

INFORMATION MEMO

Vacation of City Streets

Learn how to divest the city of dedicated public streets, alleys, and other public ways and grounds, such as dedicated parks and docks that are no longer needed. Understand steps in the formal vacation process provided by law for this purpose. Contains a checklist for action.

RELEVANT LINKS:

[Minn. Stat. § 412.851.](#)
In re Schmeidel's Estate,
119 Minn. 186, 137 N.W.
1110 (1912). A.G. Op. 396-
G-16, (Sept. 18, 1958). A.G.
Op. 396-G-16, (May 4,
1954).

[Minn. Stat. § 462.358, subd
7.](#)

See Appendix A, Checklist
for Street Vacation.
[Leeper v. Hampton Hills,
Inc.](#), 290 Minn. 143, 187
N.W.2d 765 (1971). *State v.
Great Northern Ry. Co.*, 114
Minn. 293, 131 N.W. 330
(1911). [Rein v. Town of
Spring Lake](#), 275 Minn. 79,
145 N.W.2d 537 (1966).

I. Vacation by resolution of council in statutory cities

Vacation is a legislative act by which a city gives up rights it has over an existing easement for use by the public. Cities have wide discretion to abandon or maintain streets or other public grounds. State statute governs the procedure for vacating a street, alley, public grounds or public way in statutory cities. A city may choose to vacate all, or a portion, of a street, alley, public way or public ground. As streets are the most commonly vacated interest, this memo refers only to streets in discussing proper vacation procedures. Unless otherwise noted, the information in this memo is equally applicable to vacations of alleys, public ways, and other dedicated public grounds.

In addition, a separate state statute allows cities to use the street vacation process to vacate any publicly-owned utility easement or boulevard reserve not being used for sewer, drainage, electric, telegraph, telephone, gas and steam purposes, or for boulevard reserve purposes. A boulevard reserve is defined as an easement established adjacent to a dedicated street for the purpose of establishing open space adjacent to the street where the area is designated on the recorded plat as “boulevard reserve.”

A. Procedure for vacation by resolution

State statute provides the procedural steps a city must follow to vacate a street. Failure to follow the procedures set out in the statute may invalidate a vacation. City responsibility related to a dedicated public street may not be given up through any procedure other than a formal, lawful vacation. It is normally not possible for a city to simply abandon a street. While potentially cumbersome, the formality of the process protects a city from allegations it has abandoned a street through minimal use or maintenance.

RELEVANT LINKS:

[Minn. Stat. § 412.851.](#)

[Setting a Public Hearing on a Street Vacation](#), LMC Model Resolution.

[Petition for Vacating a Street](#), LMC Model Form.

[Declaring Sufficiency of Petition and Setting a Public Hearing](#), LMC Model Resolution.

A.G. Op. 396-G-16, (Oct. 22, 1958).

A.G. Op. 377-A-15, (Feb. 5, 1962). A.G. Op. 396-G-16, (Oct. 22, 1958). A.G. Op. 396-G-1, (March 9, 1955). A.G. Op. 396-G-16, (July 22, 1953). A.G. Op. 396-C-18, (Sept. 28, 1953).

1. Starting a street vacation

There are two methods for commencing a vacation. A city council, on its own motion, may start the vacation process. A resolution for a vacation commenced by a city council must be adopted by a four-fifths vote of all council members.

In the alternative, a majority of landowners abutting a street to be vacated may initiate a vacation by petition. When a city council receives a petition to vacate a street, the council has the discretion to determine if the vacation is in the best interests of the city as a whole. A city council is not required to vacate a street simply because it receives a petition to do so.

Once a city receives a vacation petition, the city must confirm that the petition sufficiently complies with the statutory requirements. Specifically, the city must confirm that the petition has been signed by the correct number of abutting property owners.

a. When is a property considered to abut a proposed vacation?

A property owner is considered to “abut,” a street if the property owner’s land is touching, reaching, joining, bordering on, or contiguous with the street to be vacated.

b. What constitutes a majority of abutting landowners?

