

## DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Rapid City  
300 Sixth Street, Rapid City, SD 57701-2724  
Phone: (605) 394-4120 - Web: www.rcgov.org

## VACATION OF RIGHT-OF-WAY / VACATION OF SECTION LINE HIGHWAY PROCEDURE

### The Filing Fee for a Vacation of Right-of-Way or Vacation of Section Line Highway request is \$200.00

**Description:** A Vacation of Public Right-of-way or Vacation of Section Line Highway is used to eliminate public rights-of-way that are no longer needed for public improvements or access. The vacation requires the approval of a resolution by City Council including an Exhibit showing the area to be vacated.

#### Materials and actions required of the Petitioner:

1. The prospective applicant meets with the Department of Community Development staff to discuss the proposal.
2. An application which includes the legal description of the property for which the Vacation is requested, and which is signed by the property owner is submitted along with four (4) copies of a Vacation Instrument marked "Exhibit A" prepared by a Registered Land Surveyor. The Vacation Instrument shall include book and page number of original plat dedicating right-of-way if applicable. Copy of Deed for subject property.

*Note: An application for right-of-way vacation or vacation of section line highway must be signed by property owners whose property adjoins that part of the street, alley or public ground to be vacated. The petition for vacation must be notarized.*

3. Using the sample utility letter provided by Department of Community Development the applicant sends the utility letter and vacation instrument to all affected utility companies in order to determine the impact of the proposed vacation on utilities. The letter can be sent in electronic or hard copy format with responses being sent to the

applicant. Responses shall be included as part of the application upon submittal

#### Procedure:

1. Within fifteen (15) working days of receiving a complete application and supporting information, City staff will provide the applicant with a recommendation.
2. A Resolution is prepared by the Attorney's office once all needed documentation is received and approved.
3. The Resolution is sent to the City Council following the fifteen (15) working day review to be Set for Hearing. The date of Hearing skips a City Council meeting to allow publication requirements to be met.
4. Staff's recommendation is forwarded to the Planning Commission on the Planning Commission agenda following the fifteen (15) working day review.
5. Planning Commission recommendation is forwarded to the Public Works Committee meeting, directly proceeding the City Council Hearing date. (Skips a meeting between Planning Commission and Public Works meetings)
6. City Council takes formal action at the scheduled date of Hearing.

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(Approximately 30 days after Planning Commission.)

7. If approved, the Resolution becomes effective twenty days after publication of the City Council's action.

### **Publication Requirements**

*The Vacation of Right-of-Way and/or Vacation of Section Line Highway petition is a public hearing requiring publication of legal notice once each week for at least two successive weeks with the City Council taking formal action on the petition not less than 10 days from expiration of such publication. This publication requirement will result in formal action being taken by the City Council approximately 30 days following the action taken by the Planning Commission.*

**Suspended Timelines:** If the Director determines that the application for the Vacation of Right-of-way does not contain the specified and required information, the review timeline shall be suspended and the owner and/or designated agenda shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Incomplete applications will not be placed on the Planning Commission agenda. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

**Appeal of Suspended Timelines:** When the owner and/or designated agent do not concur with the Director regarding the information required for the Vacation of Right-of-way, they can appeal to the City Council. The City Council may approve or deny the Vacation of Right-of-way in its entirety, upon the applicant's request, with consideration being given to the disputed item(s).

# Department of Community Development

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# APPLICATION FOR DEVELOPMENT REVIEW

**REQUEST** (please check all that apply)

- Annexation  De-Annexation
- Comprehensive Plan Amendment
- Fence Height Exception
- Planned Development (Overlay)
  - Designation
  - Initial Plan  Final Plan
  - Major Amendment
  - Minimal Amendment

- Subdivision
  - Layout Plan
  - Preliminary Subdivision Plan
  - Development Engineering Plans
  - Lot Line Adjustment/Consolidation Plat
  - Final Plat  Minor Plat
  - Transfer Plat
- Rezoning
- Road Name Change

- Conditional Use Permit
  - Major Amendment
  - Minimal Amendment
- Vacation
  - Utility / Drainage Easement
  - R.O.W. / Section Line Highway
  - Access / Non-Access
  - Planting Screen Easement
- OTHER (specify) \_\_\_\_\_

