

# Chapter 209

## 1983 REPLACEMENT PART

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### CROSS REFERENCES

- Compensation of surveyor, Ch. 204
- County home rule, Const. Art. VI, §10
- Deputies of surveyor, 204.601
- Duties for diking districts, 551.010
- Duties in improvement of watercourses or drains west of Cascades, 549.340, 549.350
- Election of surveyor, 204.005
- Procedure for submitting question whether city or county public official required to file statement of economic interest, 244.201
- Qualifications of surveyor for office, 204.016, Const. Art. VI, §8
- Term of office of surveyor, 204.010, 204.020

#### **209.020**

- Expenses of surveyor in partition proceedings, 105.405
- Surveying or laying out sewage disposal and other service facilities, entry upon private land, 451.590

#### **209.070**

- County roads, survey, 368.106
- Plats, approval by county surveyor, Ch. 92
- Vacation of plats, designation on plat by surveyor, 271.230



**209.010** [Repealed by 1953 c.306 §18]

**209.020 Surveys on court order.** The county surveyor shall execute all orders directed to the surveyor 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. [Amended by 1979 c.653 §1]

**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 a registered land surveyor, 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 the services the same fees that the county surveyor would receive for similar services. [Amended by 1979 c.653 §2]

**209.050** [Amended by 1979 c.653 §3; repealed by 1981 c.111 §2]

**209.060** [Repealed by 1979 c.653 §18]

**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 the surveyor and deputies thereof and by the county roadmaster, all surveys received pursuant to ORS 209.250 and all surveys under ORS 368.106 or 368.206.

(2) Number progressively all surveys received and state by whom and for whom made.

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

(4) Make all surveys of legal subdivisions with reference to the current United States Manual of Surveying Instructions.

(5) Establish or reestablish 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 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 ORS 209.130 for establishing corners, and keep a separate record of the same, giving the date and names of persons present, and turn such record over to a successor. When so established or reestablished such corners shall be recognized as the legal and permanent corners.

(6) Establish or reestablish, 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 ORS 209.130 for establishing corners, and keep a separate record of the same, giving the date and names of persons present, and turn such record over to the surveyor's successor. When so established or reestablished such corners shall be recognized as the legal and permanent corners.

(7) At the expiration of the term of office transfer all records to the successor. [Amended by 1979 c.653 §4; 1981 c.153 §56]

**209.080 Compensation of surveyor.** The compensation for the surveyor 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. [Amended by 1979 c.653 §5; 1981 c.111 §1]

**209.090 Procuring and filing copies of plats and field notes of United States surveys; copies of notes as evidence.** (1) The county court shall 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 shall be evidence. [Amended by 1979 c.653 §6]

**209.100 Administering oaths; taking evidence.** The county surveyor or a 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 materi-

al to such survey. [Amended by 1979 c.653 §7]

**209.110** [Repealed by 1979 c.653 §18]

**209.120** [Repealed by 1979 c.653 §18]

**209.130 Establishment of corners; references.**

(1) In the establishment of a section, quarter-section or center corners, the county surveyor shall set a monument of durable quality. Whenever the nature of the ground will not admit of the setting of a monument at the exact corner as described, then a witness monument shall be set.

(2) Section corners shall be witnessed by at least four references, and center corners and quarter-section corners by at least two references. References shall be of durable quality. All references shall be carefully described, and their bearings and distances noted in the report.

[Amended by 1979 c.653 §8]

**209.140 Necessary interference with corners.** Any 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. [Amended by 1979 c.653 §9]

**209.150 Unauthorized interference with monuments or corners.** No person shall wilfully or negligently remove, destroy or deface any survey monument, corner or witness corner of record in the office of the county surveyor or county clerk. [Amended by 1979 c.653 §10]

**209.160** [Amended by 1979 c.653 §11; repealed 1981 c.111 §2]

**209.170** [Amended by 1979 c.653 §12; repealed by 1981 c.111 §2]

**209.180** [Repealed by 1979 c.653 §18]

**209.190** [Repealed by 1981 c.111 §2]

**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 reestablished 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 reestablished with reference to the current United States Manual of Surveying Instructions. [Amended by 1979 c.653 §13]

**209.210** [Repealed by 1979 c.653 §18]

**209.220 Oath taken by employes.** Each person employed by the county surveyor or a deputy shall, before commencing the duty assigned, take an oath or affirmation faithfully and impartially to execute the duties of employment. The county surveyor or a deputy shall administer the oath or affirmation of each employe.

[Amended by 1979 c.653 §14]

**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 209.230. The county court shall pay for the same and all expenses incurred therein out of the general fund of the county.

