



# **VACATION**

## **User's Guide**

**NOTE: FOR DETAILED PROCEDURES,  
REFER TO CHAPTER 7 OF THE  
UNIFIED DEVELOPMENT CODE**

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03/11/2020

# VACATION

## Purpose & Scope

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The Board of Trustees has the authority to:

1. Vacate roads, which include any public street, alley, lane, parkway, avenue, road, trail or other public right-of-way designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, whether or not it has been used as such.
2. Vacate easements designated or dedicated on a subdivision plat or conveyed by deed or recorded easement.

## Standards for Compensation

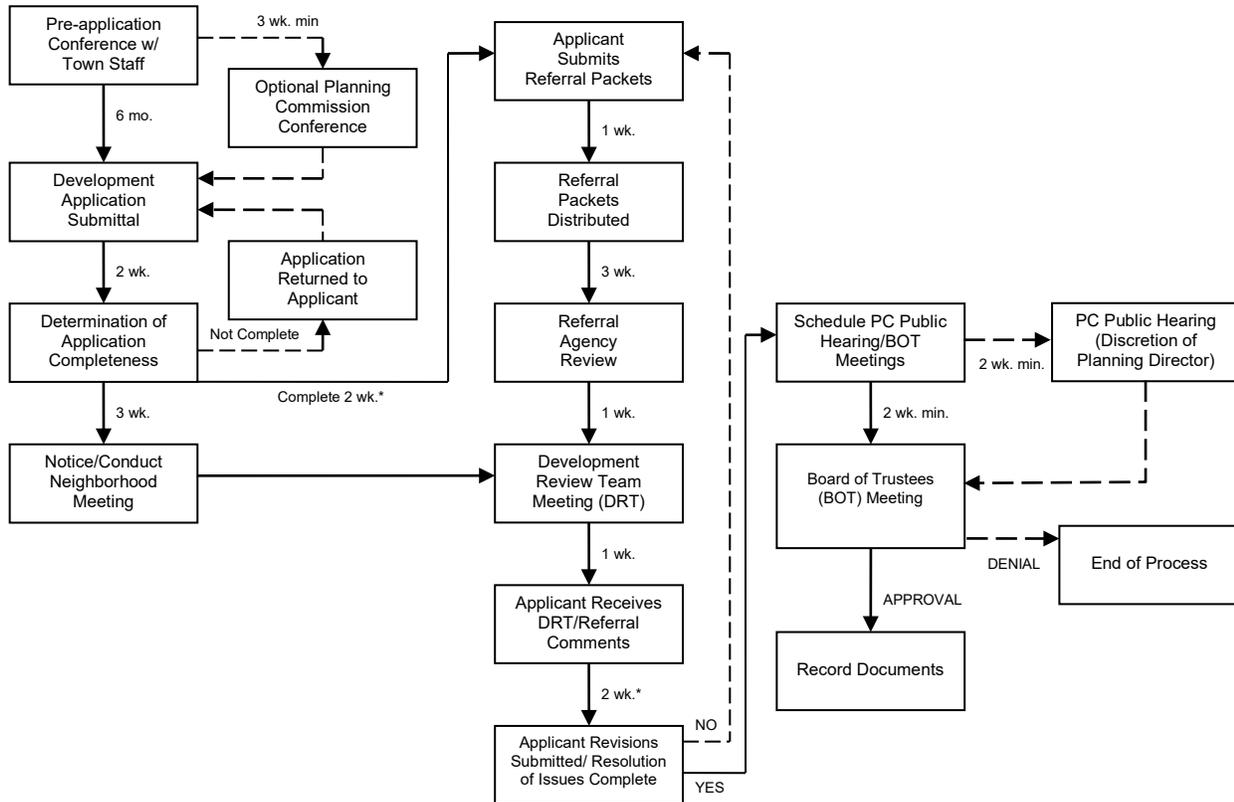
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The following standards shall be applied to determine compensation to the Town for any Vacation:

1. If the Town purchased the easement or right-of-way, the value paid by the Town plus a reasonable inflation factor related to real estate or interest rates shall be required as consideration;
2. If the Town must purchase additional right-of-way or easements to satisfy the continuing municipal need, all costs incurred in acquiring/developing an alternate easement or right-of-way shall be required as consideration;
3. The willingness of the Applicant to re-convey such easement/right-of-way to the public, if such need should occur;
4. If the party requesting the Vacation dedicated the right-of-way or easement without cost to the Town, no compensation will generally be required; and
5. If the Town incurred substantial costs in constructing/maintaining the easement or right-of-way, reimbursement for such costs may be required.