The requirement that a “majority of owners of land” sign the petition means that a majority of individuals having property interests in the land abutting the street to be vacated must sign the petition. This requirement does not mean owners representing a majority of the abutting properties. For example, if there are four property owners abutting a street to be vacated, three must sign the petition. In this scenario, it would not matter if one of the four owners owned 90 percent of the land abutting the street. Despite the substantial property interest of one of the abutting owners (representing a majority of abutting property on the street), three property owners must still sign the petition.

Married persons often own property as “joint tenants” or as “tenants in common.” Normally, a joint tenancy creates two property interests. A tenancy in common may create two or more property interests. These interests are counted separately as owners for the purposes of determining the number of abutting landowners. For example, on a street with four abutting properties, each held by two persons as joint tenants, the number of ownership interests is eight (even though there are only four properties). The signatures needed to constitute a majority of abutting owners on this street would be five.

RELEVANT LINKS:

A.G. Op. 396-G-16, (Oct. 22, 1958). A.G. Op. 396-G-16, (July 22, 1953).

A.G. Op. 396-C-18, (August 5, 1948). A.G. Op. 346-G-1, (Mar. 4, 1963).

[Minn. Stat. § 412.851.](#)

[Notice of Public Hearing on Vacation of a Street](#), LMC Model Form.
[Minn. Stat. § 645.11.](#)
[Minn. Stat. § 412.851.](#)

When validating a petition, city staff will typically review property records of all the properties abutting the street to determine the number of owners involved. This is typically determined by looking at the property deeds. The number of property owners on those deeds is the number used to determine if the petition is sufficient.

c. What constitutes an ownership interest in abutting land?

An ownership interest in land implicates actual fee ownership, and not mere easement interests. While easement holders may not sign a petition for vacation as abutting property owners, the city should carefully consider the concerns of easement holders—particularly easement holders with water, sewer, and electrical lines—prior to vacating a street.

d. Is a city with property abutting a vacation considered an “owner of land” for the purposes of signing the petition?

A city that has a fee ownership interest in land abutting a street to be vacated may choose to join in signing a petition for vacation.

2. Public hearing and notice requirements

Whether initiated by the council or by petition from the abutting owners, the city must conduct a public hearing to solicit public input on a proposed vacation prior to granting a vacation.

a. Notice requirements

Notice of the hearing must be published in the city’s legal newspaper and posted at least two weeks prior to the hearing. Newspaper publication must be once a week for two weeks. In addition, written notice of the hearing must be mailed to each property owner affected by the proposed vacation at least 10 days before the hearing. The notice must contain, at minimum, a copy of the petition or proposed resolution as well as the time, place, and date of the hearing. Sending the notice by certified mail is not required by the statute.

Unfortunately, the statute does not define who is considered to be an “affected” property owner entitled to notice. The implications of the term “affected” are broader than the term “abutting” used elsewhere in the statute. As a result, the group of “affected” owners comprises a group larger than the abutting owners, but smaller than the general citizenry of the city who will receive published notice of the vacation.

RELEVANT LINKS:

[Etzler v. Mondale](#), 266 Minn. 353, 123 N.W.2d 603 (1963), concerning vacation of plats pursuant to [Minn. Stat. § 505.14](#). [Batinich v. Harvey](#), 277 N.W.2d 355 (Minn. 1979).

A.G. Op. (June 20, 1988) (informal opinion).

[Minn. Stat. § 412.851](#).

[Notice of Public Hearing Vacating a Street Near Water](#), LMC Model Form.

See also LMC information memo, [Zoning Guide for Cities](#), Section V-C-2-b on conducting a public hearing.

Minnesota courts have established that when platted streets are vacated that notice be sent to all owners or occupants of land within the larger platted area. Owners and purchasers of platted land are presumed to rely upon access to the areas dedicated to public use in a plat and are deemed to be “affected” owners.

