

Section 13 – Vacation of Rights of Way

(orig. 12-21-10)

A. Intent and Purpose

The Right-of-Way vacation process was created to provide consistent processing procedure for vacations. The process outlines time frames and expectations, providing the applicant with a clear understanding of the steps involved prior to being scheduled for the public hearings. The Director of Planning and Zoning may waive the time frames included in this process depending on Planning and Zoning staffing levels and the complexity of the proposal. (orig. 12-21-10)

B. Application

1. The term “Right-of-Way” includes any platted or designated public street, alley, lane, parkway, avenue, road, or other public way, whether it has been used as such, pursuant to Section 42-2-301(3), C.R.S. Determination on whether land is eligible for a Right-of-Way vacation is based on the following table. (orig. 12-21-10; am. 7-17-18)

Dedication Language on Recorded Document	Eligible for Vacation?	Requires Civil Action?
Dedicated to Jefferson County and accepted by the BCC	Yes	No
Dedicated to the Public and accepted by the BCC	Yes	No
Dedicated to the County or Public, but not accepted by the BCC. Maintained by the County.	Yes	No
Dedicated to the County or Public, but not accepted by the BCC. Not maintained by the County.	No	Yes
No dedication or dedicated to private property owners. Maintained by the County.	Yes – For that portion of the road that has achieved prescriptive ownership due to maintenance activities.*	Yes - For that portion of the road that has not achieved prescriptive ownership due to maintenance activities.*

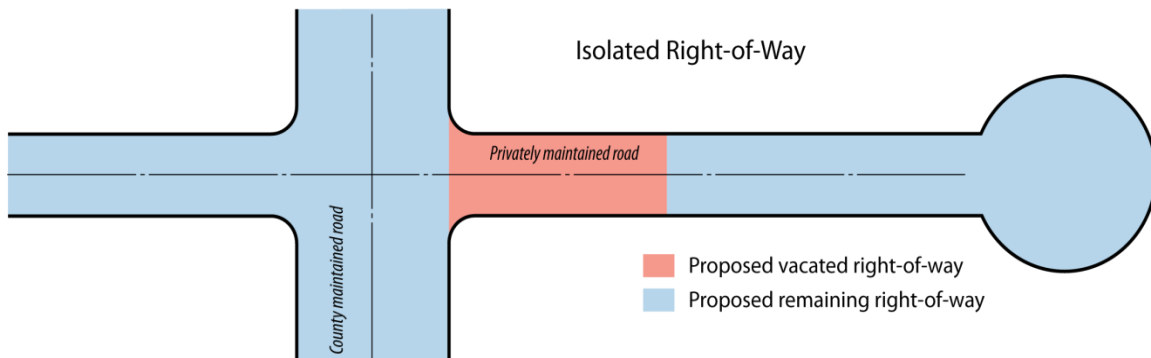
* Prescriptive ownership includes the road surface and shoulders, along with areas used for drainage, routine maintenance, and the safe operation of the road. (orig. 12-21-10)

2. A nonrefundable processing fee in an amount established by the Board of County Commissioners is required for this process. (orig. 12-21-10)
3. Notification is required in accordance with the Notification section. (orig. 12-21-10)
4. The following procedure and requirements shall apply to Vacation applications. (orig. 12-21-10)

