

ARTICLE 7B ROAD VACATION

701B Intent (Amended 04/14/09)

To provide a review process for a road vacation either when no replatting or realignment is proposed, or when a replat or realignment is proposed.

702B Authority (Amended 04/14/09)

The Board of County Commissioners has authority to vacate roads, which include any public street, alley, lane, parkway, avenue, road or other public way designated or dedicated on a plat, conveyed by deed or recorded easement, or acquired by prescriptive use, whether or not it has ever been used as such.

703B Prerequisite (Amended 04/14/09)

Prior to submittal of a vacation or replat application, the applicant shall meet with staff to discuss the proposal and the procedures and submittal requirements. The applicant is encouraged to meet with the Engineering Division and other referral agencies to identify potential issues and ways to address these issues.

704B General Review Process (Amended 04/14/09)

Generally, roads that have been established and used and that are proposed to be vacated and replatted or realigned, shall be presented to the Board at a public hearing (Refer to Article 708B for process). Roads that have been established and used and that are proposed to be vacated and not replatted or realigned, shall be presented to the Planning Commission and the Board at a public hearing, due to the potential effect on the Transportation Plan element of the *Douglas County Comprehensive Master Plan*. (Refer to Article 709B for process)

Roads that are established by plat, but have not been used as such, may be vacated, and/or replatted through a replat process (Refer to Article 7 for process) and any such road need not comply with the additional requirements of this Section 7B. Roads that are established by deed or easement, but have not been used as such, may be vacated and/or realigned upon approval by the Board at a public meeting. A public hearing is not required unless otherwise determined by the Board.

705B Approval Standards (Amended 04/14/09)

A road vacation may be approved by the Board based upon the following:

- 705B.01 A platted or deeded road or portion thereof, or unplatted or undefined roads which have arisen by public usage, shall not be vacated so as to leave any land adjoining said road 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.].

- 705B.02 A vacation of a state highway must be approved by the Transportation Commission [§ 43-1-106(11), C.R.S.].
- 705B.03 The road vacation, or vacation and replat, is in keeping with the spirit and intent of the *Douglas County Subdivision Resolution*, and the *Douglas County Comprehensive Master Plan* and *Transportation Plan*.
- 705B.04 The road vacation will not diminish the ability to provide adequate emergency services and will not increase the cost of services
- 705B.05 The approval will not adversely affect the public health, safety, and welfare.

706B Vesting of Title (Amended 04/14/09)

Vesting of title upon vacation shall be in accordance with § 43-2-302, C.R.S., as amended and any discretion authorized by such statute and exercised by the Board.

707B Submittal Documents (Amended 04/14/09)

- 707B.01 Completed land use application (available from the Planning Division)
- 707B.02 Written narrative describing the request
- 707B.03 Application fee (fee schedule available from the Planning Division)
- 707B.04 Vacation Map - A reproduction of the road or access easement on an 8.5 inch X 11 inch sheet of paper, or another size approved by staff, or on 24 inch X 36 inch mylar. Include the written legal description
- 707B.05 Vicinity map - a reduction of the subdivision plat showing the location of the road in relation to the lots; or the area surrounding the road within a 1 mile radius superimposed on a current Douglas County Development Reference Map
- 707B.06 Letters from the following stating their recommendation regarding the vacation and any existing facility they have over or across the land:
- 707B.06.1 all special districts providing maintenance of infrastructure within the right-of-way; and
- 707B.06.2 all known easement beneficiaries
- 707B.07 Stamped envelopes addressed to abutting landowners and other landowners using the access proposed for vacation, as required by staff, for notification of the vacation application. Include a map identifying the road section to be vacated and relationship to the abutting landowners.

