



CITY OF KINGMAN
ABANDONMENT APPLICATION FORM
CASE # AB-_____ - _____

REQUEST TO: (check one) VACATE RIGHT-OF-WAY EXTINGUISH EASEMENT

APPLICATION DATE: _____ \$640 FEE PAYMENT REQUIRED

APPLICANT NAME: _____

APPLICANT ADDRESS: _____

APPLICANT PHONE #: _____

LOCATION OF RIGHT-OF-WAY OR EASEMENT (attach a map).
LEGAL DESCRIPTION and/or PARCEL NUMBER: _____

SUBMITTAL INFORMATION

- ▶ \$640.00 processing fee (non-refundable)
- ▶ Proposition 207 Waiver form. An applicant is not required to complete this form.
- ▶ Fill out and return this page with processing fee of \$640.00
- ▶ A preliminary title report showing ownership of contiguous properties
- ▶ A written legal description may be required by the City Engineer
- ▶ One map of proposed abandonment or extinguishment areas
- ▶ List of property owners within 300 feet of proposed abandonment or extinguishment areas

NAME OF STREET RIGHT-OF-WAY (if any) _____

NOTE: RIGHTS-OF-WAY OR EASEMENTS CONTAINING SEWER, WATER, GAS, ELECTRIC, TELEPHONE UTILITIES, OR THAT ARE USED FOR ACTIVE DRAINAGE FACILITIES **CANNOT** BE CONSIDERED FOR VACATION OF EXTINGUISHMENT. IF FACILITIES ARE RELOCATED, THE VACATION COULD BE CONSIDERED.

Reason for abandonment request: _____

Estimated value of right-of-way proposed for abandonment: \$ _____

Applicant's signature: _____ Date: _____

**AGREEMENT FOR THE WAIVER OF CLAIMS FOR DIMINUTION IN VALUE OF PROPERTY
UNDER A.R.S. §12-1134**

This agreement is entered into this _____ day of _____, 20____, by and between _____ (Owner) and the CITY OF KINGMAN, an Arizona Municipal Corporation, (City).

RECITALS

- A. The Owner owns certain real property located with in the City or is with in the City's service area. This real property is depicted and legally described in the attached Exhibit A, incorporated into this agreement by this reference; and
- B. The Owner has requested that the City enact a certain land use change directly applicable to the Owner's property and agrees that this change will increase the value and use of the land; and
- C. The Owner is aware that, as a condition of receiving approvals under the City's land use laws, the City may impose various requirements, conditions, and stipulations upon the property that will govern development of the property; and
- D. The Owner agrees and consents to all the conditions imposed by the City regarding the land use action in:
 - a. _____ Rezoning/Zoning Change
 - b. _____ Conditional Use Permit
 - c. _____ General Plan Amendment
 - d. _____ Variance
 - e. _____ Site Plan
 - f. _____ Subdivision
 - g. _____ Ordinance
 - h. _____ Development Agreement
 - i. _____ Water/Wastewater Service
 - j. _____ other _____ (please specify)
- E. By signing this agreement, the Owner acknowledges that Owner waives any right to claim diminution in value or claim for just compensation for diminution in value under A.R.S. §12-1134 related to the land use action as a result of the City's approval of the action in regards to the above referenced property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under A.R.S. §12-1134 as it exists or may be enacted in the future or that may be amended from time to time with regard to the subject property.
- F. This agreement in no way acquiesces to or obligates the City to perform any legislative or administrative act.

- G. This agreement, any exhibits attached hereto, and any addendum, constitute the entire understanding and agreement of the Owner and the City and shall supersede all prior agreements or understandings between the Owner and the City regarding the above referenced property in accordance with A.R.S. §12-1134. This agreement may not be modified or amended except by written agreement by the Owner and the City.
- H. This agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona.
- I. If any legal action is brought by either party to enforce any provisions of this agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and court costs in such amounts as shall be allowed by the court.
- J. Within ten (10) days after the execution of this agreement, the City Clerk shall file the agreement in the Official Records of the Recorder's Office, Mohave County, Arizona.
- K. This agreement runs with the land and is binding upon all present and future owners of the above referenced property.
- L. This agreement is subject to the cancellation provisions of A.R.S. §38-511
- M. The Owner warrants and represents that Owner holds fee title to the above referenced property, and that no other person has ownership interest in the property; and agrees to hold harmless and indemnify the City in any action regarding ownership. Owner is responsible to notify the City if change in ownership of the above listed property takes place prior to approval of the land use action. Any and all Owners must sign this agreement. Additional Owner signatures must be notarized and attached to this agreement.
- N. Any Agent that signs on behalf of the Owner, personally warrants and guarantees to the City that they have the full legal power to bind Owner to this agreement. Furthermore, Agent agrees to indemnify and hold harmless the City in any action regarding ownership of the above listed property. Agent is responsible to notify the City if any change in ownership of the above listed property takes place prior to the full approval of the requested action.