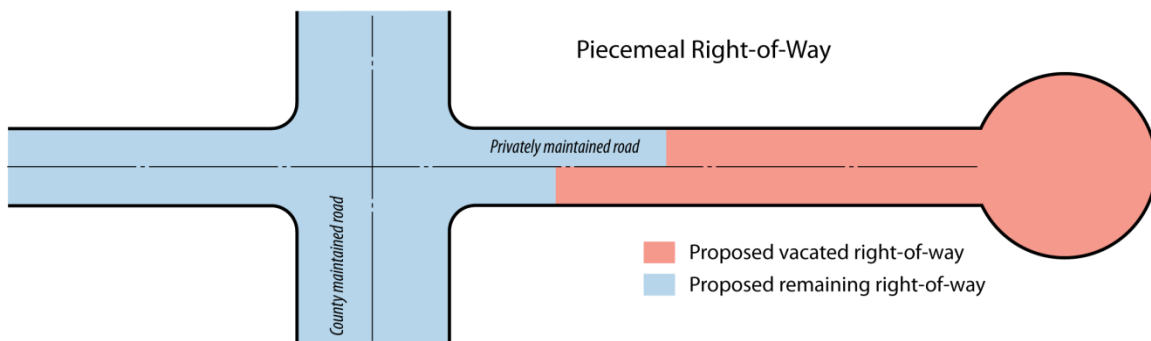
C. Criteria

1. A vacation may not eliminate the only physical or legal access for any property. The following may be required to ensure that access is maintained. (orig. 12-21-10)
 - a. Private access easements. (orig. 12-21-10)
 - b. Merger(s) of property under the same ownership. (orig. 12-21-10)
 - c. Dedication of additional Right-of-Way. (orig. 12-21-10)
2. A vacation may not eliminate the only physical or legal rights to utilities for any property. The following may be required to ensure that the legal rights to utilities are maintained. (orig. 12-21-10)
 - a. Utility easements. (orig. 12-21-10)
 - b. Dedication of additional Right-of-Way. (orig. 12-21-10)
 - c. Reservation of easements for existing utilities. (orig. 12-21-10)

3. The County may assign the vacated property to a private maintenance association. The entity must provide a statement in writing that it is willing to take over maintenance and ownership of the vacated property. (orig. 12-21-10)
4. Mergers may be required to combine parcels affected by the vacation. The Case Manager may make mergers a requirement if they are needed to maintain legal access for all parcels. If required, the mergers will be a condition of the vacation approval. (orig. 12-21-10)
5. Vacation requests shall not negatively impact the existing or planned street/road system. If negative impacts are created, then traffic information and mitigation improvements may be required. (orig. 12-21-10)
6. Construction plans for improvements required to maintain acceptable service, or to mitigate negative impacts, must be submitted in accordance with the Land Development Regulation and Transportation Design and Construction Manual. (orig. 12-21-10; am. 11-24-15)
7. Vacation requests shall not create a circulation system that is non-compliant with the Land Development Regulation, unless an Alternative Standard/Requirement has been granted. (orig. 12-21-10; am. 12-09-14)
8. Reimbursement costs will be required for vacation requests that involve Right-of-Way that was previously purchased by the County. (orig. 12-21-10)
9. Vacation requests that create isolated Right-of-Way (as shown below) are not permitted. (orig. 12-21-10)



10. The "piecemeal" vacation of Right-of-Way (as shown below) is discouraged and shall be reviewed on a case-by-case basis. (orig. 12-21-10)



D. Procedure

The following is an example of the typical processing steps and timeframes for the development application. If the applicant complies with all given time frames, submits a complete application and complies with all requirements of this Regulation, the estimated time to reach the public hearing phase of the process is 92 calendar days from the date of the 1st Referral. (orig. 12-21-10; am. 7-17-18)

Process Steps		Processing Time Frames
Optional Pre-Application Review Process or Meeting with Staff	Prior to Process	
Steps prior to 1st Referral		
Sufficiency Review and Referral Distribution or Deficiency Response	7 calendar days	
Resubmittal Sufficiency Review (if necessary)	5 calendar days	
Process from 1st Referral to Public Hearing		
1 st Referral and Staff Response	21 calendar days (14-day referral, 7 days for Staff response)	92 Days to tentatively scheduled hearing if processing time frames are met.
Applicant's Response to 1 st Referral	Varies, 14 calendar days used for example timeframe	
Sufficiency Review and Referral Distribution	5 calendar days	
2 nd Referral and Staff Response	21 calendar days (14-day referral, 7 days for Staff response)	
Hearing Documents	10 calendar days	
Hearing Preparation	21 calendar days	
Public Hearing and Post Hearing Review		
Planning Commission Hearing	Time varies based on PC and BCC actions; and applicant meeting approval conditions	
Board of County Commissioners Hearing		
Post Hearing Review		

Prior to submitting a development application, it is recommended that the applicant go through the Pre-Application Review Process, as identified in the Pre-Application Review Process Section. The Pre-Application Review Process will help identify the key issues that will need to be addressed during the process and will help to establish the specific submittal requirements. The specific submittal requirements can also be established by obtaining an appointment with Staff to discuss the development proposal. (orig. 12-21-10; am. 7-17-18)

