



Street/Alley Vacation

Approval Process:

Although not required, it is recommended that the applicant meet with the 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 Village limits.
2. A map showing the area to be vacated must accompany the petition.
3. A registered surveyor's legal description for the public right-of-way requested to be vacated.
4. A completed application form provided by the Village and the \$500 fee shall also be provided. The application fee is non-refundable.
5. Staff places the petition on the next Board of Trustees agenda. The Board refers the matter to the Village Plan Commission.
6. The Department of Planning and Development requests comments on the proposed vacation from the Village Public Works Department, Fire Department and Police Department. The Public Works Department returns comments and recommendations regarding any impact the vacation may have in the area such as traffic flow, garbage collection and snow removal. If the requested vacation is adjacent to highways and/or schools, the Wisconsin Department of Transportation and/or Board of Education are also notified.
7. The Department of Planning and Development verifies abutting ownership. Although not required by law to notify property owners other than those directly abutting the proposed alley or street vacation, owners of other vacant and improved property in the immediate vicinity are sometimes notified. Area property owners are informed of the name of the petitioner requesting the vacation, the purpose of the vacation and the date of the Plan Commission Meeting when the issue will be considered. The Planning & Development Department sends the notices by first-class mail at least five days before the meeting. If mail is returned, another attempt is made to locate the owner provided another address is found.
8. At the meeting, Plan Commission members review the request and receive comments. A recommendation is made, which is then forwarded by the Planning & Development Department to the Village Board.
9. If the Plan Commission recommends the vacation, a Lis Pendens (notice of intent to vacate) is prepared by the Planning & Development Department and filed with the Marathon County Register of Deeds.
10. The Village Board receives the minutes of the Plan Commission Meeting with its recommendation at the next regular Board meeting. If the Plan Commission recommends the vacation the Planning & Development Department prepares a resolution for vacation of the street or paved alley, and a memo to the Village Board of Trustees 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. All resolutions include a statement that the vacation is subject to all utility and/or sewer easements, future construction and maintenance rights and access, including access rights incidental to those easements.
11. After the public hearing is scheduled, the Village Planning & Development Department 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.
12. At least thirty days before the hearing, the Notice of Public Hearing is mailed via certified mail to the owners of all land abutting the portion of the street or alley sought to be vacated.
13. 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 Board of Trustees voting on the proposed discontinuance.
14. If the vacation is approved, the resolution and map are recorded with the Marathon County Register of Deeds.
15. The Village does not prepare a deed to transfer the vacated street or alley. Instead, a certified copy of the final resolution is sent by Staff to the Marathon County Register of Deeds within several days of its adoption by the Board. The resolution is recorded in the same manner as a land transaction. The Register of Deeds returns the recorded document to the Village Clerk's Office, showing the Document Number, Volume Number, Page Number, and date of the recording. This transaction is later noted by the Village Assessor's Office and County Property Description/Treasurers Office for tax purposes. After recording, the legal description of all parcels of property abutting the vacation will be shown with the words "and alley vacated," or "and (street name) vacated."
16. A copy of the recorded resolution and map will be sent to the property owners now receiving the land.

If Village Initiated:

1. Village Staff creates a resolution for introduction at a Board of Trustee 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 Board 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 Lis Pendens with the Marathon 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 Board of Trustees meeting, and a public hearing is set for a future Board meeting at least 40 days later.
5. Staff 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 by certified mail. 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. Staff 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 Board of Trustees.
8. The Board of Trustees holds the public hearing on the date earlier specified. The Board approves or denies the resolution of vacation.
9. The resolution cannot be approved with a simple majority if written objections are received by the Village 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 Village 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 Board members voting on the issue.
10. If the resolution is approved, it is recorded with the Marathon County Register of Deeds, along with the map.
11. A copy of the recorded 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 Board of Trustees, the procedure is the same. However, the Board cannot approve the vacation if the Village 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 Board of Trustees may by resolution vacate any abandoned or unused alley when at least 5 years beyond the recording of the Plat of Subdivision have passed.