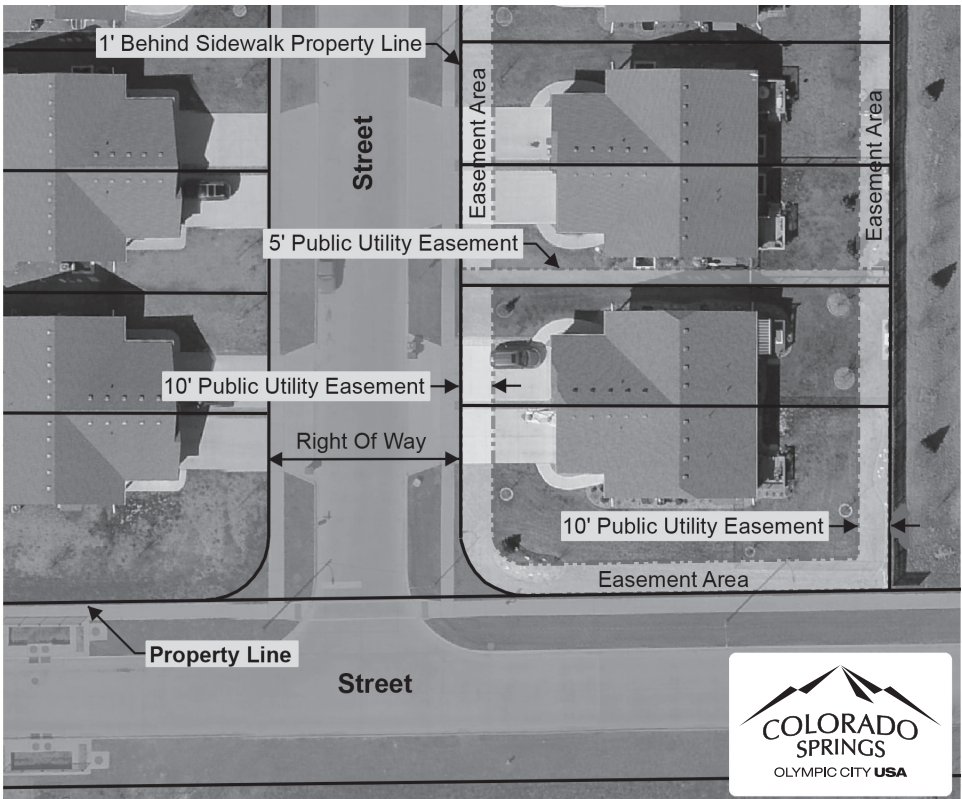


The City of Colorado Springs' Guide to Easement Vacations & Easement Encroachments



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Real Estate Services

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Colorado Springs, Colorado 80903
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www.coloradosprings.gov/Departments/RealEstateServices



What is an easement?

An easement is a right to use someone else's land and is given by a property owner to another party. Easements usually have a specific purpose and are typically granted to cities or utility companies for them to provide public services and improvements, such as utility services, public sidewalks, or stormwater service for a particular property or subdivision. These types of easements are commonly called public utility, public improvement and/or public drainage easements. While an easement is not necessary for a service line to a house or building, they are necessary to get public services from one place to another, such as to a neighboring property, the end of the block, or to an adjacent neighborhood or subdivision. Easements are legal documents that should be recorded with the County Clerk and Recorder's office, and can cover not just the area underground, but high above the ground as well. On residential lots, the easements usually run along a property line, the width of which begins at a property line and then proceeds into the property.

While an easement allows the easement holder (such as the City of Colorado Springs) to access whatever City-owned infrastructure is located within the easement, the maintenance of the surface area of the easement is held with the property owner, in most instances.

Note: Since most structures are prohibited within an easement, it is important to understand the location and allowed use(s) of recorded and/or platted easements, as well as those associated service lines, if you plan to alter the property in any way.

How are easements created (most commonly)?

- By Subdivision Plat of your subdivision/neighborhood;
- By Separate Document/Agreement between parties;
- Reserved in a City Council Ordinance and/or Vacation Plat;
- Reserved in a deed during a conveyance of land.

