



**AN ORDER OF THE COMMISSIONERS COURT OF HAYS  
COUNTY, TEXAS ADOPTING A POLICY AND  
PROCEDURE RELATING TO THE ABANDONMENT,  
VACATION OR DISCONTINUATION OF COUNTY  
RIGHT-OF-WAY FOR USE BY THE PUBLIC.**

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**WHEREAS**, Hays County, through the Hays County Road Department, has the authority to construct and maintain, for use by the public, county roadways;

**WHEREAS**, Hays County holds title to these roadways on behalf of the general public for use by the public;

**WHEREAS**, there are occasions when Hays County might determine that there is no longer a public need for such roadways and, therefore, has the legal right under State law to abandon, vacate or discontinue maintenance and use of said roadways.

**NOW, THEREFORE, BE IT RESOLVED**, that the Hays County Commissioners Court adopt the following policy and procedure relating to the abandonment, vacation or discontinuation of county right-of-way as follows:

- (a) **General Statement.** Public right-of-way may be held in easement or fee simple title. Unless a grantor has conveyed fee simple title to the County or the County has acquired the right-of-way through condemnation, right-of-way will be held in easement title. For example, right-of-way dedicated by a plat conveys only an easement in the property.
- (b) **County Authority.** The Commissioners Court may close, discontinue, abandon, or vacate public right-of-way which is no longer needed and which is not reasonably anticipated to be needed for its intended purpose and is located in the unincorporated area of the County. "Discontinue" means to discontinue the public maintenance of a public road. "Abandon" means to relinquish the public's interest in the right-of-way and use of a public road. "Vacate" means to terminate the existence of a public road by direct action of the Commissioners Court.

(c) ***Procedures.***

(1) **Abandonment of Public Easement Right-of-way.**

- (A) An applicant seeking to request that the County abandon right-of-way held by the County as an easement, whether acquired by dedication or prescription, must submit the following documents to the County Road Department:
  - (i) A letter stating the reason for the request.
  - (ii) A copy of the title documents.
  - (iii) If only a portion of the easement is requested to be abandoned, a survey of that portion of the easement by a Registered Professional Land Surveyor, including a metes and bounds description and sketch.
  - (iv) A letter signed by the adjacent property owners, or any others who may be affected by the vacation stating their approval of the vacation.
  - (v) If the easement to be vacated is located in the ETJ of a city, a letter from the city concurring with the vacation request.
  - (vi) A nonrefundable fee of \$500 payable to Hays County.
- (B) The County Engineer will review the request and send a letter to the applicant explaining his recommendation regarding the request to abandon the right-of-way easement.
- (C) Upon a recommendation of abandonment by the County Engineer, the request for abandonment will be placed on a Commissioners Court agenda for approval by the Court.
- (D) Upon approval by the Commissioners Court, a public hearing date will be set. The hearing dates are typically scheduled four weeks after the initial presentation and approval.
- (E) Public notice of the hearing must be posted at the courthouse and must be published in a newspaper twenty-one (21) days prior to the public hearing.
- (F) Title to the road or portion that is closed, abandoned or vacated and that abuts an owner's property to the centerline of the road vests in such abutting property owner on the date the Order is

signed by the County Judge. A copy of the Order filed in the Real Property Records of the County acts as the official instrument of conveyance from the County to the abutting property owner.

**(2) Abandonment, Vacation, and Conveyance of Fee Simple Right-of-way**

- (A) An applicant requesting the abandonment, vacation, and conveyance of accepted fee simple right-of-way must submit the same documents set forth in Section (c)(1)(A) to the County Engineer.
- (B) If the County owns the right-of-way in fee simple rather than easement title, the property may be sold after abandonment and vacation only under the procedures set forth at Section 263.002 of the Texas Local Government Code. In addition, such abandoned right-of-way may be exchanged pursuant to section 263.006 of the Code.

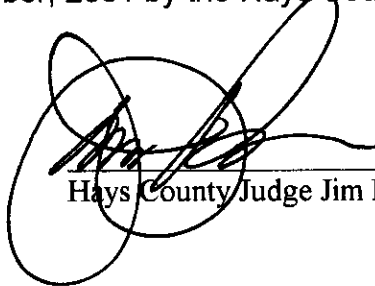
**(3) Vacation of a Drainage Easement**

- (A) The applicant requesting the vacation of a drainage easement in an accepted subdivision must submit the following documents to the County Engineer:
  - (i) A letter outlining the reason for the vacation of the easement.
  - (ii) A drainage study prepared by a Registered Professional Engineer, supporting and documenting the reasons for the drainage easement vacation request. This requirement may be waived by the County Engineer if a drainage study is determined to be unnecessary.
  - (iii) Metes and bounds description, signed and sealed by a Registered Professional Land Surveyor, of the easement to be released.
- (B) The County Engineer will review the drainage study and send a letter to the applicant explaining his recommendation of the vacation request.
- (C) The same procedures for hearing and notice of the vacation request as set forth in Section (c) (1)(D) and (E) will be followed.


(D) In the same manner as set forth in Section (c) (1)(F) the order of the vacation instrument must be filed in the Real Property Records of the County to be effective.

- (4) **Rejection of Unaccepted Dedication.** The Commissioners Court may in its sole discretion order the rejection of an unaccepted dedication and quitclaim any interest it may have to the underlying owner. This action would be subject to any established rights of private parties, public utilities, and/or the public and would be without warranty of any kind. Although the quitclaim would be filed of record in the Real Property Records, the filing would not be noted on the plat itself. Anyone considering using this process should also consider the cancellation and revision process.

ORDERED this the 23<sup>rd</sup> day of October, 2001 by the Hays County Commissioners Court.

  
Hays County Judge Jim Powers

Attest:

  
Lee Carlisle, County Clerk

