

INSTRUCTION SHEET
VACATION OF PUBLIC WAYS
(Application Fee: \$150)

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 \$150.00 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.

PETITION TO VACATE PUBLIC WAY
with
RELEASE AND WAIVER OF RIGHTS AND TITLE,
AND QUITCLAIM DEED TO CITY OF LINCOLN

TO THE HONORABLE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

The undersigned property owner(s) hereby petition you to vacate the following street, alley, or other public way, commonly known as: *(i.e.: Elm Street from 1st to 2nd St. or East-west alley, from the north line of 1st St. to the south line of 2nd St.)*

in the CITY OF LINCOLN, NEBRASKA, with the City reserving in said street, alley, or other public way such title, rights, easements, and privileges as it may deem necessary. In consideration of the vacation of the above-described street, alley, or other public way, we, and each of us, for ourselves, our heirs, personal representatives, successors, and assigns, hereby waive and release any and all claims, causes of action, rights of access, and demands of every nature, known or unknown, which may accrue to us, or which we now have, or which we may hereafter have as a result of such vacation; and hereby quitclaim unto the City of Lincoln, Nebraska, and to its successors and assigns forever, all right, title, interest, estate, and demand, both at law and in equity, in and to all of said street, alley, or other public way.

TO HAVE AND TO HOLD the above-described street, alley, or other public way together with all tenements, hereditaments, and appurtenances thereto belonging unto the City of Lincoln, Nebraska, and to its successors and assigns forever.

The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: ***(Legal description from deed or abstract NOT street address, i.e. Lot 10, Block 500 Boardwalk Addition NOT 4500 Park Place Blvd.)***

DATED this _____ day of _____, 20__.

(ALL TITLEHOLDERS OF THE ABOVE DESCRIBED REAL ESTATE MUST SIGN THIS PETITION BEFORE A NOTARY PUBLIC -- NOTARIAL ACKNOWLEDGMENTS ON REVERSE)

(Individual(s) Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by

(Please indicate name(s) and marital status of person(s) signing)

(Seal)

Notary Public

(Corporate Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____, president of _____, on behalf of the corporation.

(Seal)

Notary Public

(Partnership Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____, general partner of _____, on behalf of the partnership.

(Seal)

Notary Public

(Limited Liability Company Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____, managing member of _____, on behalf of said limited liability company.

(Seal)

Notary Public

INFORMATION SHEET

An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached **Petition to Vacate Public Way** must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): _____

If more than one individual, indicate if you are:

_____ joint tenants with right of survivorship, OR _____ tenants in common

2. Petitioner's Address: _____

3. Petitioner's Telephone Number: (_____) _____

4. Name of street, alley, or other public way sought to be vacated: _____

5. Legal description of Petitioner's property which abuts the public way sought to be vacated: _____

6. Why are you seeking to have this street, alley, or other public way vacated?

7. What use or uses do you propose to make of the public way should it be vacated?

8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the **Petition to Vacate Public Way** and/or other portions of the vacated public way?

_____ YES _____ NO

9. Name and address of person to whom tax statement should be sent:

The property will be appraised and the purchase price of the portion abutting your property must be paid by you to the City Clerk unless you have indicated that the portion abutting your property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not be introduced before the City Council until the full price of the entire public way proposed to be vacated has been paid.

***** IMPORTANT: BE SURE THAT THE PETITION TO VACATE PUBLIC WAY HAS BEEN PROPERLY EXECUTED BY ALL TITLEHOLDERS TO YOUR PROPERTY AND ATTACH IT TO THIS INFORMATION SHEET.**