

## **Notice of Public Use & Necessity Hearing**

While public use and necessity hearings are sometimes noted under the civil rules as a motion, they need not be noted that way. See specific statutory authority for this proceeding in [RCW 8.12.090](#). Since not all counties handle the noting of public use hearings in the same manner, counsel should call the scheduling clerk or bailiff for the assigned judge, if applicable, to find out if they prefer that a particular notice procedure be used. In the absence of an expressed preference from the court, this form should work.

### **RCW 8.12.090**

#### **Waiver of jury -- Adjudication of public use -- Procedure.**

In any proceedings under this chapter wherein a trial by jury is provided for, the jury may be waived as in other civil cases in courts of record in the manner prescribed by law, and the matter may be heard and determined without the intervention of a jury. Whenever an attempt is made to take private property, for a use alleged to be public under authority of this chapter, the question whether the contemplated use be really public shall be a judicial question and shall be determined as such by the court before inquiry is had into the question of compensation to be made. When a jury is required for the determination of any matter under this chapter, such jury may be the same jury summoned for the trial of ordinary civil actions before the court, or the court may, in its discretion, issue a venire to the sheriff to summon as jurors such number of qualified persons as the court shall deem sufficient. Except as herein otherwise provided, the practice and procedure under this chapter in the superior court and in relation to the taking of appeals and prosecution thereof, shall be the same as in other civil actions, but all appeals must be taken within thirty days from the date of rendition of the judgment appealed from. Proceedings under this chapter shall have precedence of all cases in court except criminal cases.

[1907 c 153 § 51; RRS § 9276. Prior: 1905 c 55 § 50; 1893 c 84 § 50. Formerly RCW [8.12.090](#), [8.12.110](#) and [8.12.200](#), part.]

#### **NOTES:**

Juries, civil actions: Chapters [2.36](#), [4.44](#) RCW.