

ORDINANCE NO. 0085
VACATION OF PUBLIC EASEMENTS AND RIGHT-OF-WAY
THE TOWN OF HORIZON CITY, TEXAS

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ORDINANCE NO. 0085

**AN ORDINANCE ADOPTING RULES AND REGULATIONS FOR
THE VACATION OF PUBLIC EASEMENTS AND RIGHT-OF-WAY
WITHIN THE MUNICIPAL LIMITS OF THE TOWN OF HORIZON
CITY, TEXAS**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HORIZON
CITY, TEXAS, THAT:**

**I.
APPLICATION BY PROPERTY OWNER**

A property owner whose property contains or abuts a public easement of right-of-way, and is located within the City Limits of the Town of Horizon City, may apply to the Town for a vacation, in whole or in part, of the public easement or right-of-way. An application for Vacation of Public Easements and Right-of-Ways, a copy of which is found in the Appendix, accompanied by the following information, shall be submitted to the Town Clerk.

- A. A non-refundable processing fee as approved by City Council of the Town of Horizon City;
- B. Copies of recorded deeds showing current ownership of all properties containing or abutting the public easement or right-of-way proposed to be vacated;
- C. Three (3) official copies of the survey of the area requested for vacation, showing all abutting property boundaries, improvements, dimensions, and other easements or right-of-way contained on the property. The survey must be prepared by a Professional Land Surveyor registered in the State of Texas;
- D. A metes and bounds description of the property to be vacated and calculations showing the square feet; and
- E. One (1) copy of the subdivision plat or instrument by which the public easement or right-of-way was dedicated, showing the recording information.

**II.
REVIEW FOR APPLICATION COMPLETENESS**

The Town Clerk shall, upon receipt of an Application for Vacation of Public Easements or Right-of-Ways, determine whether or not the application meets all of the content requirements for submittal. An application not meeting all of the submission requirements of the Title shall be returned to the property owner within ten (10) working days following the date of acceptance for review of application completeness, indicating the information which is lacking on the application. If an application accepted for review of application completeness is not returned to the property owner within the ten (10) working day review period, the application shall be deemed accepted.

III. PROCEDURE AND PUBLIC HEARING NOTICE

A. Procedure

Upon acceptance of an Application for Vacation of a Public Easements or Right-of-Ways, the Town Clerk shall distribute the application for public easement or right-of-way vacation to the City Engineer. Written comments and recommendations on the application for public easement or right-of-way vacation shall be submitted the City Engineer to the Planning and Zoning Commission within two (2) weeks from the date of distribution. All objections to the application shall be submitted in writing. Comments and recommendations not submitted or received within the specified time period shall result in the comments not being considered by the Planning and Zoning Commission, and shall require that the affected member's late comments and recommendations be presented directly to the City Council.

The City Engineer shall present the Application for Vacation of Public Easements or Right-of-Ways to the Planning and Zoning Commission who shall recommend approval, approval with modifications of disapproval, subject to any written comments and recommendations. The recommendation(s) of the Planning and Zoning Commission, accompanied with an explanation of their recommendation(s), shall be presented to the City Council.

A copy of these recommendations shall be provided to the property owners making the application at least three (3) working days prior to the City Council hearing.

Upon a favorable recommendation from the City Council on the Application for Vacation of Public Easements or Right-of-Ways, the City Clerk shall forward the information to the City Attorney for preparation of the vacation ordinance and for securing the necessary appraisal. Upon completion of establishing the market value of the public right-of-way, the City Clerk shall forward the request to the City Council for finalization.

B. Public Hearing Notice

1. Public Easement Vacation

Notice of the Planning and Zoning Commission and the City Council hearing shall not be required personally to abutting property owners when the application is for vacation of a public easement.

2. Public Right-of-Way Vacation

a. **Planning and Zoning Commission Hearing.** Letters giving notice of the Planning and Zoning Commission public hearing shall be mailed by the Town Clerk to all property owners:

- (1) Abutting the public right-of-way proposed to be vacated;
- (2) Within the block contiguous to the public right-of-way proposed to be vacated; and
- (3) Within a two hundred (200) foot radius of the public right-of-way proposed to be vacated.

Notice shall be given at least ten (10) days prior to the public hearing. Property ownership information shall be taken from the last available and approved ad valorem tax roll of the City.

