

PERMANENT ROAD DIVISION (PRD)

FREQUENTLY ASKED QUESTIONS (updated August 2018)

GENERAL PRD QUESTIONS

1. What is a PRD?

A Permanent Road Division (PRD) is a special district established at the request of property owners with a common road related need in a specific area. The PRD includes annual assessments for road maintenance activities that are paid by a special parcel charge on the annual property tax bill and is borne by the property owners. PRDs are typically formed by residents who cannot adequately maintain their road through more traditional Homeowner Associations or Private Road Associations, but may also be formed to provide additional improvements like roadway surfacing, road widening, drainage improvements, fuels management, etc.

For existing roads, PRDs are formed at the request of local residents through an initial petition request and must be supported through separate petition and ballot election processes. For new subdivisions, the County may require PRDs to ensure road maintenance is adequately funded for the new roads constructed by the subdivision.

2. What are the criteria for the formation of a PRD?

The following generally outlines the requirements for roads to be considered for PRD formation.

- The road(s) must be in the unincorporated area of the County.
- For roads with 100 trips per day or fewer (generally serving 10 or less homes), the roads generally must meet the “Fire Standard Access” road standards as outlined in the Fire Safety Regulations section of the Nevada County Land Use and Development Code. Generally this requires the roads to be able to support a 40,000 pound vehicle and have a minimum width of 20 feet with 1-foot shoulder widths.
- For roads with more than 100 trips per day (generally serving more than 10 homes), the roads generally must meet the “Local Class 1” road standards as outlined in the Fire Safety Regulations section of the Nevada County Land Use and Development Code. Generally this requires the roads to be paved, with a minimum width of 20 feet with 2-foot shoulder widths.
- There must be adequate right of way for the county to provide sufficient vegetation removal and drainage maintenance.
- The roads must have offers of dedication or some other form of established right of way that would allow the county to maintain these roads.
- Upon PRD formation, the road is considered public and access cannot be denied (i.e. locked gates).
- There must be no other roadway deficiencies that would be prohibited on other public roads.

3. What if my road(s) do not meet the minimum PRD requirements mentioned above?

Many older local privately maintained roads do not meet these modern design standards. When this is the case, residents need to improve their roads to meet these standards prior to PRD consideration. Under certain circumstances, residents may decide to increase their assessments over a number of years (usually not to exceed 5) to fund the necessary improvements that bring the road up to the aforementioned standards. In these cases there must be sufficient right of way to perform the necessary road widening work.

In many cases the costs necessary to bring the roads up to adequate county standards are prohibitive to local residents.

4. Why must the roads meet minimum roadway standards to be considered for PRD?

When the county assumes maintenance responsibilities for roads, it also inherently assumes some (if not all) of the liability. If the county were to assume maintenance of a substandard road, it would expose the county and all its taxpayers to liability if an accident, road or drainage failure, or some other event were to occur that was attributable to the roadway design. As a result, we require roads to generally meet or exceed our minimum roadway design standards before being considered for a PRD.

5. Why won't the County assume maintenance of my road? Shouldn't my taxes pay for maintenance of my private road?

There are approximately 560 miles of road in the County's Maintained Mileage System. We maintain an additional 60+ miles of road in PRDs and County Service Areas (CSAs). State and federal funding sources – primarily through gas tax revenue - does not provide sufficient funds to adequately maintain these roads. As a result, the County's Pavement Condition Index (PCI) – which measures the condition of local roads - is trending downward.

There are an additional 1,800 miles of private roads in the County. In many cases these roads do not come close to meeting county road requirements and are in most cases in poorer condition than county roads. These roads would require considerable effort and funding to bring them into an acceptable condition, and in many cases these roads serve only a small number of residents. Any efforts to maintain these roads with public monies would further erode the ability to adequately maintain existing public roads.

On occasion, the county may consider bringing a road into the County Maintained System. The location and route of the road must be deemed by the County to be of public benefit and necessity. In other words, it needs to appear on a Circulation Element planning document, serve through traffic, or demonstrate that the road is needed to carry large traffic volumes. The road would also need to meet County Road Standards which includes considerable width requirements, and substantial road base specifications that translate into much higher costs.

6. What are the initial steps for property owners in the PRD process?

County staff is available to meet with the PRD proponents in person or on the phone to provide basic PRD formation information, but PRD proponents need to complete a considerable amount of work before a PRD can be formed. The first step is for the PRD proponents to collect at least 50% property owner signatures within the proposed PRD boundaries indicating that they would support the pursuit of a neighborhood PRD and acknowledgement that they have read and understand the PRD FAQs (this document). The county has forms that can be used for this purpose if needed. If the petition shows that there is at least 50% interest in the PRD formation, the county will work with representatives of the neighborhood to develop a proposed program. This includes which streets will be maintained, any necessary or desired improvements, and the cost estimates to maintain the road including any necessary costs to improve the road to county standards if applicable. The county will work with the property owners to develop a strategy and methodology that meets their needs and that has a likelihood for neighborhood approval. Once a strategy and potential parcel charges are calculated, the PRD proponents must collect petition signatures from property owners included in the proposed PRD and parcel charge. Petition signatures must be collected from more than 50% of the PRD property owners to continue with the PRD process, as described in greater detail below.

