

4.17 Vacation of Obsolete Subdivision

- A. Vacation of Obsolete Subdivision Purpose.** An obsolete subdivision is one in which lots have not been developed and do not meet current subdivision requirements, including lot size, environmental conditions, and the provision of adequate infrastructure. Obsolete subdivisions may interfere with the orderly development of land within the City, perpetuate obsolete development standards and guidelines, threaten to impose substantial financial burdens on the City, create serious environmental problems, and reduce the quality of life for persons who live in or near such subdivisions. This section of the Code sets forth a process by which an obsolete subdivision may be vacated.
- B. Vacation Process.** Subject to the procedure set forth in this section, the City Council may vacate all or a portion or portions of the final subdivision plat of any obsolete subdivision within the City upon the request of a property owner within the subdivision or the City Planner. The City Council may vacate only the final subdivision plat for that portion of an obsolete subdivision consisting of multiple, contiguous lots that are undeveloped and in common ownership. The City Council may vacate a final subdivision plat only after conducting a public hearing to consider evidence to determine whether the findings can be made that are necessary to determine if all or a part of the subdivision is obsolete within the meaning of this section, and to consider evidence to determine whether the finding can be made that is necessary to adopt an ordinance to vacate.
1. Resolution of Intent to Vacate. Prior to vacating all or a part of the final subdivision plat of any obsolete subdivision, the City Council shall adopt a resolution of intent to vacate. The resolution shall set forth the reasons the City Council desires to vacate the final subdivision plat and shall establish the date, time, and place of a public hearing on the proposed vacation. At least thirty (30) days prior to City Council consideration of the resolution of intent to vacate, the City Planner shall provide written notice that vacation of the subdivision is being considered to all record surface owners and lienholders of all lots within the subdivision. Once a resolution of intent to vacate has been adopted by the City Council, no development plan may be submitted, or building permit issued, until the matter has been finally decided by the City Council.

2. Schedule Vacation of Obsolete Subdivision Public Hearing and Complete Public and Property Owner Notification. The City Council shall schedule a public hearing for the purpose of taking action on an ordinance approving the vacation of the obsolete subdivision. The City Planner shall publish a copy of the resolution notice in a newspaper of general circulation at least fifteen (15) days prior to the City Council public hearing. In addition, a copy of the resolution shall be mailed to the last known address of the record surface owner or owners of each lot within the subdivision and to any lienholders of record, at least fifteen (15) days before the public hearing.
3. City Council Action. At the public hearing on the determination of obsolescence and proposed plat vacation, the City Council shall receive a report from the City Planner regarding the proposed vacation and shall hear from all interested persons. At the close of the public hearing, the City Council may, by ordinance, vacate all or a part of the final subdivision plat for the obsolete subdivision if it makes the following findings:
 - a. That the subdivision is an obsolete subdivision within the meaning of this section; and
 - b. Vacation of all or a part of the final subdivision plat for the obsolete subdivision will promote the health, safety and general welfare of the community. The ordinance shall describe the property that is subject to vacation by making reference to the subdivision name and the final plat on record with the Fremont County Clerk and Recorder.
4. Record Vacation Ordinance. If the City Council vacates all or a part of the final subdivision plat of any obsolete subdivision, it shall record a copy of the ordinance of vacation with the Fremont County Clerk and Recorder. The City shall also record a copy of the final subdivision plat as it was approved by the City with a prominent notation on the plat showing that it was vacated in whole or in part by decision of the City Council and the date of such decision.

- C. Effect of Vacation.** After all or a part of the final subdivision plat for any obsolete subdivision has been vacated pursuant to this section, the land within such vacated subdivision or portion thereof may not be subdivided without first complying with the then applicable state and local subdivision and development regulations, and it shall be unlawful to sell the land or any portion thereof with reference to the plat or develop any property within the vacated subdivision or portion thereof without first complying with the then applicable state and local subdivision and development regulations. The vacation of all or a part of the final subdivision plat for any obsolete subdivision shall have the effect of vacating all public easements and rights-of-way within the vacated subdivision or portion unless the ordinance of vacation expressly provides that any public right-of-way has not been vacated. The vacation of an obsolete subdivision or portion thereof shall not have the effect of interfering with any privately owned easements dedicated for utility, access, or other similar purposes shown on the final subdivision plat that was vacated unless the City has obtained a release from the owner of the privately-owned easement authorizing the vacation of such easement.
- D. Vested Rights.** Nothing in this section is intended to authorize the City to interfere with any lawfully established vested rights.