

## **SECTION 14-700 VACATION OF ROADWAYS, PUBLIC EASEMENTS AND PLATS**

### **14-701 INTENT**

To provide a review process for vacation of a roadway; public easement; or recorded plat in order to vacate the County's interest without harm to the public health, safety and welfare.

### **14-702 APPROVAL STANDARDS**

A vacation may be approved upon the finding that:

- A. The vacation is in accordance with adopted standards and criteria, and the original conditions of approval;
- B. The vacation is in keeping with the spirit and intent of the County Subdivision Regulations;
- C. A platted or deeded roadway or portion thereof or unplatted or undefined roadways which have arisen by public usage shall not be vacated so as to leave any land adjoining said roadway without an established public road or private access easement connecting said land with another established public road. [43-2-303(2)(a) C.R.S.]
- D. If it is a State Highway, the Transportation Commission approves. [43-1-106(11) C.R.S.]

### **14-703 ROADWAY VACATION – SUBMITTAL DOCUMENTS AND PROCESS**

The Board of County Commissioners is authorized to vacate roadways, which include any platted or designated public street, alley, lane, parkway, avenue, road or other public way designated or dedicated on a plat, conveyed by deed, recorded easement, acquired by prescriptive use or other legal instrument whether or not it has ever been used as such, pursuant to Article 2 of Title 43 C.R.S. as amended.

#### **14-703.01 VESTING OF TITLE**

Vesting of title upon vacation shall be in accordance with Section 43-2-302 C.R.S., as amended.

#### **14-703.02 SUBMITTAL PROCESS**

- A. Prior to submitting a complete application for the right-of-way vacation, a Pre-submittal meeting with representatives of the Planning Division and Engineering Division is required, unless waived in writing by the Planning and/or Engineering Division Managers.
- B. Following the Pre-submittal meeting, the Applicant must complete all of the requirements of the Formal review process as prescribed by the PWD Department. The Planning and/or Engineering Division Managers may waive any portion of the Formal submittal requirements in writing.
- C. As part of the review process, referral agencies are notified and have the opportunity to respond in writing. The Applicant may be required to pay any fees assessed by these referral agencies in advance of their review. This referral period is 21 days and can be extended by up to 30 additional days by mutual consent of the Applicant and the Planning Division Manager or designee. Failure of an agency to respond within the prescribed time period (or extended period) shall indicate approval by that agency.

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- D. Following referral agency review, the PWD Department staff will determine the applications readiness for a hearing with the Board of County Commissioners.
- E. When determined ready, the staff planner shall schedule the Vacation with the Board of County Commissioners for final consideration. The Applicant shall be notified of the hearing date and time.
- F. The Applicant shall be responsible for public notice prior to the Board of County Commissioner's hearing in compliance with the public notice requirements in Section 17-100 herein.
- G. The Board shall evaluate the Vacation request, referral agency comments, staff report and public testimony and shall approve, conditionally approve, table for further study, remand to the Planning Commission or deny the vacation request. The Board's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies and other guidelines.
- H. Upon approval by the Board, the Applicant has sixty (60) days to submit the necessary deeds required by the vacation along with the Vacation Exhibit. Within thirty (30) days of receiving, the staff planner shall record the Vacation Resolution, Vacation Exhibit and deeds in the Office of the Clerk and Recorder.

### **14-703.03 SUBMITTAL DOCUMENTS**

- A. Completed Land Use and Vacation Request Application (Applications are available from the Planning Division office)
- B.
- C. Application fee (Fee Schedule is available from the Planning Division office)
- D. Written Letter of Intent that explains, justifies and validates the request, stating all facts relied upon and providing documentation where possible.
- E. A vacation exhibit shall be an original drawing in black ink on 8 1/2" x 14" paper or other size as required by PWD, and shall contain information deemed appropriate by the PWD Department. Include the written legal description signed and sealed by a Professional Land Surveyor registered in the State of Colorado, of the right-of-way to be vacated
- F. .
- G. Vicinity map showing the location of the right-of-way in relation to the lots, or the area surrounding the right-of-way within a 1-mile radius which can be obtained in the Mapping Section.
- H. Letters from the following stating their recommendation regarding the vacation and any existing facility they have over, under or across the land:
  - 1. all special districts providing maintenance of infrastructure within the rights-of-way
  - 2. all known easement beneficiaries, cable providers, fiber optic companies and/or utility providers; and
  - 3. all landowners abutting or using an access proposed for vacation.
- I. Stamped envelopes addressed to abutting landowners and other landowners using the access proposed for vacation, as specified by staff, for notification of the vacation application. Include a map identifying the area to be vacated and relationship to the abutting landowners.

