

Assembly Bill No. 87—Assemblymen
Nguyen and Roberts

CHAPTER.....

AN ACT relating to land use planning; authorizing cities and counties to establish a simplified procedure for the vacation and abandonment of certain easements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth a procedure for the vacation or abandonment of streets and easements owned by a city or county. Existing law further authorizes the governing body of a city or county to establish by ordinance a simplified procedure for the vacation or abandonment of an easement for a public utility owned or controlled by the governing body. (NRS 278.480) This bill authorizes the governing body of a city or county to establish by ordinance a simplified procedure for the vacation or abandonment of any easement owned or controlled by the city or county. This bill also provides that unless the vacation or abandonment of the easement is for a public utility owned or controlled by the governing body, the simplified procedure must: (1) require that a petition be filed with the governing body that requests the vacation or abandonment and contains the notarized signature of each owner of property abutting or underlying the easement; (2) prohibit the vacation or abandonment unless the staff of the city or county makes certain determinations; (3) authorize any person aggrieved by the decision on whether to approve the vacation or abandonment to appeal the decision to the governing body; and (4) provide that the vacation or abandonment is not effective until the order of approval is recorded in the office of the county recorder. Lastly, this bill provides that the simplified procedure does not apply to the vacation or abandonment of any street, drainage easement, sidewalk or other pedestrian right of way.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 278.480 is hereby amended to read as follows:

278.480 1. Except as otherwise provided in subsections 11 and 12, any abutting owner or local government desiring the vacation or abandonment of any street or easement owned by a city or a county, or any portion thereof, shall file a petition in writing with the planning commission or the governing body having jurisdiction.

2. The governing body may establish by ordinance a procedure by which, after compliance with the requirements for notification of public hearing set forth in this section, a vacation or abandonment of a street or an easement may be approved in conjunction with the approval of a tentative map pursuant to NRS 278.349.



3. A government patent easement which is no longer required for a public purpose may be vacated by:

(a) The governing body; or

(b) The planning commission, hearing examiner or other designee, if authorized to take final action by the governing body,
↳ without conducting a hearing on the vacation if the applicant for the vacation obtains the written consent of each owner of property abutting the proposed vacation and any utility that is affected by the proposed vacation.

4. Except as otherwise provided in ~~[subsection]~~ **subsections 3 [§] and 11**, if any right-of-way or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall, not less than 10 business days before the public hearing described in subsection 5:


(a) Notify each owner of property abutting the proposed abandonment. Such notice must be provided by mail pursuant to a method that provides confirmation of delivery and does not require the signature of the recipient.

(b) Cause a notice to be published at least once in a newspaper of general circulation in the city or county, setting forth the extent of the proposed abandonment and setting a date for public hearing.

5. Except as otherwise provided in ~~[subsection]~~ **subsections 6 [§] and 11**, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

6. In addition to any other applicable requirements set forth in this section, before vacating or abandoning a street, the governing body of the local government having jurisdiction over the street, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall provide each public utility and video service provider serving the affected



area with written notice that a petition has been filed requesting the vacation or abandonment of the street. After receiving the written notice, the public utility or video service provider, as applicable, shall respond in writing, indicating either that the public utility or video service provider, as applicable, does not require an easement or that the public utility or video service provider, as applicable, wishes to request the reservation of an easement. If a public utility or video service provider indicates in writing that it wishes to request the reservation of an easement, the governing body of the local government having jurisdiction over the street that is proposed to be vacated or abandoned, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall reserve and convey an easement in favor of the public utility or video service provider, as applicable, and shall ensure that such easement is recorded in the office of the county recorder  ***before or as a part of the order vacating or abandoning the street.***

7. The order must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, title to the street or easement reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest. In the event of a partial vacation of a street where the vacated portion is separated from the property from which it was acquired by the unvacated portion of it, the governing body may sell the vacated portion upon such terms and conditions as it deems desirable and in the best interests of the city or county. If the governing body sells the vacated portion, it shall afford the right of first refusal to each abutting property owner as to that part of the vacated portion which abuts his or her property, but no action may be taken by the governing body to force the owner to purchase that portion and that portion may not be sold to any person other than the owner if the sale would result in a complete loss of access to a street from the abutting property.


8. If the street was acquired by dedication from the abutting property owners or their predecessors in interest, no payment is required for title to the proportionate part of the street reverted to each abutting property owner. If the street was not acquired by dedication, the governing body may make its order conditional upon payment by the abutting property owners for their proportionate part of the street of such consideration as the governing body determines to be reasonable. If the governing body determines that the vacation has a public benefit, it may apply the benefit as an offset against a



determination of reasonable consideration which did not take into account the public benefit.

9. If an easement for light and air owned by a city or a county is adjacent to a street vacated pursuant to the provisions of this section, the easement is vacated upon the vacation of the street.

10. In any vacation or abandonment of any street owned by a city or a county, or any portion thereof, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may reserve and except therefrom all easements, rights or interests therein which the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, deems desirable for the use of the city or county.

11. The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of an easement *owned or controlled by the governing body without conducting a hearing on the vacation or abandonment. Unless the vacation or abandonment of an easement is* for a public utility owned or controlled by the governing body , *the simplified procedure must:*

(a) Require that a petition be filed with the governing body that requests the vacation or abandonment of the easement and contains the notarized signature of each owner of property abutting or underlying the easement;

(b) Prohibit the vacation or abandonment of the easement unless the staff of the city or county determines that:

(1) The easement has been superseded by relocation or is no longer needed by the city or county; and

(2) The vacation or abandonment will not substantially, unduly or unreasonably impair the access of any owner of property;

(c) Authorize any applicant or other person aggrieved by a decision on whether to approve the vacation or abandonment of the easement to appeal the decision to the governing body; and

(d) Provide that if the vacation or abandonment of the easement is approved, the vacation or abandonment is not effective until the order of approval is recorded in the office of the county recorder.

↳ A simplified procedure established pursuant to this subsection must not apply to the vacation or abandonment of any street, drainage easement, sidewalk or other pedestrian right of way.

12. The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of a street for



the purpose of conforming the legal description of real property to a recorded map or survey of the area in which the real property is located. Any such simplified procedure must include, without limitation, the requirements set forth in subsection 6.

13. As used in this section:

(a) "Government patent easement" means an easement for a public purpose owned by the governing body over land which was conveyed by a patent.

(b) "Public utility" has the meaning ascribed to it in NRS 360.815.

(c) "Video service provider" has the meaning ascribed to it in NRS 711.151.