In unplatted areas, there is no similar guidance from the courts. However, the vacation statute and due process still require the city to send notice to all property owners “affected” by the vacation. Since the term is undefined in statute, the city must develop a reasonable policy regarding notice. The location of the individual street and the character of the surrounding property should be considered in determining sufficient notice.

An informal Minnesota Attorney General letter stated that, for due process reasons, it may be prudent to extend the notice requirements beyond fee title owners of property to mortgagees and contract for deed vendors who may be significantly affected by a vacation.

b. Notice to the commissioner of Natural Resources

If the street or any part of the street terminates at, abuts upon, or is adjacent to any public water, written notice must also be served by certified mail upon the commissioner of natural resources at least 60 days before the public hearing.

After notice is served on the commissioner, at least 15 days prior to convening the public hearing, the city council or its designee must consult with the commissioner to review the proposed vacation. This consultation should be documented by the city. The notice of the hearing and the consultation do not create a right of intervention by the commissioner. The commissioner must provide the city with its evaluation of the following:

- The public benefits of the proposed vacation.
- The present and potential use of the land for access to public waters.
- How the vacation would impact conservation of natural resources.

After receiving the commissioner’s evaluation, the city should respond to the commissioner’s concerns in its formal findings of fact granting or denying the vacation.

c. Conducting the public hearing

The fundamental purpose for holding a public hearing is to provide due process—a chance to speak and be heard—to all persons affected by the proposed vacation. Public hearings should include complete disclosure of what is being considered, and a fair and open assessment of the issues raised by the vacation.

RELEVANT LINKS:

Schaller v. Town of Florence, 193 Minn. 604, 259 N.W. 529 (1935).
Application of Baldwin, 281 Minn. 11, 15 N.W.2d 184 (1944).
In re Hull, 163 Minn. 439, 204 N.W. 534 (1925). A.G. Op. 396-G-16, (Sept. 18, 1958).

Application of Baldwin, 281 Minn. 11, 15 N.W.2d 184 (1944). *Petition of Krebs*, 213 Minn. 344, 6 N.W.2d 803 (1942).

Kangas v. Blueberry Tp., 264 N.W.2d 389 (Minn. 1978). *Rader v. East Side Twp.*, C3-87-744 (Minn. Ct. App. Nov. 17, 1987) (unpublished decision).

[Vacating a Street on Council Initiative.](#), LMC Model Resolution.
[Minn. Stat. § 412.851. Vacating a Street Upon Petition](#), LMC Model Resolution.

A public hearing must also include an opportunity for affected landowners and the interested public to see and hear all available information and to ask questions, provide additional information, express support or opposition, or to suggest modifications to the proposal. The primary focus of a public hearing should be to solicit public comment, not to persuade the public towards a particular viewpoint.

If the council does not agree with sentiments expressed at the public hearing, the council should incorporate its position into its findings of fact in the formal resolution approving or denying the vacation.

B. Standards for granting a vacation

Minnesota statutes establish that the city council may vacate a street only upon a finding that the vacation is “in the interest of the public.” This means the public must benefit, in some manner, from the vacation. The public includes persons other than those in the immediate vicinity of the vacation. A private benefit derived from the vacation does not bar the vacation, so long as a concurrent benefit to the public can be substantiated.

Mere long-term, non-use of a street by the public does not necessarily equate with a finding that the vacation is in the interest of the public. In reviewing vacations, Minnesota courts have emphasized that the future benefit to maintaining the dedicated property should be given consideration. For example, the Minnesota Supreme Court once overturned a vacation because the potential future use of the public grounds as public lake access was not properly considered. In another example, the Court upheld a denial of a petition for a vacation, because preservation of the underutilized property would help lessen the effects of future population growth in the area.

The decision to grant or deny a vacation is legislative in character. As a result, a reviewing court will only set aside a vacation if it appears that the evidence is practically conclusive against the city, or that the council proceeded on an erroneous theory of law, or that it acted arbitrarily and capriciously against the best interests of the public.