## Process Summary

The following is a brief summary of the typical Vacation review process. Detailed step by step instructions may be found in Chapter 7, *Review and Approval Procedures* of Title 10 of the Municipal Code.



\*Typical Time Shown, Actual Time Up to Applicant

### Pre-Application Conference w/Town Staff:

An Applicant is required to schedule a pre-application conference with Planning & Development before making a formal vacation application submittal. The pre-application conference provides an opportunity for an informal evaluation of the Applicant's proposal by Staff to discuss with the Applicant the application process, submittal requirements, and applicable standards in the Municipal Code.

The Applicant is responsible for bringing to the meeting a description of the character, location and magnitude of the proposed vacation that is supported by documents such as maps or drawings. The Applicant is also responsible for providing a summary of the meeting when the formal application materials are submitted to the Town.

The informal evaluation by the Town at the conference are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application. After a pre-application conference has been held, a complete formal application must be submitted within six months. If an application is not submitted within six months, a new pre-application conference will be required.

**Optional Planning Commission Conference:**

At the Applicant's request, Planning & Development will schedule at the next available Planning Commission meeting an application conference with the Planning Commission, which shall be in addition to the required pre-application conference. The pre-application conference provides an opportunity for an informal evaluation of the Applicant's proposal by the Planning Commission. Noticing of the Planning Commission Conference is not required.

The applicant is required to submit one paper copy and one PDF file of the Applicant's presentation materials to Planning & Development 16 days before the scheduled Planning Commission meeting. The presentation materials should contain at a minimum a written description of the vacation that is supported by documents such as maps or drawings.

The Planning Commission conference will be conducted by the Town of Erie Planning Commission. The order of the proceedings at the conference shall be as follows:

1. The Planning Commission shall announce the agenda item to be heard.
2. The Project Planner will present a brief summary of the property location.
3. The Applicant will present any relevant information the Applicant deems appropriate for the hearing.
4. The Planning Commission may ask questions of the Applicant and Staff.
5. The Planning Commission will make comments on the Applicant's proposal. No decision or consensus is made at the Planning Commission conference and the comments made are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application.

**Development Application Submittal:**

The applicant shall submit to Planning & Development one copy of the application submittal packet that includes a completed application form, fees and support documents as specified in the **Submittal Requirements** section below.

**Determination of Application Completeness:**

The assigned Project Planner will review the application submittal packet for completeness. The Project Planner will determine whether an application submittal packet is complete and can continue forward to **Applicant Submits Referral Packets** or is not complete and moves back in the process to **Application Returned to Applicant**.

**Application Returned to Applicant - "Not Complete":**

An application submittal packet that is not complete in terms of submitting the documents required or adequacy of the information provided or fees required will not be accepted by the Town for further review. The Project Planner will return the application submittal packet to the Applicant, so the Applicant can address the elements of the application submittal packet that are not complete. Once the Project Planner's review for completeness items are addressed, the Applicant resubmits the application submittal materials as described in **Development Application Submittal**.

**Applicant Submits Referral Packets - "Complete":**

An application submittal packet that is deemed to be complete by the Project Planner will continue on into the review process. The first step of the application review process is for the Applicant to submit to Planning & Development copies of the application submittal packet for review by Town staff, Town consultants and outside referral agencies. The Project Planner will give the Applicant a list of the referral agencies in which to make referral packets for. Referral packets shall be submitted in unsealed Tyvek envelopes, addressed to the referral agencies identified by the Project Planner, containing all submittal information properly folded and compiled.

**Referral Packets Distributed:**

Once Planning & Development has received the referral packets from the Applicant, Planning & Development will distribute the referral packets to the appropriate Town staff, Town consultants and outside referral agencies.

**Referral Agency Review:**

Referral agencies will have approximately three weeks to review the application submittal packets. Referral agency written comments will be due to Planning & Development before the **Development Review Team Meeting (DRT)** is held so that any issues a referral agency may have can be discussed at the DRT meeting. The Project Planner will collect and coordinate all referral comments. The applicant is required to pay fees assessed by referral agencies for their review.

