Chapter 209

1965 REPLACEMENT PART
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County Surveyors

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209.020 Surveys on court order. The county surveyor shall execute all orders directed to him by any court of record or county court for surveying roads, or surveying or resurveying any tract of land the title to which is in dispute before such court, and all orders of survey for the partition of real estate.

209.030 Surveys on court order of land divided by county line. When lands the title to which is in dispute before any court are divided by a county line, the court making an order of survey may direct such order to the surveyor of any county in which any part of such land is situated.

209.040 Substitution when surveyor interested in land. When it appears that the county surveyor is interested in any tract of land, the title to which is in dispute before the court, the court shall direct the survey or resurvey to be made by some capable person, who is in nowise interested. The substitute surveyor shall be authorized to administer oaths in the same manner as the county surveyor, return the survey or resurvey on oath or affirmation and receive for his services the same fees that the county surveyor would receive for similar services.

209.050 Surveys for private persons. The county surveyor shall within 10 days, when called upon, survey any tract of land or town lot lying in his county, at the expense of the person demanding the same, if his legal fees are first tendered.

209.060 Surveys for private persons of land divided by county line. Any person owning or claiming lands divided by a county line, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of such land is situated. On such application being made, the surveyor shall make the survey, which shall be as valid as though the lands were situated entirely in one county.

209.070 Duties in respect to surveys. The surveyor of each county shall:

(1) Keep a fair and correct record of all surveys made by himself and deputies and the county roadmaster, as provided in ORS 368.530, in a good and substantial book, to be procured by him for that purpose.

(2) Number his surveys and the surveys made by the county roadmaster progressively and state by whom and for whom made.

(3) Have each record consist of:

(a) A written narrative of the survey as it was done, commencing with the description of the beginning corner, particularly as to the mode of its establishment, whether it is of rock, wood, iron, etc., the kind, size, bearing and distance of the bearing-trees from the corner, or if the corner is a mound, stating of what material it is made, what size, what deposit was made beneath the surface, whether of charred stake, charcoal, glass, etc., and whether it is common with a corner of a survey made by authority of the United States or of this state. Then follow the survey in order, giving the length and bearing of the lines, with the variation of the magnetic needle at which they were run and particularly describing each corner in the order of succession, affixing in all cases the date of the survey.

(b) A plain and correct plat of the survey, of convenient size, with the bearing and length of the line, or else numbered so as to be readily referred to the description. If the survey is a division of the land a plat shall exhibit the whole as divided; and in all cases such other lines, as of section, township or claim, as may be for the correct representation of the survey.

(4) Deliver a copy of any survey to any person or court requiring the same, on payment of the fee allowed by law.

(5) Establish every survey by a stake of durable wood not less than three inches in diameter nor less than three and one-half feet long, firmly planted not less than two feet in the ground, or by a stone containing not less than 1,000 cubic inches, stating the size, or by a bar of iron, from either of which the bearing distance shall be accurately taken to two or more living trees of more than three inches in diameter within five chains of the corner, which trees shall each be blazed in two places, one near the ground, the other two or four feet above. Upon the former blaze shall be legibly cut in the wood the letters "B.T." (for bearing-tree); upon the latter blaze in like manner, the letters "C.S." (for county surveyor). If there are no bearing-trees, then the corners shall be established by depositing stone, glass, iron, charcoal, charred stake, or some very durable mineral beneath the stake, stone or iron corner, and a mound of earth not less than four feet square at the base and 18 inches in height shall be compactly formed around

it. Two pits 18 inches square and one foot deep shall be dug on opposite sides of the mound at a distance of five feet from the corner. Where a stone of not less than 2,000 cubic inches, or a mound of rock not less than three feet square and 18 inches in height, or a bar of iron two feet long and not less than two inches broad and one-half inch thick is used, then the earth mound and pits may be omitted. In surveying town lots such corners may be used as are deemed proper, but in every town there shall be at least two permanent corners established with rock or iron.

(6) Make all surveys of legal subdivisions in conformity with the laws and regulations of the General Land Office of the United States.

(7) Establish all corners of government surveys, where the witness trees have been cut or have fallen down, and where there remains the stump or body on which the bearing marks, or blazes can still be seen, or where other evidences of the government corners may or can be found, whereby the corners established by government survey can be positively located by any of such or other decaying evidences, the corners to be reestablished in the manner provided in this section for establishing corners, and keep a separate record of the same in a book called "Bearing-Trees of United States Surveys," giving the date and names of persons present, and turn such record over to his successor. When so reestablished such corners shall be recognized as the legal and permanent corners.

(8) In counties lying west of the summit of the Cascade Mountains, establish, upon order of the county court or board of county commissioners, all corners of government surveys where all physical evidence is destroyed or cannot be found but where the official government notes are available, the corners to be reestablished in the manner provided in this section for establishing corners, and keep a separate record of the same in a book called "Bearing-Trees of United States Surveys," giving the date and names of persons present, and turn such record over to his successor. When so reestablished such corners shall be recognized as the legal and permanent corners.