**LEGAL DESCRIPTION** (Attach additional sheets as necessary)

<b>EXISTING</b>		
<b>PROPOSED</b>		
<b>LOCATION</b>		
Size of Site—Acres	Square Footage	Proposed Zoning
<b>DESCRIPTION OF REQUEST:</b>		Utilities: Private / Public
		Water
		Sewer

**APPLICANT**

Name \_\_\_\_\_ Phone \_\_\_\_\_  
 Address \_\_\_\_\_ E-mail \_\_\_\_\_  
 City, State, Zip \_\_\_\_\_

**PROJECT PLANNER - AGENT**

Name \_\_\_\_\_ Phone \_\_\_\_\_  
 Address \_\_\_\_\_ E-mail \_\_\_\_\_  
 City, State, Zip \_\_\_\_\_

**OWNER OF RECORD** (If different from applicant)

Name \_\_\_\_\_ Phone \_\_\_\_\_  
 Address \_\_\_\_\_ E-mail \_\_\_\_\_  
 City, State, Zip \_\_\_\_\_

Property Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

Property Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title\*: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title\*: \_\_\_\_\_

\*required for Corporations, Partnerships, etc.

**FOR STAFF USE ONLY**

ZONING
Current
North
South
East
West
Planner
File No.
Comp Plan
Received By:

- Public Works/Engineering
- Fire Department
- Transportation Planning
- Building Inspection
- Air Quality
- Police
- City Attorney
- City Code Enforcement
- SD DOT

- BHP&L
- ESCC
- Register of Deeds
- County - Planning
- County - Fire
- County - Highway
- County - Code Enforcement
- Auditor - Annexation

- RV Sanitary District
- Green Valley Sanitary District
- Finance
- GIS
- Historic Preservation
- Parks & Recreation
- School District
- Other: \_\_\_\_\_

PIN No: \_\_\_\_\_

**PETITION TO VACATE PUBLIC RIGHT-OF-WAY OR SECTION LINE HIGHWAY**

We, the undersigned, constituting all of the owners of the property adjoining the within described part of public right-of-way or section line highway and consent to such vacation.

Legal description of area to be vacated:

This petition is based upon the following facts:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_, being first duly sworn on oath, states that he or she has read the foregoing petition, knows the contents of such petition, and that said petition is in all things true and correct to the best of his or her knowledge and belief.

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires: \_\_\_\_\_ Notary Public \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_, being first duly sworn on oath, states that he or she has read the foregoing petition, knows the contents of such petition, and that said petition is in all things true and correct to the best of his or her knowledge and belief.

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**VACATION OF RIGHT  
OF WAY OR SECTION  
LINE HIGHWAY**

**SAMPLE LETTER**

To whom it may concern:

RE: *(insert legal description here)*

We are proposing to vacate the utility and/or drainage easement on the above described property.

In order to act on this proposal, the Common Council needs to have the comments of any affected utility. I would appreciate your prompt consideration of this proposal. Your comments may be made on this letter and returned to our attention or sent to us via email response.

For your further information, a copy of the vacation instrument is included herein.

Sincerely,

*(insert Petitioner's signature here)*

Depending on service area this letter is to be mailed to:

Black Hills Energy  
P O Box 1400  
Rapid City, SD 57709

West River Electric Assn  
3250 E Hwy 44  
Rapid City SD 57703

Black Hills Electric Co-op  
Box 792  
Custer SD 57730-0792

Montana-Dakota Utilities  
P O Box 1060  
Rapid City, SD 57709

Rapid Valley Sanitary District  
4611 Teak Dr  
Rapid City SD 57703

Vast Communications  
809 Deadwood Avenue  
Rapid City, SD 57702

Century Link Communications  
612 Mt Rushmore Road  
Rapid City, SD 57701

Mid-Continent Communications  
1624 Concourse Court  
Rapid City, SD 57703

Golden West Engineering Department  
P O Box 411  
415 Crown Street  
Wall, SD 57790

SDN Communications  
1089 Rand Road  
Rapid City, SD 57702