**Notice/Conduct Neighborhood Meeting:**

At the discretion of the Planning & Development Director, the Applicant may be required to conduct a neighborhood meeting to provide an informal opportunity to inform residents and landowners surrounding the application area about the details of the proposed application. The applicant should engage the public to comment on the proposal during the meeting. The neighborhood meeting should be held after the Project Planner determines the application is complete and before the Town holds the **Development Review Team Meeting (DRT)**. The Applicant is required to submit a written summary of the neighborhood meeting to the Project Planner before the **Development Review Team Meeting (DRT)**.

The applicant is required to mail notice of the neighborhood meeting to landowners within 500 feet of the application area and to post the property. The letters must be sent and the property must be posted at least 15 days before the meeting is held.

The Applicant is responsible for providing the list of property owners within 500 feet, for mailing the letters and for composing the letter to include all of the required notice content identified in Municipal Code Title 10 Section 7.2 F.1. that includes:

1. Identify the date, time, and place of the meeting.
2. Describe the property involved in the application by street address or by legal description and nearest cross street.
3. Describe the nature, scope, and purpose of the meeting.
4. Indicate that interested parties can come to the meeting and speak on the matter.
5. Indicate where additional information on the matter can be obtained.

The Town will provide the signs to be posted on the property. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Before the Planning Commission public hearing the applicant shall submit to Planning & Development a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

**Development Review Team Meeting (DRT):**

The Project Planner will schedule a Development Review Team Meeting (DRT) after the referral agency review period is over. At the DRT meeting the Project Planner discusses the review comments from all review agencies and discusses the neighborhood meeting comments with the DRT attendees. The DRT meeting typically includes Planning & Development, Public Works staff, the Building Official, Town consultants, and the Fire Marshall. The DRT Meeting does not include the Applicant. If the applicant would like to explain the application to the Project Planner before the DRT meeting they should contact the Project Planner to set up a separate meeting before the DRT meeting is held. After the DRT meeting, the Project Planner will compile all of the staff and referral comments for distribution to the applicant.

**Applicant Receives DRT/Referral Comments:**

The Project Planner will provide the Applicant with a copy of all the staff and referral comments from the review of the application submittal packet. A meeting between staff and the applicant may be held to review the staff and referral comments. The applicant may also meet directly with the agency(ies) that have expressed concerns with the application. The Project Planner should be included in meeting or correspondence with referral agencies.

**Applicant Revisions Submitted/Resolution of Issues Complete:**

The Applicant shall address, in writing, all issues and deficiencies identified in the staff and referral comments. To continue the process in a timely fashion, the applicant must complete the requested revisions and resubmit the revised application submittal packet for a second review by the Project Manager and any applicable referral agencies as quickly as possible. If an Applicant fails to submit required information for a period of more than six months from the initial request, the applicant shall become void and the resubmittal of a new application and fees will be required.

The revised application submittal packet will be reviewed by Project Planner at a DRT meeting after any further referral agency comments are received on the revised application submittal packet. The Project Planner shall provide the Applicant with a copy of the staff and referral comments from the second review and will indicate whether or not the application has resolved all of the issues raised in the comments. If the issues have not been resolved then the application goes back to the **Applicant Submits Referral Packets** portion of the process for another round of reviews. Additional fees may be charged for resubmittals that do not address comments. If the issues have been resolved then the application goes forward to the **Schedule/Notice Public Hearing for PC and BOT** portion of the process.

**Schedule PC Public Hearing/BOT Meetings:**

The Project Planner shall notify the Applicant when the application is ready move forward to the Planning Commission and Board of Trustees.

The Planning & Development Director shall determine whether consideration of the Vacation request by the Planning Commission is necessary. If there are no unresolved issues regarding the vacation and the proposal has no material adverse impact on adjacent property owners, the Planning & Development Director may waive Planning Commission review. If the Planning Commission review is waived the application will move forward to **Board of Trustees (BOT) Public Meeting**. The Project Planner will schedule the first available Board of Trustees meeting with available room on the agenda. The Board of Trustees hearing date will be scheduled by the Project Planner for this application review. The BOT hearing date is necessary because the Board of Trustees adopts their findings and decision on the application by ordinance.

