

CONVERSION OF PUBLIC STREETS TO PRIVATE STREETS

The conversion of public streets to private streets involves the vacation of public street rights-of-way after the City Council makes a finding that the street is unnecessary for present or prospective public use. The actual street vacation process described in the State of California Streets and Highway Code must be followed. Since the streets to be vacated will still be used as streets for private purposes, it will be necessary to insure that there is a responsible body to take over the operation, maintenance, and liabilities of the streets. In most instances this can be a rather lengthy and complicated process. The following steps are to be used as a guide to completing the conversion process:

- A. Poll all property owners that would be affected by the conversion of public streets to private streets and submit results in a letter to the Public Works Department. The poll should be in the form of a petition that provides the residents with information concerning costs, obligations, and liabilities related to the conversion of a public street to a private street. An estimate of annual costs and the cost of processing the conversion should be provided. The community association and/or sponsors will be responsible for preparing all legal documents, engineering drawings, mailings to property owners and other items related to the vacation.

In preparing the information concerning costs, obligations, and liabilities related to the conversion of a public street to a private street, the following is to be designated as a private responsibility:

1. Liability insurance which guarantees indemnification of and a defense for the City should any lawsuit arise from any loss related to the use of the street or other private improvement subsequent to the vacation.
2. A performance bond or other security satisfactory to the Public Works Director is required to guarantee that the association will maintain the streets and other facilities granted to the association.
3. Street maintenance will include keeping the street driving surface in a good state of repair (striping and signage, overlays, slurry seals, patching and reconstruction). Curbs, gutters, and sidewalks are to be maintained so as to not present a safety hazard. Street sweeping, if the community elects to sweep their streets, will be required.

4. Drainage systems, surface and underground, that collect runoff primarily from the area are to become private.
5. Other services and facilities, as determined by the City Council, are to become a private responsibility.

The following is to be designated as a public responsibility:

1. Police and fire protection.
 2. Refuse collection, as provided in the Municipal Code.
 3. Water and wastewater (sewer) service.
 4. Public utility easements are to be retained for the use of public utilities, such as electrical, telecommunications, cable TV, and gas.
 5. Other services and facilities, as determined by the City Council, are to remain a public responsibility. Systems and services, such as streetlights, will be considered separately and the system or service will remain public if it can be shown it is in the best public interest for the system or service to remain public. In making this determination, the City Council will take into consideration the impact of privatizing these services and facilities on the overall privatization effort being considered and make the finding that it is in the best interest of the City for the facility to remain public or be converted to a private responsibility.
- B. Send a letter to the Public Works Department requesting the City to consider the vacation of the public streets in order to convert them to private streets. The letter shall be accompanied by a filing fee to cover administrative costs of the City.
- C. Public Works Department submits a request to the City Council to obtain approval in concept and authorization to work with the community association towards the goal of vacating the street.
- D. If no formal community association exists, one must be created and empowered to:
1. Accept the street rights-of-way when the street is vacated by the City.

2. Operate and maintain the streets.
 3. Assess funds for the operation and maintenance of the streets.
 4. Accept all liabilities for claims and lawsuits arising out of the use of the streets. (The association must maintain a policy of insurance which guarantees a defense for the City should any lawsuit arise from and loss related to the use of the street. Also, a performance bond is required to guarantee that the association will maintain the streets.) If a formal community association does exist, its bylaws and/or CC & R's must be amended to provide for the above items.
- E. In a situation where the streets abut numerous parcels under separate ownership, as compared to a situation where the street abuts a common area owned by the community association, a binding agreement and grant deed from each abutting owner will be required. The agreement and deed will provide for the owner to deed the street to the association immediately upon vacation by the City. These agreements and deeds are to be prepared by the attorney for the community association, processed by the association, and executed prior to the public hearing on the vacation.
- F. Prepare plans for guard gates and entrance modifications contemplated to restrict future access. These will need to meet the requirements of the Public Works Department, Fire Department, General Services Department, and Police Department.
- G. City is to prepare necessary environmental documentation at the association's and/or sponsor's expense.
- H. City will contact various utilities to determine what rights they wish to reserve when the street is vacated.
- I. All completed legal documents are to be submitted to the City Attorney for approval.
- J. Provide the City with a current list of names and addresses of all property owners affected by the vacation.

- K. If street to be vacated is in the Coastal Zone, a Coastal Permit must be applied for and obtained prior to setting the date for the public hearing on the vacation.
- L. Schedule for City Council consideration the adoption of a resolution of intent to vacate and a map for the area to be vacated.
- M. City Council adopts a resolution of intention to vacate and a map showing the area to be vacated and schedules a public hearing for vacation.
- N. City mails notices (in stamped, addressed envelopes provided by the community association) to all affected property owners.
- O. City Council holds a public hearing on the vacation. If the City Council finds that from all evidence submitted the street is unnecessary for present or prospective public use, the City Council may adopt a resolution vacating the street subject to whatever conditions the Council wishes to place on the vacation. These conditions may include reservation of various utility easements as well as the right to declare the street public if, at some time in the future, insurance and bonds lapse or the community association ceases to exist.
- P. Bonds shall be posted to cover construction of entrance improvements and any other improvements conditioned by the City Council.
- Q. All necessary fully executed legal documents are filed with the County Recorder.
- R. After all conditions imposed by the City Council have been fulfilled and all legal documents are filed, the resolution of vacation will be filed with the County Recorder's office and vacation is completed.

Adopted - November 22, 1982

Reaffirmed - January 24, 1994

Amended - July 22, 1996

Formerly L-11