

# PROCEDURES FOR VACATING STREETS AND ALLEYS VILLAGE OF OLIVER PLAN COMMISSION

Inquiry is made to the Plan Commission to determine if a street or alley vacation is possible, what other options are available and what uses may be allowed on the vacated right-of-way.

When a street or alley vacation is granted, the right-of-way becomes private property. The owner(s) on one side of the street/alley obtain ownership of one-half of the right-of-way, and owner(s) on the other side obtain ownership of the other half. If one party wishes to obtain all of the right-of-way, this would be a private transaction between the property owners after the vacation occurs.

## **Petition requirements:**

All abutting property owners must sign the petition AND owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder of the street or alley which lies within 2,650 feet of each end of the portion to be vacated. See Wisconsin Statute 66.1003(2).

## **Petition requirements for unimproved alleys:**

The signatures of property owners owning more than 50% of the frontage abutting the unimproved alley. See Wisconsin Statute 66.1003(3)

An ALLEY cannot be vacated if a written objection is filed by an owner abutting the alley to be vacated and if the alley provides the only access to off-street parking for the parcel of land owned by the objector. See Wisconsin Statute 66.1003 (4)(d).

**The application fee for a street/alley vacation is \$100. The application fee must be submitted with the petition and is non-refundable.**

The Village Clerk places the petition on the next Village Board agenda. The Board refers matter to the Village Plan Commission.

**The cost of the street/alley vacation is variable, and will be the actual costs incurred to the Village for attorney fees, advertisement and Register of Deed filing fees.**

**\*\*Discontinuance Process Attached\***

# DISCONTINUANCES

## **PROCESS**

A platted street or road may be altered or discontinued (except in a first class city) by common council, village board, town board or county board resolution when:

s. 236.445,  
Wis. Stats. &  
s. 66.1003,  
Wis. Stats.

**A written petition** is received from owners of all the frontage of the lots and lands abutting upon the public way sought to be discontinued of public way sought to be discontinued **and** owners of more than 1/3 of the land fronting the remainder of the street or road within 2,650 ft. from either end of the portion to be discontinued within the corporate limits of the city, village, town.

## **OR**

**The common council, village board, town board or county board may initiate** the alteration or discontinuance by introducing a resolution declaring that the "public interest requires it". Proper noticing and a public hearing is required (see example this section).

**No discontinuance can be ordered if a written objection is filed by any owner** fronting the portion of public way sought to be discontinued **or** by the owners of more than 1/3 of the land fronting the remainder of the street or road within 2,650 ft. from either end of the portion to be discontinued. If a written objection is filed, the discontinuance may be ordered only by the favorable vote of two-thirds of the members of the common council or village or town board voting on the proposed discontinuance. An owner of property abutting on a discontinued public way whose property is damaged by the discontinuance may recover damages as provided in ch. 32.

s. 66.1003 (4)  
Wis. Stats.

*The narrowing, widening, extending or other alteration of a street or road does not constitute a discontinuance if the alteration falls entirely within a new right-of-way which is being "Dedicated to the Public".*

# DISCONTINUANCES

## **PROCESS**

If a common council, village board, town board or county board initiates a platted street or road alteration or discontinuance:

s. 66.1003 (4)  
(b), Wis. Stats.

**A public hearing on the passage of the resolution** must be set not less than 40 days after the introduction of the resolution; **and**

**The notice of the public hearing** must state when and where the resolution will be acted upon and what platted street or road, or part thereof, is proposed to be altered or discontinued; **and**

**This notice must be published as a "Class 3 Notice"** as per Ch. 985, Wis. Stats. (see example this section); **and**

**The owners must be served with a notice** in the manner required for the service of a summons in the circuit court at least 30 days prior to the public hearing.

*When such "service" can't be made within the city, village or town, a copy of the notice must be mailed to the owner's last known address at least 30 days prior to the public hearing.*

**A "Class 3 Notice" requires "3 Insertions".**

*Insertion is defined as "once per week, for the required number of weeks (3, for a class 3 notice), the last of which shall be at least one week prior to the meeting or event, unless otherwise specified by law."*

# DISCONTINUANCES

## **PROCESS**

In addition, the procedure in s. 840.11, Wis. Stats., must also be followed:

s. 66.1003 (9),  
Wis. Stats. and  
s. 840.11 (1),  
Wis. Stats.

- A notice of pendency (notice of lis pendens) must be filed in the register of deeds office at or prior to the time the application to vacate (by court action), or alter or discontinue (by resolution) a street or road must be filed with the proper officer.
- The notice of pendency must contain the persons name, a brief statement of the object thereof and a map and description of the land that is affected.
- Failure to comply with the provisions of s. 840.11, Wis. Stats., shall render all proceedings based on the application void.

## **REVERSION**

Upon discontinuance, a platted street or road right-of-way reverts:

s. 66.1005 (1),  
Wis. Stats.

- To the owner(s) of the adjoining land, OR;
- If the discontinued land lies between lands of different owners, then to the lots from where the discontinued land originated, OR;
- If it can not be determined from where the discontinued land originated, then the land is equally divided between the owners on either side of the centerline of the discontinued street or road.

s. 66.1005 (2)(a),  
Wis. Stats.

*Whenever any public roadway or public land is vacated or discontinued, any easements or restrictions over the described land continue unless the easements or restrictions are released in writing by the owner of the easements or by the public body or utility having the right of enforcement. Such written release must be made part of the discontinuance resolution.*

*If easements or other rights over the discontinued land remain unused for 4 years from the date of discontinuance, said easements and rights are deemed to be terminated.*