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PROCEDURE FOR ALTERING OR VACATING PUBLIC ROADS

INFORMATION COMPILED FROM
OHIO REVISED CODE CHAPTER 5553

Relevant Ohio Revised Code (ORC) Sections

5553.01 Improvement defined.

As used in sections [5553.02](#) to [5553.16](#), inclusive, of the Revised Code, "improvement" means any location, establishment, alteration, widening, straightening, vacation, or change in the direction of a public road, or part thereof, as determined upon by a board of county commissioners or joint board of county commissioners by resolution.

Effective Date: 01-01-1966 .

5553.02 Authority of board of county commissioners to locate, alter, or vacate roads.

The board of county commissioners may locate, establish, alter, widen, straighten, vacate, or change the direction of roads as provided in sections [5553.03](#) to [5553.16](#) of the Revised Code. This power extends to all roads within the county, except that as to roads on the state highway system the approval of the director of transportation shall be had. However, no public road shall be located or established, by the board of county commissioners, unless the location or establishment begins on a public road and terminates on a public road, or begins on a public road and services a public park, a state supported educational institution, public school, public aviation area, or a public recreation rear, or begins on a public road and services at least three private residences or business in the first five hundred feet and one private residence or business in each two hundred feet thereafter.

Effective Date: 09-28-1973 .

5553.03 Width of county roads.

(A) Except as provided in division (B) of this section, all public roads located and established by the board of county commissioners subsequent to September 6, 1915, shall be of such width, not less than thirty feet, as is determined by the board. If a public road is established upon a county or state line, the board may determine the width of the strip of land in the county to be used for such purposes, but such width shall not be less than fifteen feet.

(B) The board of county commissioners may locate and establish public roads that are less than thirty but not less than twenty feet in width, when all of the following conditions are met:

(1) The roads have been in continuous existence and use as private roads since at least 1952, and are located in land platted as a subdivision outside of the limits of a municipal corporation;

(2) It is proved to the satisfaction of the board that the acquisition of additional land necessary to meet the width otherwise applying under division (A) of this section will involve or result in damage to structures or dwellings adjacent to the roads;

(3) The county engineer submits to the board a detailed report on the kinds and amount of traffic using the roads, and showing that the lesser width is adequate to serve anticipated traffic volumes without endangering persons using the roads.

Effective Date: 02-24-1986 .

5553.04 Procedure for establishing, altering, or vacating road - petition.

When the board of county commissioners is of the opinion that it will be for the public convenience or welfare to locate, establish, alter, widen, straighten, vacate, or change the direction of a public road, it shall so declare by resolution, which resolution shall set forth the general route and termini of the road, or part of the road, to be located, established, or vacated, or the general manner in which the road is to be altered, widened, or straightened, or the direction of the road is to be changed.

When a petition, signed by at least twelve freeholders of the county residing in the vicinity of the proposed improvement, or signed by the owner of the right to mine coal lying under or adjacent to the proposed improvement, is presented to the board requesting the board to locate, establish, alter, widen, straighten, vacate, or change the direction of a public road, the board shall view the location of the proposed improvement, and, if it is of the opinion that it will be for the public convenience or welfare to make the improvement, it may proceed to make the improvement as provided in sections 5553.04 to [5553.16](#) of the Revised Code. The petition shall set forth the general route and termini of the road, or part of the road, to be located, established, or vacated, or the general manner in which the road is to be altered, widened, or straightened, or the direction of the road is to be changed. When the board declares by resolution its intention to proceed with the improvement, it also may provide in the resolution for the establishment of an appropriate detour route or for the temporary closing of the road to be improved. When the petition presented to the board for a proposed improvement as provided in this section is a petition signed by the owner of the right to mine coal lying under or adjacent to the proposed improvement, that petitioner shall pay the costs and expenses incurred by the board in connection with the proceedings initiated by the petition, and the costs and expenses of making the improvement including compensation and damages, and including the cost of relocation of any conduits, cables, wires, towers, poles, or other equipment or appliances of any public utility or electric cooperative as defined in section [4928.01](#) of the Revised Code, located on, over, or under the portion of the road affected by the improvement, and, on demand by the board, shall give bond to the satisfaction of the board in the amount the board determines to secure the payment of all of those costs and expenses.

Effective Date: 01-01-1966; 06-10-2004 .

5553.041 Procedure for establishing, altering, or vacating road - petition by director of transportation.

When in the construction or improvement of a state highway, in the opinion of the director of transportation, it is in the public interest to vacate or close a public highway or any portion thereof under the jurisdiction of the county commissioners, said director may petition the county commissioners to vacate or close such highway in the same manner the freeholders may petition under sections [5553.04](#) to [5553.11](#) of the Revised Code.

