

Street/Alley Vacation

Approval Process:



Although not required, it is recommended that the applicant meet with the Community Planning & Development Director to discuss the proposed request. This step is intended to explain to the applicant the purpose and objectives of the regulations and plans, and to discuss the approval procedures.

If Initiated via a Petition:

1. A petition for partial or full vacation of a street or paved alley is received by Staff. To be valid, the petition must include signatures of all property owners abutting the area to be vacated, and one-third of the owners of property on the same street or paved alley within 2,650 feet of the area to be vacated, in both directions (as above, an alley is considered to have its beginning and end in the same block in which it is located). This only applies to that portion of the street or paved alley which lies within City limits.
2. A map showing the area to be vacated must accompany the petition.
3. A completed application form provided by the City and the \$200 fee shall also be provided.
4. The petitioner must file a Notice of Pending Action with the County Register of Deeds. A copy of the filed notice, certified by the Register of Deeds, must be submitted to the City Clerk.
5. City Staff prepares resolution for vacation of the street or paved alley, and a memo to the Common Council requesting a public hearing date. The resolution is accompanied by a map of the vacated area. The hearing date must be far enough in the future to allow for a Class 3 notice.
6. The City prepares and publishes a Class 3 notice. The notice must be published 3 times, with the last publication at least a week prior to the scheduled public hearing.
7. The petition is scheduled for consideration by the Plan Commission on their next available agenda.
8. The Plan Commission makes a recommendation on the proposed vacation, which is forwarded to the Common Council.
9. The Common Council considers the resolution at the scheduled public hearing.
10. If a written objection is filed from one of the property owners described in Step 1 above, the discontinuance may be ordered only by the favorable vote of two-thirds of the members of the common council voting on the proposed discontinuance.
11. If the vacation is approved, the resolution and map are recorded with the County Register of Deeds.
12. A copy of the ordinance and map should be sent to the property owners now receiving the land.

If Council Initiated:

1. City Staff creates a resolution for introduction at a Common Council meeting. The resolution includes a legal description of the street to be vacated. The resolution should be accompanied by a map showing the proposed vacation.
2. The resolution is accompanied by a memo to the Council requesting that a public hearing be set no less than 40 days after the meeting at which the resolution is introduced.
3. Staff files a Notice of Pending Action with the County Register of Deeds, notifying the county that land will again be added to the tax rolls. This must occur prior to the public hearing date.
4. The resolution is introduced at the next available Common Council meeting, and a public hearing is set for a future Council meeting at least 40 days later.
5. The City Clerk prepares a Notice to Wholly or Partially Discontinue a Street (or Alley) to be served on all property owners abutting the street or paved alley to be vacated. These notices must be served personally by a police officer, unless the owner lives out of town. In that case, the notices may be mailed to the owner's last known address. The service or the mailing must occur no less than 30 days prior to the scheduled public hearing date. An affidavit or similar proof of service needs to be placed into the file.
6. The City Clerk prepares a Class 3 notice for the public hearing. The notice must be published 3 times prior to the hearing, with the third notice no less than one week prior to the hearing.
7. The proposed vacation is scheduled for review by the Plan Commission at the meeting closest prior to the public hearing date. The Plan Commission's recommendation is forwarded to the Common Council.
8. The Common Council holds the public hearing on the date earlier specified. The Council approves or denies the resolution of vacation.
9. The resolution cannot be approved with a simple majority if written objections are received by the City Clerk from any abutting property owner(s) or from the owners of more than one-third of the property abutting the same street or paved alley within 2,650 feet of the area to be vacated (within City limits). The beginning or ending of a paved alley is

considered to be within the block in which it is located. If a written objection is received, then the discontinuance requires a favorable vote of two-thirds of the Council members voting on the issue.

10. If the resolution is approved, it is recorded with the County Register of Deeds, along with the map.
11. A copy of the resolution and map should be sent to the property owners now receiving the land.

Procedure for Vacating Unpaved Alleys

When initiated by petition, the procedure is the same for paved alleys, except that the petition need only have the signatures of 50 percent of the abutting property owners.

When initiated by the Common Council, the procedure is the same. However, the Council cannot approve the vacation if the City Clerk receives a written objection from any property owner who can show that the alley proposed to be vacated provides the only access to off-street parking for the property.

Abandoned Alleys:

The Common Council may by resolution vacate any abandoned or unused alley when at least 5 years beyond the recording of the Plat of Subdivision have passed.