How do you know if easements exist on your property?

Because easements are legal, recorded documents, the best way to find out if you have easements on your property is to retain a title company to perform a title search. A property owner can also review their original closing documents for title work when they purchased their property, which will show all the various encumbrances on the property, including easements. These encumbrances will be listed in the "B-2 Exceptions" portion of a title report, commitment or policy.

Platted easements within a subdivision are depicted on the City or County approved subdivision plat document for the subdivision/neighborhood. To locate those platted easements:

1. Go to the El Paso County Property Assessor's website <https://property.spatalest.com/co/elpaso/#/>, and enter either your address, your name, or the Tax Schedule Number (TSN) in order to locate your parcel. Then locate the name of your subdivision (under "Legal Description").
2. With the subdivision name in hand, go to: <https://web1.coloradosprings.gov/subdivview/default.asp>. Type in all or a portion of the name of your subdivision, change the "Document Type" to Plat, and click search. Find the exact name of your subdivision, and click on it. Your particular lot should be reflected on the plat. Easements may be called out in an Easement Statement, such as, "all lots are hereby platted with....", but may be specified on the lot itself, near adjacent lots, or pretty much anywhere on the plat.

What if you don't know where your property line is exactly, and thus, where the easement(s) might be?

Any Colorado licensed surveyor will be able to locate your property lines. You can find a surveyor through an online search, by contacting the Pikes Peak Better Business Bureau, or through the State of Colorado, Department of Regulatory Agencies ("DORA") who licenses surveyors. Real Estate Services is not allowed to recommend a surveyor for you.

How long do easements stay on the property?

Easements do not go away when the property is sold or when the property is replatted/reconfigured. Easements remain with the property until the easement is vacated or terminated by the easement holder through a separate document. For the City, that document is a recorded quitclaim deed.

What is not allowed on a City easement?

While this is not a complete list, and dependent on the type of easement, here are examples of structures that **ARE NOT** allowed within a utility/public improvement/drainage easement held by the City:

- Fences over 6' high, poles, or posts that cannot be easily removed and erected again;
- Retaining walls, except for those up to 4 feet in height that may be required to extend into the side lot-line easements of a residential property;
- Houses, garages, barns;
- Sheds, storage structures of any kind, lean-tos, outbuildings;
- Decks, concrete patios, except for garage-door porch stoops;
- Any edifice projections/overhangs such as balconies, verandas, porches, building overhangs, cantilevers, or bay windows (with some exceptions);
- Commercial signs;
- Drainage, as well as Utility, Easements prohibit a change in grade to the land.

For more information on what the City does NOT allow in, on or over its public utility easements, and depending on the type of easement, please check with Real Estate Services or the applicable City department.

What's the difference between an Easement Vacation and an Easement Encroachment?

An Easement Vacation is a permanent “termination” of an easement, while an Easement Encroachment is only “licensed” through a City document having a term of no more than 25-years and is revocable at any time for any reason. While each project is handled on a case-by-case basis, a general rule of thumb is that existing permanent structures within an easement are handled as Easement Vacations, and temporary structures, like commercial signs and sheds are handled as an Easement Encroachment.

Why would you ever need to apply for an easement vacation or encroachment on your property?

The most common reasons are:

1. You want to place a new structure within an easement area, or there is an existing structure within the easement;
2. There is no longer a need for the easement, and you want to have clear title to the property, as in preparation for a property sale.

How do you apply to vacate (or terminate) an easement or obtain permission to encroach on an easement?

Please visit the City's website, www.coloradosprings.gov, then, from the Menu, go to the City Departments, locate Real Estate Services, and then click on the tab for the applicable type of project. Complete the Real Estate Services **Public Application Form** and follow the accompanying Instructions. Your request should be specific as to which easement(s) (by recording information) needs to be vacated or encroached upon and where the easement(s) is located on the property. The form must be signed by at least one property owner. Once Real Estate Services receives all the completed items, as per the Application Form's Instructions, and the fee, a project file is opened, and Real Estate Services notifies a number of City departments to ask for comments/approval on the formal request.

