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## Vacate Review

This guide describes the Vacate process. It should be used in conjunction with the City of Trinidad Municipal Code (See Chapter 14 Land Use Code), C.R.S. §43-2-301, et. seq., and the guide to Pre-Application Review.

### Purpose

A Vacation of Right-of-Way is a request seeking transfer of an unnecessary right-of-way held as public property pursuant to C.R.S. §43-2-301, et. seq.

### Vacate Criteria

- ❖ The right-of-way being vacated is not needed in the short or long term.
- ❖ If necessary, the right-of-way will be replaced. To replace the right-of-way the vacation application shall be accompanied by a development application which proposes a new right-of-way.
- ❖ The applicant bears the sole cost of relocating all public facilities or utilities within the right-of-way.
- ❖ The public and surrounding properties will not be negatively impacted by the vacation.
- ❖ No lot or other cognizable property interest shall be left without legal access to the public street system, if the vacation is approved.
- ❖ All current and future projected utility, access or other easement needs are preserved.

### REVIEW PROCESS

**Step 1: Pre-Application Conference.** A pre-application conference in accordance with Section 14-24 is required before the applicant may submit a vacation of right-of-way application.

**Step 2: Vacation of Right-of-Way Application Submittal.** The applicant shall submit a complete vacation of right-of-way application to the Planning Division. The application shall include:

1. Land Use Application Form.
2. Development Review fee of \$700.00.
3. Proof of Ownership.
4. List of adjacent property owners and mailing addresses of those owners.
5. Vacate Review Criteria Statement. Provide a written description of how the vacation request addresses the vacation of right-of-way/easement review criteria.
6. Interested Property Ownership Report. Provide a current list (not more than thirty (30) days old) of the names, addresses and mailing addresses of property owners, mineral interest owners of record, mineral and oil and gas lessees for the property and ditch companies with legal interests in the property. The applicant shall certify that the report is complete and accurate.
7. Vacation of Right of Way Plat – A certified, stamped vacation of right-of-way plat map shall be prepared by a professional land surveyor and provide the following information:
  - a. Title of plat.

- b. North arrow, scale (whatever is appropriate) and date of preparation.
- c. Vicinity map.
- d. Legal description of right-of-way to be vacated.
- e. Graphic representation of right-of-way to be vacated.
- f. Dimensions, square footage/acreage of right-of-way to be vacated.
- g. Names and boundaries of adjacent subdivisions and streets.
- h. Lot and block numbers of adjacent lots and blocks.
- i. Type and location of existing structures and paved areas on the subject property.
- j. An illustration of how title in any vacated right-of-way will vest, as required by C.R.S. § 43-2-302.
- k. Existing structures.

Step 3: 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 revised application to the Planning Division.

Step 4: Refer Application (if applicable). Staff shall circulate the complete application to referral individuals, mineral interest owners, if applicable, and agencies (collectively, "Referral Parties"). As part of the review process, Referral Parties are notified and have the opportunity to respond in writing. This referral period is 21 days. Failure of a Referral Party to respond within the prescribed time period shall indicate consent to the contents of the application.

Step 5: Staff Reviews Application and Prepares Comments. Staff will complete a technical review of the vacation of right-of-way application based on the vacation of right-of-way review criteria and referral comments received. Staff will then prepare a report identifying any issues of concern that the applicant will need to address and forward this report to the applicant.

Step 6: Applicant Addresses to Staff Comments. The applicant shall submit the following to the Planning Division:

1. Letter addressing staff comments; and
2. Revised maps and other documents, as required

Step 7: Final Staff Review and Report to City Council. Staff will complete a final review of the resubmitted materials and then prepare a report to City Council explaining how the application is or is not consistent with the vacation of right of way review criteria.

Step 8: Schedule Public Hearing and Complete Public Notification Process. At least ten (10) days prior to the City Council public hearing dates, the City will provide notice of the public hearing to the abutting property owners by certified mail and publish the public notice in the local newspaper of general circulation. Notice given shall include the application type, the date of the application, the date of the hearing, and such other information as may be required to fully apprise the public of the nature of the application.

Step 9: City Council Public Hearing and Action. The vacation of right of way application shall be presented to the City Council for first reading of an Ordinance. Upon approval, the City Council shall set the Ordinance for public hearing. At the public hearing, the City Council shall review the vacation of right of way application based on the vacation of right of way review criteria and finally approve, conditionally approve or deny the vacation of right of way. If approved, the City Council will adopt the Ordinance upon second reading. The vacation of right of way will become effective ten (10) days following the approval of Ordinance.

Step 10: Post Approval Actions. Ten (10) days after the adoption of the Ordinance approving the vacation of right of way:

1. The applicant shall submit to the Planning Division the vacation of right of way plat digitally and three (3) original Mylars of the vacation of right of way plat
2. The Vacation of Right of Way Plat and associated Ordinance shall be recorded by the Planning Division in the office of the County Clerk and Recorder upon the effective date of the Ordinance, subject to any conditions of approval, which shall be satisfied prior to recordation. The recording fee shall be paid by the applicant.