The county commissioners shall act upon said petition within thirty days and in the event they refuse to vacate or close said highways as requested shall show such action by a proper resolution. The director or an owner of property abutting on the portion of the highway to be vacated or closed may within thirty days appeal to the court of common pleas of the county in which such highway is located upon the reasonableness of the action of the commissioners and the court may affirm or revoke the action of the commissioners and may direct the commissioners to proceed with said vacation or closing as petitioned for. At said hearing before said common pleas court evidence may be introduced for or against the reasonableness and necessity for said requested vacation or closing. The decision of the common pleas court may be appealed to the court of appeals and the supreme court as in other cases.

When the vacation or closing is approved in accordance with the above procedure, the compensation and damages, if any, due any property owners abutting the portion of the highway to be vacated or closed shall be paid by the director as part of the costs of acquiring the right-of-way for the state highway improvement and

pursuant to procedures provided by law relating to the director. Such payment by the director shall be in lieu of any payment required to be paid by the county under sections [5553.10](#) and [5553.11](#) of the Revised Code.

Effective Date: 09-28-1973 .

5553.042 Losing right to abandoned, unused township road.

(A) As used in this section:

- (1) "Electric cooperative" has the same meaning as in section [4928.01](#) of the Revised Code.
- (2) "Service facilities" includes any conduit, cable, wire, tower, pole, or other equipment or appliance of a public utility or electric cooperative.

(B) A township shall lose all rights in and to any public road, highway, street, or alley which has been abandoned and not used for a period of twenty-one years, after formal proceedings for vacation as provided in sections [5553.04](#) to [5553.11](#) of the Revised Code have been taken. Upon petition for vacation of such a public road, highway, street, or alley filed with the board of county commissioners by any abutting landowner, if the board finds that the public road, highway, street, or alley has been abandoned and not used for a period of twenty-one years as alleged in the petition, the board , by resolution, may order the road, highway, street, or alley vacated, and the road, highway, street, or alley shall pass, in fee, to the abutting landowners , as provided by law, and subject to all of the following:

- (1) Any existing right of way in, over, or under the road, highway, street, or alley for the service facilities of any public utility or electric cooperative for as long as the public utility or electric cooperative continues to render service to the public ;
- (2) The right of ingress and egress for a public utility or electric cooperative to service and maintain its service facilities as provided under section [5553.043](#) of the Revised Code;
- (3) The right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the right of way that may affect the operation, use, or access to service facilities;
- (4) Any right of way for public nonmotorized vehicular recreational use as provided under section [5553.044](#) of the Revised Code.

Effective Date: 10-20-1972; 06-10-2004 .

5553.043 Railroad or public utility company deemed to have permanent easement in vacated portion of road.

When any street, highway, or road, or a portion of any street, highway, or road, is vacated pursuant to any section of this chapter or Chapter 5571. of the Revised Code, and the relocation of any conduits, cables, wires, towers, poles, sewer lines, steam lines, pipelines, gas and water lines, tracks, or other equipment or appliances of any electric cooperative, railroad, or public utility, whether owned privately or by any governmental authority, located on, over, or under the portion of the street, highway, or road affected by the vacation, are not required for purposes of the vacating authority, any affected electric cooperative, railroad, or public utility company shall be deemed to have a permanent easement in the vacated portion of the street, highway, or road for the purpose of accessing, maintaining, operating, renewing, reconstructing, and removing those utility facilities . The permanent

easement also confers a right of ingress and egress to service and maintain those utility facilities and a right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the permanent easement that may affect the operation, use, or access to those utility facilities.

Nothing in this section shall be construed to relieve an owner of the right to mine coal who petitions for a proposed improvement from the obligation to pay the relocation costs and expenses of public utility or electric cooperative facilities as provided in this chapter or Chapter 5571. of the Revised Code.

As used in this section, "electric cooperative" has the same meaning as in section [4928.01](#) of the Revised Code.

Effective Date: 10-16-1961; 06-10-2004 .

5553.044 Roads for public nonmotorized vehicular recreational use.

In any proceeding on a petition or resolution to vacate a road which begins on a public road and ends on a public road, the board of county commissioners may determine the suitability of the road for public nonmotorized vehicular recreational use. Such uses include, but are not limited to, hiking, bicycling, horseback riding, and ski touring. They do not include use by motorcycles, snowmobiles, all purpose vehicles, or any other form of motorized vehicle. If the board finds that such uses will not unreasonably interfere with current land uses along the road, it may vacate the road subject to the preservation of a public right of way at least thirty feet wide within such roadway for such uses.

