

43.15.035 VACATIONS.



- (A) All applicants and actions for vacations shall conform to AS [29.40.120](#) through [29.40.160](#).
- (B) A dedication to public use of land or interests in land may be vacated if the dedication is no longer necessary for present or future public use. The platting board shall review applications for vacations as follows:
- (1) The platting board shall ordinarily approve vacations of public rights-of-way if:
 - (a) the **vacation** is conditioned upon the final approval of a plat affecting the same land which provides equal or better access to all areas affected by the **vacation**; or
 - (b) the surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed; or
 - (c) the right-of-way is not being used, a road is impossible or impractical to construct, and alternative access has been provided;
 - (2) The platting board shall not ordinarily approve vacations of public interests in land if:
 - (a) the surrounding area in which the **vacation** is sought is undeveloped or is developing and equivalent or better access is not provided;
 - (b) the **vacation** is of a public right-of-way providing access to a lake, river, or other area with public interest or value, unless alternate or better access is provided or exists;
 - (3) In other cases, the platting board shall review requested vacations on a case-by-case basis to determine whether the property is necessary or desirable for present or future public use. Public rights-of-way in areas shall be assumed to have a public use unless proven otherwise; and
 - (4) The platting board shall not routinely approve any **vacation** of a public interest in land where objections to the **vacation** are made by persons with an interest in land adjacent to or affected by the **vacation**, or by any government agency or department which has a responsibility to the public which may be affected by the **vacation**, excepting if the beneficiary of an easement refuses to authorize a **vacation**, the platting board may approve the **vacation** if the following conditions are met:
 - (a) there are currently no existing improvements within the subject easement of the easement beneficiary or a portion of the easement will remain which includes the improvements;
 - (b) if necessary a substitute easement is provided by document on the plat; and
 - (c) findings of facts support granting the **vacation**.
- (C) **Title to a vacated area shall be determined as follows:**
- (1) **Title attaches to the lot or lands bordering on the vacated area in proportionate amounts, except that if the area originally was dedicated by different persons, original boundary lines shall be adhered to so that the area which lies on one side of the boundary line shall attach to the abutting property on that side, and the area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area.** However, if a public square is vacated, the title to it vests in the city, if it lies within a city, or in the borough if it lies

within the borough area outside cities, and if the property vacated is a lot or tract, title vests in the rightful owner.

(2) If the borough or city acquired the vacated area for legal consideration or by express dedication to and acceptance by the borough or city other than as a prerequisite to plat approval, the fair market appraised value of the vacated area shall be deposited with the platting authority before the final act of vacation, to be paid over to the borough or city upon final vacation.

(3) Other provisions of this subsection notwithstanding, the platting board may determine all or a portion of a vacated area should be dedicated to another public purpose, and if so, title to the area vacated and held for another public purpose remains in the borough or city, as applicable.

(D) A decision to grant a vacation is not effective unless approved by the city council if the vacated area is a street or public land of a city, or by the assembly in other cases. The platting board shall immediately give notice to the council or assembly of a vacation which is approved. The council or assembly shall have 30 days from the date of the notice to either consent to the vacation or veto it. Notice of veto of the vacation shall be immediately given to the platting board. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation.

(Ord. 15-036, § 13, 2015; Ord. 11-072, § 3 (part), 2012)