**CITY OF KINGMAN
A MUNICIPAL CORPORATION**

By: _____

Printed Name: _____

I, the undersigned, hereby agree to the terms and acknowledge this document and sign below.

PROPERTY OWNER/AGENT

By: _____

Print Name _____

State of Arizona)

)

County of Mohave)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____

Notary Public

**STREETS AND SIDEWALKS DEVELOPMENT RULES AND REGULATIONS
DIVISION 5. RIGHT-OF-WAY VACATION**

Sec. 5-1. Vacation of public rights-of-way and extinguishment of public easements.

A. Purpose

This section outlines the procedures to be followed by the City when dealing with requests to vacate public rights-of-way by owners of abutting property. It is intended to ensure consistent processing and disposal practices associated with vacations and to ensure compliance with applicable State law.

Dispositions of public rights-of-way by exchange and/or public sale are not within the scope of this section. As to matters regarding disposition of public rights-of-way not addressed in this section, and whenever and to the extent that this section conflicts with State law, in particular A.R.S. Section 9-240(B) (3) and 28-1901, et seq. [after October 1, 1997, A.R.S. Section 28-7201, et seq.], State law shall be applied and followed.

B. General Provisions

1. For the purpose of this section, right-of-way shall have the same meaning as in Section 2-1(B).
2. Public rights-of-way or right-of-way easements containing existing sewer, gas, water or similar pipelines and appurtenances and for canals, laterals or ditches and appurtenances, and for electric, telephone and similar lines and appurtenances shall not be eligible for vacation.
3. A right-of-way or right-of-way easement shall not be vacated so as to leave any land adjoining without ingress and egress for public or emergency vehicles, the property owners, their guests and invitees and persons lawfully conducting business on the land.
4. Any resolution of vacation shall be subject to the giving of consideration by the owner of the abutting property in an amount deemed by the Common Council to be commensurate with the value of the right-of-way. In determining the value, the Common Council shall give due consideration to the degree of fragmentation and marketability and any public benefit received by the City in return for the right-of-way.
5. If the City owns no title to a right-of-way but holds a right-of-way or utility easement only, such easement may be extinguished by resolution, without consideration or determination of value, upon finding of the Common Council that the easement is no longer necessary for public use or purposes.
6. A resolution for vacation of a right-of-way or for extinguishing of a right-of-way or utility easement shall not take effect unless and until it is recorded by the City Clerk in the office of the county recorder.

C. Procedure

1. In order to initiate the vacation of any right-of-way, the abutting owner shall complete and submit the City's Request for Right-of-Way Vacation form to the Planning Director, along with the required processing fee. In completing this form, the abutting owner shall outline the location and dimensions of the right-of-way, give an estimate of value and state why the vacation should be considered. The applicant shall also submit a preliminary title report showing ownership of all properties contiguous to the right-of-way, and a map depicting the area.
2. Any vacation requiring a survey and written legal description, as determined by the City Engineer, shall be prepared by a qualified registrant at the expense of the applicant and submitted to the City Engineer for review and approval.
3. Upon receipt of the above materials, the Planning Director shall initiate the processing of the vacation in the following manner:
 - a. Forward a copy of the request to the City Engineer, City Attorney, Public Works Director, City Fire Chief and all utility companies providing service to the Kingman area.
 - b. Forward a letter outlining the request to all property owners within 300 feet of the proposed vacation.
 - c. Schedule a public hearing before the Planning and Zoning Commission for evaluation of the proposed vacation.
 - d. Post the area proposed for vacation in no less than three (3) places.
 - e. Review the request for conformance with A.R.S. 28-1901, et seq. [After October 1, 1997, A.R.S. 28-7201] and this section.
 - f. Present the Planning and Zoning Commission a comprehensive report, outlining all comments received from the reviewing agencies. The report shall also include staff's analysis and recommendations concerning the required finding value as referenced by subsection B.4. above.
 - g. Schedule the request along with the recommendation of the Planning and Zoning Commission for review and action by the Common Council.

D. Disposition of the Right-of-Way

1. Upon determining that the subject right-of-way easement to which the City holds not title, resolve that the easement be extinguished.
 - a. In the case of a right-of-way easement to which the City holds not title, resolve that the easement be extinguished.
 - b. In the case of a right-of-way to which the City holds title,

determine the amount of consideration to be given by the abutting owner in accordance with subsection B.4., above, and resolve that the right-of-way be vacated subject to payment of that amount.

2. Title shall pass and/or the City's interest shall be extinguished upon payment of the consideration, if any, and after recording of the resolution by the City Clerk.