Effective Date: 10-20-1972 .

5553.05 Hearing on petition for vacation of road.

(A) In the resolution required by section [5553.04](#) of the Revised Code, the board of county commissioners shall fix a date when it will view the proposed improvement, and also a date for a final hearing thereon.

The board shall give notice of the time and place for both such view and hearing by publication once a week for two consecutive weeks in a newspaper of general circulation in the county where such improvement is located or as provided in section [7.16](#) of the Revised Code. Such notice, in addition to the date and place of such view and place and time of the final hearing, shall state briefly the character of such improvement.

(B) If the board adopts a resolution to vacate a public road as provided in section [5553.04](#) of the Revised Code, or if a petition to vacate a public road is filed, the board shall, in addition to the notice of the time and place for hearing prescribed in division (A) of this section, send written notice of the hearing by first class mail at least twenty days before the date of the public hearing to owners of property abutting upon that portion of the road to be vacated, and to the director of natural resources. Such notice shall be mailed to the addresses of such owners appearing on the county auditor's current tax list or the treasurer's mailing list, and such other list or lists that may be specified by the board. The failure of the delivery of such notice does not invalidate any such vacating of the road authorized in the resolution.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 10-20-1972 .

5553.06 Plat and survey - report of county engineer.

If the board of county commissioners, after viewing the proposed improvement, considers such improvement of sufficient public importance, it shall instruct the county engineer to make an accurate survey and plat of such improvement and furnish an accurate and detailed description describing therein the center line and right of way lines. The engineer shall also furnish an accurate and detailed description of each tract of land which he believes it is necessary to take in the event such improvement is made, together with the name of each owner. The engineer shall, at the time of making such survey, set stakes at the termini of each right of way line, at all angles between such termini, and at sufficient other points on the right of way lines so that the bounds of such improvement are discernible to property owners and other interested persons. The engineer shall make a report in writing to the board on or before the date fixed for the final hearing. Such report shall set forth the opinion of the engineer for or against such improvement. In case it is proposed to locate or establish a road, such report shall state the width to which the improvement shall be opened, shall be accompanied by said plat and detailed and accurate descriptions, and shall be filed with the board.

Effective Date: 10-01-1953 .

5553.07 Report of engineer read at final hearing - testimony - resolution to proceed.

The board of county commissioners shall at the date of the final hearing on the proposed improvement read the report of the county engineer, and it shall hear any testimony bearing upon the necessity of the improvement for the public convenience or welfare and offered either for or against proceeding with the improvement by any interested persons.

If the board finds such improvement will serve the public convenience and welfare, it shall by resolution enter such finding on its journal and determine to proceed with the improvement. If it finds such improvement will not serve the public convenience and welfare, it shall refuse to proceed with the improvement.

Effective Date: 10-01-1953 .

5553.08 Determination to proceed with improvement after modification of plan.

The board of county commissioners, acting in accordance with sections [5553.04](#) to [5553.07](#), inclusive, of the Revised Code, may determine to proceed with the proposed improvement with such modifications and changes in the route and termini as in its judgment the public convenience and welfare require. In making such modifications or changes, the board shall cause an accurate and detailed description thereof to be entered on its journal.

Effective Date: 01-10-1961 .

5553.09 Payment of compensation and damages.

If the board of county commissioners is of the opinion that the proposed improvement is of sufficient importance to the public to cause the compensation and damages on account thereof to be paid to the persons entitled thereto out of the county treasury, it may so order. If the board is of the opinion that such improvement is not of sufficient importance to cause the compensation and damages to be paid from the treasury, it may determine to proceed with the improvement only upon the condition that the compensation and damages, or such part thereof as it deems reasonable and just, be paid by the landowners of lands within the vicinity who will be benefited by the improvement, and the balance shall be paid out of the treasury. In such event the board shall include in its order a schedule setting forth the names of such landowners, a pertinent description of such lands, and a statement of the amount of compensation and damages to be paid by the owner of each parcel of such lands. When a portion of the

compensation and damages is ordered to be paid by the landowners who will be benefited by the improvement, the board may abandon the improvement on the failure of such benefited landowners to pay the compensation and damages adjudged against them by the time fixed therefor.

Effective Date: 10-01-1953 .

