

Amendment No. 444

Assembly Amendment to Assembly Bill No. 87	(BDR 22-460)
Proposed by: Assembly Committee on Government Affairs	
Amendment Box: Replaces Amendment No. 172.	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 87—ASSEMBLYMEN
NGUYEN AND ROBERTS

FEBRUARY 2, 2021

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions governing the vacation or abandonment of certain easements. (BDR 22-460)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

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:

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

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

1 **Section 1.** NRS 278.480 is hereby amended to read as follows:
2 278.480 1. Except as otherwise provided in subsections 11 and 12, any
3 abutting owner or local government desiring the vacation or abandonment of any
4 street or easement owned by a city or a county, or any portion thereof, shall file a

1 petition in writing with the planning commission or the governing body having
2 jurisdiction.

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

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

9 (a) The governing body; or

10 (b) The planning commission, hearing examiner or other designee, if
11 authorized to take final action by the governing body,

12 without conducting a hearing on the vacation if the applicant for the vacation
13 obtains the written consent of each owner of property abutting the proposed
14 vacation and any utility that is affected by the proposed vacation.

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

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

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

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

38 6. In addition to any other applicable requirements set forth in this section,
39 before vacating or abandoning a street, the governing body of the local government
40 having jurisdiction over the street, or the planning commission, hearing examiner or
41 other designee, if authorized to take final action by the governing body, shall
42 provide each public utility and video service provider serving the affected area with
43 written notice that a petition has been filed requesting the vacation or abandonment
44 of the street. After receiving the written notice, the public utility or video service
45 provider, as applicable, shall respond in writing, indicating either that the public
46 utility or video service provider, as applicable, does not require an easement or that
47 the public utility or video service provider, as applicable, wishes to request the
48 reservation of an easement. If a public utility or video service provider indicates in
49 writing that it wishes to request the reservation of an easement, the governing body
50 of the local government having jurisdiction over the street that is proposed to be
51 vacated or abandoned, or the planning commission, hearing examiner or other
52 designee, if authorized to take final action by the governing body, shall reserve and
53 convey an easement in favor of the public utility or video service provider, as

1 applicable, and shall ensure that such easement is recorded in the office of the
2 county recorder ***⌚ before or as a part of the order vacating or abandoning the***
3 ***street.***

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

18 8. If the street was acquired by dedication from the abutting property owners
19 or their predecessors in interest, no payment is required for title to the proportionate
20 part of the street reverted to each abutting property owner. If the street was not
21 acquired by dedication, the governing body may make its order conditional upon
22 payment by the abutting property owners for their proportionate part of the street of
23 such consideration as the governing body determines to be reasonable. If the
24 governing body determines that the vacation has a public benefit, it may apply the
25 benefit as an offset against a determination of reasonable consideration which did
26 not take into account the public benefit.

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

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

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

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

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

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

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

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

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

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

10 12. The governing body may establish by local ordinance a simplified
11 procedure for the vacation or abandonment of a street for the purpose of
12 conforming the legal description of real property to a recorded map or survey of the
13 area in which the real property is located. Any such simplified procedure must
14 include, without limitation, the requirements set forth in subsection 6.

15 13. As used in this section:

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

18 (b) “Public utility” has the meaning ascribed to it in NRS 360.815.

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