How much will this cost?

- A. **Initial Fee.** \$220.00 for both Easement Vacations and Easement Encroachments, payable to the City of Colorado Springs, by check or money order only, and submitted by either US mail, courier, or hand delivery (no electronic submittal of the fee). If your request includes multiple property owners/properties, a separate Application Form and fee is required for each named property owner. Generally, requests for multiple easements, but with the same named property owner, will be treated as one project, requiring only one Application Form and initial fee.
- B. **Recording Fees.** The El Paso County Clerk & Recorder charges the City of Colorado Springs \$13 for the first page, \$5 for each page thereafter, and a \$2.25 per document administrative fee for electronic recording. Easement Vacations are typically 1-4 pages, and Encroachment Licenses are usually 10 pages, if Exhibits A, B and C are one page each. Once the exhibits have received necessary approvals, and the applicable document has been finalized and approved, we'll verify the amount of the recording fee and then collect a check or money order, payable to the City of Colorado Springs, at the time that property owner signatures are obtained on the document.

- C. **Exhibits.** If you're vacating a portion of an easement, an easement on unplatted land, or requesting an Easement Encroachment, a Colorado licensed surveyor must create the required exhibits. Prior to hiring a surveyor, you may want to talk with Real Estate Services or Colorado Springs Utilities as to whether or not they anticipate being able to approve your request. You can locate a Colorado licensed surveyor through an online search, by contacting the Pikes Peak Better Business Bureau, or through the State of Colorado, Department of Regulatory Agencies ("DORA"). Real Estate Services has sample exhibits available, upon request.
- D. **Infrastructure.** You could also be asked to enlist the help of:
 - a. a licensed surveyor to physically locate any underground utility lines within the easement, or
 - b. an engineer for extensive building projects before your request can be approved. Either of these could also increase your costs.

What's the difference between the "Requestor" and the "Property Owner" on the Public Application Form?

A property owner and a Requestor can be one in the same, but a Requestor can also be a property owner's representative, such as a homebuilder, an engineering consultant or a surveyor. The Application Form must be signed by the Requestor and at least one property owner. Real Estate Services will consider the Requestor as the primary contact person throughout the course of the project.

Who needs to approve (or disapprove) the Easement Encroachment or Easement Vacation request?

The request to vacate a public easement will be reviewed and approved or disapproved by the City department who manages the interest in that easement. For instance, if you are requesting to vacate a public utility easement, then a Project Manager in the Development Services Department at Colorado Springs Utilities will approve/disapprove the request. If it's a drainage easement, then an engineer from the City's Stormwater Enterprise will review. In addition, the Airport, Land Use Review, various divisions of Engineering, Parks & Recreation, and Transit Services, and possibly one or more of the City's franchisee(s) for cable purposes will also be given an opportunity to review the request. If the request involves an access easement, the Police and Fire Departments will also review. During the course of their reviews, various departments may raise additional issues. Real Estate Services may advise you to contact another City department for additional information and possible need for another City submittal process and approval.

Why does the City have to notify Comcast/Xfinity and StratusIQ when easements are being vacated or encroached upon?

The City allows these cable franchisees with the City (as well as all registered public utility providers) to use the City's platted public utility easements for their infrastructure, so we have to notify them of either a request to vacate or encroach upon an easement they are able to use, to allow them the ability to object, or to provide them notification of a City-approved Easement Vacation or Encroachment.

What are some of the City's considerations as to whether or not your request can be approved?

- Are you building a permanent structure (like a building) or a temporary structure?
- Is the easement currently being used?
- Is there a future need for the easement?
- Do the neighboring properties use or need the easement now or in the future?

