



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

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EASEMENT RECOGNITION APPLICATION - Application Fee \$650.00

An approved and recognized easement is required to provide vehicular access across another property. Easements recorded before March 22, 1972 are not subject to review. Property proposed for development must have an approved access to a county or public road before a home can be built or placed on site. Property with frontage on a county or public road but with a driveway that crosses another parcel requires an easement. Property that does not have frontage on a county or public road will need an easement to cross another property. Easements must be obtained by the property owner; the county cannot grant an easement across private property. Before completing this application, make sure an easement will be granted to you by neighboring property owner(s). If the easement will cross more than one other property, an easement must be granted by each property owner.

This application can be filed once you have the signed consent of the affected landowners. A drawing showing the location of the proposed easement needs to be submitted with this application. The drawing should illustrate the location of structures, drainage ways, hills, creeks, septic systems and trees close to or within the easement right-of-way. The County Road Department and local fire protection district will review the location of the easement to make sure it meets their standards for safety and emergency access. The property must have an approved method of sewage disposal before an application can be approved. An easement cannot cross or be within 10 feet of a drainfield, septic tank or repair area.

The easement right-of-way should be no less than 30 feet wide. Easements less than 30 feet wide can be approved if exceptional circumstances exist and there are no adverse effects on nearby property. If more than three properties are served by the same easement, a 50 or 60 foot wide easement right-of-way is required. Road improvement standards vary depending upon the number of homes served by the easement. Three current or potential homes require a 12-foot wide road, while four or five homes require a 20-foot wide road. More than five current or potential homes served by an easement require a paved 22-foot wide road. Specific road improvement standards are included with this application.

After this application is complete and accepted for review, nearby property owners and affected agencies will be notified and provided 20 days to respond to the proposal in writing. An application will be approved if it is found that it meets the decision criteria (attached). A decision letter will be mailed to the applicant containing the County's decision. An approval letter will state the requirements needed to complete the easement process. Standard requirements include road improvement standards, road maintenance obligations, and chain of title language. An easement must be recorded in the office of the County Clerk in a format acceptable to the Clerk. For information on recording documents, you can contact the County Clerk at 967-3831.

The easement must be recorded and the road built before other development permits will be issued. A survey or other accurate description of the easement location will need to be prepared and recorded. The Road Department will inspect the road to make sure it meets their requirements. A fill permit may be needed depending upon the length of the road and volume of fill to be placed. The purpose of the fill permit is to ensure that gravel is not placed in drainage way, floodplain, or wetland improperly.

Application Check List (for department use)

- A. Complete application_____Site plan_____Ownership_____
- B. Environmental health division approval **(for subject property and properties being traversed)**
 - 1. Existing system has been checked_____
 - 2. New site has been approved_____
 - 3. New site has been requested but not reviewed_____
- C. Property development standards can be met:
 - 1. Width_____Depth_____Frontage_____Coverage_____
 - Setbacks_____Legal lot_____Area_____
- D. Proposal is located within:
 - 1. UGB_____Planning area_____Greenway_____A.O. Zone_____
 - 2. S.B.H.O._____Habitat_____Floodplain_____Historic_____
- E. Application accepted by:_____Date_____Receipt No._____
- Refer to: Staff_____P.C._____

I. Background Information (to be completed by applicant in ink or typewritten)

- A. Applicant's name_____
- Address_____
- City_____State_____Zip Code_____
- Phone number (home)_____ (work)_____
- B. Property owner (if different than applicant)
- Address_____
- City_____State_____Zip Code_____
- Phone number (home)_____ (work)_____
- C. Applicant's representative (if any)_____
- Address_____
- City_____State_____Zip Code_____
- Phone number (home)_____ (work)_____

D. The easement of road access is to serve the following property:
Township _____ Range _____ Section _____ Tax Lot(s) _____
Site address (if any) _____

The described easement traverses the following property(ies):

Township _____ Range _____ Section _____ Tax Lot(s) _____

Township _____ Range _____ Section _____ Tax Lot(s) _____

Township _____ Range _____ Section _____ Tax Lot(s) _____

E. Zoning designation _____ Comprehensive Plan Designation _____

F. Size of parcel _____

II. Verification of Ownership and Application

If the person submitting the application and the owner of the property are not the same, then only the owner of the property should complete this section.

- A. The application does not violate any recorded codes, covenants, or restrictions that are attached to the subject property.
- B. I have the following legal interest in the property: owner of record _____, land sales contract purchaser _____, holder of a recorded exclusive option to purchase _____.
- C. To the best of my knowledge, the statements contained in this application are correct. I understand incorrect statements may result in the revocation of the permit.