7. How is the greater than 50% threshold for signatures on the Petition for Permanent Road Division Formation determined?

A majority is determined by the number of parcel owner signatures divided by the total number of parcels owners within the proposed PRD. For example, if there are 20 parcels within the proposed PRD, then a minimum of 11 parcel owners must sign the petition. Owners that have multiple parcels need to sign for each property they own. The result must be greater than 50% per County policy.

An initial petition to show interest only requires property owner names and some preliminary PRD boundary and street maintenance information. The goal of an initial petition (and subsequent deposit) is to validate PRD formation interests and the subsequent efforts necessary on behalf of county staff.

The second (final) petition will be prepared by County staff and typically includes the following items:

- Name of the proposed PRD
- Boundaries of the proposed PRD, including total number of acres
- Assessed valuation of land and improvements within the proposed PRD
- Number of inhabitants and registered voters within the proposed PRD
- Location of the street(s) that will receive maintenance services
- **The proposed rate and method of apportionment of the assessment**

Parcel owners MUST be on record with the County as having ownership of the parcel in question. Family members not listed on property documents and renters / leasers are not eligible to sign the petition. Petitions will be checked with County records for validity. If the County's review results in less than 50% of valid signatures, the signatures will be returned to the PRD representative and additional signatures requested.

8. If a threshold for signatures on the second petition is met, what is the process to have the PRD formed?

The Streets and Highways Code (Section 1160-1197, et. seq.) allow for the formation of PRDs, and the formation of a parcel charge follows the requirements of Proposition 218.

When sufficient signatures have been collected, the petition, along with a list of all the property owners with their Assessor's parcel numbers and mailing addresses, is delivered to the Department of Public Works. Upon certification of the petition and completion of an Engineer's Report and other supporting documentation, the County Board of Supervisors will vote to approve a Resolution of Intent to form the PRD. The Board of Supervisors will then set a date for the public hearing and special election (typically held on the same date). The public hearing and special election must be scheduled between 45 and 60 days after the Resolution of Intent is approved by the Board. All parcel owners will then be notified by mail and ballots will be mailed out. After the public hearing, the Board will tabulate the election results. If a majority of the submitted ballots (NOT the majority of property owners) approve the parcel charge and no significant issues or concerns are raised during the public hearing process, the Board will likely vote to accept the proposal and approve the PRD parcel charge.

9. Are we responsible for the costs of PRD formation?

Residents are typically required to fund the staff time and effort necessary to form a PRD. This can typically cost between \$3,000 and \$6,000 or more depending on the size and complexity of the proposed PRD. Residents typically provide a deposit to the Department of Public Works once 50% or more of property owners sign the initial petition with interest in PRD formation. Any unused portions may be credited back to the residents or donated to the PRD once the formation process is complete.

10. Are the annual road maintenance costs fixed? How long before the estimates can change?

The initial assessment is based on an estimate of current day costs to construct and maintain roads based on County standards and policies. Given the volatile nature of prices for oil and aggregate materials and general inflation, the annual assessment includes a Consumer Price Index (CPI) or other inflationary adjustment. This allows PRDs to remain solvent for the lifetime of the PRD and to 'keep pace' with the economy and construction and maintenance costs. The CPI adjustments are capped at 5% annually and historically averages about 2.5%.

11. Where does the money come from to pay for road maintenance and how quickly will we see the county perform road maintenance?

The PRD will build up reserves from benefit fee assessments over time in order to pay for road maintenance and preservation costs. Road work cannot be performed until the money is available to pay for those services.

Typically assessments are collected in the first tax year after the PRD is formed. It can take anywhere from 6-12 months after a PRD is formed for funds to begin collecting in the PRD account. Since the County will only service the road with available funding in the PRD account, there can be an unmet expectation from the residents who assume the County will immediately assume perform maintenance activities on PRD roadways.

In some cases property owners may wish to temporarily increase their assessments (over a predetermined time period not to exceed 5 years) or deposit funds directly into a PRD account to advance needed road maintenance services. These options are available to property owners if needed and can be included in the Engineer's Report and PRD approval process.

