



Pennington County Planning & Zoning Pennington County, South Dakota

VACATION OF SECTION LINE OR PUBLIC RIGHT-OF-WAY PROCESS

APPLICABILITY

The purpose of the Vacation of Section Line or Public Right-of-Way is to eliminate Public Right-of-Way. To submit an application to Vacate any Public Right-of-Way, the applicant must show that there is a benefit to the public to Vacate the Right-of-Way.

APPLICATION REQUIREMENTS

A *pre-meeting* with Planning Staff is required prior to submittal of a Vacation of Section Line or Public Right-of-Way Application. A list of the minimum required elements is located on the following page: Vacation Application Checklist. The application must contain the signatures required, per SDCL 31-3-6 (see Authority & Standard attached). A complete application shall include: the application form (attached) and a Vacation Instrument labeled “Exhibit A” that has been prepared by a registered professional engineer or land surveyor and all materials required by the Planning Department, and the non-refundable application fee.

APPROVAL PROCESS

The application form and required materials for the Vacation request must be submitted to the Pennington County Planning Department. Upon submittal of all the application materials and the required fee, the Planning Department will provide a date that the Vacation request will be heard by the County Board of Commissioners.

APPROVAL PROCESS CONTINUED

Notice of time and place of hearing must be given at least 14 days in advance by publication in the legal newspapers of the County.

It is recommended the petitioner or a representative attend the County Board of Commissioners meeting to answer any questions. The Board of Commissioners action on the request is final, although their decisions may be appealed through the Circuit Court.

If a Vacation request is approved, a resolution that has been created by the Planning Department, along with the “Exhibit A” shall be filed at the Register of Deeds’ Office by the applicant.



**Pennington County Planning & Zoning
Pennington County, South Dakota**

**VACATION OF SECTION LINE
OR PUBLIC RIGHT-OF-WAY APPLICATION CHECKLIST**

- Pre-application Meeting Date with Planning Staff is scheduled on: _____.
- Completed Application Form
- “Exhibit A” (required for a completed application)
- A petition, per SDCL §31-3-6, may be submitted in one of two ways::
 - a. Be signed by two-thirds of the adjacent landowners or all adjacent landowners, if there are fewer than three; **or**,
 - b. Be signed by the number of registered voters in Pennington County equal to or greater than one (1) percent of the ballots cast from the last gubernatorial election in Pennington County.
 - i. The petition will need to have “Exhibit A” placed in the top heading.
 - ii. The voter signatures will need to be reviewed and verified by the Pennington County Auditor’s Office prior to filing the application with the Planning Department.
- Permit Application Fee:
 - Application fee - \$250.00
 - Publication costs - \$250.00
 - \$500.00 Total
- If applicable, additional information and documentation as requested by Planning Staff.

**VACATION OF SECTION LINE OR
PUBLIC RIGHT-OF WAY APPLICATION** Tax ID: _____

Board of Commissioner's Meeting Date: _____

Fee Paid: _____

1. Contact Information

Applicant: _____ Daytime Phone: _____

Mailing Address: _____
(Street or P.O. Box) (City, State, Zip)

E-mail Address: _____

Landowner: _____ Daytime Phone: _____

Mailing Address: _____

E-mail Address: _____

Authorized Agent: _____ Daytime Phone: _____

Mailing Address: _____

E-mail Address: _____

2. Property Information

Existing Legal Description: _____
_____ BHM, Pennington County, South Dakota.

Current Zoning: _____ Acreage: _____ Utilities: _____

Physical Description (Flat/hilly): _____

Landmark Location (Nearest Intersection) or Address: _____

Surrounding Zoning: North: _____ South: _____ East: _____ West: _____

Land Use: Residential Mixed-Use Commercial Industrial Other:

3. Request Information

Purpose of Vacation Request: _____

Benefit to the Public: _____

4. Criteria

1. Was a petition prepared and circulated for signatures?	Yes	No
2. Were the correct amount of signatures collected, reviewed, and verified by the Auditor's Office?	Yes	No
3. Are there topographical constraints in the Section Line Right-of-Way?	Yes	No
4. Is there a means of access developed in lieu of the Section Line Right-of-Way? *	Yes	No
5. Is there access to United States Forest Service lands from this portion Section Line Right-of-Way? **	Yes	No
6. Is there legal access to the property abutting the Section Line Right-of-Way? *	Yes	No
7. Is this Vacation request a Condition of Approval of a plat?	Yes	No

* If answered NO, the Right-of-Way needs to be relocated.

** If answered YES, the Right-of-Way needs to be relocated.

5. Signature(s)

The Owner, Applicant or Authorized Agent acknowledges and agrees that he or she (1) has read and received a copy of the instruction sheets and this application form concerning the filing and hearing of this matter, (2) authorizes the Pennington County Planning & Zoning Department Staff and designees to enter onto and inspect the above-described property, and, (3) has been advised of the fee requirements. (*Owner's Signature is required on all applications.*)

Signature of LANDOWNER:

DATE: _____

Subscribed and sworn to before me this _____ day of _____, 2025.

Notary Public for the State of South Dakota

My Commission Expires: _____

(SEAL)

Signature of APPLICANT or AGENT:

DATE: _____

Subscribed and sworn to before me this _____ day of _____, 2025.

Notary Public for the State of South Dakota

My Commission Expires: _____

(SEAL)

AUTHORITY & STANDARD

I. Authority

Under SDCL 31-3-6, Upon receiving a petition signed by two or more voters of an organized civil township, the board of supervisors, having jurisdiction, shall provide for a public hearing, as required by § 31-3-7, and after consideration of all information, opinions, and arguments presented, may, except as provided in §§ 31-3-12 and 31-3-44, vacate, change, or locate a highway in the township, if the public interest will be better served by the action. Upon receiving a petition signed by voters of the county, at least equal in number to one percent of those who cast ballots in the county during the last gubernatorial election, the board of county commissioners, having jurisdiction, shall provide for a public hearing, as required by § 31-3-7, and after consideration of all information, opinions, and arguments presented, may, except as provided in §§ 31-3-12 and 31-3-44, vacate, change, or locate a highway in the county, if the public interest will be better served by the action. Upon receiving a petition signed by two thirds of the adjacent landowners or all adjacent landowners if there are fewer than three, the board of county commissioners, having jurisdiction, shall provide for a public hearing, as required by § 31-3-7, and after consideration of all information, opinions, and arguments presented, may vacate the highway, if the public interest will be better served by the action. The petition must set forth the beginning, course, and termination of the highway proposed to be located, changed, or vacated and, if applicable, the name of each person owning the land through which the proposed highway may pass.

Under SDCL 31-18-3, the board of county commissioners may vacate or change the location of any section-line highway under its jurisdiction and the board of supervisors of an organized township may vacate or change the location of any section-line highway under its jurisdiction, as provided in this title, but neither board may vacate or change any portion of the state trunk highway system or any highway constructed by state or federal aid or any highway within the limits of a municipal corporation. A board of supervisors may not vacate or change any portion of the county highway system, nor may a board of county commissioners vacate or change any portion of the township road system. No board of county commissioners or board of supervisors may vacate a section-line highway that provides access to public lands or public waters embracing an area of not less than forty acres. This section does not prohibit the closing of a section-line highway to vehicular traffic if the highway is unsafe for vehicular traffic.