



Public Works Department
City of Apache Junction
Home of the Superstition Mountains

Dear Applicant:

You have taken the first step to requesting abandonment of, extinguishment, or vacating of a Federally Patented Easement or Rights of Way.

In filing an application, it is important you are aware of the following:

1. The right-of-way abandonment, extinguishment, or vacation recommendation made by the Public Works Director to the City Council will be based on:
 - Whether the application is a City-initiated request that will eliminate a liability to the City and its residents.
 - Whether the action is in the best interest of the City and its residents from a public health and safety standpoint.
 - Whether the property under consideration for abandonment, extinguishment or vacation is determined to be unnecessary with respect to the City's future growth or related needs, or approval thereof would promote the City's public health, safety and welfare.
2. Staff cannot guarantee that your request will be granted by the City Council.
3. The application fee is non-refundable, regardless of the City Council's decision.

Staff will forward to City Council a favorable recommendation from the Public Works Director only where such requests meet one of the three criteria. However, please be mindful that given the criteria outlined above, very few of the applications will be forwarded to the City Council with a positive recommendation from the Public Works Director.

The City Council cannot extinguish any utility easements. Utility easement abandonment must be resolved directly with each respective utility. Until the involved utilities extinguish their easements, property owners may not place or build anything of permanence on the affected property.

Please contact the Public Works staff at (480) 982-1055, with any questions you may have about this process.

Mike Wever, P.E.
Public Works Director

rev 05/2019



City of Apache Junction Public Works Department

575 East Baseline Avenue
Apache Junction, AZ 85220
Phone: (480) 982-1055
Fax: (480) 983-5752

Federal Patent Easement – Definitions and Description

City Code Definitions:

- **STREETS.** The full width of the right-of-way, easements or federally patented easements and any road, street, highway, alley, land or pedestrian walkway used by or for the general public, whether or not the road, street, highway, alley, land or pedestrian right-of-way has been improved or accepted for maintenance by the city.
- **EXTINGUISHMENT.** The term in which federally protected easement is relinquished to the owner of the underlying property resulting in elimination of the public's right to use in perpetuity.
- **RIGHT-OF-WAY.** Land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, pedestrian walkway, bikeway, drainage or other purposes.

Arizona Court Findings:

1. City of Phoenix v. Kennedy:

Summary: The City of Phoenix wanted to build a road on the GLO (FPE) easement running along the north boundary of the Kennedy property. Kennedy refused to allow the City of Phoenix access to the right of way.

Resolution: The court ruled that the easement was City of Phoenix right of way.

2. Bernal v. Loeks:

Summary: GLO (FPE) easements gave Bernal access to his property through a GLO easement across Loeks land. Loeks built a fence and other obstructions to block Bernal from using the road.

Resolution: The court ruled that one private citizen does not have the power to close right-of-way to another private citizen. Bernal was allowed to use the road. Note: The GLO easement in the Bernal case had not been extinguished, extinguishment had not been proposed. Arizona courts use the same rules to stop citizens from barricading any public right of way.

ROADWAY ABANDONMENT/RIGHT-OF-WAY EASEMENT EXTINGUISHMENT SUBMITTAL REQUIREMENTS AND CHECKLIST

Type:

- Dedicated Roadway
 - Federally Patented Easement ("FPE") *
-
- A. Complete the Application Form. Circle whether it is an abandonment or an extinguishment you are seeking on all forms where appropriate.
 - B. Obtain signatures on Support Petition from ALL Abutting Property Owners.
 - C. Attach Proof of Property Ownership (deed, assessor records, etc.).
 - D. Attach Written Statement Giving Reasons for Abandonment/Extinguishment.
 - E. Attach drawing/map to show area to be Abandoned/Extinguished.
 - F. Include Non-refundable Application Fee in the form of a check or money order payable to the "City of Apache Junction".
 - G. Provide a Limited Realty Guarantee, with the City of Apache Junction listed as the 'Assured'.
 - H. Provide Warranty Deed for Roadway Dedication of other adjacent right-of-way, when applicable. Warranty Deeds are held until Council action, and only recorded if the abandonment is approved.
 - I. Submit all of the above listed items to the Department of Public Works, Engineering Division either by mail, or in person - at the City Services Annex located at 575 East Baseline Avenue, Apache Junction, Arizona.

