

ARTICLE VII

RIGHTS-OF-WAY (STREET AND ALLEY) AND EASEMENT ABANDONMENT

Section 7.01 Abandonment of Rights-of-Way and Easements (Public or Private)

A. Application by Property Owner. A property owner whose property abuts right-of-way or contains an easement (public or private as required by City) may apply to the City of Arlington for the abandonment, in whole or in part, of the abutting right-of-way or easement, or consent to abandonment (in the case of private easements required by the City). An abandonment application will be processed upon submitting the following:

1. An application fee, as set by resolution of the City Council, and due at the time the application request is submitted for processing. This fee shall be nonrefundable, regardless of the ultimate action of the City of Arlington, and shall be in addition to other charges hereinafter described.
2. The property owner shall make application for the abandonment of right-of-way or easement rights by submitting an application form to the Public Works and Transportation Department. The application form should contain the following:

Exhibit "A" - a metes and bounds description of the area and calculations specifying the area to be abandoned. The legal description shall describe any save and except property as required and shall be signed, sealed and dated by a Registered Professional Land Surveyor (RPLS) in the State of Texas.

Exhibit "B" - a survey map of the area proposed for abandonment containing the names of the adjacent property owners, the lot and block numbers of all contiguous property, and the location and description of any public facilities or encroachments situated on or adjacent to the area proposed for abandonment. This survey map shall be signed, sealed and dated by a Registered Professional Land Surveyor in the State of Texas.

Exhibit "C" - Written concurrence of property owner(s) abutting the right-of-way or easement proposed to be abandoned. The Director of Public Works and Transportation may waive the requirement for

ADMINISTRATION

7.01

written concurrence when, in the opinion of the Director, such written concurrence is not critical and that the abandonment of such right-of-way or easement does not adversely affect the property owner(s) or impact their property(s). The City may require additional property owner(s) consent, including but not limited to properties that may not be abutting but would be impacted by the abandonment of the right-of-way or easement. In addition, notification may be required for additional property owner(s).

B. Review Process. Upon receipt of a completed application for the abandonment of a right-of-way or easement and the appropriate application fee, the City shall process the request, which includes the following:

1. The abandonment application shall be reviewed by affected City departments. Departments may approve, deny or comment on the request.
2. The City shall notify or obtain the written concurrence of all registered public service providers in the City of Arlington, where applicable. The registered public service providers may approve, deny or comment on the request.
3. The City will prepare the abandonment document on City approved form and record with Deed Record, Tarrant County, Texas or schedule for City Council action, when applicable.

C. Additional Requirements. As condition of approval for the abandonment, the following are applicable. The applicant will be responsible for any cost associated with these requirements:

1. Right-of-way abandonments may require easements to be retained.
2. A drainage plan prepared by a licensed professional engineer, and/or a traffic study prepared by a licensed professional engineer experienced in traffic engineering may be required.
3. Relocation or removal of existing facilities may be required. Dedication of alternate or replacement rights-of-way or easements, onsite or offsite may also be required. The application will not proceed until the facilities have been relocated, removed or converted to private.

4. The City may require additional conditions for approval of the abandonment or consent to abandon request, including but not limited to replatting to incorporate the abandoned right-of-way or requiring a mechanism for inclusion of the abandoned right-of-way into existing lots.
- D. Remuneration. A remuneration fee will be assessed for the City to relinquish its rights to the public right-of-way or easement where:
1. The City of Arlington purchased the original right-of-way or easement proposed for abandonment;
 2. The City of Arlington previously provided an “in kind” consideration when the area to be abandoned was obtained by the City (e.g., impact fee credits, exchange of property, etc.); or
 3. The land proposed for abandonment is capable of being used independently as zoned (or as reasonably capable of being zoned in the future) or under applicable subdivision or other development control ordinances.

Except in the case of D.1., D.2. or D.3., above, there shall be no remuneration fee charged.

