



## City Council Policy #52 Right-of-Way Vacation

Date Approved: January 15, 1996  
Dates Amended: 7/6/1998; 12/17/2018; 12/18/2023

### **I. PURPOSE**

The purpose of this policy is to set forth a procedure that will ensure the proper processing of right-of-way vacation requests, provide City departments the necessary documentation to bring before the Planning and Zoning Commission and City Council for their discussion and/or approval, and set forth criteria for when right-of-way vacation requests should generally be granted (RSMo 89.380).

### **II. GENERAL REQUIREMENTS AND STIPULATIONS**

Vacation of public rights-of-ways may occur when 100% of adjoining abutting landowners concur with the proposed vacation unless the City Council determines that it is in the best interests of the City and the general welfare of the citizenry, to vacate all or a portion of public rights-of-ways without the concurrence of 100% of adjoining abutting landowners. Such a determination, made without the approval of the adjoining abutting land owners and/or over their objections, shall require that the City Council demonstrate a compelling public purpose that would be served by vacation, such as redevelopment of the block or neighborhood, enhancement of pedestrian traffic safety, etc. The concurrence of 100% of adjoining property owners shall not obligate the City to vacate any publicly owned right-of-way.

In general, partial right-of-way vacations are discouraged; i.e. where some fraction or segment of a right-of-way within a block (or between two streets) is proposed for vacation.

Nothing herein contained shall obligate the City to vacate or abandon public rights-of-ways that are not in use, or to open and improve rights-of-ways that are not used for vehicular traffic, nor shall the denial right-of-a-vacation request obligate the City to open or maintain a public right-of-way. The City does reserve the right to obtain an easement in all cases where a right-of-way request has been granted by the City Council and utilities are later found on the property vacated which were unknown to the City.

Except where a compelling public interest dictates otherwise when rights-of-ways are vacated, they shall be divided in half.

### **III. PROCEDURE**

All vacation requests received by the City of Kirksville shall be routed to the Engineering Department for initial processing. The Engineering Department shall be responsible for managing the vacation request process and maintaining vacation request files and documentation.

The Engineering Department shall be responsible for reviewing the written vacation request and contacting the City Manager if irregularities are discovered.

The Engineering Department or its designee shall contact the requesting party and forward them a right-of-way vacation checklist (attachment 1). The checklist shall be completed by the requesting party and returned to the Engineering Department upon completion. City employees receiving inquiries from requesting parties concerning how to complete the checklist shall forward those inquiries to the Engineering Department.

Upon return to the Engineering Department, the Department shall review the right-of-way vacation checklist and verify that the following information has been completed on the form and signatures obtained where requested:

- A. Description of the right-of-way.
- B. Telephone and address of requesting party.
- C. Whether all abutting property owners petitioned for the request (or joined in and/or approved the request) and were properly notified.
- D. List of all abutting property owners, and their addresses.
- E. Trash routes verified by the trash contractor's representative.

When all information has been verified, the Engineering Department shall verify the location of public and private utilities before signing off on the right-of-way vacation checklist.

Upon verification of the right-of-way vacation checklist by the Engineering Department, the request shall be forwarded to the Planning and Zoning Commission with the following attachments requesting their approval of the vacation request:

- A. Staff report with comments from appropriate departments.
- B. Vacation request and supporting documents.
- C. Right-of-way vacation checklist.
- D. Map identifying the right-of-way to be vacated.

Before Planning and Zoning Commission's action on abandoning City right-of-way or similar property, the Commission shall conduct a public hearing on the proposed vacation/abandonment. Property owners and citizens who use and adjoin the parcel proposed for vacation/abandonment shall be invited to attend the hearing. Public notice of the hearing shall appear in a publication with regular and general circulation in Kirksville fifteen (15) days before the date of said public hearing. Public hearings shall be held for all proposed street vacations; a public hearing shall be optional for alley and other non-street vacation requests.

If approved by the Planning and Zoning Commission, the recommendation shall be forwarded to the City Council for a vote in the form of an ordinance. This ordinance shall detail easements being requested by the City including the clause that gives future rights to obtain an easement should utilities be found on vacated properties that were previously unknown to the City.

If disapproved, the Planning and Zoning Commission shall forward their disapproval of the vacation request to the City Council. The City Council may override the Planning and Zoning's decision with a two-thirds (2/3) vote (RSMo 89.380).

If approved by the City Council, the City Clerk shall record the right-of-way vacation with the Adair County Recorder.



## Right-of-Way Vacation Checklist City of Kirksville

**Street Name/Section:** \_\_\_\_\_ **from** \_\_\_\_\_ **to** \_\_\_\_\_

**Description:**

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**Requested by:** \_\_\_\_\_ **Phone#:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Kirksville, Missouri**

Was request by petition of all abutting property owners? \_\_\_\_\_ Yes \_\_\_\_\_ No

If property owners are not represented on a petition, have they been notified? \_\_\_\_\_ Yes \_\_\_\_\_ No

**Abutting Properties:** Attach a list of all abutting property owners, property description, and their addresses.

**Utilities:** Utilities in place in the street/alley to be vacated

UTILITY	DATE	OWNER	IN PLACE		CHECKED BY
			YES	NO	
WATER		CITY OF KIRKSVILLE			
SEWER		CITY OF KIRKSVILLE			
GAS		LIBERTY UTILITIES			
ELECTRIC		AMEREN UE			
PHONE		AT & T			
CABLE TV		SPARKLIGHT			

**Trash Route:**

\_\_\_\_ YES \_\_\_\_ NO Trash Company: \_\_\_\_\_

**Checked by:** \_\_\_\_\_

**Abstracted by:** \_\_\_\_\_