



## MEMORANDUM

**To:** Board of County Commissioners  
**From:** Mike Russell, Public Works Director  
**CC:** Grant DeJongh, Assistant Public Works Director  
Public Works Department Office Staff  
**Date:** 04/11/2025  
**Subject:** Discovery of no right-of-way or non-county road status

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This memo establishes the Public Work Department's approach to discovery that roads within the jurisdiction of Columbia County either have no associated right-of-way or are not county roads.

### **BACKGROUND:**

The Board of County Commissioners ("the Board") is the county government for Columbia County and is therefore the road authority, pursuant to ORS 360.016. The Board has appointed the role of the county road official, pursuant to ORS 360.046, to the Public Works Director for the purposes of generally administering the county road system.

Columbia County has three types of roads that fall under its jurisdiction: (1) county roads, which are public roads maintained by the County; (2) local access roads, which are public roads not maintained by the County; and (3) private roads, which are private property used by multiple parcels for access.

The Public Works Department ("Department") is required by state statute to expend county road fund dollars on the "establishing, laying out, opening, surveying, altering, improving, constructing, maintaining and repairing county roads and bridges on county roads," per ORS 368.705, except under specific emergency situations. Further, the County is prohibited from expending funds on local access roads, per ORS 368.031, except in an emergency situation or through a Board process outlined by statute.

### **DISCOVERY OF NO RIGHT-OF-WAY:**

During the course of operation, the Department occasionally discovers that a named road does not have any associated right-of-way, effectively meaning that it is a private road.

Determining that a road is a private road can mean any of the following:

- If any road maintenance was performed on the road, that road maintenance will cease.
- The road is assumed private property, maintained by the adjacent property owners or those benefitting from the road.
- Parcels that access through the private road could be determined to not have right-of-way frontage, potentially meaning they are in non-conformance with zoning requirements.
- Parcels that access through the private road may not have an easement, potentially jeopardizing access to the parcels.
- Individual landowners will need to work together to establish the necessary easements to gain legal access to their respective properties and will have to take on the maintenance of the resulting easements together,

which is typically done through a road maintenance agreement between the landowners. Columbia County staff would not be involved in establishing these private easements and agreements.

#### **DISCOVERY OF NON-COUNTY ROAD STATUS:**

Similar to the discovery of no right-of-way, the Department will occasionally discover that a named road was never accepted by the Board as a county road.

Determining that a road is not a county road can mean any of the following:

- If any road maintenance was performed on the road, that road maintenance will cease.
- The road is assumed to be a local access road, maintained by the adjacent property owners or those signatories to a maintenance agreement.

The primary difference is that, as there is right-of-way, there is no change in frontage or access for those abutting properties.

#### **NOTIFICATION TO THE BOARD AND IMPACTED PROPERTY OWNERS**

Since the County is restricted in its capacity to perform maintenance on non-county roads within its jurisdiction, either of the situations outlined herein can result in a discontinuation of maintenance. Past practice responding to either of these situations has been idiosyncratic, which the Department aims to rectify with the process outlined below:

1. Upon discovery of no right-of-way or non-county road status, the Department will perform research of its own and other County records to verify the accuracy of this discovery.
2. If the Department verifies that there is no right-of-way or that a road is not a county road, it will work with the County Surveyor to confirm that this information is accurate.
3. If the Department and the County Surveyor are in agreement about the lack of right-of-way or county road status, the Department will bring the issue before the Board to provide notice. This notice should include:
  - a. The name of the road
  - b. Its location (cross street, MP, nearest community, *etc.*)
  - c. Its condition (gravel vs paved, general surface condition, *etc.*)
  - d. The number of parcels impacted
  - e. The number of unique property owners impacted
  - f. The basis for the determination of no right-of-way or non-county road status
4. Once the Board has been notified, the Department will send notice to abutting property owners. This notice should include:
  - a. The findings of the Department with respect to the road
  - b. A statement that maintenance will no longer be performed by Department forces

This notice will also be sent to the Land Development Services Department, the local fire and rescue district, and other interested parties, as determined.

Concurrent with the issuance of this notice, maintenance by the Department, if any, will cease.

Any questions regarding the contents of this memo should be directed to the Public Works Department. Thank you.