

Vacation of Right-of-Way (Plat)



Facts to Know

RELATED FACTS TO KNOW:

Adams County Recording Requirements, Annexation, Common Wall Subdivision, Development Plan (PUD Development Permit), Fees, Helpful Contact Information, Neighborhood Meeting, Park and School Fees, PUD (Planned Unit Development), Pre-Application Meeting, Severed Mineral Rights, Sketch Plat, Subdivision Plat and Zone Change.

INTRODUCTION:

A vacation of right-of-way is used to eliminate public rights-of-way that are no longer needed for public improvements. Many applications for street or alley vacation must be reviewed and approved by the Planning Commission and City Council. It is important to note that the City will not accept an application to vacate any street or alley unless it appears that it is not in the public interest to continue the establishment and maintenance of the street or alley.

Vacation plats within Commerce City may be approved administratively or via public hearing, based on whether the right-of-way to be vacated is classified as active or non-active. Active rights-of-way include all right-of-way currently being utilized or improved. City staff can help to determine the correct approval process for a vacation application. The length of time to process and approve a vacation can vary depending on the complexity and size of the request. In addition, city code requires that the vacated right-of-way be replatted into a larger lot. Therefore, a separate subdivision application must accompany any active vacation of right-of-way request. If a development also is occurring as part of this replatting process, a development plan application is required, as well. In addition to the application fee, the applicant may be responsible for payment of the appraisal fee and market value of the right-of-way to be vacated.

GENERAL TIMEFRAME:

- In order to maximize the efficient processing of an application, **it is in the applicant's best interest to ensure that a complete and thorough application has been submitted** and any subsequent submittals adequately address any comments that were provided.
- A vacation plat will be reviewed concurrently with any other required land use application(s). The affected parcel of land to be vacated shall be replatted into a larger parcel that meets all of the requirements for the underlying zone district. This replatting procedure (subdivision plat) may run concurrently with any vacation request.**
- No building permit may be submitted for review until all land use applications have been approved.**

FTK: Vacation of Right-of-Way

❑ The length of time to process a vacation can vary depending on the complexity of the request, the size of the subdivision, whether or not the right-of-way to be vacated is considered “active” or “non-active,” or if there are unique circumstances. However, vacation plats generally may be processed in the following timeframes:

➔ Non active right-of-way (subdivision plats): **4 to 6 months**

➔ Active vacation of right-of-way plat: **8 to 12 months**

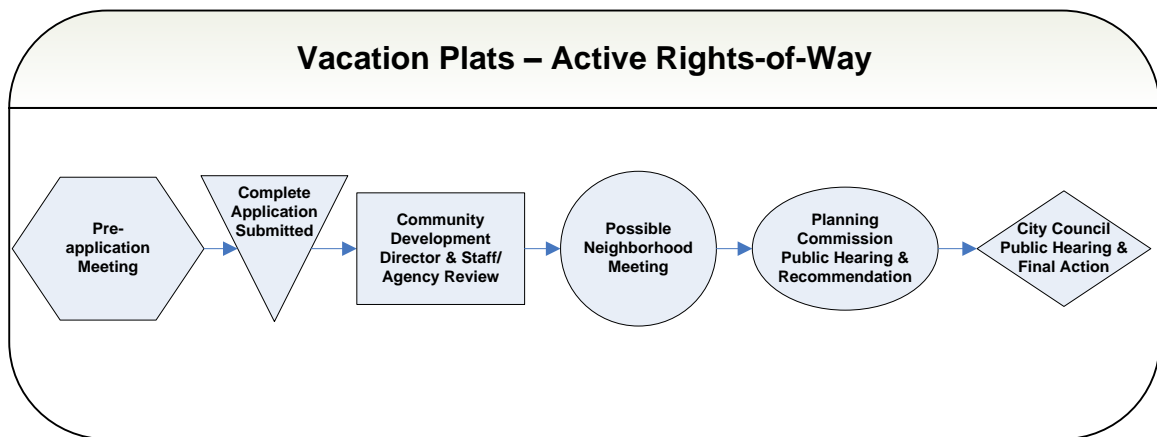
Staff will determine if an application is active or non-active Right-of_way

