



# MONO COUNTY DEPARTMENT OF PUBLIC WORKS

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## VACATION REQUEST APPLICATION

Type of interest for which request is made:

- Street/Highway       Public Service Easement       Offer of Dedication       Excess Right-of -Way  
 Other (please describe) \_\_\_\_\_

Identification of area sought to be vacated (e.g., location, name of street): \_\_\_\_\_

Petitioner's Assessor's Parcel No.: \_\_\_\_\_

Petitioner's Name: \_\_\_\_\_

Petitioner's Mailing Address: \_\_\_\_\_

Petitioner's Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Reason(s) why you are seeking this vacation?

\_\_\_\_\_  
\_\_\_\_\_

Are the lands subject to your vacation request in your ownership?

- Yes       No       Don't know

Signature of Petitioner: \_\_\_\_\_ Date: \_\_\_\_\_

A petition for vacation (see attached), an exhibit map identifying the boundaries of the proposed vacation (can be a Subdivision or an Assessor's Parcel Map), and a \$618 fee/deposit must accompany this application to initiate project review (make check payable to "County of Mono"). Depending upon project scope, additional reports, plans or surveys may be required to complete the application and additional fees may be required. All road vacation requests are to be consistent with California Streets and Highways Code, Sections 8320-8325.

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# MONO COUNTY REQUEST / PETITION FOR VACATION

The undersigned do(es) hereby petition the Mono County Board of Supervisors to vacate a segment of public road, excess right-of-way, or public service easement or to vacate an unaccepted offer of dedication per the exhibit map attached to this petition and also described as:

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(This description must include reference to a map of record which identifies the street highway, public service easement, right-of-way, or offer of dedication proposed to be vacated. This can be the tract or parcel map number which originally dedicated the roadway to the county)

And hereby petitions the Mono County Board of Supervisors to vacate said interest for the reason that:

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And further request that a time and date be set for a public hearing before the Board of Supervisors on this matter and that notice of said hearing be published and posted in accordance with law.

### PRINT NAME

### MAILING ADDRESS

1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
*5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
**10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____

\*Requires the Board of Supervisors to schedule a public hearing to consider vacating a **public service easement** if the criteria described in paragraph B.5. of the Vacation Information and Instruction Sheet provided with this petition are met.

\*\*Requires the Board of Supervisors to schedule a public hearing to consider vacating a **street or highway** if the criteria described in paragraph B.5. of the Vacation Information and Instruction Sheet provided with this petition are met.

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## **PLEASE READ FIRST**

### **MONO COUNTY VACATION INFORMATION AND INSTRUCTION SHEET**

**IMPORTANT:** Please read this sheet fully. The procedure for processing requests to vacate streets, highways, or public service easements, or to vacate unaccepted offers of dedication can be complicated. Be aware that improperly completed petitions or forms may cause delay. Additionally, please review this form to ensure that the vacation you intend to request actually accomplishes the end you seek.

#### **A. Vacation Basics:**

The power to vacate a street, highway, public service easement, or to vacate an offer of dedication, within the unincorporated areas of Mono County (outside of the Town of Mammoth Lakes) is vested in the Board of Supervisors of Mono County and is governed by procedures set forth in the California Streets and Highways Code.

#### **B. Frequently Asked Questions:**

##### ***1. What is a vacation and what does it accomplish?***

Vacation of a street, highway, or public service easement extinguishes the public's right to use the lands in question and also extinguishes all County easements over those lands, except those that are specifically reserved by the County in the resolution of vacation.

With one exception, vacation does not affect private easements or other rights of a person (including a public utility, the state, a public corporation, or a political subdivision other than the County) in, to, or over the lands in question.

The exception is where a private easement, other than an easement for ingress and egress to the lot from or to the street or highway, is claimed by reason of the purchase of a lot by reference to a map upon which the street or highway is shown. Such easements are eliminated by vacation, unless the claimant records a verified notice particularly describing the easement within two years of the vacation.

The vacation process is also used to terminate unaccepted offers of dedication for streets, highways, public service easements, and other property interests offered to the County for public use, but not accepted. The vacation of an unaccepted offer of dedication terminates the offer of dedication but does not generally affect other rights over the lands in question (e.g., private easements).