12. Does the County solicit participation in the PRD Program?

No. This program is available to property owners in the unincorporated area of the County. Our primary goal is to provide information so people can decide whether a PRD is an attractive alternative to their road repair and maintenance needs. The County does not profit from these PRDs and the program is expected to be revenue neutral and self-sustaining, with all costs being born by benefiting properties.

Typically, residents will contact us after hearing about the PRD program either by word of mouth, the Department of Public Works website, or Board of Supervisor offices. The Department of Public Works manages the program, and forming a PRD occurs only if a majority of the voting property owners support it by formal ballot.

13. In the Engineer's Report and Cost Estimate Sheet you show administration cost. What kinds of things are included in that?

That includes all costs associated with managing PRD funds and the PRD in compliance with State and local laws. There are annual costs for overhead (i.e. office space, computers, vehicle usage, etc.), as well as annual costs for audits, benefit fee processing, Engineer's Report updates, and field reviews. "Administration" also includes any costs we incur related to the PRD, including but not limited to: telephone call responses, written correspondence, response to complaints, issues requiring field visits, and any other investigative activities requested by parcel owners.

In an effort to keep your administrative costs low, we always encourage property owners to consider a neighborhood contact person (chairperson) as their first point of contact for questions or issues that need

resolution. That way, all pertinent items are being channeled through a single point of contact, and the number of interactions between the County and the PRD can be minimized to keep administration costs lower.

14. What can I do if I believe I do not benefit from the road maintenance work, or that my assigned benefit is too high?

Assessment PRDs are formed in compliance with State law. The law requires the assessment be based on benefit to the parcel, not benefit to the property owner, and conveys with the parcel. Before a PRD forms, an Engineer's Report is prepared by the County or a third party that determines the boundary map, benefit formula that will be applied to each parcel, and an assessments charged to each party. The Engineer's Report is available for review, including the boundary map, associated costs and the assessment methodology.

While PRDs formations are governed by state law, the process of assigning parcel assessments is left to engineering judgment. There are various options available to local residents to establish fairness and equity in the parcel assessment process. With that said, the county will not unfairly or unreasonably assess one or a few property owners at the benefit of a majority of property owners.

If you wish to dispute your inclusion in the PRD or your benefit apportionment, you can submit a written request for re-evaluation and provide a basis for your reasoning. The County will review the submittal and make a determination on your request.

15. Can property owners hire their own contractor after they form as a PRD?

Once the PRD is formed, PRD funds are handled as public monies. This means that the County must follow local and state purchasing and contracting laws that may call for a competitive bid process. Any road work must be done by State Licensed and insured contractors and paid competitive (prevailing) wages, and the work product must be inspected by the County. For routine maintenance, work is typically performed by county maintenance personnel.

While the property owners may decide to construct improvements with additional monies not included in the PRD, the work must be performed under a county issued encroachment permit, and all work will be subject to County standards and procedures.

16. What about liability on these roads?

When a PRD is formed, to some extent the County assumes some responsibility with the property owners. For example, if the PRD were to make a road that is "less safe" than it was prior to the road maintenance work, the County could incur some liability. To help alleviate these concerns, the County requires any contractor performing road work within a PRD be State Licensed and insured, with the work product being inspected by the County via an encroachment permit or other approval process.

17. Can our road(s) include locked gates?

No. The PRD formation process includes a Board of Supervisors' declaration that roads within the PRD are public. Since they are declared public they cannot have locked gates or have signs indicating private roads or roads for residents only. The public status also enables county crews and contractors to legally access the roads to do work.

18. What is the benefit of forming a PRD versus doing the work ourselves?

Forming a PRD assures that all benefiting parcels pay their fair share of road maintenance costs; not only initially, but in the future as well. Since the obligation is placed against the parcel (not the person), future property ownership changes will not affect parcel assessments. Without the PRD, many communities experience property owners unwilling to pay any of the costs, or owners that are willing to pay, but only a portion of their fair share, and only at a time when it's convenient for them. Unless there is unanimous or a majority of voluntary participation on the part of all property owners, many communities find it difficult to acquire sufficient funds to complete needed road maintenance.

19. What are the negative aspects of forming a PRD?

The formation process is extensive and can take considerable time and cost to complete. The cost of forming the PRD is borne by properties within the PRD by way of an up-front deposit. Without a PRD, there would be no formation costs incurred. There are also administrative costs associated with managing the PRD, which are passed on to properties within the PRD. That money could be saved and used for road repair and maintenance or other purposes if no PRD existed. Without a PRD, you would have control over any available money and could hire anyone you wish to do the work, any time you want. Once a PRD is formed, we manage your money as public funds and are required to have annual audits and meet other mandated requirements. We also control how contractors are hired and when the work gets done. Without the constraints of a PRD, you'd likely find that you could hire your own contractor and get the work done in a much shorter period of time and for far less cost.

