



# VACATE PUBLIC RIGHT OF WAY

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Regulations for Vacation of streets, alleys, or public grounds may be found in *Chapter 138 Vacation and Disposal of Streets* of the Code of Ordinances for the City of Burlington, Iowa.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Address / Legal Description of Area to be Vacated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Reason for Request / Intended Use of Property: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

\* Attach a separate sheet showing a sketch plat/map of the property where the vacation will apply, including lot lines, adjacent properties, and dimensions of vacated lot.

\* Attach a signed list of adjacent property owners (to the proposed vacation), with their contact information and signature stating their intention to purchase or not purchase a portion of the vacated right of way.

Petition is to be accompanied by a fee of **\$225**.

To: Mayor, City Council, and City Planning Commission of the City of Burlington, Iowa.

I (we) the undersigned, hereby petition the City of Burlington to vacate public right-of-way as described above. The undersigned understand that the City reserves the right to make sale of vacated right-of-way contingent upon any conditions the City Council deems necessary to serve and protect the public.

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
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# PROCEDURES FOR VACATING AND DISPOSING OF PUBLIC RIGHT OF WAY

Any person who desires to acquire a public street or alley right-of-way or any public grounds may petition the City to vacate the property and sell the property. The petition is first referred to the City Planning Commission. The Commission's recommendation is forwarded to the City Council. The City Council has all authority on the final decision.

A proposed vacation must be compatible with the Comprehensive Plan in order to be approved. Neighboring property owners and the general public must not be adversely affected by a proposed vacation.

## 1. PREPARING THE VACATION PETITION

- A. The petitioner should first discuss the proposal with the Development Department and staff will inform the petitioner of the advisability of the vacation.
- B. If the petitioner proposes to place any improvements on the vacated City land, he/she should check with the appropriate authorities to ensure that public services can be provided.
  - a) Gas and Electricity - District Manager, IES Utilities, Inc., Burlington.
  - b) Water - Superintendent, Municipal Waterworks, Burlington.
  - c) Sewer - Public Works Department, City of Burlington.
  - d) Telephone - Manager, U.S. West Communications.
  - e) Fire Protection - Fire Chief, City of Burlington Fire Department.
  - f) Soils Capabilities - District Conservationist, Soil Conservation Service.
- C. **The petitioner files the petition with the Development Department, along with a deposit of \$225 accompanying the petition. This fee is applied toward administrative costs incurred in processing the request and will be refunded if it is determined during Development Review that the City will not vacate the proposed right of way. Once a staff report is completed and sent to the Planning Commission, the fee will no longer be refunded.**
- D. The following supporting information must also be submitted with the petition.
  - a) Legal description of the right-of-way to be vacated.
  - b) Written statement as to why the petitioner wishes to acquire the property and/or the intended use of the property.
  - c) Development Department staff will assist with preparation of a sketch plat / map of the area which must show the following
    1. Property lines of the area to be vacated shall be shown. Accurate dimensions, as shown on official City plats shall be shown.
    2. Property lines of all adjacent parcels.
    3. All streets and alleys in the general area shall be shown.

- E. Names (signed) of adjacent property owners to the proposed vacation shall accompany the petition.
  - a) Property owners that desire to purchase a portion of the vacated property are required to sign the petition.
  - b) Property owners that do not desire to purchase a portion of the vacated property will sign a separate agreement provided by the development department.

## 2. PROCESSING THE PETITION

- A. The Development Department staff forwards copies of the sketch plat to the utilities companies, the Municipal Waterworks, the Fire Department, the Public Works Department, the Police Department, etc. for review and comment.
- B. The Development Department staff reviews with the petitioner the responses of the above authorities. If the petitioner decides to proceed with the vacation, a sale price is established for the property.
- C. If the petitioner decides to proceed with the vacation request, the Department prepares a written analysis of the proposal and a recommendation to the City Planning Commission.
- D. The Development Department schedules a date for a public hearing before the City Planning Commission.

## 3. DECISION-MAKING

- A. The City Planning Commission holds a public hearing on the proposal. After the hearing, the Commission decides whether to recommend the vacation of the right-of-way.
- B. The Development Department forwards to the City Council the Planning Commission's recommendations and all documents pertaining to the petition. The Planning Commission's recommendations are merely advisory. The petitioner is entitled to have the City Council consider his petition regardless of the Planning Commission's recommendation.
- C. If the City Council vacates the right-of-way and agrees to sell it to the petitioner, the City Attorney prepares the necessary legal documents to transfer ownership of the land.

In most cases, the conveyance will be by quit claim deed. The City must receive fullpayment for the property prior to transferring the deed. The new property owner(s) records the deed with the Des Moines County Recorder.