

Code: Section: [Up^](#) [Add To My Favorites](#)**STREETS AND HIGHWAYS CODE - SHC****DIVISION 9. CHANGE OF GRADE AND VACATION [8000 - 8363]** (*Division 9 added by Stats. 1941, Ch. 79.*)**PART 3. PUBLIC STREETS, HIGHWAYS, AND SERVICE EASEMENTS VACATION LAW [8300 - 8363]** (*Part 3 repealed and added by Stats. 1980, Ch. 1050, Sec. 29.*)**CHAPTER 3. General Vacation Procedure [8320 - 8325]** (*Chapter 3 added by Stats. 1980, Ch. 1050, Sec. 29.*)

8320. (a) The legislative body of a local agency may initiate a proceeding under this chapter in either of the following ways:

(1) On its own initiative, where the clerk of the legislative body shall administratively set a hearing by fixing the date, hour, and place of the hearing and cause the publishing and posting of the notices required by this chapter.

(2) Upon a petition or request of an interested person, at the discretion of the legislative body, except as provided in subdivision (e) of Section 8321, where the clerk of the legislative body shall administratively set a hearing by fixing the date, hour, and place of the hearing and cause the publishing and posting of the notices required by this chapter.

(b) The notices required by this chapter shall contain both of the following:

(1) A description of the street, highway, or public service easement proposed to be vacated and a reference to a map or plan, that shows the portion or area to be vacated and includes a statement that the vacation proceeding is conducted under this chapter. In the case of a street or highway, the description shall include its general location, its lawful or official name or the name by which it is commonly known, and the extent to which it is to be vacated. In the case of a public service easement, the description shall identify it with common certainty. The map or plan showing the location of the street, highway, or public easement proposed to be vacated is sufficient compliance with this paragraph.

(2) The date, hour, and place for hearing all persons interested in the proposed vacation. The date shall not be less than 15 days after the initiation of proceedings.

(Amended by Stats. 1998, Ch. 876, Sec. 20. Effective January 1, 1999.)

8321. (a) Ten or more freeholders may petition the board of supervisors to vacate a street or highway under this chapter. At least two of the petitioners shall be residents of the road district in which some part of the street or highway proposed to be vacated is situated and shall be taxable therein for street or highway purposes.

(b) Five or more freeholders may petition the board of supervisors to vacate a public service easement under this chapter. At least one of the petitioners shall be a resident of the township in which the public service easement proposed to be vacated is situated.

(c) The residence address of each petitioner shall be set forth in the petition.

(d) The board of supervisors may require the payment of a fee for filing a petition to defray the expenses of investigations, mailings, publications, and postings under this chapter.

(e) Upon the filing of a petition and the making of the deposit, if any, required under this section, the board of supervisors, by order, shall fix the date, hour, and place of the hearing on the petition. At least two weeks before the day set for the hearing, the clerk of the board shall mail a notice of the date, hour, and place of the hearing to each of the petitioners at the address set forth in the petition.

(f) Nothing in this section shall affect the right of a legislative body to initiate a proceeding under this chapter upon its own initiative, or upon petition or request of an interested person, or prevent the board of supervisors from

vacating a street, highway, or public service easement without charging costs if the board determines it is in the public interest to do so.

(Amended by Stats. 1981, Ch. 64, Sec. 1.)

8322. (a) Except as provided in subdivisions (b) and (c), notice of the hearing on the proposed vacation shall be published for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper published and circulated in the local agency conducting the proceeding and which is selected by the legislative body for that purpose or by the clerk or other officer responsible for the publication where the legislative body has not selected any newspaper for that purpose.

(b) If the proceeding is conducted by a city and there is no daily, semiweekly, or weekly newspaper published and circulated in the city, the notice shall be published in some newspaper published in the county in which the city is located.

(c) Notice need not be published under this section where there is no daily, semiweekly, or weekly newspaper published and circulating in the county in which the local agency conducting the proceeding is located.

(Amended by Stats. 1998, Ch. 876, Sec. 21. Effective January 1, 1999.)

8323. At least two weeks before the day set for the hearing, the legislative body shall post conspicuously notices of vacation along the line of the street, highway, or public service easement proposed to be vacated. The notices shall be posted not more than 300 feet apart, but at least three notices shall be posted. If the line of the street, highway, or public service easement proposed to be vacated exceeds one mile in length, the legislative body may, in lieu of posting not more than 300 feet apart, post notices at each intersection of another street or highway with the street, highway, or public service easement to be vacated and at one point approximately midway between each intersection, but at least three notices shall be posted.

(Amended by Stats. 1998, Ch. 876, Sec. 22. Effective January 1, 1999.)

8324. (a) At the hearing, the legislative body shall hear the evidence offered by persons interested.

(b) If the legislative body finds, from all the evidence submitted, that the street, highway, or public service easement described in the notice of hearing or petition is unnecessary for present or prospective public use, the legislative body may adopt a resolution vacating the street, highway, or public service easement. The resolution of vacation may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied.

(Amended by Stats. 1998, Ch. 876, Sec. 23. Effective January 1, 1999.)

8325. (a) The clerk shall cause a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

(Added by Stats. 1980, Ch. 1050, Sec. 29.)

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(a) A public entity may reserve and except from the vacation the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over, and across a street or highway proposed to be vacated and, pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, and water, and for incidental purposes, including access to protect these works from all hazards in, upon, and over the street or highway proposed to be vacated.

(b) A local agency may reserve and except from vacation an easement for a future street or highway, unless the local agency finds that the street or highway is unnecessary for prospective public use.

(c) If there are in-place public utility facilities that are in use, a public entity shall, unless the legislative body determines the public convenience and necessity otherwise require, reserve, and except from the vacation any easement and right necessary to maintain, operate, replace, remove, or renew the public utility facilities.

(d) A public entity may reserve and except from the vacation, or may grant to another state or local public agency, an easement and right, at any time or from time to time, to construct, maintain, operate, replace, remove, and renew vehicular or nonvehicular trails for use by the public in, upon, over, and across a street or highway proposed to be vacated.

(Amended by Stats. 1990, Ch. 248, Sec. 1.)

8341. (a) In a proceeding to vacate a street or highway, if the legislative body determines that the public convenience and necessity require the reservation and exception of easements and rights-of-way for works enumerated in Section 8340, such reservations and exceptions shall be recited in the resolution of vacation, in addition to any other matter required to be recited therein. The recital may describe the reservations and exceptions by reference to a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.

(b) Subsequent proceedings of the public entity in relation to the vacation, including a deed or conveyance of title to or an interest in the property, are subject to, and governed by, the reservations and exceptions recited in the resolution of vacation and the deed or conveyance shall contain a recital to that effect.

(Added by Stats. 1980, Ch. 1050, Sec. 29.)