5553.10 Record of proceedings - board shall make improvement and furnish map - unopened road shall be vacated.

When, on the final hearing on the proposed improvement, the board of county commissioners finds in favor of such improvement, and determines to proceed therewith, it shall cause a record of the proceedings, including the survey, plat, and accurate and detailed description of such improvement, to be entered forthwith in the proper road records of the county by the county engineer.

If the proceeding is for the location or establishment of a road, the board shall open up the road as established and such road shall be a public road, and shall be kept open, maintained, and improved as provided by law. If the proceeding is for the vacation of a road, the board shall order the road vacated and it shall cease to be a public road. The board shall furnish the director of natural resources with a full and accurate description or map of any right of way retained for public nonmotorized vehicular recreational use. If the proceeding is for the alteration, widening, straightening, or change in the direction of a road, the board shall make the necessary order to accomplish such purpose. Any part of the road made unnecessary by any change or alteration shall be ordered vacated.

No road shall be opened or property taken until all compensation and damages allowed are paid, or the amount thereof, as allowed in accordance with sections [163.01](#) to [163.22](#), inclusive, of the Revised Code.

A road, or part thereof, which remains unopened for seven years after the order establishing it was made or authority granted for opening it shall be vacated, and the right to build it pursuant to the establishment in the original proceedings therefor shall be barred.

Effective Date: 10-20-1972 .

5553.14 View and hearing by joint board - resolution.

If the joint board of county commissioners is of the opinion that it is for the public convenience or welfare to make the proposed improvement, it shall declare the necessity therefor by resolution at the meeting provided for in section [5553.13](#) of the Revised Code. Such resolution shall set forth generally the route and termini of the road, or part thereof, to be located, established, or vacated, or the general manner in which such road is to be altered, widened, straightened, or the direction thereof changed. Such resolution shall fix a date when the joint board will view the proposed improvement and the date of the final hearing thereon. The joint board shall give notice of the time and place for both such view and hearing by publication in each county interested in like manner as though such project were a single county improvement. The joint board shall appoint the county engineer of one of the interested counties to act in the matter. Such proceedings shall be conducted thereafter by the joint board as though the proceedings were before a single board as provided in sections [5553.04](#) to [5553.11](#), inclusive, of the Revised Code. A portion of a road upon a county line may be located wholly within one county when it is necessary to avoid some place on the county line where the construction thereof would be unusually expensive or difficult.

Effective Date: 01-01-1966 .

5553.23 Petition by landowner to relocate road or trail - vacation of unimproved public roads.

If a person through whose land a public road has been established, which is under the jurisdiction of the board of county commissioners, desires to turn or change or relocate such road or any part thereof through any part of the person's land, the person may file a petition with the board of county commissioners setting forth briefly the particular change desired. Upon the receipt of such petition, the board shall give notice by publication once not later than two weeks prior to the date for the hearing on such petition in a newspaper of general circulation in said county, stating that such petition has been filed and setting forth the change desired in such road and the date and place for the hearing on said petition. If a public road was once established for public convenience through private lands, but has not been improved by public funds and for more than twenty-one years has not been used, the owner of such land may petition the board to vacate the road in accordance with proceedings under sections [5553.04](#) to [5553.11](#) of the Revised Code.

A person through whose land a trail right of way has been preserved under section [5553.044](#) of the Revised Code may file a petition to turn or change the route of the trail right of way in the manner provided in this section, and such petition shall be acted upon in the manner set forth in sections 5553.23 to [5553.31](#) of the Revised Code. Notice of the hearing in such case shall also be made by first class mail to the director of natural resources. If the board turns or changes the route of the trail right of way, it shall furnish the director with a full and accurate description or map of the change.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 10-20-1972 .

5553.24 Survey and report of county engineer on desired change in road.

Upon the receipt of the petition provided for in section [5553.23](#) of the Revised Code, the board of county commissioners shall order the county engineer to make a survey of the ground over which the road is proposed to be changed and to make a report in writing, together with a plat and survey of the proposed change and his opinion as to its advantage or disadvantage. The report of such engineer shall be filed with the board prior to the hearing on such petition.

Effective Date: 10-01-1953 .

5553.25 Hearing upon petition to change road - finding of board.

At the hearing had upon the petition provided for in section [5553.23](#) of the Revised Code, the board of county commissioners may hear evidence for or against changing the road, and if it is satisfied that the proposed change will not cause serious injury or disadvantage to the public, it may make a finding of such fact in its journal and authorize the petitioner to change such road in conformity with the prayer of the petition. The board may grant the change as prayed for in the petition, or it may order such change of the route of such road as will, in its judgment, be for the best interest of the public.

Effective Date: 10-01-1953 .

