

4.16 Vacation of Right-of-Way or Easement

A. Vacation of Right-of-Way/Easement Purpose. The vacation of right-of-way or easement application process is used to vacate unnecessary rights-of-way and easements. The vacation of a roadway shall also be in accordance with C.R.S. § 43-2-301, *et seq.*

B. Vacation of Right-of-Way/Easement Application Process. ¶8-10 Amend: Res 10-2007 (PC Res 3-2007)

1. Pre-Application Conference. A pre-application conference with the City Planner is required before the applicant may submit a vacation of right-of-way/easement application. Topics to be discussed will include:
 - a. City regulations and standards.
 - b. The application and review process.
 - c. Submittal requirements.
 - d. Schedule.
2. Vacation of Right-of-Way/Easement Application Submittal. The applicant shall submit one (1) complete copy of the vacation of right-of-way/easement application package to the City Planner and shall request that the application be reviewed by the City Council. The application must be submitted a minimum of thirty (30) days prior to the City Council meeting at which the application will be reviewed. The vacation of right-of-way/easement application shall include:
 - a. Land Use Application Form.
 - b. Vacation - Technical Criteria Form (from Workbook).
 - c. Application Fee. A non-refundable fee is collected to cover the cost of review by the Staff. Publication costs may be billed separately.
 - d. Petition for Vacation of Right-of-Way/Easement. A blank petition for vacation of right-of-way and a blank petition for vacation of easement are in the *Workbook*.

- e. Surrounding and Interested Property Ownership Report. For vacation of right-of-way and easement applications, provide the City Planner with a current (not more than thirty [30] days old) list of the names and addresses of the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record and oil and gas lessees for the property. The applicant shall certify that the report is complete and accurate.

- f. Vacation of Right-of-Way/Easement Map. The vacation of right-of-way/easement map shall be a minimum of eight and one-half (8½) inches by eleven (11) inches and provide the following information:
 - i. Title of map.
 - ii. North arrow, scale (whatever is appropriate) and date of preparation.
 - iii. Vicinity map.
 - iv. Legal description of right-of-way/easement to be vacated.
 - v. Graphic representation of property to be vacated.
 - vi. Acreage of property to be vacated.
 - vii. Names and boundaries of adjacent subdivisions and streets.
 - viii. Lot and block numbers of adjacent lots and blocks.
 - ix. Existing and proposed rights-of-way in and adjacent to subject property.
 - x. Existing and proposed easements in and adjacent to subject property.
 - xi. Existing and proposed utility lines and/or facilities in and adjacent to subject property.
 - xii. All waterways and ditches in and adjacent to subject property.
 - xiii. Type and location of existing structures and paved areas on the subject property.

- g. Vacation of Right-of-Way/Easement Review Criteria Statement. Provide a written description of how the vacation request addresses the vacation of right-of-way/easement review criteria.

- h. Letters of Support from Utility Providers and Other Affected Agencies. The applicant shall provide to the City letters from all utility providers or other agencies affected by the vacation, expressing their support of the vacation request.

3. Application Certification of Completion. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Vacation of Right-of-Way / Easement *Technical Criteria* form) to the City Planner at least thirty (30) days prior to the City Council meeting. The original application and all documents requiring a signature shall be signed in blue ink. No application shall be allowed to proceed until it has been deemed to be complete.
4. Refer Application to Parties of Interest. Not less than fifteen (15) days before the date scheduled for the public hearing before the City Council, the City Planner shall send information about the application to surrounding property owners within three hundred (300) feet. At the City Planner's discretion, other parties of interest, such as mineral interest owners of record, mineral and oil and gas lessees for the property, adjacent municipalities, and Fremont County, may be notified. The referral information shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property, and the applicant's name.
5. Staff Reviews Application and Prepares Comments. Staff will complete a review of the vacation of right-of-way/easement based on the vacation of right-of-way/easement review criteria. Staff will then prepare a report identifying any issues of concern that the applicant will need to address and forward this report and/or written staff comments to the applicant.
6. Applicant Addresses Staff Comments. The applicant shall address City Staff's comments then submit a letter explaining how all of the comments have been addressed and revised maps and other documents to the City Planner.
7. Final Staff Review and Report to the City Council. Staff shall complete a final review of the resubmitted materials and prepare a report to the City Council explaining how the application is or is not consistent with the vacation of right-of-way/easement review criteria.
8. Schedule Vacation of Right-of-Way/Easement Public Hearing and Complete Public Notification. The City Council shall schedule a public hearing for the purpose of taking action on an ordinance approving the vacation of right-of-way or easement. The City Planner shall publish notice in a newspaper of general circulation no less than fifteen (15) days prior to the date of the hearing.

9. City Council Action. Following a public hearing, the City Council may approve, conditionally approve or deny the vacation of right-of-way or easement ordinance, based on the vacation of right-of-way/easement review criteria. All approved ordinances must be recorded with the Fremont County Clerk and Recorder. If the ordinance is conditionally approved, all conditions of approval must be satisfied by the applicant and certified by the City Clerk within a time specified by the City Council before the ordinance can be recorded.
10. Exceptions to Requirement for Public Hearings. Requests to vacate a right-of-way or easement that are incorporated into the application for subdivision or planned unit development of any property do not require a public hearing separate from that required for the subdivision or planned unit development. In reviewing a request to vacate a right-of-way or easement that is incorporated into a subdivision or planned unit development submittal, the City Council shall use the criteria established in Section C. Vacation of Right-of-Way/Easement Review Criteria, of this Chapter.

C. Vacation of Right-of-Way/Easement Review Criteria. No vacation shall be permitted unless each of the following requirements has been satisfied: ¶1-5 Amend: Res 10-2007 (PC Res 3-2007)

1. The vacation of the right-of-way or easement must be in the public interest.
2. The vacation of the right-of-way must not leave any lot or parcel without access to an established public road.
3. The right-of-way or easement proposed for vacation must not be needed for any public purpose in the short term or in the long term.
4. If there is a need to relocate the facilities of any utility serving the public within the right-of-way or easement proposed for vacation, adequate arrangements must be made for the relocation of such facilities and the payment of all costs associated therewith.
5. Abutting and surrounding properties must not be adversely affected by the proposed vacation.