Following the comment period, a decision from Colorado Springs Utilities, and/or a City department other than Real Estate Services, could be:

- Approval without conditions. The application can proceed as requested.
- Approval with conditions. Colorado Springs Utilities may approve the request with the following terms and conditions, for which the property owner may need to sign and acknowledge:
 1. The Grantee (the property owner) shall be responsible for removing any abandoned utility facilities within the vacated easement area, if required, and shall indemnify the Grantor (the City of Colorado Springs) from any liability associated with such removal.
 2. If it is necessary to relocate any existing utility facilities, then such relocation shall be at the Grantee's expense, and if required, Grantee shall grant new easements for the relocated facilities.
- Denial until conditions are met. A City department, for example, may require the property owner to relocate public infrastructure at the property owner's expense, and/or grant an additional easement to the City. Once that has been completed, then the initial request can be revisited.
- Denial, with other options. The City may not be able to approve a vacation of the easement, but an encroachment may be reviewed, and possibly approved, instead.
- Denial. The City is unable to honor your request.

NOTE: In accord with § 1.8 of The City of Colorado Springs Procedure Manual, Revised 2021, for the Acquisition and Disposition of Real Property Interests as approved by City Council Resolution 39-21 on March 23, 2021, a denial of any Easement Vacation/ Encroachment request is **not appealable**.

What happens when the Application is APPROVED?

- For **Easement Vacations**, a Quitclaim Deed is drawn up by Real Estate Services, is executed by the Mayor and the City Clerk, and must be recorded by Real Estate Services with the El Paso County Clerk & Recorder's Office, permanently removing the easement from the property.
- For **Easement Encroachments**, an Easement Encroachment License is drawn up by Real Estate Services to be signed by the Property Owner, the approving City department, and the Real Estate Services Manager. Easement Encroachment Licenses are valid for a term of no more than twenty-five (25) years and are revocable by the City at any time for any reason. The License may be recorded with the El Paso County Clerk & Recorder's Office.

How is the appropriate document finalized?

When Real Estate Services has received approval of your request from City staff, and the applicable document is finalized, Real Estate Services will contact the Requestor to arrange to obtain property owner signature(s) on the legal document(s), including a Statement of Authority, if necessary. An Easement Encroachment License may be emailed to the Requestor, but a Quitclaim Deed for a vacation of an easement must be either mailed or picked up at the Real Estate Services office. If the property is jointly owned, both property owners must sign, and signature(s) must be notarized. Real Estate Services has Notaries Public available who can notarize signatures free of charge and with a current, government-issued picture ID. If you decide to go elsewhere to have signatures notarized, you will be directed to return the original notarized signature page back to Real Estate Services.

What is a Statement of Authority, and why is it important?

If the property is owned by an entity, such as a corporation, a limited liability company or a trust, the City needs to ensure that the signer has legal authority to sign a real property transaction on behalf of the entity. A Statement of Authority is a sworn statement that identifies the proper name, title and legal address of the person(s) who is authorized to sign. An improper signature could invalidate the transaction. For corporations, the authorized person is typically a President or Vice President. For a limited liability company, the authorized person is typically a Member and/or Manager, depending on how the management of the entity was organized with the applicable Secretary of State. If it isn't already, Real Estate Services will record the Statement of Authority along with the applicable finalized project document.

How long will the process take?

While every project is handled on a case-by-case basis, Easement Vacations take approximately 4-6 weeks and an Easement Encroachment takes approximately 6-8 weeks, barring any unforeseen circumstances. The following table shows the approximate best case/worst case scenario:

Once a fully completed Public Request for Services Form, a site plan, CSU locates, Fee are all received, we can begin the project.	Easement Vacations	Easement Encroachments
Obtain vesting deed proving <i>current</i> ownership of property	1-7 days	
Open file and research entity property owner with Secretary of State, obtain existing Statement of Authority through public records.	1-5 days	
Email Application to City Departments and Colorado Springs Utilities (and StratusIQ, f/k/a Falcon Broadband if the Application includes any platted public utility easements) and request their review.	2-3 weeks	
If Approved:		
The applicable document:	Quitclaim Deed	Encroachment License
Once Application is approved, and if the request involves existing platted public utility easements, Real Estate Services will provide a 15-day notification to Comcast of the approval.	15 calendar days	
Obtain approval of legal description(s)/exhibits from City/Utilities Surveyor	2 days - 1 week	
Obtain City Attorney "Approval As to Form"	2 - 5 business days	
Obtain property owner(s) notarized signature(s) <u>and</u> check for payment of the recording fees	Dependent on Requestor	
Obtain Mayor's signature	1 day - 2 weeks	Not applicable
Obtain the City Clerk's attestation	1-5 days	Not applicable
Obtain Colorado Springs Utilities Project Manager's signature	Not applicable	1 day - 2 weeks
Obtain Real Estate Manager's signature	Not applicable	1 day - 2 weeks
Electronic recordation with El Paso County Clerk & Recorder	1-2 days	
Email PDF copy to Requestor	1-5 days	
Mail original copy to Requestor	1 day - 2 weeks	Not applicable

