



## COMMUNITY PLANNING & DEVELOPMENT SERVICES

City of Summerset  
12150 Siouxland Road, Summerset, SD 57718  
Phone: (605) 718-9858 Fax: (605) 718-9883 Web: www.summerset.us

## VACATION PROCEDURES

**The Filing Fee for a Vacation Application is \$250.00. Resolution and plat recording fee of \$90 and must also be submitted before any approved vacation resolution and plat can be recorded.**

**Description:** A Vacation Application is used to eliminate public rights-of-ways, easements, section lines, etc. 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 petitioner meets with Community Planning & Development Services 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 100% the property owners (each signature must be notarized) is submitted along with two (2) paper copies and one (1) electronic copy of a Vacation Instrument prepared by a Registered Land Surveyor. The vacation instrument must be drawn to City plat standards. The Vacation Instrument shall include book and page number of original plat dedicating right-of-way, section line, easement etc., if applicable.

*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. SDCL 9-45-7 The petition for vacation must be notarized.*

3. The applicant must send out utility letters and a vacation instrument to all utility companies in order to determine the impact of the proposed vacation on utilities. The utility companies are to reply directly to Summerset Planning Department.
4. A drawing or site development plan showing the intended use of the vacated if approved by the Council and becomes effective must accompany application.
5. If there is an existing public street within the vacated right-of-way, the petitioner shall immediately close the street to public travel upon the vacation taking effect. This shall be accomplished with the use of approved signs and barricades as prescribed by the City Public Works Director. Depending upon the future development plans for the vacated right-of-way, the street must be permanently closed with barricades or by removal of any improved street. The developer shall develop a plan that will be approved by the City for necessary actions required upon successful completion of the street vacation process. The plan will stipulate a time period for compliance with various activities needed to permanently vacate the right-of-way.

Important: If the Register of Deeds office rejects the resolution due to an incorrect legal, the petitioner will be notified to obtain the corrected legal and resubmit the petition to the City Community Development office. An additional \$250 application fee will be required with the resubmitted petition.

State law dictates the disposition of vacated right-of-way. The appropriate county Office of Register of Deeds will assign ownership of the vacated right-of-way. The petitioner may wish to enlist the services of a qualified attorney to assist in the determination of property ownership if there are any questions or concerns.



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## VACATION PROCEDURES

### Procedure:

1. Upon receipt of the petition, supporting documentation and application fee, the petition will be reviewed by various City departments. The review process will:
  - Check petition for inclusion of all abutting property owners.
  - Assurance that no property owner is deprived of required and reasonable access.
  - Discourage the creation of dead-end streets and alleys that are not consistent with approved design standards.
  - Protection and access to all existing or proposed public and private utilities located in the existing right-of-way.
  - Assurance that adequate emergency response access is maintained.
  - Ensure goals and objectives of the present and future transportation needs for the city are met.
2. After review of the petition by City staff, a resolution will be prepared and presented to the Planning Commission along with a staff findings. The staff findings will be presented at the next Planning and Zoning Meeting following the staff review process.

The Planning Commission, with input from the City staff, will vote on a formal recommendation to the City Commission at this meeting. This recommendation may be in favor of, in opposition to, or neutral to the proposed vacation.

3. At the next scheduled Commission Meeting or within 30 days of the Planning and Zoning Meeting the resolution and vacation instrument will be set for hearing by the City Commission. At this public hearing the Board of Commissioners will be presented with the resolution, vacation instrument, and Planning and Zoning recommendation. The petitioner must be at this hearing to address the Commission. Any opposition to the vacation will be heard at this time also. The Board of Commissioners can accept or reject the vacation at this time or defer it until a later date.

### **Publication Requirements**

*The Vacation petition is a public hearing requiring publication of legal notice once each week for at least two successive weeks with the City Commission 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 Commission approximately 30 days following the action taken by the Planning Commission.*

### 4. **Approval of Resolution**

If the Commission approves the vacation, a notice will be published in the City's official newspaper following approval. The resolution is subject to the referendum process as established by state law. The public will be given 20 days after publication of the resolution to file a petition pursuant to law. If a valid petition for referendum is not received within the 20 day period, the vacation will become effective and the resolution will be filed at the Register of Deeds office in the appropriate county.



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# APPLICATION FOR DEVELOPMENT REVIEW

### REQUEST (please check all that apply)

- Annexation
- Comprehensive Plan Amendment
- Fence Height Exception
- Planned Development (Overlay)
  - Designation
  - Initial Plan  Final Plan
  - Major Amendment
  - Minimal Amendment
- Subdivision
  - Layout Plan
  - Preliminary Plat
  - Final Plat
  - Minor 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 \_\_\_\_\_ Signature \_\_\_\_\_

### PROJECT PLANNER - AGENT

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

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

\*required for Corporations, Partnerships, etc.

### FOR STAFF USE ONLY

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

- Sewer Utility
- Fire Department
- Public Works
- Planning
- Building Inspector
- Engineering
- City Code Enforcement
- Police
- City Attorney
- BHP&L
- Finance Officer
- Register of Deeds
- County - Planning
- SD DOT
- SD DENR
- Auditor - Annexation
- Drainage
- Parks & Recreation
- Diamond D Water
- Black Hills Water
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

Planning and Zoning Meeting Date: \_\_\_\_\_  
 Commission Meeting Date: \_\_\_\_\_  
 Date Paid: \_\_\_\_\_

Payment Type: Cash  Check  Credit  1/2015

**PETITION FOR VACATION**

We, the undersigned, constituting all of the owners of the property adjacent to 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 APPLICATION SAMPLE LETTER

### 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 Summerset City Commission 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 Community Planning & Development Services, City of Summerset, P.O Box 783, Summerset, South Dakota 57718.

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 Power  
P O Box 1440  
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

SDN Communications  
1089 Rand Road  
Rapid City, SD 57702

Knology 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