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The Basics of Right-of-Way

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The Basics of Right-of-Way

An overview of the role of right-of-way for a community both in regard to advance planning and ongoing zoning and aesthetic concerns.

Introduction

Generally, most people think about streets when considering right-of-way. Although street placement, types, standards, and other street concerns are major considerations in planning right-of-way, utility and other uses of the right-of-way are also an important concern.

Right-of-way placement and requirements have always been part of planning. Planners work with developers to decide what the street needs of a new residential subdivision are.

City staff (planners, engineers, and others) may consider:

- Access to residents to major streets and highways (and preventing a residential street from becoming an unintended major street).
- School zones.
- Size of streets.
- Placement of traffic control devices.
- Requirements for lighting, including how decorative it should be.
- Limitations on lighting.
- Drainage.
- Water and wastewater facilities.

- Electric facilities, including lines, poles, whether the facilities will be underground (and if so whether auxiliary facilities will be hidden or camouflaged).
- Gas facilities.
- Telecommunications and cable facilities.
- Permanent markings for utilities and the type of temporary marking when locates are required (Underground Facility Damage Prevention & Safety, Utilities Code chapter 251).

Much of the planning process regarding right-of-way is accomplished by following the requirements of local subdivision ordinances. However, the relatively recent passage of Chapter 284 of the Local Government Code and the recent Federal Communications Commission (FCC) decision (FCC 18-133) show that state and federal laws can affect the management, control, and appearance of the right-of-way.

Local Subdivision Ordinance Requirements

Typical ordinance requirements for subdivisions may include:

- Title.
- Policy and purpose.
- Applicability/Jurisdiction.
- Definitions.
- Minimum standards for infrastructure, including streets.
- Bond requirements.
- Standards for preliminary plats.
- Standards for final plats.

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