1. Adoption of a resolution granting or denying a vacation

Vacations must be approved by a city council resolution. A vacation commenced solely on the initiative of the city council requires a four-fifths majority vote in favor of the resolution. A vacation commenced by petition of a majority of abutting landowners requires a simple majority of the quorum present at the meeting to pass a favorable resolution.

RELEVANT LINKS:

[Minn. Stat. § 412.851.](#)

[Minn. Stat. § 412.851.](#)

[Minn. Stat. § 410.33.](#)

See Handbook, [The Home Rule Charter City](#).

[Minn. Stat. § 440.13.](#) [Minn. Stat. § 440.135.](#)

As previously discussed, the resolution should include the city's reasons for granting the vacation and detailed findings of fact.

When a city denies a vacation petition, the city should adopt a resolution setting forth its reasons for the denial including a written findings of fact. As previously discussed, detailed findings build a record necessary to support the city's decision and refute allegations that the decision was arbitrary or capricious.

After a resolution granting a vacation is adopted, the city clerk must prepare a notice of completion of the proceedings containing the following:

- The name of the city.
- Identification of the street vacated.
- A statement of the time of completion of the vacation.
- A description of the real estate and lands affected thereby.

The notice must be presented to the county auditor, who will enter the notice in the transfer records and note upon the instrument, over official signature, the words "entered in the transfer record." The notice must then be recorded with the county recorder. The county auditor in your county may have a preferred form for the notice of completion in your jurisdiction. It is advisable to check with your county auditor regarding the preferred format at the beginning of a vacation proceeding.

Provided that all the other elements of a valid vacation proceeding exist, mere failure to file the notice will not invalidate the vacation.

II. Home rule charter cities

Many home rule cities have charter provisions that establish a process for the vacation of city streets. If a charter is silent on the issue, the general statutory provisions previously discussed may be used.

Home rule charters may supplement, but not contradict state statute. The general rule is that when a charter provision is in conflict with state law, the statutory provision prevails, and the charter provision is ineffective to the extent that it conflicts with state policy.

Unique statutory provisions favoring petitioners and property owners in home rule charter cities of the fourth- and third-class must also be considered. As discussed below, these provisions only apply in certain limited circumstances. Third- and fourth-class charter cities should consult their attorney regarding the applicability of these provisions to their fact situation. In addition, the League of Minnesota Cities recommends that special attention be given to due process and notice issues, despite the statutes' silence on these issues.

RELEVANT LINKS:

[Minn. Stat. § 440.13.](#)

A.G. Op. 396-C-1, (May 22, 1961). A.G. Op. 396-C-18, (May 16, 1958).

See discussion and sample forms to modify in Section I-A-2 above.

[Etzler v. Mondale](#), 266 Minn. 353, 123 N.W.2d 603 (1963).

[Notice for Public Hearing Vacating a Street Near Water](#). LMC Model Form.

A. Fourth-class charter cities

A home rule charter city of the fourth class, (i.e., cities with a population of 10,000 or less), notwithstanding any contrary charter provision, must follow a separate statute in vacating any street or highway “wherein one end of the street or highway, or part thereof proposed to be vacated does not connect with any other street or highway” (i.e., a “dead-end” street).

The statute provides stringent protections to property owners in home rule charter cities of the fourth class who live on such “dead-end” roads. These roads may only be vacated when all the owners of lands abutting both sides of the street or highway have signed a petition requesting the vacation.

The Minnesota Attorney General has opined that the application of this statute is limited to “streets and highways.” As a result, the Minnesota Attorney General does not believe the protections of the statute apply to property owners on dead-end alleys. Presumably, such protections do not apply to property owners on other types of dead-end public grounds or public ways.

This unique statute for fourth class charter cities does not require a public hearing or published notice of the vacation in the manner otherwise required under the general vacation statute. However, the League of Minnesota Cities (“LMC”) recommends the city provide notice to the affected public of the proposed vacation.

