



City of Waverly

Building & Zoning Department
Mail to: P.O. Box 427
14130 Lancashire
Waverly, NE 68462
402.786.2312

Right Of Way (Streets/Alleys) Vacation Request Procedure

THE FOLLOWING SETS FORTH IN SUMMARY A PROCESS UNDER NORMAL CIRCUMSTANCES TO BE FOLLOWED IN COMPLETING MUNICIPAL STREET VACATIONS. THIS IS ONLY A GUIDLINE IN STEP FORMAT. THE MUNICIPAL CODE AND STATE LAW SHALL TAKE PRECEDENCE IN THE EVENT OF CONFLICT, DISAGREEMENT OR INTERPRETATION.

STEP ONE: The forms included in this packet must be filled out and submitted to the Zoning Administrator for review. The following information is necessary for a complete request to vacate a street:

- A drawing with the lot lines of the individual lots abutting the street to be vacated, include all dimensions
- A drawing showing all abutting properties access points and private drives, including width of proposed drives and curb cut width
- A drawing showing all existing drainage plans and proposed changes.
- Signatures from at least seventy-five percent of the abutting property owners to successfully petition a street vacation.
- Pay the filing fee of \$25.00

STEP TWO: The proposed street vacation drawings will then be submitted to all utility companies having utilities within the right of way of the street to be vacated. Upon comments and feedback from utility companies, the necessary easements will be maintained.

- Easements needed by utility companies shall be filed in accordance with state law.

STEP THREE: The petition will be heard at the next regularly scheduled meeting of the Waverly Planning Commission. The Planning Commission will then review the submitted information and make a recommendation to the City Council on the street vacation request.

STEP FOUR: The petition then will be heard in-front of the City Council. After the third and final reading, the City within 30 days from the effective date of the ordinance to vacate streets will file a certified copy of the vacating ordinance with the Lancaster Register of Deeds.

STEP FIVE: After the ordinance has been filed with the Register of Deeds, the petitioner has one year from the effective date of the ordinance to complete any of the following improvements:

- Any drainage and grading improvements to the abutting properties.
- Any driveway approaches for primary and secondary access to abutting properties
- The part so vacated reverts to the abutting owners, any existing lot pins of the abutting property to the street vacation shall be removed and re-surveyed

HOW TO COMPLETE THE PRIMARY PETITIONER INFORMATION SHEET AND PETITION FOR VACATION OF PUBLIC STREET

At least seventy-five percent of the abutting property owners must sign the Petition to Vacate Public Way.

On the Primary Petitioner Information form, please note the blank lines on the top half of the first page following the words, "...petition to vacate the following described street/alley/public road . . ." On these lines PLEASE TYPE or CLEARLY PRINT the public way or portion thereof sought to be vacated.

Next, please note the blank lines near the top of the second page of the petition form immediately following the body of the petition. On these lines please insert the legal description (NOT ADDRESS) of the land abutting the aforesaid public way sought to be vacated, which land is owned by the persons or organization signing the petition. Example: Lot 10, Block 500, Original Plat.

If a petitioner is a corporation, the name of the corporation should appear EXACTLY as it is shown on the title to the land. The petition must be signed by the president or the presiding officer of the board of directors of the corporation.

The State Statutes governing Street Vacations are attached at the end for reference.



CITY OF WAVERLY

R.O.W. VACATION REQUEST RVR _____

FEE: \$ 25.00 Date: _____

PRIMARY PETITIONER INFORMATION

This information sheet should be completed the primary petitioner. The attached forms should also be completed according to the instruction contained in the Instruction Sheet.

1. Petitioner's Name: _____

2. Petitioner's Address: _____

3. Petitioner's Telephone Number: _____

4. Street/Alley/Public Way sought to be vacated:

5. Why are you seeking to have this street/alley/public way vacated?

6. What use(s) do you propose to make of the public way if vacated?

I (WE) DO PETITION TO VACATE (describe area intended to be vacated)

WHICH ABUTS THE PROPERTY OWNED BY ME (US) AS DESCRIBED IN THE PETITION TO VACATE PUBLIC ROAD.