GENERAL NOTES:

- ❑ Prior to submitting a vacation plat for review, a pre-application meeting with staff should be scheduled to discuss the application and any additional requirements.
- ❑ Occasionally, the city may require a neighborhood meeting when it appears that an application may impact the surrounding area.
- ❑ The city is authorized to impose on a subdivision approval any condition(s) that are necessary to carry out the general purpose and intent of the Land Development Code (LDC) or Comprehensive Plan.
- ❑ The city may revoke any approved vacation plat if the applicant fails to comply with any of the conditions imposed by the city in conjunction with the approval.
- ❑ If the approved vacation plat is not executed by the applicant (signed and notarized Mylars delivered to the city, along with the necessary fees) within 60 days of the approval date, the plat shall be null and void and will automatically lapse.

An approval shall authorize only the development described in the approved application.

VACATION PLAT REVIEW FLOWCHART:



FTK: Vacation of Right-of-Way

REVIEW PROCESS:

- A request for a vacation usually is initiated by the property owner, or a qualified representative, through the pre-application process.
- The applicant hires (or has hired prior to the pre-application meeting) a licensed land surveyor or engineer to prepare a vacation plat and accompanying subdivision (if required) according to state and local requirements.
- A complete application is submitted for city review.
 - ➔ At the time of submittal, staff will determine if the application is complete (**incomplete applications will not be accepted and will be returned without review**).
 - ➔ The city will refer the application to various departments within the city and outside organizations for review and comment.
 - ➔ After a review period of **six (6) weeks**, the case will be discussed at an internal Development Review Team (DRT) meeting. After the DRT meeting, the applicant will receive a comment letter that identifies necessary revisions and questions to be answered.
 - ➔ The applicant will address comments and resubmit the application to the city for an additional review cycle of **five (5) weeks**. An additional **Four (4) week** cycle might be required if supplementary information is required by the city. This process will continue until all comments are resolved and the application is ready for the administrative approval process or public hearing.
- Once an administrative application is ready for the approval process, City Council is notified, the property is posted, postcards are sent to nearby property owners, and a notice is placed in the newspaper. If no written objection is received within seven days, the plat is approved and the applicant may submit the signed and notarized Mylars to the city for recording.
- Once a public hearing application is ready for the approval process, the property is posted, postcards are sent to nearby property owners, and a notice is placed in the newspaper to announce that the application will be heard by the Planning Commission, which will make a recommendation for City Council to approve, approve with conditions, or to deny the request. Then, City Council will consider the application the following month (generally on the first Monday of the month).
 - ➔ The applicant is required to attend both public hearings. By not attending one or both meetings, the application may be continued for consideration at a later date.
 - ➔ The Planning Commission meets on the 1st Tuesday of every month in the City Council Chambers located at 7887 East 60th Avenue. Meetings begin at 6 p.m.
 - ➔ The City Council considers land use cases on the 1st Monday of every month in the City Council Chambers located at 7887 East 60th Avenue. Meetings begin at 6 p.m.
- Property vacated by the city automatically will be zoned the same as land adjacent to the vacated property. This shall become effective on the date the vacation plat is approved, with no further action required.

FTK: Vacation of Right-of-Way

- If an active public right-of-way exists within the vacated property, the applicant shall immediately close the street to public travel at such time as the vacation of right-of-way takes effect. This shall be accomplished with the use of approved signs and barricades, as prescribed in the Manual on Uniform Traffic Control Devices. Depending on future development plans for the vacated area, the street must be permanently closed using barricades or by removing any improved street.