If an applicant is going to request relief from a standard, to avoid processing delays, it is recommended that a request for relief from a standard be submitted early in the development process. Requests for relief of a standard are subject to different specific processing timeframes, which may add to the length to the processing of the development application. (orig. 7-17-18)

Notification is required at the time of the 1st Referral in accordance with the notification provisions of this Regulation. (orig. 7-17-18)

Steps Prior to 1st Referral

1. Sufficiency Review and Referral Distribution (1st Referral):

The applicant shall electronically submit all documents as identified in the Submittal Requirements Section of this Regulation for review by Staff. (orig. 12-21-10; am. 7-17-18)

The Case Manager shall have 7 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents (including the appropriate referral fees). A submittal that is not complete in terms of the type of documents required will not be sent out on referral. (orig. 7-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18)

2. Formal Application:

The applicant shall submit all documents as identified in the Staff response to the Sufficiency Review. (orig. 12-21-10)

The Case Manager shall have 5 calendar days to refer the application and referral fees to County divisions/departments and other agencies. A submittal package that is not complete in terms of the type and quantity of documents required will not be sent out on referral. (orig. 12-21-10; am. 7-17-18)

Process from 1st Referral to Public Hearing

3. 1st Referral and Staff Response:

The referral agencies shall have 14 calendar days to respond in writing to the application. An extension of no more than 30 calendar days may be agreed to by the applicant. (orig. 12-21-10; am. 7-17-18)

The Case Manager shall have 7 calendar days, after the end of the referral period, to provide the applicant with a Staff response inclusive of other referral responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to the Hearing Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 7-17-18)

If the Case Manager indicates that the application is in substantial conformance with all applicable regulations and that only minor revisions to the documents are required, the application may proceed directly to the Hearing Documents phase of the process. Under this circumstance, the application will be scheduled for a hearing date earlier than that tentatively scheduled at the time of the 1st Referral. (orig. 12-21-10; am. 7-17-18)

4. Applicant's Response to 1st Referral:

For the application to be processed in accordance with the example timeframe in the table above, the applicant shall have 14 calendar days to address, in writing, any issues identified by the Case Manager or any referral agency and resubmit revised documents for the 2nd Referral. The applicant will be deemed to have consented to a later hearing date, than the tentatively scheduled hearing date, if the resubmittal is not received within the 14-calendar day period. (orig. 12-21-10; am. 7-17-18)

Regardless of the example timeframe, the applicant shall have a maximum of 180 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fee and documents. The Director of Planning and Zoning may extend this 180-calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 12-21-10; am. 7-17-18)

5. Sufficiency Review and Referral Distribution (2nd Referral):

The Case Manager shall have 5 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. A submittal that is not complete in terms of the type of documents required will not be sent out on referral. All resubmittal documents shall be submitted as a complete package and not sent in a fragmentary manner. (orig. 7-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18)

6. 2nd Referral and Staff Response:

The referral agencies shall have 14 calendar days to respond in writing to the 2nd Referral. An extension of no more than 30 calendar days may be agreed to by the applicant. (orig. 12-21-10; am. 7-17-18)

The Case Manager shall have 7 calendar days after the end of the referral period to provide the applicant with a Staff response inclusive of referral agency responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to the Hearing Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 7-17-18)

If the applicant has not consented to a later hearing date based on the time frames of this Regulation and chooses to move forward to the tentatively scheduled hearing, the applicant

shall submit the Hearing Documents as requested by the Case Manager in accordance with the Hearing Documents phase of the process. (orig. 12-21-10)

7. Applicant's Response to 2nd Referral Comments:

The applicant shall have a maximum of 180 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning may extend this 180-calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 12-21-10; am. 7-17-18)

8. Additional Referrals and Responses:

For the 3rd Referral, and for any subsequent referrals thereafter, the processing of the application shall follow the same steps identified above in the Sufficiency Review and Referral Distribution (2nd Referral) process, the 2nd Referral and Staff Response process and the Applicant's Response to 2nd Referral process. The only exception shall be that for the 3rd Referral, and for any subsequent referrals thereafter, the referral agencies shall have 14 calendar days to respond in writing to the referral. (orig. 12-21-10; am. 7-17-18)

