

INSTRUCTION SHEET

VACATION OF PUBLIC WAYS

(Application Fee: See Current Fee Schedule)

IMPORTANT: PLEASE READ THIS INSTRUCTION SHEET FULLY. THE PROCEDURE FOR PROCESSING REQUESTS TO VACATE IS LONG AND INVOLVED, AND AN IMPROPERLY COMPLETED PETITION WILL CAUSE ADDITIONAL DELAY AND CONFUSION.

The power to vacate a street, alley, or public way within the City of Lincoln is vested in the City Council. In order to determine whether or not it will be in the best interest of the City to vacate a public way, the City will require that the proposed vacation be referred to the Planning Commission to hold a hearing upon the proposed vacation and to make a report to the City Council regarding its conformity to the Comprehensive Plan. The City Council will further require 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. Once the below requirements for a vacation of public way have been complied with, an ordinance will be drafted and placed on the City Council agenda. An ordinance requires three separate readings and, if acted upon favorably by the City Council, will require fifteen (15) days following its passage before it is effective.

REQUIREMENTS FOR VACATION OF A PUBLIC WAY

All property owners abutting a public way proposed to be vacated by petition must sign a "Petition to Vacate Public Way with Release of Waiver of Rights and Title, and Quit Claim Deed to the City of Lincoln." Only after all abutting property owners have signed such petitions and have filed them with the Planning Department and have paid the application fee can the vacation process be commenced. After the Planning Department has received all necessary petitions in proper form, the Planning Department will begin processing the requested vacation by placing the request on the Planning Commission agenda for public hearing and recommendation to the City Council. Following the public hearing and action of the Planning Commission, the property will be appraised and a purchase price decided upon. The purchase price of the entire vacated public way then must be paid to the City Clerk prior to introduction of the vacation ordinance on the City Council agenda. Please note that at the end of the information sheet there is a box to be checked which will indicate to the City Clerk whether or not the petitioner signing that petition desires to purchase the portion of the vacated public way abutting the property. If the petitioner does wish to purchase that portion of the vacated public way abutting his property, the City Clerk will expect payment from that person for that particular portion. If, however, the petitioner indicates that he does not wish to purchase any portion of the vacated public way, then some other party must purchase that part of the public way proposed to be vacated, or the ordinance will not be introduced. Occasionally, the City may reduce the purchase price of the vacated public way if it is found to be a matter of governmental convenience. Also, in rare instances, the City may choose to retain title to the property, in which case no fee is charged.

UTILITIES

In the report received from the Planning Director to the City Council, the Director will indicate to the Council whether or not it is necessary to retain any utility easements in the public way proposed to be vacated. If such easements are necessary, these easements will be reserved in the deed from the City to the purchasers.

RECONSTRUCTION

Also contained in the report from the Planning Director will be an indication as to whether or not any reconstruction of curbs, sidewalks, etc. are necessary in order to complete a physical closing of the public way and the cost thereof. The cost of any such reconstruction must be borne by those persons interested in purchasing the property, and the cost as indicated by the Planning Director's report must be deposited with the City Clerk at the same time as the purchase price. Petitioners will be notified of these costs by the City Clerk.

HOW TO FILL OUT INFORMATION SHEET AND PETITION FOR VACATION OF PUBLIC WAY

Every abutting property owner must fill out an Information Sheet and the accompanying "Petition to Vacate Public Way and Release and Waiver of Rights and Title and Quitclaim Deed to the City of Lincoln." The Information Sheet is self-explanatory and must be filled out completely.

On the "Petition to Vacate" form, please note the blank lines on the top half of the front side, following the words "...hereby petition you to vacate the following street, alley, or other public way, commonly known as:" On these lines, PLEASE TYPE OR CLEARLY PRINT the public way or portion thereof sought to be vacated, such as "Mountain Lane between the east line of 9th Avenue and the west line of 10th Street" or "All of the north-south alley in Block 500, Boardwalk Addition."

Next, please note the second set of blank lines on the front side of the petition form immediately following the body of the petition. On these lines, please insert the legal description (NOT the street address) of the land abutting the public way sought to be vacated, which land is owned by the persons or organization signing the Petition. Example: "Lot 10, Block 500, Boardwalk Addition."

The Petition to Vacate Public Way will accomplish a quitclaim of the abutting landowner's reversionary interest in such public way to the City; therefore, the requirements for signing the petition are the same as for a deed. All signatures must be acknowledged before a notary public. If title to the land is in "John James Doe," Mr. Doe must sign the Petition as John James Doe – NOT "John Doe" or "John J. Doe." If the petitioner is married, even though title may be in his or her name alone, the petitioner's spouse must also sign the Petition. ("Mary J. Doe" should sign the Petition in that manner - NOT "Mrs. John James Doe"). Marital status must be shown in the notary public's acknowledgment, such as "John James Doe and Mary J. Doe, husband and wife," or "John James Doe, a single person." The notarial acknowledgment form is on the reverse side of the Petition.

If the 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 presiding officer of the board of directors of the corporation; otherwise, a showing must be made of the signatory's authority to sign for the corporation. The corporate notarial acknowledgment form is on the reverse side of the Petition.

If the petitioner is a partnership, the Petition must be signed by a general partner of the partnership and properly acknowledged before a notary public. The notarial acknowledgment for a partnership is on the reverse side of the Petition.

If the petitioner is a limited liability company, the Petition must be signed by the managing member of the limited liability company and properly acknowledged before a notary public. The notarial acknowledgment for a limited liability company is on the reverse side of the Petition.

**All completed Information Sheets and accompanying Petitions to Vacate should be filed in the
Planning Department, Second Floor County-City Bldg., Room 213**

If additional information pertaining to Vacation of Public Ways is desired, please contact the City Law Department.