

# CHAPTER 5 VACATING, ALTERING, OR AMENDING A SUBDIVISION PLAT

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**26-5-1 General Procedure.** Owners of land, as shown on the last county assessment roll or by other proof of ownership, in a subdivision that has been laid out, platted, approved by the City, and recorded with the Davis County Recorder's Office may file a written petition with the City to have some or all of the plat vacated, altered, or amended. For the purpose of this Title amending a plat is synonymous with vacating, altering and amending a plat.

**26-5-2 Classification of Amended Plat Application.** For the purposes of this chapter the processing of an amended plat, that does not include a request to vacate a street, right-of-way or easement, may be described as a protested or non-protested application.

(1) **Protested Application.** An application is considered to be a protested application when the application:

(a) Does not contain a letter signed by all property owners within the subdivision indicating their willingness to sign the amended plat; or

(b) Any owner within the plat notifies the Director of the owner's objection in writing within ten (10) days after notification of the application for amendment as established in § 26-5-3.

(2) **Non-protested Application.** A non-protested application:

(a) Contains contiguous parcels that the petitioner seeks to join; and,

(b) Notification of application for amendment has been given to adjacent property owners as established in this chapter; and,

(c) The Director has not received objections to the amendment within ten days of notification of application for amendment as established in § 26-5-3.

REF. USC § 10-9a-608

(3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is processed as established in § 26-5-10.

REF. USC § 10-9a-609.5

**26-5-3 Notification of Application for Amendment.** Notification as required by this Chapter shall be given in writing, mailed to the address of record on file with the County Recorder's Office, of applicable property owners within the subdivision being amended. Mailed notification shall be sent by U.S. Postage allowing three days, from the date it is mailed, for receipt of the notice. Notice shall include:

(1) A copy of the application for amending the subdivision plat;

(2) A description of the amendment;

(3) Notice that objections to the amendment are to be made in writing to the Director;

(4) That any objections to the amendment are to be received by the Director within ten (10) days of receipt of the mailed notification; and,

(5) An explanation that the date of receipt of mailed notification is considered to be three days from the date of postmark.

**26-5-4 Notice of Public Meeting or Hearing.**

(1) If a Public Hearing is required notice shall be processed as established in § 26-          .

(2) If a Public Meeting is required notice shall be processed as established in § 26-          .

**26-5-5 Application.** An application for amending a plat shall be accomplished on forms provided by the City. At a minimum a complete application shall include:

- (1) The names, address, phone number, and e-mail address of the petitioner(s).
- (2) The name and address of each owner of record of land that is:
  - (a) Adjacent to any public street, right-of-way or easement that is being proposed to be vacated; or
  - (b) Accessed exclusively by or within 300 feet of the public street, right-of-way, or easement.
- (3) Verification that all amendments comply with the requirements of the Zoning Ordinance.
- (4) If a non-protested application, a letter signed by all property owners within the subdivision indicating their willingness to sign the revised plat.
- (5) Applications to vacate some or all of a public street, right-of-way or easement shall include the signature of each owner under § (2) above who consents to the vacation.

REF. USC § 10-9a-608(1)(b)(ii)

**26-5-6 Vesting:** Applications for an Amended Plat are vested upon filing of a complete application, corrected plat, and fees with the City. Whenever changes are required to an application or plat or if the final mylar is not presented with all property owners of a subdivision the vesting date is adjusted upon refiling of corrected application and plat.

**26-5-7 Land Use Authority.** Land Use Authority for amendments to recorded plats shall be:

- (1) Non-protested Amendments: The Director shall be considered the land use authority for any non-protested applications to amend the plat of a subdivision that does not contain a request to vacate a street, right-of-way or easement.
- (2) Protested Amendments: The Planning Commission shall be considered the land use authority for any protested applications to amend the plat of a subdivision that does not contain a request to vacate a street, right-of-way or easement.
- (3) Vacation of a Street, Right-of-Way, or Easement: Based upon a recommendation from the Planning Commission, the City Council shall be considered the land use authority for any application which includes the vacation of a street, right-of-way, or easement.

**26-5-8 Appeal Authority:** Appeal authority for denied applications for an amended plat are:

- (1) Applications that do not comply with the requirements of the Zoning Ordinance may not be appealed.
- (2) Non-protested Amendments: Appeals to the decision of the Director shall be presented to the Planning Commission. The Planning Commission will hold a hearing as required for a protested amendment. The decision of the Planning Commission shall be final.
- (3) Protested Amendments: Appeals to the decision of the Planning Commission for a protested amendment shall be appealed to the Board of Zoning Adjustment as outlined in § 28-10-5.

**26-5-9 Parcels Under Single Ownership.**

The land use authority may consider, at a public meeting, an owner's petition to vacate or amend a subdivision plat:

- (1) If the petition seeks to:
  - (a) Join two or more of the petitioner fee owner's contiguous lots:
  - (b) Subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition:
  - (c) Adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision:
  - (d) Adjust an internal lot restriction imposed by the City on a lot owned by the petitioning fee owner: or
  - (e) Alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
    - (i) Owned by the petitioner; or
    - (ii) Designed as a common area; and
- (2) If Streets, rights-of-way, or easements are not affected: and
- (3) If notice has been given to adjacent property owners as outlined in § 26-5-3.

**26-5-10 Request to Amend or Vacate a Street or Easement in an Amended Plat.**

- (1) The City Council shall hold a public hearing in accordance with § [REDACTED] to review a petition to vacate some or all of a street, right-of-

way, or easement and determine findings outlining whether:

- (a) Good cause exists for the vacation; and
  - (b) The public interest or any person will be materially injured by the proposed vacation.
- (2) Adopt an ordinance granting or denying the petition outlining the findings. A copy of the adopted ordinance shall be recorded in the County Recorder's Office.

REF. USC § 10-9a-609.5

**26-5-11 Disposition of Vacated Street, Right-of-Way or Easement.**

(1) Action of the City Council vacating some or all of a street, right-of-way, or easement that has been dedicated to the public use:

- (a) Operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated street, right-of-way, or easement; and
- (b) May not be construed to impair:
  - (i) Any right-of-way or easement of any lot owner; or
  - (ii) The franchise rights of any public utility.

REF. USC § 10-9a-609.5(5)

(2) Upon recordation of an ordinance or plat, executed as established in this chapter, with the County Recorder's office, title to the vacated street shall vest to the adjoining record, with ½ of the width of the street to each of the adjoining owners.

REF. USC § 72-5-105

**26-5-12 Mylar Required.** Whenever any subdivision, approved by the city, has been approved to be amended as established in this chapter the petitioner shall provide an accurate plat that meets the requirements of Chapter

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