

Chapter 209

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COUNTIES AND COUNTY OFFICERS

209.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "County surveyor" means an individual appointed or elected to the office of county surveyor and who is responsible for performing the duties of such office as described by law.

(2) "Deputy county surveyor" means an individual appointed by the county surveyor to the office of deputy county surveyor.

(3) "Public land survey corner" means a section corner, one-quarter section corner, Donation Land Claim corner, meander corner, witness corner or any other corner established by the General Land Office or its successor.

(4) "Monument" means any permanent material object or collection of objects, either natural or man-made, which indicates the position on the ground of a survey station, public land survey corner or accessories, or a land boundary corner established by a qualified surveyor.

(5) "Registered professional land surveyor" has the meaning given that term in ORS 672.002. [1989 c.394 §2]

209.010 [Repealed by 1953 c.306 §18]

209.020 Surveys on court order; fees. 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. The county surveyor may charge and collect a fee that will reimburse the county for work performed under this section. [Amended by 1979 c.653 §1; 1989 c.394 §4]

209.030 Surveys on court order of land divided by county line; fees. 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. The county surveyor may charge and collect a fee that will reimburse the county for work performed under this section. [Amended by 1989 c.394 §5]

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 surveyor or resurvey to be made by a registered professional 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; 1989 c.394 §6]

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 county surveyor of each county shall:

(1) Keep a fair and correct record of all surveys made by the county surveyor and deputies thereof and by the county road official, 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) Provide 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 and maintain all public land survey corners, where evidence of the corners can be found and the corners can be positively located, and keep a separate record of the corners, giving the dates and names of persons present. When so established or reestablished such corner monuments 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 public land survey corners 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 corner monuments 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, 1985 c.582 §7; 1989 c.394 §7]

209.080 Compensation of surveyor. The compensation for the county 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; 1989 c.394 §8]

209.090 Procuring and filing copies of plats and field notes of United States surveys; copies as evidence. (1) The county

court shall procure from the Bureau of Land Management a copy of the field notes and plats of all surveys and resurveys of public lands of townships, sections, Donation Land Claims, mineral claims, homesteads, meander lines or other similar surveys lying within its county. These shall include copies of the official plats and field notes of the survey and shall be filed in the office of the county surveyor.

(2) Copies, certified by the county surveyor, of copies of such field notes or plats filed in the office of the county surveyor by the county court shall be prima facie evidence. [Amended by 1979 c 653 §6, 1989 c 394 §9]

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

209.110 [Repealed by 1979 c.653 §18]

209.115 Qualifications of county surveyor. An individual is not eligible to hold the office of county surveyor or deputy county surveyor unless the individual is a registered professional land surveyor. [1989 c.394 §3]

209.120 [Repealed by 1979 c.653 §18]

209.130 Establishment of corners; references. (1) In the establishment or reestablishment of a public land survey corner, the county surveyor shall set a monument of durable quality. When a monument cannot be set at the exact corner position or it is not practicable to set a monument, then a witness corner monument shall be set.

(2) Section corners, Donation Land Claim corners, center corners and quarter-section corners shall be witnessed by at least four references. Meander corners, angle point corners or other approved public land survey corners shall be witnessed 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 or on the survey. [Amended by 1979 c 653 §8, 1989 c 394 §10]

209.140 Necessary interference with corners; prior notice to county surveyor required; exception for emergency; fees. (1) Any person or public agency that finds it necessary to interfere with or pave over any established public land survey corner or accessories for any reason, shall notify the county surveyor prior to the interference, who shall lower and witness the monument, or place another monument and witness over the existing monument or reference and replace or set a witness monument, as the case

may demand, and record the proceedings in the record of permanent surveys. The county surveyor may charge a fee in an amount that will reimburse the county for the work performed.

(2) When an emergency exists and the county surveyor is unavailable, the person or public agency causing the interference shall cause a registered professional land surveyor to preserve the monument as required in subsection (1) of this section. The registered professional land surveyor referencing the monument shall notify the county surveyor of the references within two business days after the references or interference, whichever occurs first. [Amended by 1979 c 653 §9, 1985 c 582 §8; 1989 c 394 §11]

209.150 Removal or destruction of monuments; prior notice to county surveyor; exception for emergency; replacement of monument. (1) No person or public agency shall wilfully or negligently remove, destroy or deface any survey monument of record in the office of the county surveyor or county clerk without prior notice to the county surveyor. When an emergency exists and the county surveyor is unavailable, the person or public agency causing the interference shall cause a registered professional land surveyor to preserve the monument as described in ORS 209.140. The registered professional land surveyor referencing the monument shall notify the county surveyor of the references within two business days after the references or interference, whichever occurs first.

