

3.7 Checklist

Vacation of Street

This applies to all applications to vacate a public street, highway, or utility easement. See UDC Section 50-37.6 for more information.

Starting the Application Process

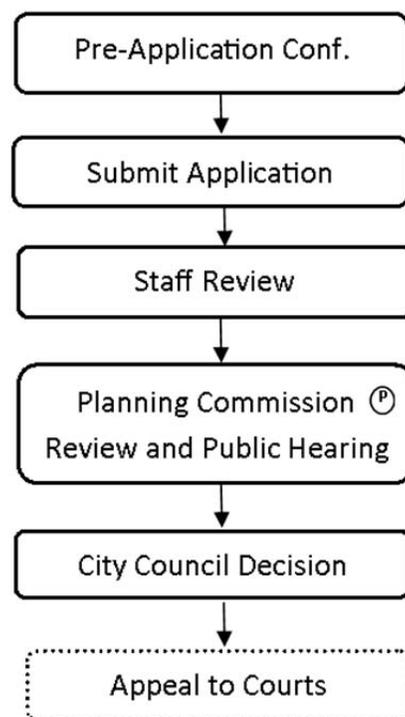
- You must discuss proposed vacations with Planning Staff prior to submitting an application. Call 218-730-5580 to schedule a pre-application meeting.
 - Make sure to get a Pre-App Verification at this meeting; you will need to submit this with your application.
- Submit your application materials to the One Stop Shop, Room 210 City Hall, by the Planning Commission Deadline. Your application must include the following:
 - Application Cover Sheet
 - Pre-App Verification
 - Required fee
 - A plat or map, clearly showing the portion of the street to be vacated (must meet standards of the County Recorder's Office)
 - Legal description in recordable form, printed clearly on an 8.5"x 11" sheet (consult a surveyor or attorney if needed)
 - A petition of the majority of landowners abutting the street or easement; see Vacation Petition in [Appendix](#)

Public Notice

A mail notice will be sent by the City to property owners abutting the portion of the street proposed to be vacated, and to the portion of the street extending 350 feet from the ends of the portion.

- You are required to post a sign notice on the property at least two weeks before the date of the public hearing. See UDC Section 50-37.1.H for information on size, placement, and content of each sign; you may want to contact a sign company or printing company to have the sign made. You must provide evidence that the signs were in place; submit photo(s) of the signs to the Planning Division at least two weeks before the date of the public hearing.

Vacation of Street



Ⓟ Indicates Public Hearing Required

Important Dates

Application Deadline:

Sign Notice Placed:

Planning Commission:

City Council*:

Effective*:

**Please note that these dates are approximate guidelines and may change*

Staff Review

Planning staff will evaluate your application and prepare a staff report. When considering a recommendation for a vacation of street request, Planning Staff generally review the current and projected usefulness of the street (is it being used now and/or is there a chance it could be useful in the future) for vehicular, pedestrian, and utility purposes, surrounding land uses, surrounding traffic circulation and projected future traffic circulation, the likelihood of creating a dead-end street, any additional criteria in the UDC, and other related factors.

Planning Commission Hearing

You will be notified when a Planning Commission hearing is scheduled for your application. Planning Commission meetings are scheduled at 5:00 pm on the second Tuesday of each month. The Planning Commission will conduct a public hearing and make a recommendation.

City Council Decision

The Planning Commission recommendation will be forwarded to City Council in the form of a resolution. City Council will make a decision whether to approve the proposed vacation, approve it with modifications, or deny it.

Recording

If approved, the City Clerk's office will submit the vacation to the County Recorder. Once it has been legally recorded, the City Clerk's office will send notice of the Council action to the applicant. You will receive a bill for any recording fees.

Petition to Vacate Street, Alley, or Utility Easement

Name: _____

Description of street, alley, or easement to vacate: _____

My request for this vacation is to (indicate purpose of vacation):

The City of Duluth will not need this street, alley, or easement in the future because:

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition) ¹:

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof. ²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s): _____

Date: _____

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

owner of property located partly or entirely within 350 ft. of the area to be rezoned. Failure to give mailed notice as required by this section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this section has been made.

(c) **Sign notice** means a sign with minimum dimensions of 24 in. by 30 in. posted as close as reasonably possible to each street frontage on the applicant's property with the text between 3 and 5 ft. above grade level, with a title line reading "Zoning Notice" in letters at least 3 in. tall, and with the remainder of the text in letters at least ½ in. tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way.

