject to such special regulations as the circumstances seem to require.

Added by Laws 1968, c. 415, § 646, operative July 1, 1968. Amended by Laws 2000, c. 230, § 1, eff. Nov. 1, 2000; Laws 2004, c. 412, § 17, emerg. Eff. June 3, 2004.

**BOARD OF COUNTY COMMISSIONERS
PITTSBURG COUNTY, STATE OF OKLAHOMA**

PETITION

COMES NOW, the undersigned, all being free holders residing in Pittsburg County, State of Oklahoma and residing within the area of the requested relief, hereby Petition to the Board of County Commissioners for Pittsburg County, for the following relief:

1. This Petition is made pursuant to 69 Okla. State Ann. §646(A)(1 - 5) et seq.
2. That this Petition is requesting that the Board of County Commissioners to establish and open/close a public road along the _____ of the section line road separating Sections _____ and _____, Township _____ North, Range _____ East.
3. That there is presently a county road that traverses down the _____ of the section line separating Sections _____ and _____, Township _____ North, Range _____ East.
4. In support of which your petitioners represent and show that there is (is not) a public necessity for such road, and that the undersigned constitute resident freeholders of said Township _____ North, Range _____ East, Pittsburg County, Oklahoma.

WHEREFORE, premises considered, the petitioners hereby pray this Honorable Board of County Commissioners accept this Petition and open/close the section line road as set forth in this Petition.

Dated this _____ day of _____, 20 _____.

Property Owner:

Description of Property Owned:

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