(2) Any survey monument that is disturbed or destroyed by the placement of any utility line, pole, pod, trench or any other utility fixture shall be replaced at the expense of the person or public agency causing such disturbance or destruction. A survey monument that is endangered by any repair or replacement of any existing utility line, pole, pod, trench or any other utility may be referenced and replaced by a registered professional land surveyor, if a survey is prepared and filed in accordance with ORS 209.250. The costs of referencing and replacing the endangered survey monument shall be paid by the person or public agency endangering the monument. [Amended by 1979 c 653 §10, 1989 c 394 §12]

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 or a registered

professional land surveyor shall observe the following rules:

(1) Section and quarter-section corners, and all other corners established and approved by the General Land Office or its successors, must stand as the legal and permanent 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, 1989 c 394 §13]

209.210 [Repealed by 1979 c 653 §18]

209.220 Oath taken by employees. 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 employee. [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. The map shall be a permanent 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 which may be on the face of the survey. If the narrative is a separate document, the map and narrative shall be referenced to each other. The 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 lettering on the map and narrative shall be of such size and clarity as to be clearly reproduced. The narrative shall explain the purpose of the survey and how the boundary lines or other lines were established or reestablished

and shall state which deed records, deed elements, survey records, found survey monuments, plat records, road records or any other pertinent data were controlling when establishing or reestablishing the lines. 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 and original signature.

(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 Arrow.

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

(e) All measured bearings, angles and distances that are used as a basis for establishing or reestablishing lines or monuments separately indicated from those of record together with the recording reference.

(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 and original signature.

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

(4)(a) The county surveyor shall promptly file and index maps that comply with subsections (1), (2) and (3) of this section. Any survey prepared by the county surveyor in an official or private capacity shall comply with subsections (1), (2) and (3) of this section.

(b) Any survey map found not to be in compliance with subsections (1) to (3) of this section shall be returned to the surveyor that prepared the map for correction. The surveyor shall return the corrected survey map to the county surveyor within 20 days of receipt of the survey map from the county surveyor.

(c) Any map that is not corrected within the specified time period shall be forwarded to the State Board of Engineering Examiners for action, as provided in subsection (7) of this section.

(d) No action may be maintained against the county surveyor for recording a survey map that does not comply with this section.

(e) No action may be maintained against the county surveyor for refusal to file a survey map that does not comply with this section.

(5) 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.

(6) If, in the performance of a survey, any registered professional land surveyor finds or makes any changes in any public land survey 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 and original signature, business name and address, and be on stable base reproducible material in the form required by the county surveyor.

(7) Any registered professional land surveyor failing to comply with the provisions of subsections (1) to (6) of this section shall be subject to disciplinary action by the State Board of Engineering Examiners.

(8) 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; 1989 c.394 §14]

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 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 original signature of the registered professional land surveyor making the affidavit 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; 1989 c.394 §15]

209.260 Fee of surveyor for filing and indexing maps of surveys. The county governing body, by ordinance, may establish the fee to be collected by the county surveyor for filing and indexing a map of a survey. [1981 c.429 §2; 1985 c.582 §9]

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]

209.300 Abandonment of railroad line; notice to county surveyor; request for copies of plats. When a railroad gives notice of its intention to abandon a railroad line within this state, the Public Utility Commission shall provide a copy of the notice to the county surveyor of each county in which the line to be abandoned is located. Upon written request from a county surveyor so notified, the railroad shall provide the county surveyor with a reproducible copy of the right of way plats for the line to be abandoned. The copy of the right of way plats shall be provided prior to abandonment at no cost to the county surveyor, and shall show the center line of trackage as originally constructed and currently existing, together

with ties to monumented public land survey corners, as shown by the right of way plats. [1985 c.220 §2; 1989 c.394 §16]

209.990 Penalties; civil remedies. (1) The costs of the reestablishment of the corner or witness monument may be recovered in a civil action together with costs and attorney fees for the prevailing party.

(2) A person may obtain injunctive relief to prevent further disturbance or destruction of survey monuments.

(3) 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, 1989 c.394 §17]

COUNTIES AND COUNTY OFFICERS