VACATION PLAT APPROVAL CRITERIA:

1. City-initiated vacations.
 - (a) The vacation serves the interest of the city by removing maintenance or liability risks; and
 - (b) The property interest being vacated is no longer necessary for city operations.
2. All other vacations.
 - (a) The vacation is consistent with the comprehensive plan and any other applicable city-approved plan;
 - (b) The land to be vacated is no longer necessary for the public use and convenience;
 - (c) The vacation will not create any landlocked properties;
 - (d) The vacation will not render access to any parcel unreasonable or economically prohibitive;
 - (e) The vacation will not reduce the quality of public services to any parcel of land; and
 - (f) A separate plat to replat the vacated area into a larger, usable piece of land has been submitted.

SUBMITTAL REQUIREMENTS FOR ACTIVE VACATION OF RIGHT-OF-WAY:

Please note that incomplete submittals will not be accepted for review. Any inaccurate or incomplete information provided by the applicant may cause the application to be returned to the applicant and/or delay review cycles which may impact the case completion time frame. Please visit c3gov.com/etrakit for complete information for submitting for this application type. The following items will need to be included in your submittal package.

NOTE: Non-active vacation of right-of-way may follow the requirements for a subdivision.

- Property Owner Authorization and the non-refundable review fee.
- Legal description, certified by a registered land surveyor, of the property or easement sought to be vacated containing total acreage.
- Narrative describing the applicant's reason for the vacation of property and the proposed use after it is vacated.
- Proposed vacation plat stamped by a surveyor. (See attached template for layout and what to include on the plat.) For non-active vacations, the exact area to be vacated can be noted on the subdivision plat, stating *"this ROW area vacated via this plat."*
- Proposed site plan. The site plan must show all data pertinent to the proposed vacation, including the following:
 - ➔ Date of drawing.
 - ➔ Scale.
 - ➔ North arrow.

FTK: Vacation of Right-of-Way

- ➔ Name of person of firm who drew the plan.
 - ➔ Locations and dimensions of property lines, abutting rights-of-way, easements, setbacks, and off-street parking for any proposed and/or existing structures, and any proposed landscaping.
 - ➔ For all properties immediately adjacent to and across an alley or street: show location of building footprints, access points, other significant features.
 - ➔ Significant natural and manmade features, e.g., rivers, gulches, ridges, hills, depressions, woods, lakes, existing major streets, railroads, utility lines, pipelines, and utility easements.
 - ➔ Topography, at one- or two-foot intervals, as determined by the city.
 - ➔ Boundary lines showing adjacent streets.
 - ➔ Zoning of adjacent properties.
 - ➔ Floodplain and floodplain limits, if any.
- Letters which state no objection to the vacation request, must be obtained from the following and submitted with the vacation of right-of-way application: Xcel Energy or United Power, Qwest Communications, Comcast Cable, and the City of Commerce City's Public Works Department. (See attached exhibit for template example.)
 - Calculated compensation value of the proposed vacated area.
 - Hard Copy Requirements
 - (18" x 24") of the proposed vacation
 - (18" x 24") of the proposed site plan.
 - City Council, Planning Commission, or staff may require additional information or technical studies such as drainage studies, construction plans, address plats, development agreements, or traffic studies.

Upon request, staff will provide examples of previously approved vacation of right-of-way applications to illustrate the quality and type of submittals that are expected.

The subsequent sheet contains a vacation plat template that staff will use to review all submitted plat applications.

FTK: Vacation of Right-of-Way

(NAME) VACATION PLAT

SECTION, TOWNSHIP, RANGE, CITY OF COMMERCE CITY,
COUNTY OF ADAMS, STATE OF COLORADO

SHEET _____ OF _____

TO SCALE VICINITY MAP

SCALE: 1" = 2,000' (written and graphic)

NORTH ARROW

Legal Description (Street/Alley Vacation):
Beginning at (complete legal description); containing (the nearest one-hundredth) _____ acres more or less.

