



APPLICATION TO VACATE PUBLIC RIGHT-OF-WAY

SECTION I – APPLICANT INFORMATION & CHECKLIST (TO BE COMPLETED BY APPLICANT)

I hereby petition to vacate public right-of-way in accordance with Idaho Code §40-203, and submit the items/information required by the Checklist below. (Note: Idaho Code §40-203 is shown on Page 2)

NAME OF APPLICANT _____

SIGNATURE OF APPLICANT _____

ADDRESS _____

DATE _____

CITY _____ STATE _____ ZIP _____

PHONE (CELL NUMBER PREFERRED) _____

CHECKLIST:

- Application Fee per Highway District Fee Schedule. (Applicant is also responsible for all costs in excess of Fee)
- Name and general location of the road or right-of-way to be vacated

- Why do you propose the vacation?

- Submit an accurate scaled drawing showing the area to be vacated, and all adjacent properties.
- Submit a Legal Description of the right-of-way to be vacated.
- What property do you propose the right-of-way be vacated to? _____
- Submit a Legal Description of the property you proposed for vacating the right-of-way to.
- Provide petition of names, addresses and signatures of others who support the proposed vacation.
- Is the right-of-way within a City Area of Impact, or within one (1) mile of a City Limit?
 Yes (provide letter of comment from City government)
 No
- Are any irrigation facilities within the right-of-way?
 Yes (Provide letter(s) of comment from the irrigation facility owner(s))
 No
- Are any utilities within the right-of-way?
 Yes (Notify and provide letter(s) of comment from the utility owner(s))
 No

SECTION II – ABANDONMENT PROCESS (TO BE COMPLETED BY HIGHWAY DISTRICT)

- All necessary items provided with application
- Resolution No. _____
Adopted _____
Date
- Hearing Date Assigned _____
Date
- Notices staked in area _____
Date
- Hearing Notices Sent _____
Date
- Documents Recorded _____
Date
- Utilities & Agencies Notified _____
Date

SIGNATURE – HIGHWAY DISTRICT OFFICIAL

DATE

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Rev Mar 2013
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IDAHO CODE TITLE 40, HIGHWAYS AND BRIDGES CHAPTER 2, GENERAL PROVISIONS

40-203. ABANDONMENT AND VACATION OF COUNTY AND HIGHWAY DISTRICT SYSTEM HIGHWAYS OR PUBLIC RIGHTS-OF-WAY.

(1) A board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, shall use the following procedure to abandon and vacate any highway or public right-of-way in the county or highway district system including those which furnish public access to state and federal public lands and waters:

(a) The commissioners may by resolution declare its intention to abandon and vacate any highway or public right-of-way considered no longer to be in the public interest.

(b) Any resident, or property holder, within a county or highway district system including the state of Idaho, any of its subdivisions, or any agency of the federal government may petition the respective commissioners for abandonment and vacation of any highway or public right-of-way within their highway system. The petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings.

(c) The commissioners shall establish a hearing date or dates on the proposed abandonment and vacation.

(d) The commissioners shall prepare a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation of a highway or public right-of-way which shall be made available to the public not later than thirty (30) days prior to any hearing and mailed to any person requesting a copy not more than three (3) working days after any such request.

(e) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice by United States mail to known owners and operators of an underground facility, as defined in section 55-2202, Idaho Code, that lies within the highway or public right-of-way.

(f) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice to owners of record of land abutting the portion of the highway or public right-of-way proposed to be abandoned and vacated at their addresses as shown on the county assessor's tax rolls and shall publish notice of the hearing at least two (2) times if in a weekly newspaper or three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing.

(g) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.

(h) After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation. The decision whether or not to abandon and vacate the highway or public right-of-way shall be written and shall be supported by findings of fact and conclusions of law.

(i) If the commissioners determine that a highway or public right-of-way parcel to be abandoned and vacated in accordance with the provisions of this section has a fair market value of twenty-five hundred dollars (\$2,500) or more, a charge may be imposed upon the acquiring entity, not in excess of the fair market value of the parcel, as a condition of the abandonment and vacation; provided, however, no such charge shall be imposed on the landowner who originally dedicated such parcel to the public for use as a highway or public right-of-way; and provided further, that if the highway or public right-of-way was originally a federal land right-of-way, said highway or public right-of-way shall revert to a federal land right-of-way.

(j) The commissioners shall cause any order or resolution to be recorded in the county records and the official map of the highway system to be amended as affected by the abandonment and vacation.

(k) From any such decision, a resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code.

(2) No highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way.

(3) In the event of abandonment and vacation, rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.

(4) A highway abandoned and vacated under the provisions of this section may be reclassified as a public right-of-way.

(5) Until abandonment is authorized by the commissioners, public use of the highway or public right-of-way may not be restricted or impeded by encroachment or installation of any obstruction restricting public use, or by the installation of signs or notices that might tend to restrict or prohibit public use. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.

(6) When a county or highway district desires the abandonment or vacation of any highway, public street or public right-of-way which was accepted as part of a platted subdivision said abandonment or vacation shall be accomplished pursuant to the provisions of chapter 13, title 50, Idaho Code.