

# Article 10



## ● ● ● Vacations of Public Roads, Alleys, & Easements

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#### 10-100 Vacations

- A. Public roads, alleys, and easements may be vacated after consideration at a public hearing by both the Planning Commission and the Board of County Commissioners.
- B. The vacation becomes effective upon recordation of the Board's resolution of approval with the Boulder County Clerk and Recorder's office. Prior to recordation, the applicant must complete all conditions of approval.
- C. Unless otherwise noted, the portions of the road or alley vacated will be divided down the centerline and added to the respective adjacent property
- D. Application and processing requirements for vacations are included in Article 3.
- E. Following approval or conditional approval of a vacation, the applicant shall submit to the Land Use Department all necessary documents required by the conditional approval showing compliance with the conditional approval.
- F. The Land Use Department staff shall record the Commissioner's resolution of approval with the Clerk and Recorder's office within 45 days of the Commissioners' approval unless otherwise specified.

#### 10-101 Vacations of Mapped Roads and Rights-of-Way in the Eldora Townsite

- A. For purposes of this Section 10-101, the Eldora Townsite is the mapped Townsite recognized in Section 4-806.A.1. of this Code, as shown on the corresponding adopted zoning map.
- B. The purpose of Section 10-101 is to provide opportunities for property owners to come into compliance with county regulations, facilitating access and clear title to properties, and fostering flexibility for potential development, while preserving the rural and historic character and environmental resources of the Eldora Townsite, all in accordance with the Land Use Code and Comprehensive Plan.

- C. The Board shall consider the following factors as favoring a vacation request:
  - 1. Is necessary for access or to clear title to land.
  - 2. Resolves long-standing structural encroachment into the rights-of-way.
  - 3. Allows the applicant to apply for a compliant onsite wastewater system and/or a well to serve an existing development if there is no reasonable alternative location.
  - 4. Facilitates road and rights-of-way exchange if the applicant is requesting vacation of mapped rights-of-way, and the actual constructed road is located elsewhere on the applicant's property; in that case the County may require dedication of the property under the traveled way to the County as a condition of vacating the mapped rights-of-way. Alternatively, if the applicant is requesting vacation of mapped rights-of-way, and the actual constructed road is located elsewhere off of applicant's property, the County may vacate the mapped rights-of-way so long as the traveled way is kept in public use.
  - 5. Creates an opportunity to provide for development that is more consistent with the Comprehensive Plan and Land Use Code.
- D. The Board shall consider the following factors as disfavoring a vacation request:
  - 1. Facilitates new development contrary to the Comprehensive Plan or Land Use Code.
  - 2. Facilitates new development that has a negative impact on historic, archaeological, cultural, scenic, or environmental resources such as wetlands, riparian areas, and plant or wildlife habitat.
  - 3. Facilitates unsafe development in a natural hazard area.
  - 4. Prevents access to County-owned lands.
- E. The Board shall not approve a vacation within the Eldora Townsite if:
  - 1. The vacation will leave any adjoining land without access to an established public road. Colorado State Statute 43-2-303(2)(a)
  - 2. There is a current or foreseeable public need for the property. The evaluation of whether there is a current or foreseeable public need for the property should be made with reference to the stated purpose of preserving the rural and historic character and environmental resources of the Eldora Townsite.
  - 3. The rights-of-way have been identified as facilitating access to Middle Boulder Creek, public lands or private properties, and are among the following rights-of-way: the section of unimproved road between the west end of Eldorado Avenue where it turns north to, and including, Middle Boulder Creek; the alley between Eldorado Avenue and Spencer Avenue west of 11th Street; 11th Street north of Klondyke Avenue; 10th Street south of Spencer Avenue; 8th Street south of Eldorado Avenue to, and including, the portion that intersects with Spencer Avenue; 7th Street north of Klondyke Avenue; 6th Street north of Washington Avenue including all of Pearl Street; 6th Street south of Bryan Avenue; 5th Street south of Eldorado Avenue; 4th Street north of Huron Avenue; 3rd Street south of Eldorado Avenue; and 1st Street south of Eldorado Avenue. However, partial vacations of these rights-of-way may be considered if they meet any of the factors in Subsection C.
  - 4. The rights-of-way are necessary for the ongoing maintenance of existing accepted roads.
- F. In any vacation approval, the Board may impose reasonable terms and conditions to address the purpose and factors stated in Subsections B. through E. above, including but not necessarily limited to preserving a public interest in the vacated land through reservation or grant for utilities, access, or other legitimate public purposes; specifying how title to the vacated area is to vest in accordance with Part 3 of Article 2, Title 43, C.R.S., as amended; approving partial vacations, or the vacation of less area than proposed in a vacation request; and limiting use of the vacated area for setback, building, fencing, or other land development or land use purposes. No additional rights-of-way will be maintained by the Transportation Department as a result of any action on a vacation request under this Section 10-101.