Basis For Bearings:
State the basis of bearings and label on the drawing. Bearings shall be based on Commerce City Control Diagram or Colorado State Plane Central Zone. Contact Commerce City Engineering Division for more information (303.289.8150).

Surveyor's Certificate:
I, _____, a registered land surveyor, registered in the State of Colorado do hereby certify that there are no roads, pipelines, irrigation ditches, or other easements in evidence or known by me to exist on or across the herein before described property except as shown on this plat. I further certify that I have performed the survey shown hereon, or such survey was prepared under my direct responsibility and supervision, that this plat accurately represents said survey, and that all monuments exist as shown herein.

Signature and printed name _____
LS No. _____ seal and date: _____
Address: _____ \$S _____

Planning Commission Certificate:
Approved by the City of Commerce City, Planning Commission, this _____ day of _____, A.D. 20 _____
Chairperson _____

City Council Certificate:
Approved by the City Council of the City of Commerce City this _____ day of _____, A.D. 20 _____
Attest: _____ City Clerk
_____ Mayor

Adams County Clerk and Recorder's Certificate:
This plat was filed for record in the office of Adams County Clerk and Recorder, in the state of Colorado, at _____ M on the _____ day of _____, A.D. 20 _____
Clerk and Recorder: _____
By Deputy: _____