The response from the Case Manager will include an opinion as to whether the case should proceed forward to hearing or if revised documents should be submitted for a subsequent referral process. (orig. 12-21-10; am. 7-17-18)

9. Submittal of Hearing Documents:

The applicant shall electronically submit the Hearing Documents as identified in the Case Manager response to the last referral. (orig. 12-21-10; am. 7-17-18)

If the applicant has not consented to a later hearing date based on the time constraints of this process, the applicant shall have 10 calendar days to address, in writing, any issues identified by the Case Manager or any referral agency and submit the hearing documents for the tentatively scheduled hearings. The applicant will be deemed to have consented to later hearing dates if the hearing documents are not received within the 10-calendar day period. (orig. 12-21-10)

The applicant shall have a maximum of 180 calendar days to respond to the referral comments or to submit the hearing documents, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fee and documents. The Director of Planning and Zoning may extend this 180-calendar day maximum response deadline for an additional 180 calendar days if, in his/her opinion, the delay in response is for good cause. (orig. 12-21-10; am. 7-17-18)

10. Hearing Scheduled:

a. Planning Commission Hearing: If the applicant has consented to later hearing dates based on the time frames of this Regulation, the Planning Commission hearing will be scheduled for the first available hearing date after 21 calendar days from the submittal of the hearing documents. (orig. 12-21-10; am. 7-17-18)

b. Board of County Commissioners Hearing: The Board of County Commissioners hearing is typically scheduled for the first available hearing date after 19 calendar days from the Planning Commission hearing; however, staff may choose an alternative hearing date to accommodate case processing and scheduling needs. (orig. 12-21-10; am. 7-17-18)

11. Hearing Preparation:

a. Revisions to Documents Prior to Hearing: To ensure completeness and to allow adequate public review, no substantial revisions or additions, except in response to a Staff request or those specifically requested by the Planning Commission, may be made to any application or supporting documents within 21 days prior to any hearing. (orig. 12-21-10)

b. Notification: Notification of the scheduled hearings is required in accordance with the Notification Section. (orig. 12-21-10)

Public Hearings and Post Hearing Review

12. Planning Commission Hearing:

The Planning Commission shall review the application and the Staff report, receive testimony and evidence on the application, and shall recommend approval, conditional approval, or denial of the application to the Board of County Commissioners. The Planning Commission may continue the request for no more than 40 calendar days without the consent of the applicant. The continuance of a request shall be to a date certain. (orig. 12-21-10)

13. Board of County Commissioners Hearing:

The Board of County Commissioners shall review the application, the Staff report and the Planning Commission recommendation, receive testimony and evidence on the application, and shall approve, conditionally approve or deny the application. The Board of County Commissioners may continue the request for no more than 40 calendar days without the consent of the applicant. The continuance of a request shall be to a date certain. (orig. 12-21-10)

14. Post Hearing Review:

The applicant shall comply with all conditions of approval within 1-year from the approval date by the Board of County Commissioners. If the applicant does not comply with the conditions within this timeframe, the approval shall be automatically rescinded. The Director of Planning and Zoning may extend this 1-year recordation deadline for up to 3 additional 1-year periods if, in his/her opinion, the delay is for good cause. After the 3-year time period has elapsed the applicant will have to go back to the Board of County Commissioners for approval. (orig. 12-21-10; am. 7-17-18)

The Case Manager shall have 7 calendar days to review all documents submitted by the applicant for compliance with the approval conditions. If the revisions have been made in accordance with the approval conditions, the Case Manager will take the necessary steps to finish the application process. If additional revisions are required to meet the approval conditions, the Case Manager will return a letter to the applicant identifying the revisions that must be made to comply with the approval conditions. (orig. 12-21-10; am. 7-17-18)

If the application needs to return to hearing for a non-substantial change that does not materially affect the content of the approved application, then the Director of Planning and Zoning may allow the application to proceed directly to a hearing before the Board of County Commissioners' without a hearing before the Planning Commission. (orig. 12-21-10)