- E. Value of Remuneration. The remuneration fee will be based on fair market value of the area proposed for abandonment. The City’s Real Estate Services Division will commence with the determination of the fair market value after the completed application is submitted for processing.
1. The City may obtain an independent appraisal of the property to assist in the determination of fair market value.
 2. If the City’s estimated fair market value is \$50,000 or more, the Real Estate Services Division shall obtain an independent appraisal of the property to determine the fair market value of the area proposed to be abandoned.
 3. If the estimated fair market value, whether determined by the Real Estate Services Division or appraised by an independent appraiser, is disputed by the applicant, the applicant shall obtain an independent appraisal from another source of his/her choice. If the Real Estates Services Division determines that there is a substantial difference between the two (2)

ADMINISTRATION

7.01

appraisals, Real Estate Services Division shall then engage an independent appraiser to perform a review appraisal. The applicant shall be responsible for the cost of the independent appraisal and the review appraisal whether or not the abandonment is approved. The Director of Public Works and Transportation shall then make a final determination of fair market value which shall be binding on both parties.

4. The Director of Public Works and Transportation may waive the requirement for the remuneration fee or for an independent appraisal and can determine the value of non-monetary consideration.
- F. Administrative Approval. When unanimous consent to abandon from all parties concerned, including but not limited to City departments, registered public service providers and property owners(s) is obtained and all stipulations and requirements have been satisfied, the City may process the request administratively and record the abandonment document with Deed Records Tarrant County, Texas.
- G. City Council Approval. The request may be forwarded to the City Council for consideration when:
1. unanimous consent to abandon cannot be reached by all impacted parties, other than the registered public service providers; or
 2. the abandonment involves an existing public easement or right-of-way that provides vehicular access; or
 3. at the discretion of the Director of Public Works and Transportation.

The action by the City Council will be in the form of an ordinance on the agenda of a regularly scheduled City Council meeting. A public hearing is not required but may be held. If approved with stipulations, the stipulations must be complied with prior to Final Reading of the ordinance by City Council.

- H. Abandonment by Plat. The abandonment of right-of-way and/or easement(s) may be vacated through the platting process if the property(s) is being replatted for other purposes; or if the plat is a Plat Vacation that reverts back to a previous plat and where no existing infrastructure is in the right-of-way and/or easement being vacated by the recording of the Plat Vacation; or as approved by the Director of Public Works and Transportation. Said plat shall be submitted to the Community Development and Planning Department and shall be in accordance with all other platting requirements and ordinances. Abandonment will not be allowed by plat if

the sole purpose of the plat is for abandonment. With the exception of the submittal of an application form and Exhibits “A” and “B”, abandonment by plat shall comply with all the requirements of this chapter, including but not limited to all applicable application and remuneration fees, and concurrence from other property owner(s), registered public service providers, and City. The Director of Public Works and Transportation may deny the application to abandon by plat and require that the right-of-way and/or easement(s) be abandoned by separate instrument if the Director determines that abandonment by separate instrument would be more appropriate.

- I. Authorization. The City Council hereby delegates the authority for approving the abandonment or consent to abandonment of right-of-way and/or easement(s) (public or private) and for filing with the Deed Records of Tarrant County to the City Manager or his/her designee, when such abandonment request is recommended for approval by the Director of Public Works and Transportation.
- J. Expiration of Application. It is the responsibility of the applicant to ensure all stipulations and requirements, including relocation or removal of existing facilities are met in a timely manner prior to approval of the abandonment. If the stipulations and requirements are not met and the abandonment is not recorded with the Deed Records, Tarrant County, Texas, within 12 months from the date the application was submitted, the application shall expire and a new application will be required. If the applicant is making progress or valid attempts to comply with the stipulations, the applicant may submit a request to extend the time for approval and the Director of Public Works and Transportation may allow an extension up to six (6) months. For abandonment by plat, the plat submittal requirements regulate the expiration.
- K. Indemnification. As a condition of approval of any abandonment or consent to abandon (by application or by plat), the applicant agrees to indemnify, protect defend, and hold harmless the City against all suits, costs, expenses, losses, claims, and damages that may arise or occur in connection with the vacation and abandonment. (Amend Ord 14-025, 5/13/14)