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- J. A completed Vacation Petition

### **14-703.04 RESUBMITTAL**

An application shall not be resubmitted within 1 year of the date of denial. However, if the Planning Division Manager or designee determines that the resubmitted vacation, application has been modified to correct the stated objections, then the resubmittal will be accepted.

## **14-704 VACATION OF PLAT OR PUBLIC EASEMENT– SUBMITTAL DOCUMENTS AND PROCESS**

### **14-704.01 PROCESS**

- A. The Applicant shall submit the required information to the Planning Division office. Once the submittal is determined complete, staff will mail referral packets to the appropriate County departments and outside agencies and letters to the abutting landowners.
- B. The referral agencies shall comment within twenty-one (21) days of receiving the packet. Staff shall review the information and prepare a staff report for the Board of County Commissioners and notify the Applicant of the hearing date and time.
- C. The Board of County Commissioners shall evaluate the vacation request, referral agency comments, staff report and public testimony, and shall approve, conditionally approve, table for further study, or deny the vacation request. The Board's action shall be based on the evidence presented, compliance with the adopted standards, regulations, policies and other guidelines.

### **14-704.02 SUBMITTAL DOCUMENTS REQUIREMENTS - PLAT OR PUBLIC EASEMENT VACATION**

- A. Completed Land Use and Vacation Request Application (Applications are available from the Planning Division office)
- B. Application fee (Fee Schedule is available from the Planning Division office)
- C. Proof of ownership, which includes an updated, or current title insurance policy or title commitment.
- D. A notarized Letter of Authorization from the landowner permitting a representative to process the application, with a disclaimer that no other party's consent is required.
- E. A plat vacation exhibit which shall be a photographic mylar or equivalent (prepared such that the text/line work does not bleed, flake, or scratch off) on 24" x 36" single/double matte mylar. The drawing shall be in upper case sans serif with a minimum 12-point font unless otherwise approved by the Planning Division Manager or designee and shall contain information deemed appropriate by the PWD Department. An easement exhibit shall be on 8 1/2" x 14" paper or other size as required by PWD, sealed by a professional land surveyor, containing information deemed appropriate by the PWD Department.
- F. A vicinity map that depicts the area surrounding the subdivision within a 1-mile radius or shows the relationship of the easement to be vacated to adjoining lots.

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- G. If anything less than the entire plat is vacated, include a legal description of the portions being vacated signed and sealed by a Professional Land Surveyor registered in the state of Colorado.
- H. Letters from the following stating their recommendation regarding the vacation and any existing facilities they have over, under or across the land from:
  - I. all special districts providing maintenance of infrastructure within rights-of-way and or easement;
  - J. all landowners abutting or using an access proposed for vacation; and
  - K. all known easement beneficiaries which may include utility companies, cable and or fiber optic companies.
- L. A matrix listing submittal requirements is available in the Planning Division office. Other submittal requirements may be required based on the PWD Department review.
- M. A completed Petition

### **14-705 RECORDATION PROCEDURE – ALL VACATIONS**

- A. Prior to recordation of the plat vacation exhibit, the Applicant must submit all required documentation, recordation fees, a certificate of taxes paid along with the vacation exhibit in accordance with the Board of County Commissioners approval.
- B. The Applicant shall provide evidence through a current title insurance policy or commitment that the signature of the owner on the final mylar is the owner of the property.
- C. Prior to the County's recognition of the Vacation Exhibit, the approved Vacation Exhibit must be recorded in the Office of the Arapahoe County Clerk and Recorder. The recordation of the approved Plat Vacation and associated documentation shall occur within ninety (90) days of approval by the Board. An extension may be granted in writing by the Planning Division Manager.
- D. Within sixty (60) days of approval of the vacation, unless stated otherwise in such approval, the Applicant shall submit a Vacation Exhibit ready for recordation except for the signatures of the Board Chair. An original drawing in black ink is also acceptable. In addition, all required documentation and recordation fees are required with the submittal.
- E. The staff planner shall obtain the signatures of the Board and the attest from the Clerk and Recorder and record the Plat Vacation within 30 days of receiving the Plat Vacation.