(9) At the expiration of his term of office make out a complete record of all surveys, together with plats of all surveys made by him or his authorized deputies, or by the county roadmaster and filed in the office of the county surveyor, during his term of office, and turn over such records, together with the plats thereof, and all records and plats formerly received by him to his successor in office.

Note: The General Land Office of the United States was abolished and its functions transferred to the Director of The Bureau of Land Management in 1946.

209.080 Fees for certain duties of surveyor. The compensation to the surveyor for the performance of the duties defined in subsections (6) and (7) of ORS 209.070 shall be as determined by the county court or board of county commissioners, and paid out of the county treasury upon order of the county court.

209.090 Procuring and filing copies of plats and field notes of United States surveys; copies of notes as evidence. (1) The county court may procure from the Regional Chief of the Division of Cadastral Engineering or from any office in the United States Bureau of Land Management a certified copy of the field notes and plats of surveys lying within its county, relating to descriptions of the townships and legal subdivisions, corners, the variations at which the lines were run, the length of the several lines of the several sections, and file the same in the office of the county surveyor.

(2) Copies, certified by the county surveyor, of copies of such field notes, certified by the Regional Chief of the Division of Cadastral Engineering, filed in the office of the county surveyor by the county court or belonging to the deputy surveyor, shall be evidence.

(3) No county surveyor thus furnished with field notes, when called upon to execute any survey, shall make any charge for furnishing field notes.

209.100 Administering oaths; taking evidence. The county surveyor or his deputy may administer the oaths or affirmations necessary to the legal establishment of roads and other surveys, and to take the evidence of any person who may be produced to prove any point material to such survey.

209.110 Method of determining irregular land areas. All calculations to ascertain the contents of an irregular tract of land by the county surveyor or his deputy, or other persons who may at any time be called by the court to execute a survey, shall be made

by latitude and departure. On each plat the county surveyor or his deputies shall lay down the variations of the magnetic needle from the true meridian.

209.120 Determination of courses and angles; matters recorded. The county surveyors, or any authorized persons, shall give the course of all lines, traced or established, from the true meridian as found by an observation of the sun, the magnetic variation of the needle, and all angles shall be read from the vernier. They shall record for each observation the date and the standard and local time of day, declination of the sun, allowance for refraction, latitude used, latitude and altitude angles employed and the distance and course of the place of observation from the nearest section corner in township and range. No survey or report shall be complete and final until such data is recorded.

209.130 Establishment of corners; references. (1) In the establishment of a section, quarter-section or center corners, the county surveyor shall set a stone of durable quality, with a deposit of charcoal or anthracite coal not less than two inches in diameter and extending not less than 30 inches below the surface of the ground, under such stone or monument, or set an iron pin not less than one and one-half inches in diameter and at least two and one-half feet long, if the sub-stratum will permit the sinking of it without unreasonable expense. No monument shall extend more than two inches above the ground. Wherever the nature of the ground will not admit of the setting of a monument at the exact corner as described, then the monument may be omitted, or a different monument be set other than those described.

(2) Section and center corners shall be witnessed by at least four references, and quarter-section corners by at least two references. References shall be iron rods not less than one inch in diameter nor less than two feet long, or a deposit of charcoal or anthracite coal not less than two inches in diameter and extending not less than two feet, or a growing tree, hedge, or stone fence, or some other permanent object. All references shall be carefully described, and their bearings and distances noted in the report.

209.140 Necessary interference with corners. Any roadmaster, road supervisor or other authorized person who finds it necessary to interfere with any established corner in the improvement of a road, or for any other cause, shall notify the county surveyor, who shall lower and witness the corner, or place another monument and witness over the existing monument, as the case may demand, and record the proceedings in the record of permanent surveys.

209.150 Unauthorized interference with corners. No roadmaster, road supervisor or other person shall willfully or negligently remove, destroy or deface any government corner or witness, or any corner or witness permanently established by the county surveyor.

209.160 Establishment of private corners and boundaries; notice. Whenever the owner of one or more tracts of land desires to permanently establish the corners and boundaries thereof, he shall notify the county surveyor to make a survey thereof and establish such corners and boundaries, and shall furnish him the names and addresses of all persons residing in the county or elsewhere, so far as known, who may be affected by such survey. The county surveyor shall cause a notice in writing to be served on each person who may be affected by the survey, or his agent residing in the county, stating the time when he will begin the survey, and the lines or corners to be established. The notice shall be delivered to the person or left at his usual place of residence at least six days prior to the day set for survey. Whenever the landowners interested consent in writing the county surveyor may, at such time as agreed upon, proceed to establish the corners and boundaries without serving notice.

209.170 Conduct of private corner and boundary survey. On the day mentioned in the notice, or on the next thereafter, the surveyor shall proceed to make the survey, but may for good cause adjourn from time to time. The surveyor may, upon application of any person interested in such survey, take the evidence of any witness produced to prove any point material to such survey. The testimony shall be reduced to writing and subscribed and sworn to by the witness, and, together with an accurate plat and field notes of such survey, filed in the office of the county surveyor within 30 days after the completion of the survey.

