

CITY OF MURRIETA STREET VACATIONS

Applicable Codes: Street and Highways Code Sections 2381, 8300-8363 and Government Code Section 65402(a).

Definition: A street vacation is the closing up or abandonment of public right-of-way associated with streets, roads, alleys and highways. This requires City Council action, except for re-subdivision as covered below. These street vacation procedures do not apply to the quitclaim or vacation of a “public service easement” as defined in Streets and Highways Code Section 8306.

Upon filing of a re-subdivision map of the properties underlying the public streets, roads, etc. the vacation(s) can be accomplished on the map by their omission, (Subdivision Map Act – Section 66499.20 ½). An appropriate certification that a vacation is the intent is usually required to be on the map. These procedures do not cover such vacations, although some of the same principals apply, such as:

A street vacation cannot take place if it would effectively cut off all access to a property.

There are two types of vacations authorized by the Streets and Highways Code: summary vacation and general vacation. The summary vacation procedure is a short form process.

1. A summary vacation is possible under any of the following conditions:
 - If the street has been superseded by relocation.
 - If the street has excess right-of-way not required for street purposes.
 - If the street has been impassable for vehicular travel for a period of five consecutive years and no public money was expended for maintenance of the street during that time.
 - A summary vacation cannot take place if it would cut off all access of a property to the street or if it terminates a “public service easement” as defined in Streets and Highways Code Section 8306 (unless the requirements of Streets and Highways Code Section 8333 are met).

A summary vacation may be possible under the following condition:

- If a portion of a street lies within property under one ownership and does not continue through that property or touch other property.

CAUTION: WHEN IN DOUBT, USE THE GENERAL VACATIONPROCEDURE

2. A general vacation is required under all other circumstances.

General Guidelines

Will the proposed vacation eliminate all legal access to any real property? If so, the Transportation Department will recommend denial.

Is the proposed road vacation shown as part of the circulation element of the General Plan of the City of Murrieta? If so, the General Plan has to be amended before the vacation is considered.

Will the proposed vacation interrupt the traffic patterns or general flow of circulation in the area? Will it affect emergency response? Will it create traffic operational or safety problems on adjacent road rights-of-way?

Will the proposed vacation sacrifice a good physical access for a poor or impassable physical access?

If the proposed vacation results in a dead-end road, a turn around area or a cul-de-sac may be required. The Fire Department may require secondary access or limit the length of the cul-de-sac.

When considering vacating right-of-way adjacent to undeveloped land, a minimum of 40 feet of right-of-way shall be retained when improvements are required. When improvements are not required a minimum right-of-way width of 30 feet for boundary streets shall be maintained.

If the street to be vacated has been dedicated, but not accepted for public use, the right to accept on behalf of the public will be vacated.

If the proposed vacation is within 300 feet of any City limits, Park or Recreation Area, the City Engineer and appropriate Agencies will be notified.

A vacation package containing a brief statement of the facts pertaining to the proposed vacation shall be routed to the following agencies:

Engineering, Planning, Development review

Fire

Police

Only public streets, roads, alleys, highways and walkways are vacated. Easements for other purposes and other types of land grants are quitclaimed.

In general, the proposed area to be vacated should not be necessary for existing or

future use by adjacent property owners or by the city of Murrieta. The City can reserve from the vacation an easement for all public utility purposes, an easement for non- vehicular or vehicular (bicycle) trails for use by the public or an easement for a future street.

The alignment or width of the street has changes such that excess right-of-way exists.

Appropriation of right-of-way should not be assumed to revert to one side or the other, in whole or in part. The City makes no conveyance of property or determination of ownership, by the act of vacation. The holder of the underlying fee title is the owner of the vacated property. The City can only vacate the interest it has, which is an easement for street purposes. The tax assessor will make a determination of ownership for tax purposes. This is typically along centerline and projections of lot lines. The conveyance of property held by the City in fee title is by a separate action of sale or exchange.

The elements of the three resolutions described in this procedure are required by law. Do not delete or modify them.