In addition, LMC recommends the city hold a public hearing providing affected parties an opportunity to comment on the vacation. While the statute does not explicitly require notice and a hearing, Minnesota courts have imposed such due process considerations in the past under the 14th Amendment of the U.S. Constitution.

The statute also does not require a finding of public benefit as discussed above. However, the permissive language of the statute does not require the city to vacate the street or highway upon receipt of a lawful petition.

A city’s refusal to grant a vacation in such circumstances will be upheld by the courts unless the city proceeded on an erroneous theory of law, or that it acted arbitrarily and capriciously against the best interests of the public.

Finally, if the dead-end road terminates at or abuts upon any public water, the petitioners who are requesting the vacation must serve notice of the petition by certified mail upon the commissioner of natural resources at least 30 days before the council hearing on the matter. The notice is for notification purposes only and does not create a right of intervention by the Commissioner.

RELEVANT LINKS:

[Minn. Stat. § 440.135.](#)

[Etzler v. Mondale](#), 266 Minn. 353, 123 N.W.2d 603 (1963).

B. Third-class charter cities

A home rule charter city of the third class (i.e., a city with more than 10,000 in population, but less than 20,000) possesses an additional unique power of vacation.

Upon the petition of any one owner, natural or corporate, of any real estate abutting a street, a city council may vacate a street, segment or portion of a street so long as the street to be vacated is no longer than the distance intervening between any two adjacent intersecting streets.

If the street to be vacated terminates at or abuts upon any public water, the petitioners requesting the vacation must serve notice of the petition by certified mail upon the commissioner of Natural Resources at least 30 days before the city council hearing on the matter. The notice is for notification purposes only and does not create a right of intervention by the commissioner.

The vacation of any street or segment under these provisions cannot destroy or interfere with the right of any person, corporation or municipality owning or having control of any electric light or telephone pole or lines existing upon such street at the time of the vacation, or with any sewer or water pipes, mains or hydrants thereon or thereunder to enter upon such street or portion thereof vacated for the purpose of repairing the same or otherwise attending thereto.

City council action on the petition for vacation under this unique statute may be taken at any regular or special meeting duly called for considering the vacation. The statute does not require a public hearing or published notice of the vacation. However, the LMC recommends the city provide notice to the affected public of the proposed vacation for due process reasons.

In addition, LMC recommends that cities hold a public hearing on the vacation, providing affected parties an opportunity to comment on the vacation. While the statute does not require notice and a hearing, Minnesota courts have imposed such due process considerations in the past under the 14th Amendment of the U.S. Constitution.

Approval of the vacation under these provisions must be by resolution. A copy of the resolution, duly certified by the city clerk, must be recorded in the office of the county recorder in the county where such city is located before the action is effective.

RELEVANT LINKS:

A.G. Op. 396-C-1, (Nov. 23, 1953).

[Minn. Stat. § 505.14.](#)

[Minn. Stat. § 505.14.](#)
Petition of Krebs, 213
Minn. 344, 6 N.W.2d 803
(1942).

[Batinich v. Harvey](#), 277
N.W.2d 355 (Minn. 1979).

The Minnesota Attorney General has limited the application of the statute to “streets” quoting the narrow language of the statute. As a result, the attorney general does not believe the procedure for vacation of streets under Minn. Stat. § 440.135 can be used to vacate alleys. Presumably, it also does not apply to other types of public grounds or public ways.

III. Vacation of platted lands upon court order

A. Introduction

Minnesota Statutes provide an additional method for vacation of platted streets, alleys or public grounds through the court system rather than through petition to the city council. It is difficult to imagine any circumstances under which a city would itself utilize this procedure to vacate a street under its exclusive jurisdiction. However, cities may need to familiarize themselves with this procedure in the instance where a member of the public chooses to pursue a court-ordered vacation (as opposed to a petition to the city council).

It is important to note that these provisions may be inapplicable in certain charter cities. The statute explicitly states that the district court cannot vacate or alter a platted street dedicated to the public use in any city organized under a charter or special law that provides a method of procedure for vacation by the municipal authorities of the city.