708B Process - Road Vacation and Replat/Realignment (*Amended 04/14/09*)

The following process is for the vacation of a road which has been established and used as such, when replatting or realignment of all or a section of the present road alignment is proposed or has been accomplished. A replat application may be required to be processed concurrently:

- 708B.01 The applicant shall submit the required information to the Planning Division. Staff shall review the information and send a referral to referral agencies, as required by staff, and mail notification letters to the abutting landowners.
- 708B.02 The referral agencies shall comment within 21 days of receiving the packet. Staff shall review the information, prepare a staff report for the Board, schedule the request for a public hearing with the Board, and notify the applicant of the hearing date and time.
- 708B.03 The applicant shall be responsible for notice of the public hearing, prior to the Board hearing, in accordance with Article 710B, herein.
- 708B.04 The Board shall evaluate the request, staff report, referral agency comments, and public testimony, and shall approve, conditionally approve, table for further study, or deny the request. The Board's action shall be based on the evidence presented, and compliance with the adopted standards, regulations, policies and other guidelines.
- 708B.05 Staff shall prepare a Vacation Resolution that specifies the legal description of the road to be vacated, the reception number of the plat that created the road, if applicable, and reference to the recommendation of the special district(s), and easement holders, as applicable.
- 708B.06 Upon approval by the Board, the staff planner shall, in consultation with the County Attorney, prepare any deeds required by the vacation. Within 30 days, the staff planner shall submit the Vacation Resolution, Vacation Map and/or corresponding replat exhibit, and deeds, as required, for recordation in the Office of the Clerk and Recorder.

709B Process - Road Vacation (*Amended 04/14/09*)

The following process is for the vacation of all or a section of a road that has been established and used as such when no replatting or realignment will occur.

- 709B.01 The applicant shall submit the required information to the Planning Division. Staff shall review the information and send a referral to referral agencies, as required by staff, and mail notification letters to the abutting landowners.

- 709B.02 The referral agencies shall comment within 21 days of receiving the packet. Staff shall review the information and prepare a staff report for the Planning Commission and notify the applicant of the hearing date and time.
- 709B.03 The applicant shall be responsible for public notice, prior to the Planning Commission hearing, in compliance with the public notice requirements in Article 710B herein.
- 709B.04 The Planning Commission shall evaluate the application, referral comments, staff report, and public testimony, and make a recommendation to the Board to approve, approve with conditions, table for further study, or deny the vacation request. The Planning Commission's decision shall be based on the evidence presented and compliance with the adopted standards, regulations, policies and other guidelines.
- 709B.05 Following the recommendation by the Planning Commission, the staff planner will schedule the vacation request for a public hearing with the Board, and notify the applicant of the hearing date and time.
- 709B.06 The applicant shall be responsible for public notice, prior to the Board hearing, in compliance with the public notice requirements in Article 710B, herein.
- 709B.07 The Board shall evaluate the application, referral agency comments, staff report, public testimony, and the Planning Commission recommendation, 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.
- 709B.08 Staff shall prepare a Vacation Resolution that specifies the legal description of the road to be vacated, any reception numbers related to the creation of the road, and reference to the recommendation of the special district(s), and easement holders, as applicable.
- 709B.09 Upon approval by the Board, the staff planner, in consultation with the County Attorney, shall prepare any deeds required by the vacation. Within 30 days, the staff planner shall submit the Vacation Resolution, Vacation Map and deeds, as required, for recordation in the Office of the Clerk and Recorder.

710B Public Notice (Amended 04/14/09)

When calculating the required time period for posting or publishing a notice of a public hearing, the day of publishing or posting shall be counted in the total number of days

required. The day of the hearing shall not be counted toward the total number of days required for the notification period.

The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of this Article. Substantial compliance for these public notices shall be determined by the Planning Commission and the Board of County Commissioners for their respective public hearings.

710B.01 WRITTEN NOTICE

710B.01.1 At least 14 days prior to the Planning Commission hearing and 14 days prior to the Board hearing, the applicant shall mail a written notice of the hearing by first-class mail to the address of each abutting landowner as such address is shown in the records of the Douglas County Assessor’s Office. The notice shall read substantially the same as the published notice required by this section and shall indicate that a Resolution to vacate the road will be presented at the Board hearing [§ 43-2-303(2)(b), C.R.S.].