If the Planning & Development Director determines that consideration before the Planning Commission is necessary, the Planning commission shall hold a public hearing that is to be noticed, as described below and more fully in the Municipal Code, to make a recommendation to the Board of Trustees on the application, based on the approval criteria below. If the Planning Commission review is not waived, the application would move forward to **PC Public Hearing (Discretion of Planning & Development Director)**.

If the Applicant is required to take the application to the Planning Commission, the Project Planner will schedule the first available Planning Commission hearing date based on public hearing notification requirements and room on the PC agenda. The Board of Trustees meeting date will be scheduled by the Project Planner for the first available date that is a minimum of 20 days after the PC hearing. The Board of Trustees hearing date is to review the application. The BOT hearing date is necessary because the Board of Trustees adopts their findings and decision on the application by ordinance.

Both the PC and BOT public hearings require public hearing notification in the form of notice published in the newspaper, notice mailed, and notice posted on the property by sign. Full detail of the notice process can be found in Municipal Code Title 10 Unified Development Code Section 7.2 F.

Planning & Development shall have the public notice published in the newspaper at least 15 days before the public hearing. The Applicant is responsible for providing the correct legal description of the property to the Town before the notice is sent to the newspaper for publication.

The Applicant shall provide Planning & Development with a current (prepared within 30 days of the scheduled public hearing) list of property owners within 500 feet of the application property area and any associated homeowners associations. Additionally, the Applicant shall provide a stamped and addressed envelopes for each entity identified on the list for the public hearing. Planning & Development shall mail the public notice at least 15 days prior to the public hearing.

Planning & Development shall provide the Applicant with signs to be posted on the property for public hearing notice. The applicant is responsible for posting the signs at least 15 days before the public hearing, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Before the public hearing the applicant shall submit to Planning & Development a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

**PC Public Hearing (Discretion of Planning & Development Director):**

The Applicant is required to submit all required public hearing documents at least 3 weeks before the public hearing so that the Project Planner has adequate time to write the staff report and draft resolutions for the Planning Commission. The Project Planner shall identify the items the Applicant is to include in the public hearing documents. The public hearing documents shall be submitted as one paper copy for public review and a full copy of the public hearing documents in a PDF format for the Planning Commission review. The staff report and draft resolution shall be forwarded to the Applicant by the Project Planner when the PC agenda packets are sent to the Planning Commission for review. A copy of all public hearing documents are available in Planning & Development for public review at this time as well.

The public hearing will be conducted by the Town of Erie Planning Commission. The order of the proceedings at the public hearing shall be as follows:

6. The Planning Commission shall open the public hearing.
7. The Project Planner will present the staff report and draft resolution.
8. The Applicant will present any relevant information the Applicant deems appropriate for the hearing.
9. Public testimony is heard by the Planning Commission.
10. The Planning Commission will ask questions of the Applicant and Staff, and for clarification on any issues raised during public testimony.
11. The Planning Commission will close the public hearing.
12. The Planning Commission will make a recommendation to the Board of Trustees on the application by resolution. The recommendation will recommend either approval, approval with modifications and/or conditions, or denial of the application, based on the approval criteria listed below.

**Board of Trustees (BOT) Meeting:**

If the Planning Commission requires any changes to the application, the Applicant shall submit all revised documents at least 13 days before the BOT meeting so that the Project Planner has adequate time to write the staff report and draft ordinance for the Board of Trustees. The revised public hearing documents shall be submitted as one paper copy for public review and a full copy of the public hearing documents in a PDF format for the Board of Trustees review. The staff report and draft ordinance shall be forwarded to the Applicant by the Project Planner when the BOT agenda packets are sent to the Board of Trustees for review. A copy of all public hearing documents are available in Planning & Development for public review at this time as well.

The public hearing will be conducted by the Town of Board of Trustees. The order of the proceedings at the public hearing shall be as follows:

13. The Board of Trustees shall open the public hearing.
14. The Project Planner will present the staff report, draft ordinance and provide a brief overview of the application.