**209.240** [Amended by 1979 c.653 §15; repealed by 1981 c.111 §2]

**209.250 Registered land surveyor map and written narrative; contents; effect of failure to comply.** (1) Any registered professional land surveyor making a survey of lands within this state wherein the surveyor establishes or reestablishes a boundary monument shall, within 45 days thereafter, file a map of the survey with the county surveyor, who promptly shall file and index it. The map shall be a public record in the office of the county surveyor. When applicable, the surveyor shall comply with ORS 209.070 (4), 209.130 and 209.200.

(2) Such map shall have a written narrative. If the narrative is a separate document, the map and narrative shall be referenced to each other. Such map and narrative shall be of a permanent nature on stable base reproducible material and made in sizes as required by the county surveyor. The narrative shall explain the purpose of the survey, the basis on which lines were established and which found monuments and deed elements controlled the lines established or reestablished. If the narrative is a separate document, it shall also contain the following:

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

(b) The date of survey.

(c) The surveyor's seal.

(d) The surveyor's business name and address.

(3) 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) The distance and course of all lines traced or established, giving the basis of bearing and the distance and course to a section corner, one-quarter corner, one-sixteenth corner or Donation Land Claim corner in Township and Range, or to a lot corner of a recorded subdivision.

(e) All measured bearings, angles and distances separately indicated from those of record.

(f) 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.

(g) The surveyor's seal.

(h) The surveyor's business name and address.

(4) Any monument set by a registered professional land surveyor to mark or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge or, if the monument is set by a public officer, it shall be marked with the official title of the office.

(5) If, in the performance of a survey, the surveyor finds or makes any changes in the section corner, one-quarter section corner or Donation Land Claim corner or their accessories as they are described in an existing corner record or survey map in the office of the county surveyor, the surveyor shall complete and submit to the county surveyor a record of the changes found or made to any corner or accessories to the corner. The record shall be submitted within 45 days of the corner visits and shall include the surveyor's seal, business name and address.

(6) The license of any registered professional land surveyor failing to comply with the provisions of subsections (1) to (5) of this section shall be subject to revocation.

(7) Any federal or 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; 1979 c.653 §16; 1981 c.113 §2; 1983 c.309 §11]

**209.255 Amendment of survey map or narrative by affidavit of correction; preparation, certification and recording of affidavit.** (1) Any survey map or narrative filed and recorded under the provisions of this chapter may be amended by an affidavit of correction:

(a) To show any courses or distances omitted from the map or narrative;

(b) To correct an error in any courses or distances shown on the map or narrative;

(c) To correct an error in the description of the real property shown on the map or narrative; or

(d) To correct any other errors or omissions where the error or omission is ascertainable from the data shown on the map or narrative as recorded.

(2) Nothing in this section shall be construed to permit changes in courses or distances for the purpose of redesigning parcel configurations.

(3) The affidavit of correction shall be prepared by the registered professional land surveyor or who filed the map or narrative. In the event of the death, disability or retirement from practice of the surveyor who filed the map or narrative, the county surveyor may prepare the affidavit of correction. The affidavit shall set forth in detail the corrections made. The seal and signature of the registered professional land surveyor filing the affidavit of correction shall be affixed to the affidavit.

(4) The county surveyor having jurisdiction of the map or narrative shall certify that the affidavit of correction has been examined and that the changes shown on the map or narrative are changes permitted under this section.

(5) The surveyor who prepared the affidavit shall cause the affidavit to be recorded in the office of the county recorder of the county where the survey or narrative is recorded. The county clerk shall promptly provide a recorded copy of the affidavit to the county surveyor who shall note the correction and the recorder's filing information with permanent red ink, upon the original survey or narrative filed in accordance with ORS 209.250. The corrections and filing information shall be marked in such a manner so as not to obliterate any portion of the survey or narrative.

(6) For recording the affidavit in the county deed records, the county clerk shall collect a fee set by the county governing body. The county clerk shall collect a fee as set by the county governing body to be paid to the county surveyor for

services provided under this section. [1983 c.309 §10]

**209.260 Fee of surveyor for filing and indexing maps of surveys.** The county governing body, by ordinance or regulation, may establish the fee to be collected by the county surveyor for filing and indexing a map of a survey. [1981 c 429 §2]

**209.270 Records of surveyor; location; accessibility.** (1) The records of the county surveyor shall be located in county facilities designated by the county governing body.

(2) The county surveyor shall be provided reasonable facilities for the proper filing, indexing, copying, public inspection and examination and protection of public records as required

under ORS 192.430 and 192.440. [1981 c 429 §3]

**209.990 Penalties.** (1) Violation of ORS 209.150 is punishable, upon conviction, by a fine of not less than \$250 and not more than \$500, and the costs of suit and re-establishment of the corner or witness.

(2) Any county surveyor failing to perform the duties required of the surveyor by ORS 209.020 to 209.090 shall be fined not exceeding \$100, to be recovered by an action brought by the injured party. [Amended by 1979 c 653 §17]

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