

CITY OF EUREKA

Category: COMMUNITY DEVELOPMENT

POLICIES & PROCEDURES

Subject: VACATION OF CITY STREET,
ALLEY OR EASEMENT

Date Adopted: June 9, 1972

File 4.02

Date Revised: December 1, 1988

Number

Date Revised: March 18, 2008

POLICY OBJECTIVE:

To more efficiently administer the procedures of street and alley vacation, thus assuring that when the City Council is prepared to act upon a specific vacation, all requirements have been met.

AUTHORITY:

Part 3, Division 9, commencing with Section 8300 of the Streets and Highways Code, State of California.

ASSIGNED RESPONSIBILITY:

Departments of Community Development, Engineering, Public Works, Finance, Fire, Police, Parks and Recreation.

APPLICABILITY:

Applicable where a specific City street, alley or easement vacation is requested.

I. General Vacation Procedures:

- A. All requests for vacation of a specific City street or alley shall be directed to the Community Development Department. All requests for vacation of a specific City easement shall be directed to the Engineering Department, and shall follow Section VII. "Summary Easement Vacation" as noted below.

In addition to a completed application form, the following application materials are required:

1. A map at 100 foot to the inch scale showing the proposed area to be vacated;
2. A Preliminary Title Report or Lot Book Guarantee for the area proposed for vacation; and
3. Fees per adopted City Fee Schedule.

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- B. Upon receiving a complete application for vacation, the Community Development Department shall refer the application to the other City Departments and the Public Utility Companies for their review. The purpose for the review is to:
1. Determine if the application is complete;
 2. Determine the feasibility of the proposed vacation;
 3. Determine if the application is to be processed as a General Vacation or a Summary Vacation;
 4. Determine applicable conditions to be imposed including:
 1. Public improvements and cost estimates to be determined by Engineering; and
 2. Reservation of needed easements.
 5. Direct Engineering to prepare the required legal description(s).
- C. Once the Departments have concluded their review of the matter, legal description(s) have been prepared, and the application is accepted for filing, the Community Development Department shall set the matter for public hearing before the Planning Commission. Public notice shall be sent to all property owners within 100 feet of the vacation boundary. A staff report will be prepared. The purpose of the Planning Commission's action is to recommend to the City Council to take action on the vacation request.
- D. Once the Planning Commission has acted, the Community Development Department shall schedule the matter before the City Council. If the City Council finds from all evidence and testimony submitted, that the street or alley is unnecessary for present or prospective public use, the City Council may adopt a Resolution of Intention. The purpose of this Resolution will be to:
1. Declare the City Council's intention to "Order the Vacation";
 2. Establish conditions and reservations;
 3. Set a public hearing before the City Council to "Order the Vacation";
 4. Direct the City Clerk to publish the Resolution of Intention and direct Engineering to post the site in accordance with the law; and
 5. Direct that security in the form of a cash deposit, bond or other surety is deposited for any required public improvements prior to the public hearing ordering the vacation.

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It is important that the date the City Council sets for the public hearing to “Order the Vacation” gives all parties involved time to send and post the required 15 day notices as well as allowing ample time to deposit the security as applicable.

E. Once acted upon, the City Clerk shall send a copy of the Resolution of Intention to:

1. The applicant;
2. Community Development;
3. Engineering;
4. Public Works;
5. Public Utility Companies; and
6. Property owners within 100 feet (Community Development shall provide the names and addresses to the City Clerk no later than the date set for the City Council to adopt the Resolution of Intentions).

The applicant needs to work with the Engineering and Finance Departments prior to the scheduled hearing date to deposit security for any required public improvements. In addition, Engineering shall post the area as required.

F. At the scheduled public hearing, the City Council will order the “Vacation” by Resolution. Once acted upon and after all conditions have been met, the City Clerk shall cause the Resolution to be recorded.

II. Summary Street or Alley Vacation:

A. The City Council may summarily vacate a City street or alley if the City can find that:

1. The street or alley has not been used or has been impassable for a period of at least five (5) consecutive years;
2. No public money was expended for maintenance of the street or alley.

The Summary Vacation process is much simpler than that required for a General Vacation and should be used whenever possible.

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- B. The Procedures for a Summary Vacation follow the General Vacation procedures outlined above except that a Resolution of Intention (Steps D and E) and the posting requirements are not needed. Once the application is found complete, the Community Development Department shall schedule a noticed public hearing before the Planning Commission then the City Council. The City Council's action will be to Order the Summary Vacation. This action is accomplished by Resolution. Once ordered, the City Clerk shall cause the Resolution to be recorded.

III. Summary Easement Vacation:

- A. The City Council may summarily vacate a City easement in any of the following cases:
1. The easement has not been used for the purpose for which it was dedicated or acquired for five (5) consecutive years immediately preceding the proposed vacation.
 2. The date of dedication or acquisition is less than five (5) years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.
 3. The easement has been superseded by relocation, or determined to be excess by the City, and there are no other public facilities located within the easement.
- B. All requests for vacation of a specific City easement shall be directed to the Engineering Department.

In addition to a completed application form, the following application materials are required:

1. A map at 100 foot to the inch scale showing the proposed area to be vacated;
2. A Preliminary Title Report or Lot Book Guarantee for the area proposed for vacation; and
3. Fees per adopted City Fee Schedule.

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- C. Upon receiving a complete application for vacation, the Engineering Department shall refer the application to the other City Departments for their review. The purpose for the review is to:
1. Determine if the application is complete;
 2. Determine the feasibility of the proposed vacation;
 3. Determine if the easement vacation should be treated as a surplus of property based on the cost of the easement; and
 4. Direct Engineering to prepare the required legal description(s).
- D. Once the other Departments have concluded their review of the matter, legal description(s) have been prepared, the application is accepted for filing, and negotiations have been completed for a surplus of property, if any, the Engineering Department shall set the matter for public hearing before the City Council to take action on the vacation request.
- E. At the scheduled public hearing, the City Council will:
1. Determine if the vacation should be considered as a surplus;
 2. Set the value of the easement, if any;
 3. Direct the applicant to pay the Finance Department the value of the easement, if any; and
 4. Order the "Vacation" by Resolution.
- F. Once the value of the easement, if any, has been deposited with the Finance Department, the City Clerk shall cause the Resolution to be recorded.
- G. In the event the Summary Easement Vacation request originates from within one of the City of Eureka departments, the request shall be in accordance with the previously stated requirements for Summary Easement Vacation, except that:
1. A Preliminary Title Report or Lot Book Guarantee will not be required;
 2. Payment of fees will not be required;
 3. Determination of the value of the easement will not be required if the requesting department determines that vacating the easement will have cost-neutral or positive financial benefits to the City.

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4. The request shall include a statement describing why vacating the easement would be in the best interest of the City, and that no conflicts of interest exist with adjoining properties.