Further, the City Clerk shall place a legal notice in the official newspaper providing information of the public hearing before the Planning and Zoning Commission on the public right-of-way proposed to be vacated. Notice shall appear in the newspaper then (10) days prior to the public hearing date.

b. City Council Hearing. Letters giving notice of the City Council public hearing shall be mailed by the Town Clerk to all property owners:

- (1) Abutting the public right-of-way proposed to be vacated;
- (2) Within the block contiguous to the public right-of-way proposed to be vacated; and
- (3) Within a two hundred (200) foot radius of the public right-of-way proposed to be vacated.

Notice shall be given at least ten (10) days prior to the public hearing. Property ownership information shall be taken from the last available and approved ad valorem tax roll of the City.

Further, the City Clerk shall place a legal notice in the official newspaper providing information of the public hearing before the City Council on the public right-of-way proposed to be vacated. Notice shall appear in the newspaper ten (10) days prior to the public hearing date.

IV.

APPEAL OF CITY PLANNING AND ZONING COMMISSION DENIAL

Where the City Planning and Zoning Commission denies an Application for Vacation of Public Easements or Right-of-Ways, no vacation ordinance shall be prepared and submitted to the City Council for finalization. The applicant may, in writing, request an appeal to City Council by placing an item on the agenda at a regularly scheduled City Council meeting. The applicant's appeal must be made in the office of the Town Clerk within fifteen (15) days of the denial by the City Planning and Zoning Commission. The City Council may deny the appeal for vacation of the public easement or right-of-way or may direct the preparation of the vacation ordinance.

V.

APPRAISAL REQUIRED FOR VACATION OF PUBLIC RIGHT-OF-WAY

A. General

Where required by state law, an appraisal shall be made of public right-of-way for which an application for vacation has been submitted. The applicant shall pay for all appraisal fees incurred by the Town of Horizon City. The appraisal shall be requested to determine the market value of the Town's interest in the public right-of-way. The cost of the appraisal will be reimbursed to the Town of Horizon City by the applicant whether or not the application is finally approved by the City Council. The applicant shall submit a check payable to the Town of Horizon City for all appraisal fees before the application is forwarded to the City Council for finalization.

No appraisal shall be required for an application for vacation of a public easement. The market value of the Town's interest in the public easement is deemed to be zero.

B. Date of Valuation

The date for establishing the market value of the public right-of-way proposed to be vacated shall be the date the application is accepted by the City Engineer.

C. Cases of Disputed Value

If the first appraisal obtained by the Town of Horizon City is disputed by the application, the applicant shall obtain a second independent appraisal at the applicant's expense. The Town of Horizon City must agree on the qualification of the second independent appraiser before the appraisal is requested by the applicant. If the City Attorney determines that there is a substantial difference between the two appraisals, the Town of Horizon City will contact a third independent appraiser to perform a review appraisal, the cost of which shall be paid by the applicant. The City Council shall then make a final determination of the market value which shall be binding on all parties.

**VI.
FEES TO BE PAID BY APPLICANT**

A. Application Fee

Before the City Council authorizes the vacation of all or part of a public easement or right-of-way, the applicant shall pay a non-refundable application fee as established by City Council.

B. Vacation Fee for Public Right-of-Way

In addition to the application fee, the applicant shall pay the following:

1. The cost of the appraisal;
2. The appraised market value of the Town's interest in the public right-of-way;
3. The applicant shall pay for all attorney fees incurred by the Town of Horizon City; and
4. The applicant shall pay for all engineering fees incurred by the Town of Horizon City.

C. Publication Cost

The applicant shall be responsible for all costs for publishing notices related to the Applicant for Vacation of Public Easements or Right-of-Ways when it is presented before the City Council for finalization. These costs shall be due upon receipt of billing from the City.

**VII.
RESUBMISSION OF A VACATION APPLICATION**

No application for Vacation of Public Easements or Right-of-Ways shall be resubmitted within a twelve (12) month period from the date of final action by the City Planning and Zoning Commission or the City Council, whichever action occurs last.

VIII.

That this Ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinances, and such is evidenced by the below signatures.

SIGNED this 9th day of November, 1999.



TOM RUIZ
Mayor

ATTEST:



Sandra Sierra
Town Clerk

APPROVED:



RICHARD CONTRERAS
Town Attorney

First reading: 09/14/99

Second reading: 11/09/99