

# ROAD VACATION PROCESS

## **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.

### **5553.05 IMPROVEMENTS, NOTICE OF VIEW AND FINAL HEARING; VACATION, NOTICE OF HEARING**

(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 review and hearing by publication once a week for two consecutive weeks in a newspaper published and having general circulation in the county where such improvement is located, but if there is no such newspaper published in said county, then in a newspaper having general circulation in said county. 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.

### **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.

**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.

**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.

**5553.045. Vacation of township road or portion of road.**

(A) As used in this section, "road" means a road, or portion of a road, which is not used to calculate distributions of the auto registration distribution fund under division (E) of [section 4501.04](#) of the Revised Code and, thus, is not a road or portion of a road certified by the board of township trustees to the director of transportation in accordance with that division as mileage in the township used by and maintained for the public.

(B) A board of township trustees may petition the board of county commissioners to vacate a township road or a portion of a township road by passing a resolution that requests the vacation of the road or portion and includes a description of the general route and termini of the road or portion. The township clerk shall file a copy of the resolution with the board of county commissioners and certify another copy to the county engineer. Within thirty days after receipt of that copy of the resolution, the engineer shall issue to the board of county commissioners a written report similar in content to reports required under [section 5553.06](#) of the Revised Code. The failure of the engineer to provide this report does not affect the actions required under this section and does not invalidate the vacation of a road or portion of a road under this section.

(C) Upon receipt of the copy of the township's resolution, the board of county commissioners shall set a date for a public hearing on the vacation of the road or portion of the road that is not more than forty-five days after the date that the resolution is filed with the board. The clerk of the board shall notify by regular mail the landowners abutting the road or portion of the road proposed to be vacated. That notice shall be sent at least twenty days before the board's public hearing, shall state that the board of township trustees has filed a resolution requesting the vacation of the specified road or portion of the road under this section, and shall inform the landowners of the time and place of the public hearing on this issue. The notice shall be mailed to the addresses of the abutting landowners as they appear on the county auditor's current tax list or the county treasurer's mailing list. Failure of the delivery of this notice to any abutting landowner does not invalidate the vacation of a road or a portion of a road under this section.

(D) After the public hearing, if the board of county commissioners determines that the vacation of the road or portion of the road would be for the public convenience or welfare, it shall adopt a resolution by a majority vote declaring the road or portion to be vacated and file a certified copy of the resolution with the petitioner board of township trustees, the county recorder, and the county engineer.

If the board of county commissioners fails to vote on the issue of vacating the road or portion of the board within sixty days after the township's resolution is filed with it, the road or portion of the road specified in the resolution shall be deemed to be vacated, and the petitioner board of township trustees shall adopt another resolution describing the road or portion of the road that has been vacated and explaining this vacation is by action of this section. The board of township trustees shall file a certified copy of that resolution with the board of county commissioners, the county recorder, and the county engineer.

(E) Once the certified copies of the resolution declaring a road or portion of a road vacated are filed as provided in division (D) of this section, the board of township trustees, by resolution, shall order the road or portion of the road vacated. The vacated road or portion of the road shall pass, in fee, to the abutting landowners subject to all of the following:

(1) A permanent easement as provided in [section 5553.043](#) [5553.04.3] of the Revised Code in, over, or under the road for the service facilities, as defined in [section 5553.042](#) [5553.04.2] of the Revised Code, of a public utility or electric cooperative as defined in [section 4928.01](#) of the Revised Code;

(2) The right of ingress or egress to service and maintain those service facilities;

(3) The 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 service facilities.