Owner/applicant signature _____

Owner/applicant signature _____

If more than one owner is included on your records, please list all persons involved.
Other owners:

III. Description of Property

A. What is the right-of-way width of the easement? _____

If the easement is less than 30 feet, please answer questions, G, H, and I.

B. Are other residences using the easement road? _____ If yes, how many? _____

If more parcels other than yours are served by the easement, please answer questions G, H, and I.

- C. Does the easement follow the access strip of a flag lot? _____
If yes, please answer questions G, H, and I.

- D. Is the easement the only reasonable method of providing access to the parcel? If yes, please explain.

- E. If the proposed easement is over an existing road, please answer the following questions. How wide and what is the condition of the road? _____

- F. Will the proposed easement cross a creek or drainage course? _____

Will a bridge or culvert be installed? _____

- G. What extraordinary and exceptional circumstances exist in this instance with regard to the width of the easement and/or the number of other parcels served by same easement and/or the fact that this easement lies on the access strip of a flag lot.

- H. Would the creation of another access point, in addition to the number of existing nearby access points onto the road, create a traffic hazard? _____ If yes, please explain.

- I. Does the property have frontage on a public or county road? Yes _____ No _____

If yes, why is the easement requested? _____

- J. Would the placement of an additional access point with regard to the geographical features of the road system pose a traffic hazard? Yes _____ No _____ If yes, please explain.

STANDARD SITE PLAN DRAWING

For a complete and accurate evaluation of your proposal, it is necessary to include sufficient information and detail on a site plan drawing. An example is provided as a guide to the preparation of your plan. The site plan you submit will constitute the formal development plan upon which your request is based.

You may submit separate plans to show details of particular aspects of your proposal, i.e. landscaping, off-street parking, topography and drainage plans.

Any public or semi-public use or activity will require written detail and description of such use, i.e. number of employees, hours of operation, unusual equipment or activities that may produce noise, odor, glare, vibration, etc., equipment storage areas, guard or watchman requirements, aerial hazards and road access needs.

This site plan requirement is in addition to any other requirements for zoning, building, sanitation or other governmental permits or standards compliance.

SITE PLAN REQUIREMENTS:

- (1) The site plan must be submitted on paper no larger than 8½ inches by 14 inches and drawn to scale.
- (2) Indicate the scale (for example, 1" = 800') on the site plan.
- (3) Include a North arrow indicating the direction of North on the map.
- (4) Include the applicant's name and address in an information block at the bottom of the page.
- (5) Show the dimensions of the property. These may be taken from surveys, deeds and assessor's records.
- (6) Indicate the names of roads adjacent to the property.
- (7) Indicate the approximate distance and direction to nearest city or town.
- (8) Indicate the dimensions and distance from property lines to all structures, both existing and proposed, as well as fences, culverts, light standards and signs on the property and adjacent properties.
- (9) Indicate the location of existing and proposed access ways, parking and loading areas, approaches and barriers. The type of surfacing should be indicated.
- (10) Identify the location of significant land features, such as streams, creeks, drainage areas and slope.
- (11) Identify the location of existing and/or proposed septic tanks, repair areas and wells. If known, indicate any wells or septic systems on adjacent properties if they are within 10 feet of this property.
- (12) Indicate existing uses of land (cultivation, pasture, timber, etc.). Indicate types of crops, pasture, grass and timber species.

Linn County Land Development Code
Article 50
6/25/97

SECTION 50.040 -- EASEMENT OF ROAD ACCESS, LIMITATIONS OF

- (A) Not more than seven easements of road access shall be allowed over the same easement line by the procedure described in this section.
- (B) Easements of road access shall be a minimum of 30 feet in width.
- (C) The easement alignment shall coincide with the functional access serving the development site.

SECTION 50.050 -- EASEMENT OF ROAD ACCESS, APPLICATION PROCESS

- (A) Applications for easements of road access shall be filed with the Department on an approved form and shall be complete and accurate to the best of the applicant's knowledge.
- (B) A site plan detailing the route of the easement of road access and the property to be served by the easement shall accompany the application.
- (C) A copy of the proposed easement of road access shall accompany the application along with evidence from the Linn County Environmental Health Program that a method of sewage disposal has been approved for the property served by the easement.
- (D) The applicant shall provide any supplemental information as required by the Director. The application shall be accompanied with a fee as set forth in the Linn County Fee Order.
- (E) If the application is not complete, the Director shall not accept the application until such time as the required information is submitted by the applicant. If the application is complete, the Director shall accept the request for review purposes. See Article 2.

SECTION 50.060 -- EASEMENT OF ROAD ACCESS, NOTICE

Notice of the application shall be mailed to all agencies, special districts and property owners as specified by Article 2.