Signature

Date

The undersigned hereby represent(s) that he, she, they or it is (are) the owner(s) of the following described property in the City of Waverly, Nebraska, abutting on said street, alley or other public way, to-wit:

Dated this _____ day of _____, 20_____.

State of _____)

)ss

_____ County)

Before me, a notary public qualified for said county, personally came _____

_____ known to be the identical person(s) who signed the foregoing instrument, and acknowledged the execution thereof to be his, her or their voluntary act and deed for the purposes therein set forth, and acknowledged that he, she or they signed the foregoing instrument with the view of having said City of Waverly vacate said street, alley or other public road and the City of Waverly reserving and retaining in said street, alley or other public road such title, rights and privileges as it may deem necessary, together with a waiver and release of any and all claims, causes of action, title, rights, demands and quitclaim.

WITNESS my hand and notarial seal on _____, 20_____.

_____, Notary Public

My commission expires: _____

PETITION FOR VACATION OF PUBLIC STREET

The undersigned abutting property owners of the public road right-of-way described as:

A map of which is attached, hereby petition the City of Waverly to vacate said segment of public road for the reason that:

And further request that this matter be heard in front of the Planning Commission and the City Council.

	NAME	SIGNATURE	ADDRESS	PHONE
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____
11.	_____	_____	_____	_____
12.	_____	_____	_____	_____
13.	_____	_____	_____	_____
14.	_____	_____	_____	_____
15.	_____	_____	_____	_____

Nebraska Revised Statute 14-3,107

14-3,107. Streets; vacation; narrow; reversion to abutting owners; improvements; assessment of benefits; vacation of minimal secondary right-of-way; procedure.

(1) Except as provided in subsection (2) of this section, the city may vacate or narrow any street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley upon petition of the owners of seventy-five percent of the taxable frontage feet abutting upon such street or alley proposed to be vacated and asking for such vacation, or the city, for purposes of construction of a controlled-access highway or to conform to a master plan of the city, may, without petition having been filed therefore, vacate any street or alley or any part thereof in the city.

Whenever a street is vacated or narrowed, the part so vacated shall revert to the abutting owners on the respective sides thereof, except that if part or all of the vacated street lies within the State of Nebraska but one side or any part of the street is adjacent to the boundary of the State of Nebraska, all of the street lying within the State of Nebraska or that part lying within the State of Nebraska shall revert to the owner of the abutting property lying wholly within the State of Nebraska. The city may open, improve, and make passable any street, highway, boulevard, main thoroughfare, controlled-access facility, connecting link, major traffic street, or alley. For purposes of this subsection, open refers to the adaptation of the surface of the street to the needs of ordinary travel but does not necessarily require the grading to an established grade.

The costs of any of the improvements mentioned in this subsection, except as otherwise provided in sections 14-384 to 14-3,127, to the extent of special benefits thereby conferred, may be assessed against the property specially benefited thereby in the usual manner for assessing special benefits. When the city vacates all or any portion of a street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley pursuant to this subsection, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(2) The city may vacate any minimal secondary right-of-way in the manner described in this subsection. The city may vacate any segment of such right-of-way by ordinance without petition and without convening any committee for the purpose of determining any damages if all affected abutting properties have primary access to an otherwise open and passable public street right-of-way. An abutting property shall not be determined to have primary access if such abutting property has an existing garage and such garage is not accessible without altering or relocating such garage.

Title to such vacated rights-of-way shall vest in the owners of abutting property and become a part of such property, each owner taking title to the center line of such vacated street or alley adjacent to such owner's property subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair, and renew sewers now existing there and

(b) there is reserved to the public utilities and cable television systems the right to maintain, repair, renew, and operate installed water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances above, on, and below the surface of the ground for the purpose of serving the general public or abutting properties, including such lateral connection or branch lines as may be ordered or permitted by the city or such other utility or cable television system and to enter upon the premises to accomplish such purposes at any and all reasonable times.

The city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots. For purposes of this subsection, minimal secondary right-of-way means any street or alley which either is unpaved, has substandard paving, or has pavement narrower than sixteen feet and which is a secondary means of access to or from any property abutting the portion to be vacated.