2. Content of Notice

Each required notice shall include the following information:

- (a) The name of the applicant;
- (b) The address of the property;
- (c) A narrative description of the project including the proposed land uses, size (in sq. ft.) and height (in ft. and stories) of any proposed buildings or building expansions;
- (d) The type of permit or approval being sought;
- (e) Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);
- (f) Contact information for the assigned city staff member;
- (g) The date, time and place of the public hearing.

3. Special Notice Provision for Appeals

In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal.

I. Public Hearings

- 1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules and practices established by each of those bodies and in compliance with state law.
- 2. Attendance shall be open to the public.
- 3. All hearing and decision timeframes shall comply with MSA 15.99.



City of Duluth

DEPARTMENT OF PUBLIC WORKS/UTILITIES
Engineering Division
211 City Hall • Duluth MN 55802
(218) 730-5200 Fax: (218) 730-5907

Reviewing and Recording Public Works & Utilities Easement Agreements or Vacations

April 2012 Guideline

The party requesting the easements shall employ their Attorney and Land Surveyor to prepare an Easement Agreement.

- Submit Easement Agreement to Bill Bergstrom, Public Works and Utilities Dept., Room 211, 411 W. 1st Street, Duluth, MN 55802.
- The Assistant City Attorney and Public Works project engineer or surveyor will review the Easement Agreement.
- The party requesting the easement will modify the Agreement as needed.
- The party requesting the easement will acquire the signatures, except for the City signatures.
- Public Works and Utilities will prepare a Resolution for the City Council to act on, accepting the easement.
- After the City provides their signatures, the party requesting the Easement shall file the Easement Agreement with the County Recorder and/or Registrar of Titles.
- If the City is filing the Agreement, Kathy Amborn in the City Attorneys office can identify the documents in Abstract of Torrens that the Agreement will be filed with.
- The party requesting the easement shall provide proof of filing with signers of the Agreement.

County requirements for filing:

- Legal Description
- Marital status of people signing, spouses if married.
- Acknowledged signature of grantor/grantors (notarized signatures)
- Names of all grantees
- Date
- Drafting statement (who created text of Agreement)
- Submit one original signed Agreement, County will return the original after filing
- Return information
- For Torrens (registered land), must be approved by Examiner of Titles (requested by Registrar)

County forms for filing; Abstract Filing Request and Torrens Filing Request. The carboned filing forms have tracking numbers in the Abstract and Torrens Offices. The Abstract ones are known as AFR's and the Torrens ones are known as TFR's. These numbers are totally trackable on the County's system.

The Agreement requires an exhibit with a legal description and a sketch, to make it clear to the reviewer and signers of the Agreement what the subject is. This may not be necessary if the easement is bounded solely by a lot created in a recorded subdivision plat.

Sketch requirements:

- Sketch is to be 8.5" x 11", or multiple sheets of that size. If you submit a larger size, the City Clerk will reduce it for review by the council.
- Do not rely on colored text or lines, as black and white copies will be circulated.
- The minimum size of the lettering font is L80 (0.08 inches).
- Label dimensions referred to in legal description.
- For Metes and Bounds description, label the Point of Beginning.
- North arrow and scale bar.
- Signature line for City Engineer approval and date.
- If the sketch is on engineering plans, the proposed easement and its dimensioning and references have to be clear and not obstructed with engineering details.
- Engineering plans may be submitted along with the proposed Easement Agreement, to aid the City reviewer in seeing that the proposed easement covers the location of the utility or other improvement, and it's future maintenance area needs.

Street Vacation, follow Planning Department and UDC procedures:

- Pre-application
- Land use supervisor review
- Sign notice
- Mail notice
- Planning commission hearing
- Council decision
- Copy of recorded document to the City Clerk

Then follow recording process.

Developer's requirements for easement are described in City of Duluth – Engineering Guidelines, II.B.1.i.

County Recorder filing fee is \$48 per document. It can be charged to the City, if the City is filing the Agreement.

Note: Some Resolutions for vacations state the city clerk is authorized to record the Agreement with the County. The Engineering Division is responsible for filing Agreements for utility easements. This is done by providing the document to Bill Bergstrom.