



## City of Arcata Community Development Department

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# RIGHT-OF-WAY ABANDONMENT/VACATION

## OVERVIEW

There are existing public rights-of-way in the City that are undeveloped and/or not used for access or utilities. Adjacent property owners and neighborhood residents often make use of these rights-of-way as extensions of private land parcels. This may prompt an adjacent property owner to apply for abandonment or street vacation, resulting in the right-of-way being added to adjacent properties. A right-of-way abandonment only removes the public easement, it does not determine ownership of the underlying land; ownership is determined through a Preliminary Title Report.

In some cases however, the right-of-way may have a long term planned use. More and more, cities are looking at existing rights of way for uses other than vehicle access, such as utility corridors, pathways and trails. Any City review of an abandonment application will consider the long term implications and the potential range of public uses for the right-of-way.

During the City review process, it must be determined that any proposed vacation or abandonment does not conflict with long term transportation/ utility corridor preservation plans and goals. The applicant may be asked to collaborate with the City, to find ways to avoid encroachment on planned corridors, and to thoroughly examine future access needs. Traffic impact analyses may be required to determine effects on adjacent rights of ways and/or existing streets and paths.

Prior to initiating the process of vacating a street, the City Council must submit the matter of the proposed vacation to the Planning Commission for a determination as to the conformance of the proposed abandonment with the City's General Plan, pursuant to Government Code § 65402.

Where a public right-of-way is officially abandoned, the property that was formerly in the right-of-way will be included within the zoning district of the adjoining property on either side of the abandoned right-of-way per Land Use Code § 9.12.020.B.4. This may require a zoning map amendment.

## HOW TO APPLY

Right-of-Way Abandonment applications are available at the Community Development Department, or on the Department's website at [www.cityofarcata.org](http://www.cityofarcata.org). Staff can assist you with the materials needed for a complete application packet. Submit the completed application packet along with the application fee to the Department for processing.

## **THE PROCESS**

### **Step 1: Application Filing and Initial Review**

Once your application has been submitted and fees collected, Staff will perform an initial application review. Please follow the attached checklist carefully when preparing your application as this is what staff relies on to determine completeness. Should your application be found incomplete, you or your designated agent will be contacted and advised what items must be submitted before processing can resume.

Preliminary Review Option: Applicants can pay a fee to get the permit review process started rather than waiting until all required items are submitted for staff to begin review of your project. This will provide you with an assessment of how the proposed use complies with applicable standards. The application must be complete to proceed beyond that.

### **Step 2: Environmental Review**

The assigned planner will review the project in accordance with the California Environmental Quality Act (CEQA) to determine if the project is exempt from CEQA, or if further environmental review is required. If the project is exempt from CEQA, then Step 2 is complete. If the project is not CEQA exempt, then an initial study will be prepared to make the required environmental determination.

### **Step 3: Department and Agency Referrals**

Once your application has been accepted as complete, the assigned planner will send copies of your application materials to other City departments and public agencies having jurisdiction or authority over your project. If the responding Departments or agencies identify issues to be resolved prior to the continued processing of your application, or if additional information is required by those Departments or agencies, you or your designated agent will be advised as to what is needed. These Department and agency comments may affect the form and content of the environmental document.

### **Step 4: Staff Report**

Staff will prepare a written report that discusses whether: the proposed vacation is in conformance with the General Plan; the public right-of-way is needed for present or future public street purposes; granting the abandonment would impair or eliminate public street access to properties in the area or create landlocked parcels; the right-of-way could be used for a bicycle or pedestrian path; the topography in the area renders the construction or extension of a public street or alley impractical; the street or alley right-of-way is included in the circulation plans of the adopted General Plan; the right-of-way is needed for either planned or existing utilities. A copy of the staff report will be sent to you prior to the public hearing.

### **Step 5: Public Notice and Hearing**

A Notice of Public Hearing will be sent to all property owners within 300 feet of your property if the project is exempt from CEQA. For projects not exempt from CEQA, notice will be sent to all property owners within 500 feet of your property. The notice, which must be mailed at least 10 calendar days prior to the hearing will state the date, time, and place for the public hearing. You and/or your agent should attend the public hearing in case there are project specific questions. At the public hearing, any person may present verbal and/or written testimony for or against the project. The review authority will take into account the whole record, including all of the public testimony before making a decision. The review authority may make a decision at the hearing, or may continue the matter if more information is needed.

Right-of-way Abandonments require a series of hearings, first by the Planning Commission and then by the City Council. At a noticed public hearing, the Planning Commission receives public testimony and considers the vacation request and determines if the request conforms to the General Plan; the Planning Commission forwards its recommendation to approve or deny the vacation request to the City Council. The City Council, at its first meeting would, if appropriate, adopt a Resolution of Intent to Vacate. At the second meeting, which is a noticed public hearing, the City Council would adopt a Resolution Ordering the Vacation.

Once the City Council adopts the Resolution Ordering the Vacation, all improvements or conditions of the Resolution must be completed to the City's satisfaction, at which time the City will record the Resolution Ordering the Vacation and the vacation is complete.

### **Step 6: Appeals**

Planning Commission actions are appealable to the City Council by you as the applicant, or any other adversely affected person. Appeals to the City Council must be filed with the City Clerk within 10 calendar days of the actual date of the final decision. Appeals must be submitted in writing and be accompanied by the required fees.

## Right-of-Way Abandonment/Vacation Application Checklist

- Preliminary Review Option: Applicants can pay a fee to get the permit review process started rather than waiting until all required items are submitted for staff to begin review of your project.

The following items must be submitted along with a completed and signed application form. **Incomplete or inaccurate information will cause a delay in permit processing.**

- Application form with signatures of all owners of the affected parcels.
- Application fee as indicated on the application form.
- A precise legal description of the area proposed for vacation.
- Eight (8) copies of a vacation map clearly showing all property within a radius of 100 feet of the exterior boundaries of the public right-of-way requested to be vacated. Additional copies may be required for agency distribution. In addition, the map shall show:
  - The right-of-way proposed to be vacated including the size of the area in square feet.
  - The way in which the vacated area is proposed to be merged to adjacent parcels. Include subject property dimensions, lot lines and size of parcels in square feet or acres.
  - All existing and proposed street, alleys, driveways, drainage facilities, streetlights, and curb cuts on site, adjacent to the proposed vacation area, and within 100 feet of the proposed vacation area. Indicate whether streets and alleys are public or private. Include existing and proposed street improvements such as sidewalks, curbs, gutters, pavement, street lights, fire hydrants, fire protection service lines, street trees, water meters, drainage structures, all above and underground utility services, and sewer and water main and service lines.
  - The existing use of the right-of-way by all abutting properties. Include all on-site parking and circulation facilities for abutting properties including driveways and curb cuts.
  - Location, dimensions, nature and status of all existing and proposed easements.
  - The location of all existing public utilities.
  - The names and widths of all adjacent streets.
  - The existing use of all property within a radius of 100 feet.
- A preliminary title report or Lot Book Guarantee, prepared by a Title Company, showing the vesting of the underlying fee ownership of the easement or right-of-way.
- A list of the names and addresses of all recorded property owners within 100 feet of the subject vacation and signatures of the property owners who favor the vacation.

Subject to changes or additions at any time. Applications may require additional information for continued processing.