

## Chapter 14.20

### VACATION OF PUBLIC WAYS

#### Sections:

- 14.20.010**      **Copy of Vacation Ordinance to Taxing Official; Property Placed on Tax Rolls; Supplementary Definitions.**
- 14.20.020**      **Procedure for Vacation of Public Ways; Filing Vacation Ordinance.**
- 14.20.030**      **Notice of Public Hearing.**

#### **14.20.010**      **Copy of Vacation Ordinance to Taxing Official; Property Placed on Tax Rolls; Supplementary Definitions.**

Upon the vacation of any street, alley, or public way by the City Council, the City Clerk shall forthwith furnish to the appropriate taxing official for the City of Lincoln a certified copy of the ordinance vacating such street, alley or public way.

The taxing official shall forthwith place such vacated street, alley or public way upon the tax rolls of the city.

**Street, alley, and public way** as used in this chapter shall include but not be limited to, streets, alleys, and public ways not actually being publicly maintained or not actually, physically open to the use of the public. (Ord. 9970 §2; May 4, 1970; prior Ord. 3968 §1; July 3, 1944).

#### **14.20.020**      **Procedure for Vacation of Public Ways; Filing Vacation Ordinance.**

For the vacation of any street, alley, or public way, the owners of 100% of the property abutting upon such street, alley, or public way proposed to be vacated shall file with the Planning Director a petition for such proposed vacation upon forms approved by the City Attorney, along with an application fee in the amount established by resolution of the City Council. Upon receipt of said petition and the application fee, the Planning Director shall refer the proposed vacation to the Planning Commission. The Planning Commission shall hold a public hearing upon the proposed vacation and make a report regarding its conformity to the Comprehensive Plan. The report of the Planning Commission, along with a report from the Planning Director as to how such proposed vacation would affect the City's planning, street system, traffic requirements, public utilities, and public improvements, shall be filed with the City Council. The Planning Director's report shall include information as to whether any sidewalk bonds are still outstanding and shall include the estimated cost of any required reconstruction of street and alley returns and/or sidewalks, and the cost of relocating any existing utilities, such as telephone facilities, electrical facilities, water mains, sanitary sewers, etc. The report shall also include the amount determined by the city to be the proper price to be paid by a purchaser for such street, alley, or public way sought to be vacated, or in the alternative, a recommended exchange of property with the city. After the reports of the Planning Commission and Planning Director have been filed, the City Council shall, before enacting any ordinance vacating the street, alley or public way, hold a public hearing in relation thereto.

The petitioners shall be required to deposit the money necessary to accomplish the required reconstruction and the amount determined to be the proper purchase price with the City Clerk prior to the introduction of an ordinance to accomplish the requested vacation. Such funds deposited with the City Clerk will be held until the vacation has become effective, at which time the amount

deposited for the necessary reconstruction shall be placed in the street construction fund to accomplish the required reconstruction. Net proceeds paid to the city for the purchase of a vacated street, alley, or public way shall be placed in the advance acquisition fund.

All existing applications for a vacation of any street, alley, or public way which have been placed on pending by an applicant shall automatically expire and become null and void one year after the date of this ordinance (Bill No. 08-4). All applications for a vacation of any street, alley, or public way which are placed on pending by an applicant after the date of this ordinance (Bill No. 08-4), shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the vacation of any street, alley, or public way from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate.

All petitions to vacate a street, alley, or public way shall automatically expire and become null and void if the petitioner fails to deposit the money necessary to accomplish any required reconstruction and/or to pay the amount determined to be the proper purchase price for the vacated street, alley, or public way within one year following the date of the report of the Planning Commission regarding the requested vacation's conformity to the comprehensive plan. At least thirty days before the date of expiration, the City Clerk shall cause notice of expiration to be sent to the petitioners by regular United States mail, postage prepaid. Said notice shall advise the petitioners that the request shall automatically expire unless prior to the expiration date, the City Clerk receives the money necessary to accomplish the required reconstruction and the amount determined to be the proper purchase price.

Upon the passage of any ordinance vacating a street, alley, or public way in the City of Lincoln, it shall be the duty of the City Clerk to immediately file a certified copy of said ordinance in the office of the Register of Deeds for Lancaster County, Nebraska.

This section shall not be interpreted so as to interfere with the city's request for vacation of a street, alley, or public way when the City Council has deemed such vacation to be in the best interest of the city. (Ord. 19118 §1; August 4, 2008; prior Ord. 19042 §1; January 28, 2008; Ord. 18231 §1; August 18, 2003; Ord. 13059 §1; December 15, 1980; Ord. 8752 §1; June 14, 1965).

#### **14.20.030 Notice of Public Hearing.**

Public hearings required to be held by the Planning Commission and City Council under this chapter shall not be held until notice thereof has been given in compliance with the following provisions:

(a) At least eight days before the date of hearing, the City Clerk shall have published in a daily newspaper having a general circulation in the City of Lincoln a notice of the time, place, and subject matter of the public hearing.

(b) At least ten days before the date of hearing, the Planning Director shall cause notice of the proposed vacation to be sent to (i) the petitioners; and (ii) to the record owners of property located within 200 feet of the proposed vacation when such owners' property is located within the corporate limits of the City and to the record owners of property located within one-fourth mile of the proposed vacation when such owners' property is located outside the corporate limits of the City. Such notice shall be sent by regular United States mail, postage prepaid, to each petitioner and each

such record owner of property at the address as it appears on the last equalized assessment roll of the county or as known to the Planning Director.

(c) No decision or recommendation which is required to be made under this chapter shall be void or invalidated or affected in any way for any irregularity, defect, error, or failure on the part of the Planning Director to cause notice to be given as required in subsection (b) above.

(d) It shall not be necessary to give further notice of an adjourned or continued public hearing.

(e) Other notice, as may be deemed appropriate by the public body conducting the hearing, may be given in advance of public hearings. Such notice is not mandatory or required as a condition precedent to any such public hearing. (Ord. 18231 §2; August 18, 2003).