15. The Applicant will present any relevant information the Applicant deems appropriate for the hearing. The Applicant will also be available for any questions the Board of Trustees may have.
16. Public testimony is heard by the Board of Trustees.
17. The Board of Trustees will ask questions of the Applicant and Staff before making their findings and final decision on the application.
18. The Board of Trustees will close the public hearing.
19. The Board of Trustees will make a final decision on the application by ordinance, based on the criteria listed below. The decision will be to approve, deny the application, based on the criteria listed below, or refer the proposed Rezoning back to the Planning Commission or to a committee of the Board of Trustees for further consideration. If the application is denied you move to **End of Process**. If the application is approved you move to **Record Documents**.

**End of Process:**

The applicant is at the end of the process when the vacation is denied.

**Record Documents:**

The Applicant shall submit to Planning & Development the approved vacation documents to be recorded along with any compensation due to the Town. The Town shall be responsible for sending the appropriate documents to the County Clerk for recordation. The Applicant shall be billed for the cost to record the documents.

**Approval Criteria**

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Vacation requests shall comply with the following review criteria, as applicable:

1. The Vacation is generally consistent with the Town’s Comprehensive Master Plan, as amended;
2. The right-of-way or easement will not be utilized in the short or long term or the Town receives conveyance or dedication of substituted easements or rights-of-way appropriate to satisfy the continuing municipal need;
3. The Vacation does not create an irregular right-of-way or easement configuration which could create difficulty in the provision of services or installation of public improvements;
4. The Vacation serves the interest of the Town by removing maintenance or liability risks;
5. The public benefits and utility of the Vacation request outweigh any adverse impacts of the Vacation; and
6. The applicant will relocate, if necessary, any public facilities or utilities located within the right-of-way or easement, and grant and/or obtain an easement for relocation of said public facilities or utilities.

**Submittal Requirements**

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One copy of the following information shall be submitted to Planning & Development – Planning Division, unless waived by the Planning & Development Director in order to perform a completeness review. All information shall be submitted in a three ring binder with dividers and all 11” x 17” exhibits shall be folded to fit into pockets within the binder. **Applications will not be accepted for review unless all information is present.**

1. **Completed application.**
2. **Application fee.**

3. **Written narrative**, describing the proposed Vacation which at a minimum provides the following information:
  - a. General project concept and purpose of the request; and
  - b. A brief description regarding the substance of any existing or proposed covenants, special conditions, grants of easements, or other restrictions applying to the proposed Vacation.
4. **Complete copy of the original plat** that dedicated the right-of-way, easement or the subdivision to be vacated.
5. **Copies of any special agreements**, oil/gas surface use agreements, conveyances, restrictions, or covenants that will govern the use and/or maintenance of the proposed Vacation.
6. When an easement is proposed to be vacated, a letter from any known beneficiary, including utility providers, stating their recommendation regarding the vacation.
7. **Right-of-Way Vacation Exhibit** shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado for recording with the appropriate County Clerk and Recorder. The exhibit shall accurately display the following information:
  - a. The Vacation exhibit shall be prepared on 11" x 17" paper at a scale that best conveys the requested Vacation;
  - b. A block in the lower right hand corner shall include the following: the preparation date and revision date chronology; a north arrow designated as true north; a written and graphic scale; name and address information for the applicant, developer, registered engineer or surveyor preparing the exhibits; and the number of the sheet and total number of sheets;
  - c. A scaled vicinity map that depicts the area to be vacated and the area that surrounds the proposal within a 1-mile radius;
  - d. A written metes and bounds legal description of the right-of-way to be vacated with a survey of the right-of-way to be vacated. The names and locations of all abutting lots, tracts and subdivisions, the location of all abutting unplatted parcels and public lands shall be depicted. All lines, names and descriptions on the exhibit which do not constitute a part of the vacation shall be screened back or shown as dashed lines;
  - e. Depict existing subdivision lot lines or metes and bounds property lines and rights-of-way within 100' of the proposal. Said information for adjacent properties shall be screened back;
  - f. Identify the land use and zone district information of all adjacent property. When an adjacent property is not within the Town's boundary, the respective jurisdictions' land use and zone district information shall be identified
8. **Development Studies**: The following development study may be required to determine the impact of the vacation on the transportation network:
  - a. A Traffic Impact Study or narrative.

9. Please include a USB flash drive with file names consistent with this User Guide.
10. Any additional information or referral documents as required by the Planning & Development Director, in order to thoroughly review the impacts of the proposed development.