What to Submit

The following documents are required for all street vacations:

1. A transmittal letter specifying the contents of the submittal package and the reason for the vacation.
2. A complete submittal package which includes the following:
8 ½ x 11 Plat showing bearings and distances of the area to be vacated, signed and sealed by a licensed land surveyor or qualified registered civil engineer. The Plat should be precise and illustrate the legal description of the area to be vacated.
3. Legal description of the area to be vacated on 8 ½ “ x 11” paper, signed and sealed by a licensed land surveyor or qualified registered civil engineer.
4. A current title report of the property to be vacated.
5. Fee per current fee schedule (non-refundable).
6. 8 1/2“ x 11” location map in standard City format.
7. Traverse Calculations of area to be vacated.

The Summary Vacation Procedure

ALL

1. Applicant submits package to Counter Technician. Counter Technician reviews for completeness using checklist. If the application is not complete the package is returned to the applicant and the applicant is advised of what is missing.
2. If the application is complete, upon payment of fees and deposits, the Technician at the counter establishes the plan check in the City database.
3. Upon completion of the check-in process, the project package is routed to the Technician responsible for processing for distribution to plan checker, utilities and other City Divisions as appropriate for plan check.
4. Plan checker. The plan check engineer reviews the application package, visits site, checks legal description, plat, location map and title report. If corrections are necessary, the project engineer may return comments to project engineer / land surveyor with a transmittal letter indicating the deficiencies to be corrected.
5. Utilities and City Divisions. The processing technician prepares notices to the utility companies, Police, Fire, Planning and Engineering Divisions. If the right-of-way runs to, in, through or across another City, written consent with that City is required prior to right-of-way vacation or closure. Typically a response time of thirty (30) working days is considered sufficient. Proper notification and coordination with utility companies and reservation of any requested easements are of importance. The Planning Commission must issue a report within 40 days stating whether the vacation is in conformity with the general plan pursuant to Government Code Section 65402.
6. Affected Property Owners. Notices of the proposed vacation and ballots pertaining to the proposed vacation are sent to all affected property owners. If there is no opposition from the affected property owner(s) and City Department(s), the Summary Vacation will be a consent item on the City Council's Agenda. If there is opposition from any property owner(s) the right-of-way cannot be summarily vacated. However, if the Applicant wishes to proceed with the vacation, additional fees will be required to upgrade the vacation request to a General Vacation. If a General Vacation is ultimately selected, skip forward to step 8.
7. After all responses have been received, an assessment of the vacation is made. Some issues and concerns can be satisfied by conditions on the vacation. After a resolution of all the issues and concerns and upon receipt of the approved vacation from the plan check engineer, the processing technician prepares the City Council Report for the City Engineer's approval and places the item on the agenda.

*NOTE: For Summary Vacation skip forward to Step 15.
For General Vacation move to Step 8.*

The General Vacation Procedure

8. A general vacation requires two agenda reports and two Council meetings. Both reports are prepared by the processing technician and approved by the City Engineer.
9. At the first Council meeting a Resolution of Intention to Vacate is presented and adopted.
10. After the first Council hearing, notices must be posted along the route of vacation at least two weeks before the 2nd Council hearing. Notices shall be no more than 300 feet apart and there shall be at least three notices posted. A written certification must be made by the person who posts the site; this must be file with the City Clerk. Additionally, City Clerk to publish a Notice of Public Hearing in the local newspaper at least two weeks prior to the second Council meeting indicating the date, time, and location of the meeting pertaining to the vacation request.
11. The second City Council Report is prepared by the processing technician and approved by the City Engineer at the same time as the first City Council Report. The second report is for the hearing to obtain public input. A Resolution of Vacation is acted upon at this hearing.
12. At the hearing, the Council hears all the public input on the matter. Should the Council decide in favor of the vacation they adopt the Resolution of Vacation.
13. The City Clerk causes a certified copy of the Resolution of Vacation to be recorded with the County Recorder. Upon recordation the vacation is complete.

The Summary Vacation Procedure

14. A summary vacation requires one Council Report. The processing technician prepares the City Council Report containing a Resolution of Summary Vacation.
15. At the Council meeting the Resolution is acted upon and if adopted then the City Clerk will be instructed to record the vacation resolution with the County Recorder. As in a general vacation, recordation must be delayed until conditions are met. The processing technician must notify the City Clerk when the conditions are met referencing the Council Resolution Number.