

KIT CARSON COUNTY COUNTY ROAD POLICY

On July 8, 1887, property now located in Kit Carson County (the “County”), but at that time located in Elbert County, was made subject to an Order of the Board of County Commissioners of Elbert County concerning public highways (the “Order”). The Order, which was subsequently certified by the Elbert County Clerk on May 2, 1902, and recorded on March 27, 1911, at Reception No. 11122, of the records of the Elbert County Clerk and Recorder, stated, as follows:

“Whereas, by an act of the General Assembly of the State of Colorado, approved April 7, 1885, it is provided that the commissioners of the county may, at any regular meeting, by an order of the board, declare any section or township line on the public domain, a public highway.

Now, therefore, in accordance with said act, it is ordered by the Board of County Commissioners, that each and all of the section lines, as well as those running north and south and those running east and west in all that part of Elbert County lying east of the line between ranges fifty-nine and sixty west, be and they and each and all of them are hereby declared to be public highways.”

The purpose of the Order was to allow the County to develop a county road system, and not to allow the public the ability to travel over private property. Any section line that does not have a road developed as part of the county road system is not a public road, but it is a right-of-way for the Board of County Commissioners of the County (the “BOCC”) to develop a county road if it deems necessary.

Pursuant to statutory authority granted to the BOCC, as set forth within C.R.S. 30-11-107(1)(h), the BOCC has the authority to “lay out, alter, or discontinue any road running into or through the County, and also to perform such other duties respecting roads as may be required by law.” In addition, under Title 43, Article 2, Parts 1 and 2, the County has the authority to create and administer a county road system. Other statutory authority exists for the condemnation of property for roadway purposes (C.R.S. 43-2-112), the vacating of County roads (C.R.S. 43-2-301, et. seq.) and the maintenance of the roadway system by imposition of a mill levy (C.R.S. 43-2-203).

COUNTY ROAD SYSTEM

The link below will direct you to a map of the primary and secondary road system through the County as developed by the BOCC (the “County Road Map”).

<https://id.land/ranching/maps/dafa0bcd12c3f12e14a5548a3d192378/share>

Primary County Roads:

Pursuant to C.R.S. 43-2-109, the BOCC “shall select the County primary system of roads on the basis of greatest general importance” and this system shall be designated to be “an integrated

system”. Based upon this statutory requirement, the BOCC has designated the primary roads on the County Road Map in black and green. The primary roads are considered the main County arterials and generally constitute the major north-south and east-west corridors to traverse the County.

Secondary County Roads:

Pursuant to C.R.S. 43-2-110, all roads under the jurisdiction of the County that are not designated as primary county roads are considered secondary roads and are generally those roads which service local residents and are not as heavily traveled by the public. The BOCC has designated the secondary roads on the County Road Map in red and blue.

CONSTRUCTION OF NEW COUNTY ROADS

A. Petitions. Although the BOCC has the authority to condemn land for roadway purposes pursuant to C.R.S. 43-2-112, the BOCC has determined not to undertake such action except in extraordinary circumstances. Such circumstances will be determined on a case-by-case basis. Therefore, if citizens desire the construction of a roadway where one does not currently exist, the party shall petition the BOCC in writing for the construction of a roadway. The petition shall demonstrate contact with other affected property owners and explain the necessity for the road. Upon presentation of the petition to the BOCC, the BOCC shall consider the request and may schedule a public hearing on the petition.

B. Dedication. If the BOCC decides that circumstances warrant the construction of a road, the BOCC shall require the dedication of the right-of-way which shall be given without remuneration to the landowners.

C. Acceptance. Once the dedications are made to the County for roadway purposes, the BOCC shall adopt a formal resolution accepting the dedication. It is only then that the County will undertake construction of the proposed road and at that time shall designate such roadway as part of the County Road Map.

This process shall be applicable only to section line roads where additional roads may benefit the traveling public. If any individual seeks to establish a county road for servicing a residence, commercial activity, ranch or farm operation, and that road generally will traverse with a parcel with a terminus to a specific location, that landowner must also petition the BOCC. However, under such circumstances, not only will dedication and acceptance be required by the County but also the cost of construction may be borne by the individual requesting the proposed roadway.

VACATING OF EXISTING COUNTY ROADS

Pursuant to C.R.S. 43-2-301, et. seq., the BOCC has the authority to vacate roads within the County. The process for vacating a County road is as follows:

A. By Petition. If an individual, or a group of individuals, desires to close an

existing county road they may petition the BOCC to do so. The petition process is the same as that for proposed roads. County roads will not be vacated except under extraordinary circumstances. The BOCC will schedule a public hearing on the proposed vacation and may post the roadway to provide notice to the traveling public of the BOCC's receipt of a vacating petition. At the close of the public hearing, if the BOCC so determines to vacate the road, the BOCC will adopt a resolution to that effect in compliance with state statute. There shall be a presumption in consideration of all petitions to vacate a county road that it is not in the best interests of the citizens of Kit Carson County to vacate the road. Particularly, the road in question shall only be vacated if the BOCC is convinced by evidence and testimony that such vacating is in the best interests of the public. In making such determination, the BOCC shall consider the present use of the subject road and the potential future use of the road.

B. By BOCC Initiative. If the BOCC determines that it is in the public health, safety, and welfare interest of the citizens of Kit Carson County to vacate a County road pursuant to C.R.S. 43-2-303(2)(b), the BOCC shall mail a notice to any property owner who owns more than one acre along the proposed vacated roadway, advising the owner of the proposed action of the BOCC. The matter shall be considered at one or more public hearings to be held at least ten days from the date of mailing. The BOCC may also post the roadway to provide notice to the traveling public advising them of the proposed vacation. At the close of the public hearing, if the BOCC determines to vacate the road, the BOCC will adopt a resolution to that effect.

Once the BOCC adopts a resolution authorizing the vacation of any roadway, the vacated portion will generally return to the ownership of the adjacent property owners in equal shares. There are some exceptions to the methodology, and those exceptions are found in the state statute. The BOCC is mandated by the statute to follow the procedures set forth therein.