5553.26 Petitioner shall pay cost of changing road - bond.

Upon receiving satisfactory evidence that the road has been changed as authorized by it under section [5553.25](#) of the Revised Code, and opened to the legal width and improved as required by it, the board of county

commissioners shall declare such new road a public highway and cause a record thereof to be made and at the same time vacate so much of the old road as is rendered unnecessary by the new road. The person petitioning for such change shall in all cases pay all costs and expenses in connection with the proceedings, as found and determined by the board, and the expense of making such change including the cost of relocation of any conduits, cables, wires, towers, poles or other equipment or appliances of any public utility, located on, over or under such road. The petitioner shall, on the filing of the petition for such change, give bond to the satisfaction of the board in such amount as it determines to secure payment of the costs of the proceeding and to cover the expense of making the change called for by the proposed improvement.

Effective Date: 08-01-1955 .

5553.28 Majority vote of joint board required.

In all hearings before a joint board of county commissioners under sections [5553.01](#) to [5553.27](#), inclusive, of the Revised Code, a majority vote of the board of each county shall be necessary to establish any improvement.

Effective Date: 10-01-1953 .

5553.31 Dedication of land for road purposes - proceedings.

Any person may, with the approval of the board of county commissioners, dedicate lands for road purposes. A definite description of the lands to be dedicated with a plat of such lands thereto attached and signed by the party dedicating such lands, with the approval and acceptance of the board indorsed thereon, shall be placed upon the proper road records of the county in which such road is situated. The board shall not approve and accept the dedication of any land for road purposes until any lien attached to such land under division (A) of section [505.82](#) of the Revised Code is satisfied. If the lands so dedicated contemplate a change in an existing road, the same proceedings shall be had thereon, after the board by proper resolution approves and accepts the lands for such purpose, as are provided in cases where the board by unanimous vote declares its intention to locate, establish, widen, straighten, vacate, or change the direction of a road without a petition therefor, but otherwise the proposal to dedicate lands for road purposes, together with the acceptance of the grant by the board, constitutes the lands so dedicated a public road without any further proceedings thereon.

Effective Date: 09-26-1978 .

Road Petition

The undersigned petitioners, freeholders of said County of Scioto, residing in the vicinity of the proposed improvement hereinafter described, respectfully represent that the public convenience and welfare require the (What you would like to accomplish to your road): _____

of **(Name of Your Road):** _____ a Public Road in
(What Township the road is in): _____ Township; on the line hereinafter
described, and make application to you to institute and order proper proceedings in the premises, for said road, not
being a road on the State Highway System.

The undersigned petitioners, owners of property through or over which the proposed road will pass or which abuts upon the proposed right-of-way, hereby agree to dedicate to the Board of County Commissioners of Scioto County, Ohio, any right-of-way required for the proposed improvement, and to move or remove any trees, building, and/or other obstructions, including fences, from the proposed right-of-way at no cost to said Scioto County.

We the undersigned petitioners understand that the minimum right-of-way width of the road is 30 feet wide in accordance with Ohio Revised Code - 5553.03.

NAME

ADDRESS

DATE _____

NOTE: PLEASE fill out the information before submitting the petition to the Board of County Commissioners.
Name and Address of contact person circulating this petition:

Procedure for Altering or Vacating a Public Road in Scioto County

Step	Date	Task
1.		Pick up petition from Commissioner's Office or Engineer's Office located in the County Courthouse, or download from County Engineer's website.
2.		Ohio Revised Code 5553.04 - Petition signed by 12 property owners (only one signature per household), within the vicinity (approx. 1.5 miles) of the area to be vacated/alterd.
3.		Return petition and signatures with highlighted GIS map of area to be vacated/alterd to Commissioner's Office.
4.		County Engineer checks signatures for compliance.
5.		Engineer writes report for Commissioners.
6.		Engineer returns petition, GIS map, and report to Commissioners.
7.		Commissioners place petition request on meeting agenda.
8.		Ohio Revised Code 5553.05 - Commissioners advertise twice and mail notices to adjacent property owners regarding viewing.
9.		Ohio Revised Code 5553.06 - Commissioners, Engineer, Trustees viewing of roadway.
10.		Commissioners will either provide preliminary approval or reject request. Preliminary approval will be based on the petitioner providing survey as required in Step 11.
11.		If approved, the petitioner has 90 days to have request surveyed and submitted to Engineer. County Engineer must approve the survey in order to proceed.
12.		Ohio Revised Code 5553.07 and 5553.09 - Commissioners hold final hearing, read Engineer's report, and pass final resolution.