209.180 Apportioning costs of survey among land owners. The county surveyor shall apportion the costs of the original survey among the landowners requesting the same, who shall be liable to the county surveyor therefor, according to their respective interests.

209.190 County line surveys. In any survey affecting a county line, the surveyor who may be called on to make the survey shall serve notice upon the county surveyor of the adjoining county, and they shall agree upon a time. They shall each serve notice upon the landowners of their respective counties who are interested in such survey, in the same manner as provided in ORS 209.160 and 209.170. They shall make such survey in the same manner as other surveys and each surveyor shall file a copy of the plat and field notes of the survey in the county surveyor's office.

209.200 Resurvey of government-surveyed lands. In the resurvey of lands surveyed under the authority of the United States, the county surveyor shall observe the following rules:

(1) Section and quarter-section corners, and all other corners established by the government survey, must stand as the true corners.

(2) They must be re-established at the identical spot where the original corner was located by the government survey, when this can be determined.

(3) When this cannot be done, then such corners must be re-established according to the government field notes, adopting proportionate measurements where the present measurements differ from those given in the field notes.

209.210 Employment of chainmen and other help; compensation. (1) Each county surveyor shall employ disinterested persons to act as chainmen. The county surveyor also may appoint markers, flagmen and rodmen.

(2) The expenses of the chainmen, markers, flagmen and rodmen shall be paid in advance, if required by the county surveyor or his deputy, by the party on whose application the survey may be made, and the money so advanced shall be accounted for by the surveyor, and the amount expended to be taxed on the bill of costs.

(3) Necessary chainmen shall receive $5 per day for the time actually employed, but when common labor rates in a locality are such as to make it necessary, in the judgment of the county surveyor, such chainmen may be paid the customary wages for common labor plus $1 per day. Other assistants necessary in making any survey shall receive the wages customarily paid to common labor at the time in the locality, to be determined by the county surveyor. However, the party ordering the survey may supply such common labor, at his own expense.

209.220 Oath taken by chainmen and markers. Each chainman and marker employed by the county surveyor or his deputy shall, before commencing the duty assigned him, take an oath or affirmation faithfully and impartially to execute the duties of his employment. The county surveyor or his deputy shall administer the oath or affirmation of each chainman and marker.

209.230 Materials and equipment for certain purposes. The county surveyor shall procure at the expense of the county the materials and requisites for carrying into effect ORS 209.100 to 209.240. The county court shall pay for the same and all expenses incurred therein out of the general fund of the county.

209.240 Fees of surveyor. For taking the variation of the magnetic needle, and recording and making report of the same, for making and recording all calculations of areas of land required by law, for the necessary attendance at the regular meetings of the county court, when required by the court, for making plans, specifications, superintending or inspecting public work under ORS 209.100 to 209.240, the county surveyor shall receive the same fees as allowed for making surveys, which fees shall be paid out of the county treasury bimonthly upon order of the county court.

209.250 Registered engineers and land surveyors to file field notes and map with surveyor; map specifications. (1) Any registered engineer or any registered land surveyor making a survey of lands within this state wherein he establishes or re-establishes a corner or corners shall, within 30 days thereafter, file complete field notes and a map of such survey with the county surveyor, who promptly shall file and index them. Such notes shall thereafter be a public record in the office of the county surveyor. However, it is not necessary to file field notes and maps for surveys reestablishing lot corners in previously platted subdivisions, the maps

and field notes for which are on file and the lot and block corners for which were established and marked after July 1, 1947, in conformity with ORS 92.010 to 92.090 and 92.100 to 92.160.

(2) Such field notes shall be in a written narrative form as provided for the county surveyor in ORS 209.070. Such map shall be made in sizes of 8½ inches by 13 inches or multiples thereof, and be of a permanent type of reproducible tracing. Maps shall show the following:

(a) Location of survey by one-fourth section and Donation Land Claim, Township and Range.

(b) The date of survey.

(c) Scale of drawing and North Point.

(d) Basis of bearings, if available.

(e) Initial point of survey, giving ties to corner or corners of record.

(f) All bearings or measured angles and distances separately indicated from those of record.

(g) All monuments set and their relation to older monuments found. A detailed description of monuments found and set shall be included and all monuments set shall be separately indicated from those found. Any additional information shall be typed or printed in narrative form upon similar quality tracing paper as that of the map and shall be 8½ inches by 13 inches in size. If typed, the tracing shall be backed with smudge-proof carbon.

(3) The license of any registered engineer or registered land surveyor failing to comply with the provisions of subsections (1) and (2) of this section shall be subject to revocation.

(4) Any state agency, board or commission, special district or municipal corporation making a survey of lands within this state shall comply with this section.

[Amended by 1963 c.555 §1; 1965 c.542 §1]

209.990 Penalties. (1) Violation of ORS 209.150 is punishable, upon conviction, by a fine of not less than $25 and not more than $50, and the costs of suit and re-establishment of the corner or witness.

(2) Any county surveyor failing to perform the duties required of him by ORS 209.020 to 209.090 shall be fined not exceeding $100, to be recovered by action of debt at the suit of the injured party.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 15, 1965.

Sam R. Haley
Legislative Counsel