



LINN COUNTY PLANNING AND BUILDING DEPARTMENT
Steve Wills, Director

*Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816, Fax 541-926-2060
www.linn.or.us*

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 property 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. If the easement will cross more than one other property, an easement must be granted by each property owner.

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. 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 can be found in Linn County Code Chapter 935.

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 a drainage way, floodplain, or wetlands 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
Chapter 935**

LCC 935.150 - Decision criteria: easement of road access

(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 decision criteria can be met:

- (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; and
- (2) The easement of road access is the only reasonable method of providing access to the parcel;

(B) An exception to LCC 935.110 (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.

(D) Except as provided in subsection (E) of this section, easements granted pursuant to this Chapter shall be perpetual and non-exclusive.

(E) An easement may be granted for temporary access.