If you are obtaining any of the items listed in the table below from Land Use Review/ Development Review Enterprise, they might determine during the course of their project that you need an Easement Vacation/Encroachment, and vice versa.

How does their process coincide with Real Estate Services’ process?

Item being Obtained from Land Use Review or the Development Review Enterprise	Real Estate Services
Development Plan	The projects may run concurrently, but any Easement Vacation needs to be completed with Real Estate Services prior to a Development Plan being approved by Land Use Review.
Building permit	Any Easement Vacation needs to be completed with Real Estate Services prior to a building permit being issued by the Development Review Enterprise.
Replatting Property	The projects may run concurrently, but any Easement Vacation needs to be completed with Real Estate Services prior to a Replat being completed by Land Use Review.
Property Boundary Adjustment	Any Easement Vacation needs to be completed with Real Estate Services <u>prior</u> to a Property Boundary Adjustment being approved by Land Use Review.
Waivers of Replat	The projects may run concurrently, but any Easement Vacation needs to be completed with Real Estate Services prior to a Waiver of Replat being completed by Land Use Review.
Non-Use Variance	Land Use Review may refer you to Real Estate Services (and vice versa, following the comment period) to obtain an Easement Vacation/Encroachment if they are unable to grant a Non-Use Variance.
Commercial Sign on a City/CSU easement	An Easement Encroachment MUST be completed with Real Estate Services <u>prior</u> to a sign permit being applied for, approved, and issued by the Development Review Enterprise.
Commercial Sign in a City Street	No Real Estate Services involvement. Contact Land Use Review directly to apply for a Revocable Permit.
Vacation of an Easement having existing public infrastructure to be relocated into a New Permanent Easement Agreement	For an Easement Vacation project in which there is existing public infrastructure, and a new Permanent Easement is required for relocated infrastructure, the new Permanent Easement Agreement must be recorded and in place, and all public infrastructure relocated to the new easement before an Easement Vacation project will be approved and finalized.

Other contact information:

Land Use Review

City of Colorado Springs
City Administration Building
Northeast corner of Nevada and Colorado Avenues
30 South Nevada Avenue, Suite 105
Colorado Springs, Colorado 80903
Phone: (719) 385-5905

Development Review Enterprise

City of Colorado Springs & El Paso County
Pikes Peak Regional Development Center
Southeast of Printer's Parkway and S. Parkside Drive
2880 International Circle, Suite 200
Colorado Springs, Colorado 80910
Phone: (719) 385-5982

[www.coloradosprings.gov/Departments/Planning & Neighborhood Services](http://www.coloradosprings.gov/Departments/Planning%20&%20Neighborhood%20Services)

Other Useful Tools and Websites:

1. How to Search for a parcel with the El Paso County Assessor:
<https://property.spatalest.com/co/elpaso/#/>
Search with:
 - a street address, or
 - last name/first name, or
 - a 10-digit parcel number
2. How to view a Subdivision Plat (may not include all City plats):
<https://web1.coloradosprings.gov/subdivview/default.asp>
i.e., starts with/contains "Briargate" and change document type to "plat"
3. The City's GIS Program – "SpringsView" -
<https://gis.coloradosprings.gov/Html5Viewer/?viewer=springsview>
Search with:
 - a street address, or
 - a 10-digit parcel numberThen turn on "Layers".