710B.01.2 The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING
I hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this _____ day of _____, 20__ , and addressed as follows:
<i>(list of addresses)</i>
<i>(signature of person completing the mailing)</i>

710B.01.3 In the event the applicant fails to mail a notice to an abutting landowner or otherwise fails to comply with the written notice required in this Article, the landowner who did not receive such complying notice may waive such notice by submitting a written waiver to Douglas County Planning prior to the hearing.

710B.02 POSTED NOTICE

At least 14 days prior to the Planning Commission hearing and 14 days prior to the Board hearing, the applicant shall post a notice on the road under consideration. The notice shall consist of at least one sign at each end of the road to be vacated, visible from the road, placed on posts at least 4 feet above ground level. In the event the staff planner determines a sign cannot be placed abutting such street and be visible from such street or that there is no abutting public or private street open for travel, the staff planner may require an alternate location for a sign. Additional signs may be required by the staff planner. Each sign shall measure not less than 3 feet X 4 feet. Letter size

shall be a minimum of three inches high, and a minimum of six inches high for the sentence that reads "For more information call Douglas County Planning at 303-660-7460." (Amended 11/6/2018). Said notice shall read:

**NOTICE OF PUBLIC HEARING BEFORE THE
(PLANNING COMMISSION OR BOARD OF COUNTY COMMISSIONERS)**

This road shall be considered for vacation on *(date)*, at *(time)* in the Commissioners' Hearing Room, 100 Third St., Castle Rock, CO. For more information call Douglas County Planning at 303-660-7460.
File #/Name:

When concurrent notice has been approved by staff, the notice shall read:

**NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING
COMMISSION AND BOARD OF COUNTY COMMISSIONERS**

This road shall be considered for vacation before the Planning Commission on *(date)*, at *(time)* and before the Board of County Commissioners on *(date)*, at *(time)* in the Commissioners' Hearing Room, 100 Third St., Castle Rock, CO. For more information call Douglas County Planning, 303-660-7460.
File #/Name:

710B.02.1 Sign-Posting Affidavit

An affidavit of sign posting shall be submitted for the file in the Planning Division at least 7 days prior to the hearings. The sign(s) shall be photographed by the applicant and attached to the affidavit as follows:

(Attach photo here)
(Sign lettering must be legible in photo)

I, (applicant/representative/person posting sign) , attest that the above sign was posted on *(date)*, on *(name of road)*.

(signature) _____ File #/Name: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Acknowledged before me this _____ day of _____, 20__ by
_____ as _____.

My commission expires: _____

Witness my hand and official seal

Notary Public

710B.02.2 The sign shall be removed by the applicant within 2 weeks following the final decision by the Board.

710B.03 PUBLISHED NOTICE

At least 14 days prior to the Planning Commission hearing and 14 days prior to the Board hearing, the applicant shall:

- publish a notice in at least 1 publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in Douglas County; and
- provide a publisher's affidavit of said published notice to the Planning Division at least 7 days prior to the hearing. The notice shall read:

**NOTICE OF PUBLIC HEARING BEFORE THE
(PLANNING COMMISSION OR BOARD OF COUNTY COMMISSIONERS)**

A public hearing will be held on *(date)*, at *(time)*, in the Commissioners' Hearing Room, 100 Third St., Castle Rock, CO, for a proposed vacation of *(road name and distance and direction from nearest major intersection)*. For more information call Douglas County Planning, 303-660-7460.
File #/Name:

When concurrent notice has been approved by staff, the notice shall read:

**NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION
AND BOARD OF COUNTY COMMISSIONERS**

A public hearing will be held before the Planning Commission on *(date)*, at *(time)*, and before the Board of County Commissioners on *(date)*, at *(time)* in the Commissioners' Hearing Room, 100 Third St., Castle Rock, CO, for a proposed vacation of *(road name and distance and direction from nearest major intersection)*. For more information call Douglas County Planning, 303-660-7460.
File #/Name:

711B Resubmittal

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

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