* The City is prohibited by State Law in extinguishing utility easements

ROADWAY ABANDONMENT/RIGHT-OF-WAY EASEMENT EXTINGUISHMENT PROCESS

1. Application including applicable fee, proof of property ownership, written statement, title reports, all must be submitted to the Engineering Division of the Department of Public Works at 575 E. Baseline Road, Apache Junction, AZ 85119.
2. Staff shall then review the application, and will determine if warranty deeds for other adjacent rights-of-way are needed. Staff shall prepare memos and maps for distribution. Deeds shall be held until Council takes positive action, and shall record only if the abandonment/extinguishment is approved.
3. Staff shall send the memos, map and application to appropriate City Departments, and utility companies
4. If deemed essential, City shall obtain, and applicant shall pay for, an appraisal of the roadway/easement to be abandoned/extinguished.
5. Staff shall compile all responses.
6. Staff shall prepare adoption documents and maps for Council consideration.
7. The request shall be scheduled for a City Council Work Session and then City Council Meeting. The Applicant and abutting property owners shall be notified by City staff of the City Council Meeting, by regular first class U.S. Mail.
8. Council shall consider the application and shall either approve or deny the request.
9. Upon Council approval, applicant shall pay additional applicable fees pursuant to City Code. The resolution adopting the request will then be sent to the County Recorder's Office by City Staff. If applicable, applicant must complete an address change form and submit it to the Development Services Department.
10. Upon return from the County Recorder's Office, copies of the recorded documents shall be sent to the Applicant.

ROADWAY ABANDONMENT/RIGHT-OF-WAY EASEMENT EXTINGUISHMENT FEE SCHEDULE

FEES:

- **All Fees must be submitted with the Roadway Abandonment/Right-of-Way Easement extinguishment application**
 - Roadway Abandonment and Right-of-Way Easement Extinguishment Fee for abutting industrial, commercial or multi-family property:
 - \$450 Application and Filing Processing Fee
 - Roadway Abandonment and Right-of-Way Easement Extinguishment Fee for abutting residential property:
 - \$350 Application and Filing Processing Fee
 - \$100 additional Abandonment Fee if approved by City Council

ROADWAY ABANDONMENT/RIGHT-OF-WAY EASEMENT EXTINGUISHMENT GUIDELINES

- The City will not abandon/extinguish Section line roads (1 mile).
- The City will consider abandonment/extinguishment of roadways and right-of-way easements only if all the following conditions exist:
 - The street is classified as a Mid-section line road (½ mile), Collector street (¼ mile), or local street.
 - The City will abandon roadways/extinguish right-of-way easements in no less than one-block increments.
 - 100% of the property owners with frontage on both sides of the roadway abandonment/right-of-way easement extinguishment area must be in support of this request, and must sign applications or support petitions.
 - If Council approves the request, all affected property owners must have access to a public roadway or public easement.
 - The City cannot extinguish public utility easements.

**ROADWAY ABANDONMENT/RIGHT-OF-WAY EASEMENT
EXTINGUISHMENT APPLICATION**

Name of Applicant (s) _____

Mailing Address _____

Phone # _____ Tax Parcel # _____

Location of Right-of-Way Abandonment /Right-of-Way Easement Extinguishment:

I/we do hereby certify that I/we am/are the owner/s of property that will be directly affected by this application, and I/we do hereby execute this application.

Applicant Signature

Applicant Signature

STATE OF ARIZONA)
) ss.
COUNTY OF PINAL)

Subscribed and sworn before me this _____ day of _____, 2012, by

My Commission Expires:

Notary Public

ROADWAY ABANDONMENT /RIGHT-OF-WAY EASEMENT EXTINGUISHMENT SUPPORT PETITION

Name of Applicant (s) _____

Mailing Address _____

Phone # _____ Tax Parcel # _____

Location of Abandonment/Extinguishment _____

All property owners owning property abutting the proposed roadway abandonment/right-of-way easement extinguishment must be contacted. Signatures representing 100% of the frontage on all sides of the proposed roadway abandonment/right-of-way easement extinguishment must be in support of this action, and sign the support petition prior to submittal to the application to the Public Works Department for processing. Property owners within 300' of the roadway abandonment/right-of-way extinguishment must be notified.

I, THE UNDERSIGNED PROPERTY OWNER, WILL BE DIRECTLY AFFECTED BY THE PROPOSED ROADWAY ABANDONMENT/RIGHT-OF-WAY EASEMENT EXTINGUISHMENT. I SUPPORT THIS ACTION.

PRINT NAME SIGNATURE MAILING ADDRESS TELEPHONE # PARCEL #