SECTION 50.070 -- EASEMENT OF ROAD ACCESS, DECISION CRITERIA

- (A) A request for easement of road access recognition may be approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the following exist:
 - (1) The proposed placement of the easement of road access shall not pose a traffic hazard, taking into consideration the number of nearby access points and geographic conditions of the property;
 - (2) The easement of road access is the only reasonable method of providing access to the parcel;
 - (3) The property serviced by the easement of road access has an approved method of sewage disposal in accordance with state regulations;

(Article 50 continued)

- (B) An exception to Section 50.040(B) may be taken if, on the basis of the application, investigation, testimony, and evidence submitted, findings and conclusions show that all of the following exist:
- (1) That exceptional and extraordinary circumstances or conditions exist;
 - (2) That an unnecessary and severe hardship would result from a strict interpretation and enforcement of the specified regulations if the easement of road access is not recognized and;
 - (3) That recognition of the easement of road access, at the substandard width, would not be detrimental to the public health, safety, or welfare nor materially injurious to properties or improvements in the vicinity.
- (C) If findings can be made based upon all of the criteria, recognition of the easement of road access may be granted. If findings cannot be made based upon all the criteria, recognition of the easement of road access shall not be granted.

SECTION 50.080 -- MINIMUM CONSTRUCTION STANDARDS FOR ACCESS

The following are the minimum access standards for creating private roads, local access roads, easements of road access, flag-lots and private driveways:

- (A) One, two or three current or potential homesites shall be served by at least a 30 foot wide, recorded easement of road access, if required, with a minimum 12 foot wide travelway;
- (B) Four or five current homesites shall be served by at least a 50-60 foot wide, reserved right-of-way, the width to be determined by the county engineer, with at least a 20 foot travelway. Owners of property having the potential for more than five parcels will be advised of the need for additional right-of-way and access improvements when that potential is exercised; and
- (C) Six or more current homesites shall be served by at least a 50 or 60 foot wide, dedicated right-of-way, the width to be determined by the county engineer, with at least a 22 foot paved roadway having four-foot shoulders. Local access roads shall be constructed to the highest level of the foregoing standards.
- (D) A reduction in right-of-way width and roadway condition may be warranted when new residences are proposed to be served by a pre-existing access. The Director and the Roadmaster shall retain the authority to establish minimum access requirements in this circumstance according to the following criteria:
 - (1) The road or driveway was established and provided access to more than one residence prior to July 1, 1991.
 - (2) The access improvements proposed represent an incremental improvement over the existing circumstances.
 - (3) The proposed access is feasible and equitable, given the circumstances involved.

(Article 50 continued)

- (4) The applicant shall provide the County a written waiver of liability for an access approved under the provisions of this section.

- (E) Construction of the access must comply with the following minimum improvement standards before development permits for a primary use of the land may be issued. Additional improvements are required for an access serving more than three development sites. Any variance to these standards is subject to review and written approval by the appropriate Rural Fire District and the County Road Department.
- (1) The all-weather access must be built and maintained to the minimum access requirements of Section 49.080 and shall be at least 12 feet in width and consist of a minimum of six inches of crushed rock or crushed gravel. An acceptable alternative base for the roadbed is six inches of quarry-run rock topped with a minimum of four inches of 1" minus crushed rock or 1" minus crushed gravel. The access route, including any culverts and bridges, must be capable of supporting gross vehicle weights (GVW) of 50,000 pounds. The County reserves the right to require written verification of compliance with the GVW standard from an Oregon registered professional engineer;
 - (2) The access will be provided with an unobstructed vertical clearance of at least 13 feet six inches and an unobstructed horizontal clearance of 20 feet and a minimum curve radius of 48 feet;
 - (3) At least one intervisible turnout every 200 feet shall be provided in any access way less than 20 feet wide. The turnout shall provide passage space at least 20 feet wide and 40 feet long;
 - (4) Roadside ditches shall be provided if deemed appropriate by the Linn County Road Department;
 - (5) Dead-end access ways over 150 feet in length shall provide and maintain a cleared turnaround, with a turning radius of at least 40 feet, adequate for emergency vehicles. When a dead-end access serves four or more dwellings, a turnaround with a turning radius of 48 feet shall be provided and maintained;
 - (6) Grades shall not exceed an average of 8 percent, with a maximum of 12 percent on short pitches.
- (F) Deed covenants and conditions shall be incorporated into the chain of title for all parcels created by partitioning action or easement recognition that:
- (1) Identify the road as a private road that is not part of the county-maintained road network; and
 - (2) Assign monetary responsibility for road and bridge maintenance and dust control to landowners of parcels served by said access;
 - (3) A copy of the deed or other document of legal conveyance with the attached covenants and conditions relating to access shall be provided to the Department. The covenants and restrictions, written in a manner that runs with the title to the land, shall be recorded with the county clerk before development permits for a primary use of the land involved may be issued.