##### ***2. What is the difference between general and summary vacation?***

Summary vacation is a streamlined process which may be used as an alternative to general vacation when the following types of interests are vacated: a highway that has been superseded by relocation; an impassable street or highway if certain conditions are met; a street or highway that intersects a state freeway at the point of intersection if Caltrans agrees to the vacation; a public service easement if certain conditions are met; excess right-of-way; a street that dead-ends in the property of a single owner; or an offer of dedication which has not been accepted. There is an exception to the above if there are public utility facilities in

place that are in use and would be affected by the vacation. The Board may order summary vacation by adopting a resolution – without any notice or public hearing.

General vacation procedures must be followed where the public's interest in streets, highways, or public service easements, other than those described above, are vacated. As described in more detail below, notice of a general vacation must be posted and published and a public hearing must be held prior to the Board's consideration of the request. Where the vacation involves a street or highway, Planning Commission review is also required.

*As a policy matter, the Board follows general vacation procedures for vacations involving unaccepted offers of dedication in order to afford the public an opportunity to be heard, regardless of whether the vacation may legally be accomplished using summary vacation procedures.*

### **3. Is the Board's authority to approve a vacation limited in any way?**

The Board may only approve the vacation of a street, highway, or public service easement if evidence is presented to it which shows both that the street, highway, or public service easement is unnecessary for present or prospective public use and that the vacation results in a public benefit. Additionally, the Board may not approve a vacation unless it determines that the right-of-way is not useful as a nonmotorized (i.e., bicycle) transportation facility.

### **4. Who may initiate vacation proceedings?**

The Board of Supervisors may initiate any type of vacation proceedings on its own. For certain types of vacations (those requiring general vacation procedures) the law allows members of the public to petition the Board to consider vacation. As discussed below, if a certain number of signatures are provided on the petition, then the Board is obligated to provide notice of the proposed vacation, hold a public hearing on the request, and consider whether or not to approve the vacation.

There is no law that allows the public to petition the Board to initiate summary vacation proceedings. However, it is Mono County's policy to consider petitions requesting the vacation of interests subject to summary vacation (such as unaccepted offers of dedication) at the staff level. Staff will bring these petitions to the Board if it is determined that the criteria described in paragraph 3 above can be met or if the petition is signed by five or more individuals.

### **5. How many signatures are needed for a petition?**

A petition will be accepted by Public Works if it contains even a single signature. However, the Streets and Highways Code provides that if a certain number of signatures are provided, then the Board *must* set the matter for public hearing and cause notice of the hearing to be published and posted. If a petition does not contain the requisite number of signatures, then there is no requirement that the matter be set for hearing and a petition may be rejected at the staff level.

To trigger the Board's obligation to schedule a public hearing and to consider the request, the following criteria must be met:

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- Street or highway: The petition must be signed by ten or more landowners, at least two of whom reside in the road district in which some part of the street or highway proposed to be vacated is located and are taxable within that district to pay street and road maintenance expenses.
- Public service easement: The petition must be signed by five or more landowners, at least one of whom resides in the township in which the public service easement proposed to be vacated is located.
- Offer of dedication or other interest eligible for summary vacation: Pursuant to County policy, the petition must be signed by five or more landowners.

**6. Will the Board automatically approve a vacation once a hearing is set?**

No. It is important to distinguish between the initiation of vacation proceedings (i.e., the setting of a hearing and the posting and publishing of notice), and an actual decision by the Board to approve a vacation. Even if the Board is required to initiate vacation proceedings pursuant to a qualified petition, the Board is not required to ultimately approve the vacation and it may be denied by the Board after the public hearing.

**7. What is the difference between a County road, a public road, and a private road?**

County Road. A County road is a road which has been accepted by formal resolution of the Board of Supervisors into the County road system. County roads are maintained by the County.

Public Road. A public road is a road that has been offered for dedication (either explicitly such as on a map or other written document or implicitly by the property owner) and which has been “accepted” as a public road by virtue of public use or by formal resolution of the Board. Public roads are not County roads unless and until they are also accepted into the County road system by resolution of the Board. The County does not maintain public roads that have not been accepted into the County road system, except under contract.

Private Road. A private road is a road which either has never been offered for dedication or which was offered for dedication but never accepted as a County or a public road, and has not otherwise been terminated or abandoned. There is a substantial amount of dedicated right-of-way in Mono County that has never been accepted by the County. Whether it has been “accepted” by public use and thus become a public road is a question only a court can answer.

