

Article 5: Subdivision Procedures

Division 9: Public Right-of-Way Vacations

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0901 Purpose of Public Right-of-Way Vacation Procedures

The purpose of these procedures is to establish a process for approving applications to vacate a *public right-of-way* and to supplement the provisions of California Streets and Highways Code, Sections 8300 through 8363.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0910 When a Public Right-of-Way Vacation May Be Initiated

- (a) The vacation of a *public right-of-way* may be initiated by resolution of the City Council or by petition or request of any person pursuant to the California Streets and Highway Code. A *public right-of-way* also may be vacated by filing a *tentative map* and a *parcel map* or *final map* pursuant to the *Subdivision Map Act* Sections 66434(g), 66445(j), 66499.20 1/4 or 66499.20 1/2, and in accordance with the provisions of this article.
- (b) A *public right-of-way* may be summarily vacated if it does not contain *public utility* facilities, does not contain active *public utility* facilities, or contains *public utility* facilities that would not be affected by the vacation and if any of the following applies:
 - (1) The *public right-of-way*, or portion of the *public right-of-way*, is excess *public right-of-way* and is not required for *street* or *highway* purposes;
 - (2) The *public right-of-way* lies within one ownership and does not continue through that ownership or touch the property of another owner;
 - (3) The *public right-of-way* has been impassable for vehicular travel for a period of 5 years and public funds have not been expended for maintenance of the *public right-of-way* during that period.
 - (4) The *public right-of-way* is intercepted by a state *freeway* and an agreement has been entered into pursuant to California Streets and Highways Code Section 100.2.

- (5) The *public right-of-way* has been superseded by relocation, provided the vacation would not cut off all access to an individual property that, before relocation, adjoined the *public right-of-way*.
 - (6) The *public right-of-way* vacation does not terminate a *public service easement*, unless the easement vacation satisfies the requirements of the California Streets and Highways Code section 8333.
- (c) A public *street*, highway or *public service easement* may not be summarily vacated if there are existing *public utility* facilities that are in use and would be affected by the vacation.
 - (d) Public facilities within the *public right-of-way* shall be deemed unaffected by the vacation if they are to be relocated with no impact on service or if an appropriate easement is reserved from the vacation pursuant to California Streets and Highways Code section 8340 to provide for the continued use and maintenance of the public facility.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

§125.0920 How to Apply for a Public Right-of-Way Vacation

An application for vacation of a *public right-of-way* shall be filed in accordance with Section 112.0102. A *parcel map* may be filed in lieu of a vacation plat for the purpose of a *public right-of-way* vacation.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0940 Decision Process for a Public Right-of-Way Vacation

A decision on an application to vacate a *public right-of-way* shall be made in accordance with Process Five with the following exceptions to Process Five procedures:

- (a) The Notice of Public Hearing required by Section 112.0301(c) shall be distributed 14 calendar days before the date of the public hearing, and shall be published in a newspaper of general circulation for at least two successive weeks prior to the hearing in accordance with California Streets and Highways Code Section 8322. The Notice of Public Hearing shall be posted in accordance with California Streets and Highways Code Section 8323. Where the vacation of a *public right-of-way* occurs in conjunction with an application for a *tentative map*, notice in accordance with this section shall not be required.

- (b) A summary vacation of a *public right-of-way* pursuant to Section 125.0910(b) does not require a recommendation by the Planning Commission.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

§125.0941 Findings for Public Right-of-Way Vacation Approval

A *public right-of-way* may be vacated only if the decision maker makes the following *findings*:

- (a) There is no present or prospective public use for the *public right-of-way*, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated;
- (b) The public will benefit from the action through improved use of the land made available by the vacation;
- (c) The vacation does not adversely affect any applicable *land use plan*; and
- (d) The public facility for which the *public right-of-way* was originally acquired will not be detrimentally affected by the vacation.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

§125.0950 Recording of a Public Right-of-Way Vacation

If the vacation is approved, the City shall provide the resolution and any accompanying documents to the County Recorder for recordation. If the resolution contains conditions, it shall not be provided to the County Recorder for recordation until the City Engineer has determined that all conditions have been met. If consolidating of processing for the vacation is not required in accordance with Section 112.0103(d), the vacation must be recorded prior to the approval of any other associated *construction permits* or *building permits*. The recordation of a *subdivision map* pursuant to *Subdivision Map Act* Sections 66434(g), 66445(j), 66499.20 1/4 or 66499.20 1/2 shall have the same effect.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

[Editors Note: Amendments as adopted by O-21836 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language
http://docs.sandiego.gov/municode_strikeout_ord/O-21836-SO.pdf