B. Procedure for obtaining a court-ordered vacation

A person seeking vacation of a platted street may use either the provisions discussed previously for a petition to the city for a vacation or may choose to apply directly to the district court for a vacation. Petitioners are not required to petition the city for the vacation first, before approaching the courts.

A petitioner seeking a vacation from the district court must provide personal notice of the petition to the mayor of the city where the street to be vacated is situated. The petitioner must also provide additional personal and published notice to landowners within the platted area and to the commissioner of natural resources, if the land terminates at, abuts upon, or is adjacent to any public water.

Upon proper petition and notice, the district court has broad power to “vacate or alter all or any part, of the plat, and adjudge the title to all streets, alleys, and public grounds to be in the persons entitled thereto.” In addition, the district court may determine damages and award compensation to all persons owning or occupying land affected by the proposed vacation.

RELEVANT LINKS:

Application of Baldwin, 281 Minn. 11, 15 N.W.2d 184 (1944).

Application of Avant-Garde, Inc., 481 N.W.2d 379 (Minn. Ct. App. 1992).

Church of Sts. Peter and Paul of Lake George v. Lake George Tp., 252 Minn. 209, 89 N.W.2d 708 (1958).
In re Verbick, 607 N.W.2d 148 (Minn. Ct. App. 2000).

McCuen v. McCarvel, 263 N.W.2d 64 (Minn. 1978).

In re Robbins, 34 Minn. 99, 24 N.W. 356 (1885).
Edgewater Cottage Ass'n, Inc. v. Watson, 387 N.W.2d 216 (Minn. Ct. App. 1986).

A.G. Op. 396-G-16, (Sept. 9, 1965).

When the lands to be vacated are “streets or alleys connecting separate plats or lying between blocks or lots or providing access for the public to any public water,” the court cannot grant the vacation unless the facts indicate that the land to be vacated is “useless for the purpose for which it was laid out.” Despite statutory language, this standard has been extended to include parks and other public grounds by the courts.

The standard of uselessness is a more stringent standard than the public benefit standard for a vacation by resolution of a city council. A petitioner must prove that the land to be vacated has no present or future use consistent with the land’s original purpose as a public way or ground.

As noted above, it is difficult to imagine a circumstance where a city would use this process to vacate a street or public ground. Especially considering the higher “useless” standard.

IV. Property interests after a vacation

A. Reversion and ownership

When a street is lawfully vacated, the easement granting the public the right to travel the street ceases to exist, and the title to the land under the street reverts to the underlying fee owners of the property for their exclusive use and enjoyment. The reversion occurs by operation of law, and the city is not able to direct or convey ownership of the fee title upon vacation.

The law presumes property owners along the vacated street each hold a grant of soil to the center of the street where their property abuts the street. As a result, upon vacation, title to half of the street usually reverts to each abutting property owner.

The one-half ownership rule is based on the presumption that adjoining landowners equally furnished land for the roadway use. However, this rule does not apply where evidence shows the street was laid out wholly on one of the abutting owner’s land. In this instance, where one owner furnished all of the land for the street, that landowner (or the landowner’s successor in interest) will receive all of the land back upon vacation.

In a few rare instances, the city may actually own the underlying fee title to the vacated public way or grounds. In these instances, upon vacation the city becomes the fee owner and may keep or dispose of the property as it deems in the best interests of the city.

RELEVANT LINKS:

A.G. Op. 396-G-16, (Apr. 10, 1947).

A.G. Op. 396-G-16, (Apr. 10, 1947).

[Minn. Stat. § 15.99.](#)

[Advantage Capital Management v. City of Northfield](#), 664 N.W.2d 421 (Minn. Ct. App. 2003). [500, LLC v. City of Minneapolis](#), 837 N.W.2d 287 (Minn. 2013).