20. What happens if several years after the PRD is formed, we'd like to get rid of it?

The PRD would need to "dissolve." Dissolution could only occur after any outstanding debt of the PRD is repaid, and the PRD must fund the administrative cost of dissolution including any potential future annual audits for a period of two years.

The dissolution process is similar to the formation process in that it requires majority approval of the property owners by weighted ballot. If the ballot to dissolve is successful, the Board of Supervisors can approve the dissolution. Once the PRD is dissolved, responsibility for future repair or maintenance of the roads immediately reverts back to the property owners.

Please note that under some circumstances PRDs cannot legally dissolve. For PRDs formed in newer subdivisions, PRD formation was likely required (conditioned) in order to create the subdivision. In order for these PRDs to consider dissolution, the conditions approved by the Board of Supervisors would need to be amended to remove the PRD requirements. This process is time consuming and costly, and without reasonable justification is unlikely to be approved by the Board of Supervisors.

21. What happens if property owners split their parcels after the PRD is formed?

The assessments run with the parcel, not the property owners. If property owners split their parcels after the PRD is formed each of the new parcels will pay their fair share based on the PRD benefit assessment formula included in the Engineer's Report.

22. Should we consider creating a PRD Committee or Chairperson?

The State law which governs PRDs does not prescribe a formal process for selection of a PRD Chairperson, or Committee Members, and it does not lay out specific roles and responsibilities. In most smaller and medium sized PRDs, road maintenance decisions are made directly by the Department of Public Works and are scheduled when there are sufficient funds available in the PRD budget and when the need arises.

However, some neighborhoods may decide to designate a PRD Chairperson and/or Committee Members to adequately represent the property owners. Most often, the PRD Chairperson is a project proponent who initiates and leads the formation effort. Anyone who wishes to be on the PRD Committee should contact the Chairperson to volunteer. The PRD Committee should consist of parcel owners that provide input of road maintenance needs to the Chairperson, and are kept informed of PRD activities by the Chairperson, through use of a newsletter or periodic meetings. It is highly recommended that a PRD Chairperson or representative have the ability to communicate with their neighborhood and develop consensus on proposed road maintenance activities.

23. Do we need to maintain all the roads in our potential PRD?

No. The decision to include or exclude roads is up to the parcel owners and neighborhood representatives prior to formation of the PRD. When roads do not meet minimum County standards, the County may determine that these roads are not eligible for inclusion in the PRD. Very often only the primary entrance road – and perhaps a few connector roads – are initially maintained because of cost considerations. Other roads can be included for maintenance at a future time, but it requires Board of Supervisor action to do so.

24. How is it determined which roads in the potential PRD receive service?

When a PRD with multiple roads is formed, the neighborhood representatives or property owners will request which roads are to be maintained by the PRD. Roads that are maintained by the PRD will receive service based on need and/or requests to service the particular road.

25. How long does the process take and how long will you work on a particular PRD formation effort?

Typically a PRD can be formed in 4 to 12 months depending on the size and complexity of the PRD boundary.

26. Who will manage the PRD?

Management of the PRD is the responsibility of the Department of Public Works. Typically the County directly manages smaller and medium sized PRDs. However, a PRD Chairperson or Committee can also work with the County if needed. In these instances we typically consult PRD representatives to receive input and recommendations regarding maintenance and repair needs, and the setting of priorities. In cases where road damage or an unexpected event creates a significant hazardous condition, Public Works will take immediate unilateral actions to abate the hazard.

Ultimate authority for the PRD, including its initial formation or dissolution, management, annual budget, and assessment collection, lies with the County Board of Supervisors.

27. What maintenance services are typically included in PRDs?

Road maintenance typically includes the same level of services expected for publicly maintained roads. This may include crack sealing, pothole repair, minor drainage maintenance and improvements, roadside brush clearing, surface treatments (chip seals or slurry seals performed every 7-10 years depending on road conditions), overlay improvements (typically performed every 20-30 years), striping maintenance, snow removal, fallen tree removal, etc. In some cases specific items may be excluded from PRDs (i.e. snow removal on roads with speed bumps), but these exclusions are considered on a case by case basis.

28. Do the PRD roads receive traffic violation enforcement?

Under some circumstances, law enforcement agencies will enforce violations of traffic control signs on PRD roads. However, it is not reasonable to expect considerable and consistent law enforcement presence on lower volume roads – either publicly maintained or maintained through a PRD.

29. What if I have more questions about the PRD process?

The County maintains a website with information regarding private road maintenance and the PRD process. The website for this information can be found at:

<https://www.mynevadacounty.com/375/Road-Maintenance-Options-In-Nevada-Count>

You may also call the Department of Public Works at (530) 265-1411 during normal business hours.