



TOWN OF CAVE CREEK

37622 North Cave Creek Road

Cave Creek, Arizona 85331

(480) 488-6600 (Office)

Abandonment of Town Rights of Way (ROW) or Public Easements (FAQ):

Reference Arizona Revised Statutes Title 28, Chapter 20, Article 8

What is the purpose of the abandonment?

An abandonment relinquishes the Town's interest in all or a portion of the previously dedicated Public Right of Way (ROW) or Easement, thereby giving a property owner more usable area. A property owner may apply to the Town to have ROW or Public Easements adjacent to or on their property. Abandonment does not assign ownership or affect other property rights in the abandoned property, but rather releases the Town's interest in the area.

What area can I abandon?

The area can be a portion or all of the ROW or Public Easement depending on the use and purpose of the ROW or Public Easement. In some cases, where ROW is involved, a Public Easement may need to be retained. Easements that are strictly designated for a specific service/utility will need to be abandoned through and with consent of the respective service/utility provider/company.

What if there are public utilities in that area?

If public utilities exist, an applicant shall plan and provide for their removal or relocation before staff can approve an abandonment, at the applicant's expense. The applicant will need to contact the service/utility provider directly and follow their process to remove or relocate the service/utility.

How are abandonment requests processed?

An abandonment of ROW or Public Easement can be processed through a Subdivision Plat process, amending an existing Subdivision Plat, or by Separate Instrument. Prior to submitting a formal request for abandonment, it is strongly advised that an applicant meet with Town Staff to discuss factors involved with an abandonment request. A request for abandonment may require the submittal of a drainage plan and/or a traffic study.

The Town does not interfere with Private Easements other than to assure minimum legal access to each parcel/lot of record created through the subdivision process. The Town will not issue a permit for a parcel which does not have assured legal access.

How do I know which process to abandon ROW or Public Easement I will need to follow?

Through a Plat: If your property is located within a platted subdivision, then an application to amend the Subdivision Plat will be required. If you are in the process of platting or re-platting your property for development, you can abandon or redefine ROW and/or easements at that time.

By Separate Instrument: If the property is not subject of a platted subdivision, then the parcel is considered metes and bounds. In this case an application for abandonment by separate instrument is the way to proceed.

How can a property owner submit an application request to abandon ROW or a Public Easement?

If the ROW or Public Easement is within a platted subdivision, then an application to amend the subdivision is required to be applied for in addition to a completed ROW Abandonment Application. If the property is considered a metes and bounds lot, then a completed ROW Abandonment Application needs to be submitted. The application(s) are required to be submitted in person at Cave Creek Town Hall, located at 37622 N. Cave Creek Rd.

Is there a fee associated with abandoning a ROW or Public Easement?

If the property is a residential parcel and is considered metes and bounds, the application fee is \$800.00 plus appraised value including the cost of appraisal.

If the ROW or Public Easement is subject to an existing Subdivision Plat, the application fee is \$800.00 plus appraised value including the cost of appraisal. ****Amending the Final Plat of an approved subdivision may also require a separate application and fee.***

How long does it take to abandon a ROW or Public Easement?

The processing time can vary depending on multiple factors, which is why it is wise to contact Town Staff prior to making a formal application. The Town of Cave Creek utilizes ROW and Public Easements for a variety of uses and as a result, an abandonment application would require review by each department. Applications are taken in and administered by the Engineering/Public Works Department. If all

departments approve of the application to abandon the ROW or Public Easement, the request is taken to the Town Council for a final decision.

If the abandonment request is submitted along with a Subdivision Plat or Plat Amendment the application is submitted and processed by the Planning Department. A Final Plat or Plat Amendment is taken to the Town Council for a final decision.

The Town Council may deny the request to abandon a ROW or Public Easement, in which case the process is complete, the case is deemed closed and the application denied. Should the Town Council approve the abandonment by Resolution, then the applicant shall be required to provide the Town with a consolidated legal description and record of survey along with the associated appraised value (including cost of appraisal) in order for the Town to record the Resolution and Quit Claim Deed concurrently.

Is there a date of expiration for the application or to the approved abandonment?

If the application does not proceed to the Town Council due to an incomplete application or review comments not being addressed by the applicant, the application will become void after a period of 1-year from the date of submittal. If the application expires, the \$800.00 is not refundable. The applicant will be notified of expiration, in writing, via first class mail.

If the Town Council approves the request to abandon ROW or a Public Easement, the applicant has 6-months from the date of the Council approval to provide the legal description, record of survey and appraised value. If the abandonment is not completed and recorded by the Town as a result of the applicant not providing the necessary payment and paperwork the Town of Cave Creek reserves the right to revoke the Abandonment Resolution at a future Town Council meeting after 6-months. The applicant will be notified of the Town Council hearing, in writing, via first class mail.