B. Compensation to the city for loss of the street to be vacated

As a general rule, a municipality has no proprietary interest in a public street. Rather the city holds an easement in favor of the public granting a right to travel the street.

As a result, the city does not hold a fee interest in the street and cannot ask a petitioner to pay compensation for the loss of the street to the city as a condition to granting a vacation.

C. Re-establishing a vacated street

Once a city street is vacated, the vacation means a permanent loss of the city's interest in the street.

To reopen or re-establish a vacated street, a city would need to follow the legal procedures set out in statute for opening city streets at a cost to the city. To reopen a street, the city would need to either negotiate an easement with the abutting property owners or use eminent domain proceedings. Both proceedings would likely require the city to pay fair market value for the easement. If the city anticipates a future need a street, it should not grant a vacation petition.

V. The 60-day rule

The 60-day rule is a state law that provides that a city must approve or deny a written request relating to zoning, watershed district review or soil conservation district review within 60 days or it is deemed approved. The purpose of the rule is to keep governmental agencies from delaying land-use decisions.

The 60-day rule is written broadly to include all requests related to zoning. The Minnesota Court of Appeals has determined that a request is related to zoning when the request must be reviewed under the city's specific regulatory structure for zoning (i.e., the city's zoning code). Following this logic, the Court determined that the issuance of building permits is not subject to the 60-day rule, because the issuance of building permits fell under a different regulatory structure than the city's zoning code. Similar to building permit applications, it seems unlikely that petitions for vacation would be subject to the statute.

RELEVANT LINKS:

In re Hull, 163 Minn. 439, 204 N.W. 534 (1925).
Underwood v. Town Bd. of Empire, 217 Minn. 385, 14 N.W.2d 459 (1944).
[Oliver v. State](#), 760 N.W.2d. 912 (Minn. Ct. App. 2009).

Steenerson v. Fontaine, 106 Minn. 225, 119 N.W. 400 (1908).

VI. Peculiar damages resulting from a vacation

An abutting landowner who suffers peculiar damages from the vacation of a public street is entitled to compensation. Normally, peculiar damages must amount to a loss of access or some other unique injury. In order to obtain compensation for the injury, an abutting landowner does not need to prove the vacation completely obstructs all access to their property. However, the abutting landowner must establish damages that are unique from those suffered by the general public.

A non-abutting property owner who suffers inconvenience or re-routing as a result of a vacation is not entitled to damages.

The issue of damages does not prevent a city from vacating the public way or street. An abutting property owner must bring suit in district court to recover compensation for their damages.

Appendix A: Checklist for Street Vacation by Resolution of City Council

The following is a suggested checklist that may be useful to the clerk or other city officers to ensure every step in the vacation process is done as required. No checklist of this kind is legally required, but the form may be helpful. This list can be duplicated on two sides of one piece of paper so that one copy can be placed in the file for the vacation or in some other convenient place. Some of the steps will be omitted in some vacations, others in different vacations, but these can be crossed off when not applicable in the individual case. Additional steps may also be added to the list; for example, in cities where a home rule charter imposes additional procedures.

Steps to Follow	Completed by Whom	Date
Petition requesting vacation received		
Resolution verifying sufficiency of petition and ordering hearing date and preparation of notice. OR (if no petition) Proposed resolution for vacation and preparation of notice.		
Written notice by certified mail upon the commissioner of natural resources (at least 60 days before the hearing) if the road abuts public water.		
Consultation with the commissioner of natural resources on the vacation (must occur at least 15 days before the hearing) and materials received.		
Publication of notice of hearing (must occur for two consecutive weeks prior to hearing).		
Mailing notice to affected property owners (must occur at least 10 days prior to hearing).		
Hold public hearing and draft minutes detailing the testimony and findings.		

Steps to Follow	Completed by Whom	Date
Resolution granting or denying vacation with supporting findings of fact.		
Payment of damages.		
Notice of completion of proceedings to county auditor.		
Marked “entered in the transfer records” notice of completion received back from county auditor(s).		