



## Discontinuance of Public Right-of-Way

An alley or a platted street may be discontinued, or vacated, in one of two ways: 1) by petition of adjacent property owners, or 2) by the City Council with the introduction of a resolution declaring that the public interest requires it. The statutory requirements (§66.1003, Wis. Stats) and the City's process are summarized in the following steps. The application fee is indicated on the City's [fee schedule](#).

### **DISCONTINUANCE BY PETITION**

#### **Step One: Petitioner Files an Intent to Petition**

The first step an individual must take to vacate right-of-way is to file a petition with the City along with the required application form and fee. To do this, the petitioner must utilize the services of a professional to prepare a petition form, a legal description and map identifying the proposed right-of-way to be vacated, and a list of the names and addresses of all property owners within 2,650 feet of the right-of-way to be vacated. The petitioner will use the address list to gather signatures all of the abutting property owners and a minimum of  $\frac{1}{3}$  of the property owners within the 2,650 feet.

#### **Step Two: Filing of a Lis Pendens**

Once the petition has been filed, the petitioner must file a Notice of Pending Action (Lis Pendens) with the County Register of Deeds. The petitioner may choose to hire a professional to prepare and record this legal document. An example is included on the following page. The petitioner must provide a copy of the recorded document to the City before Step 3.

#### **Step Three: City Council sets Public Hearing**

Staff will prepare a resolution to be considered by the City Council that will set a public hearing date for the petition. The hearing date must be far enough in the future to allow for a Class 3 notice. Staff will prepare the notice as required by §66.1003(8)(b), Wis. Stats. It must be published three times, with the last publication at least one week prior to the scheduled public hearing.

#### **Step Four: Plan Commission Review**

Once the public hearing has been set, the matter will be referred to the Plan Commission for their review and comment. The Plan Commission will consider the petition at their next regular meeting and make a recommendation to City Council.

#### **Step Five: City Council Public Hearing and Decision**

The City Council will consider a resolution and make its determination on the date of the public hearing. If a written objection is filed by any of the owners abutting the public way to be discontinued or by more than  $\frac{1}{3}$  of the owners within 2,650 feet, the request may be approved only by the favorable vote of  $\frac{2}{3}$  of the members of the City Council. If the vacation is approved, the resolution is recorded by the City with the County Register of Deeds.



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**574456**

PIERCE COUNTY  
REGISTER OF DEEDS  
JULIE HINES

PAGES: 1

LP

EXEMPT#:

RECORDING FEE: 30.00

TRANS FEE:

09/15/2017 08:00AM

**LIS PENDENS**

Document Number

Document title

NOTICE IS HEREBY GIVEN that an action has been commenced for the purpose of vacating and discontinuing an unpaved alley lying east of S. Main Street between E. Park Street and Broadway Street, City of River Falls, Pierce County, Wisconsin, described as follows:

A parcel of land located in the SW 1/4 of the SE 1/4 of Section 1, T27N, R19W, City of River Falls, Pierce County, Wisconsin, bounded on the north by the south right-of-way line of East Park Street, on the west by lots 6, 7, 8, 9, and 10 of Block 3, AF Hart Addition to the City of River Falls, on the East by lots 1,2, 3, 4, and 5 of Block 3, AF Hart Addition to the City of River Falls, and on the south by the north right-of-way line of Broadway Street.

Name and Return Address  
Community Development  
City of River Falls  
222 Lewis Street  
River Falls, WI 54022

276-01085-0800  
276-01085-0900  
276-01085-1000

Parcel Identification Numbers (PINs)

Dated this 11th day of September, 2017.

CITY OF RIVER FALLS, WISCONSIN

Daniel P. Gustafson, City Attorney

Prepared by: Brandy Howe, Senior Planner

**THIS PAGE IS PART OF THIS LEGAL DOCUMENT – DO NOT REMOVE.**

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document.  
WRDA Rev. 12/22/2010



**SAMPLE PETITION AREA**

-  Properties within 2,650 feet of proposed right-of-way to be discontinued
-  Properties abutting proposed right-of-way to be discontinued



## **DISCONTINUANCE BY CITY COUNCIL**

### **Step One: City Council Introduces a Resolution to Discontinue Right-of-Way**

At the request of the City Council, staff will prepare a resolution to be introduced at a Council meeting declaring that it is in the public interest to discontinue right-of-way. Per §66.1003(4)(b), Wis. Stats, the resolution must include a map and legal description of the right-of-way to be vacated and be accompanied by a memo requesting that a public hearing be set no less than 40 days after the meeting where the resolution is introduced.

### **Step Two: Filing of Lis Pendens**

Once the resolution has been introduced and acted upon, staff will file a Notice of Pending Action (Lis Pendens) with the County Register of Deeds. A copy of the recorded document will be on file at City Hall.

### **Step Three: Notification**

Staff will prepare a Class 3 notice as required by §66.1003(8)(b), Wis. Stats. It must be published three times, with the last publication at least one week prior to the scheduled public hearing. In addition, notice shall be served on the owners of the lots abutting upon the right-of-way sought to be discontinued. Notice must be served personally or by a police officer, unless the owner lives out of town. In that case, the notices may be mailed to the owner's last known address. Notice must occur no less than 30 days prior to the scheduled public hearing date. An affidavit or similar proof of service needs to be placed into the file.

### **Step Three: Plan Commission Review**

Once the public hearing has been set, the matter will be referred to the Plan Commission for their review and comment. The Plan Commission will consider the Council's resolution at their next regular meeting and make a recommendation on the proposed right-of-way vacation to City Council.

### **Step Four: City Council Public Hearing and Decision**

The City Council will consider the resolution and make its determination on the date of the public hearing. If a written objection is filed by any of the owners abutting the public way to be discontinued or by more than  $\frac{1}{3}$  of the owners within 2,650 feet, the request may be approved only by the favorable vote of  $\frac{2}{3}$  of the members of the City Council. If the vacation is approved, the resolution is recorded by the City with the County Register of Deeds.

## **PROCEDURE FOR VACATING UNPAVED ALLEYS**

When initiated by the Common Council, the procedure is the same as above; however, the Council cannot approve the vacation if the City Clerk receives a written objection from any property owner who can show that the alley proposed to be vacated provides the only access to off-street parking for the property. When initiated by petition, the procedure is the same as above for paved alleys, except that the petition need only have the signatures of 50 percent of abutting property owners.