The Mono County Maintained Mileage Map shows all County-maintained roads. The Map is available online, at the Mono County web site (<http://www.monocounty.ca.gov/>) within the Public Works Departments section, and then through the County Road Operations link. If you are unsure of the status of a particular road, right-of-way or easement, you may contact Public Works at 760.932.5440 or email at [monopw@mono.ca.gov](mailto:monopw@mono.ca.gov).

**8. Can Mono County approve the vacation of a State Highway?**

No. State Highway vacation requests are exclusively handled by Caltrans (State Highways 395, 270, 266, 203, 182, 158, 120, 167, 89 and 6). You may contact Caltrans at their Bishop District 9 office, or through their web site at <http://www.dot.ca.gov/dist9>.

### **9. Why might the Board reject a vacation request?**

The Board may, in its discretion, reject a vacation request for any reason. Additionally, if there is evidence presented to the Board indicating that the street, highway, public service easement, or other interest, is necessary for present or prospective public use, a lack of evidence of public benefit to be gained from the vacation, evidence that the right-of-way is useful as a nonmotorized transportation facility (i.e., a bike route), or if the vacation would be inconsistent with the County General Plan or other County planning document, then the Board will generally not be able to make the required findings in support of vacation and *must* deny the request.

### **10. Does ownership of the land underlying the area vacated change following a vacation?**

No. Whoever owns the land prior to the vacation continues to own the land following the vacation. Likewise, private rights such as easements for ingress and egress and rights in public entities other than the County, are generally not extinguished by a vacation. See section B.1. of this sheet for further discussion of this issue. Separate processes, through the Superior Court, may be utilized to identify and/or eliminate those other rights (i.e., to “quiet title” to the property).

## **A. Procedure for vacation:**

### **1. Filing petition and application**

Submit completed application, petition, exhibit map, and prescribed \$618.00 deposit to the Mono County Dept. of Public Works.

### **2. Public Works review**

Applications are reviewed by Public Works staff for completeness and compliance with law. *Applications may be denied by Public Works if:*

- (1) they do not contain the required number of signatures as described above; and
- (2) staff determines that the interest proposed to be vacated is necessary for present or prospective public use and/or the vacation would not provide a public benefit.

If the Application is not denied for the above reasons, then staff will agendize the request for initial consideration by the Board of Supervisors. The Applicant will be notified of the date and time set for initial consideration or of a denial by staff.

### **3. Initial Board consideration (of petitions not denied by staff)**

The Application will be presented to the Board which may:

- (1) set the matter for hearing and cause notice to be posted and published; or
- (2) reject the vacation.

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Note that if the required number of signatures are included in the petition as described above, then the Board will set the matter for hearing and cause notice to be posted and published.

**4. *Review by Planning Commission***

If the request involves a street or highway, then the proposed vacation *must* be submitted to and reported upon by the Planning Commission as to conformity with the General Plan prior to the Board of Supervisors' final determination. Other types of vacations *may* be submitted to the Planning Commission for its recommendation.

**5. *Public notification of hearing before the Board of Supervisors***

- A. The petitioner(s) and adjoining landowners will be notified of the date, time and place of the scheduled public hearing at least two weeks before the hearing.
- B. At least three notices of the public hearing will be posted along the alignment of street, highway, or public service easement proposed to be vacated for at least two successive weeks before the hearing.
- C. A notice of the public hearing will be published in the local newspaper for at least two successive weeks before the hearing.

**6. *Public hearing and final determination***

Public hearings are generally held at regularly-scheduled meetings of the Board of Supervisors in the County courthouse in Bridgeport, although they may occur in other locations from time to time. In addition to the notices described above, an agenda for the meeting will be posted and mailed notice will be provided as required by the Brown Act.

At the public hearing, the Board will consider any comments from staff and hear from members of the public. The petitioner(s) are encouraged to attend and to provide any information to the Board. Likewise, any member of the public opposed to the vacation should also attend and address the Board.

If the vacation is approved, then the Board will adopt a resolution of vacation. That resolution will be recorded with the Mono County Recorder. The vacation is effective upon recordation.

**7. *Practical effect of vacation***

See section B.1. of this information sheet for a discussion of the effects of vacation.