RECEPTION NO.: _____

SAMPLE
TEMPLATE

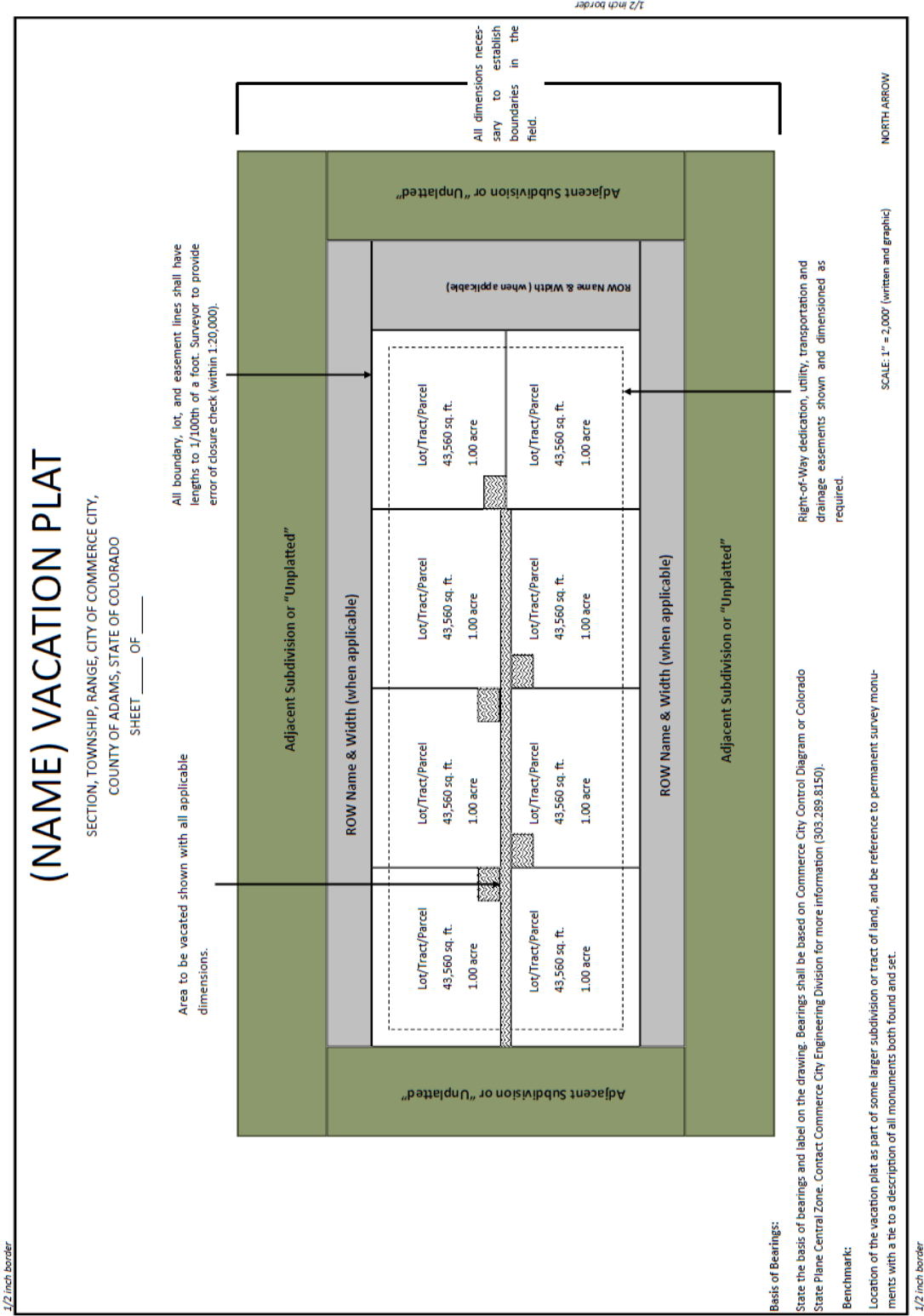
1/2 inch border

2 inch border

1/2 inch border

1/2 inch border

FTK: Vacation of Right-of-Way



(NAME) VACATION PLAT

SECTION, TOWNSHIP, RANGE, CITY OF COMMERCE CITY,
 COUNTY OF ADAMS, STATE OF COLORADO
 SHEET ___ OF ___

Area to be vacated shown with all applicable dimensions.

All boundary, lot, and easement lines shall have lengths to 1/100th of a foot. Surveyor to provide error of closure check (within 1:20,000).

SAMPLE
 TEMPLATE

Basis of Bearings:
 State the basis of bearings and label on the drawing. Bearings shall be based on Commerce City Control Diagram or Colorado State Plane Central Zone. Contact Commerce City Engineering Division for more information (303.289.8150).
 Benchmark:
 Location of the vacation plat as part of some larger subdivision or tract of land, and be reference to permanent survey monuments with a tie to a description of all monuments both found and set.

SCALE: 1" = 2,000' (written and graphic)

NORTH ARROW

FTK: Vacation of Right-of-Way

EXAMPLE - NO OBJECTION LETTER

(Date)

To: Utility Company/ Public Works Representative:

We are requesting that the city of Commerce City vacate the street/alley right-of-way identified (on attached exhibit) or (description or proposed vacated right-of-way). When vacating a street/alley, the city reserves the entire right-of-way as an easement if no request has been made to remove the easement. We are requesting removal of the easement.

Please review the (enclosed exhibit) or (description of proposed vacated right-of-way). If you have facilities that are located within the right-of-way that must remain in-place, please let us know so either a new easement can be created or the utility can be relocated. As well, if you do not have, nor plan to have, facilities located within this right-of-way, please let us know.

All costs associated with easement drawings and/or facility relocation will be the responsibility of the applicant.

Please return this form by fax or email to our office after furnishing the requested information. If you have any questions or concerns about the proposed vacation, please contact our office.

Thank you for your assistance.

Name of Utility Company or Public Works Department: _____

Utility Contact or Department Representative: _____

Address: _____
Street Number *Street Name* *City* *State* *Zip Code*

Telephone: *Office:* _____ *Cell:* _____

- (a) We have no facilities in the proposed vacated right-of-way.
- (b) We need to maintain an easement for our facilities in the current location.
- (c) Arrangements need to be made for relocation of our facilities.

Utility Contact: _____ Date: _____
Signature

Comments: _____

Attach separate sheet for additional comments.

Please return to: Applicant's Name or Contact Person
 Address
 Telephone Number
 Fax
 Contact Email Address