

DIVISION VI. VACATION OF RIGHT-OF-WAY AND UTILITY EASEMENTS

Sec. 2.470. Consideration of vacation of right-of-way.

- A. Public hearing required. Consideration of vacation of right-of-way applications shall require a public hearings before the Planning Commission and Governing Body following publication notice, notices to surrounding property owners, and posting of notice signs as provided in this article.
- B. Approval by ordinance. The Planning Commission shall submit a recommendation on the application to the Governing Body and the Governing Body renders a final decision. All vacation of right-of-way applications shall be approved by ordinance.
- C. Consideration. The Governing Body may approve the application if the applicant presents clear and convincing evidence and the Governing Body determines from the evidence that:
 - 1. Due and legal notice has been given by publication as required herein;
 - 2. No private rights will be injured or endangered by the vacation; and
 - 3. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.
- D. Objection to vacation. If, at the time of or before the hearing meeting before the Governing Body, a written objection to the application is filed with the Governing Body by any owner or adjoining owner who would be a proper party to the application but has not joined in the application, approval of the vacation shall ~~not be granted except upon a~~ require a two-thirds vote of the Governing Body.

Sec. 2.480. Vacation of easement.

The property owner(s) of any property containing a utility easement, or any other public easement, may apply for a vacation of easement. The application for vacation of easement shall be filed with the Director. The application shall be accompanied by a legal description and survey, or such other drawing acceptable to the Director, depicting the easement sought to be vacated. The applicant shall obtain letters from representatives of any affected utility companies stating that the easement will not be needed by the service provider. All such letters shall be submitted to the Director prior to scheduling the proposed vacation for the Commission's consideration.

Sec. 2.490. Consideration of vacation of easement.

- A. Review of vacation of easement. The Director shall coordinate review and analysis of the vacation of easement application by the City Staff. The results of this analysis shall be compiled by the Director and a staff report prepared for the Commission's consideration.
- B. Action by Commission. The Commission shall consider and make a recommendation to the Governing Body on the vacation of easement application.
- C. Governing Body action upon Commission recommendation. Following review and recommendation by the Commission, the vacation of easement shall be transmitted to the Governing Body for final action. The actions of the Governing Body shall be by ordinance.