

Ordinance No. 25

ALLEY AND STREET VACATING PROCEDURES ORDINANCE

**VILLAGE OF CONCORD
JACKSON COUNTY**

An ordinance to establish procedures for vacating a public street or alley

THE VILLAGE OF CONCORD, JACKSON COUNTY, MICHIGAN ORDAINS:

Section 1. Title

This Ordinance shall be known as the "Alley and Street Vacating Procedures".

Section 2. Purpose

The purpose of this ordinance is to provide procedural guidelines for the vacating of alley and streets owned by, or otherwise granted to, the Village of Concord.

Section 3. Authority to abandon streets and alleys

The Council of the Village of Concord may vacate or abandon the entire length of a street or alley, or any portion thereof, or any easements benefitting the Village, by way of the procedure described herein.

Section 4. Easements shall be maintained

In all instances of vacating, existing streets or alleys, any easements within the vacated streets or alleys shall be maintained, unless otherwise approved by the Village Council.

Section 5. Definitions

For general, preliminary purposes (and not to the exclusion of more specific applications)

- 5.1. "Abandonment" To surrender, relinquish or disclaim an interest or right in property.
- 5.2. "Alley" A narrow way designed for the accommodation of the property it reaches.
- 5.3. "Easement" A right or privilege held by an entity to use of the land of another for a special purpose.
- 5.4. "Street" An urban thoroughfare (held by deed, dedication or easement) providing primary access to the structures fronting thereon.
- 5.5. "Vacate" To put an end to, to abandon.

Section 6. Vacating procedure

6.1. Initiating procedure

- A. *Property Owner Petition.* Vacating or abandonment of a street or alley may be initiated by the filing of a petition signed by not less than one hundred percent (100%) of the contiguous property owners, including terminus owners, if any
- B. *Resolution of Council.* Vacating or abandonment of a street or alley may be initiated by the resolution of a majority of the council members elect.

6.2. Submission to Planning Commission

Whenever a petition, conforming to the requirements of this ordinance is filed with the Village Clerk asking the Council to vacate said street or alley, or the Village Council initiates the procedure for vacating a street or alley by resolution, the Village Council shall refer the matter to the Village of Concord Planning Commission for study, hearing, report and recommendation to the Council.

- A. *Planning Commission Hearing.* Within 60 days of the referral from the Village Council, the Planning Commission shall conduct a public hearing on the advisability of vacating the street or alley at issue.
- B. *Notice of Planning Commission Hearing.* Notice of such public hearing shall be:
 - (1) Published in a newspaper circulating within the Village of Concord not less than 15 days prior to the council hearings.
 - (2) Sent to:
 - (a) All public utilities servicing the Village;
 - (b) All service departments of the Village;
 - (c) All contiguous and terminus property owners as related to the street or alley.
- C. *Record of proceedings.* The Commission shall prepare and retain a summary of the reasons for support and opposition to the vacation.
- D. *Deliberations* The Commission shall, at open meeting, consider the issue in light of:
 - (1) Public comments
 - (2) Any formal minimum standards or guidelines as may from time to time be adopted, and
 - (3) Any additional factors deemed relevant to the issue.
- E. *Recommendation.* The Planning Commission shall formulate a recommendation and submit its record and recommendation to the Council within sixty (60) days after receipt of the referral from the Council.

6.3. Council to Review and Decision. After the Village of Concord Planning Commission has filed its report with the Council concerning the vacation of said alley, street or easement, the Council may,

by resolution:

- A. Return the matter to the Planning Commission for further study,
- B. Conduct its own investigation and/or hearings on the matter,
- C. Terminate the proceedings as contrary to best interests of the Village, or
- D. Vacate the street, alley or easement

Section 7. Conveyance of title; Retention of Easement

Whenever the Village Council shall, by resolution, vacate any street or alley, title to the vacated property shall vest in the contiguous platted property owners, as directed by statute. The Council shall, in the same resolution, reserve an easement therein for public utility purposes within the right-of-way of any such street or alley so vacated.

Section 8. Record of vacating

- 8.1. **Book of Street Records.** Every resolution discontinuing or vacating any street or alley shall be recorded in a Book of Street Records to be maintained by the Village Clerk and the records therein shall be prima facie evidence of all matters therein set forth.
- 8.2. **Auditor General.** Within thirty (30) days of the vacation of a street or alley becoming effective, the Village Clerk shall forward to the Michigan Auditor General a certified copy of said resolution, together with his/her certificate giving the name or names of any plat, subdivision or addition affected by such resolution.
- 8.3. **Register of Deeds.** Within thirty (30) days of the vacation of a street or alley becoming effective, the Village Clerk shall record with the Register of Deeds a certified copy of said resolution.

Section 9. Severance and Repealer

Should any section, clause, or phrase of this Chapter be declared by the Courts to be invalid, the same shall not affect the validity of the Chapter as a whole or any part thereof, other than the part so declared to be invalid. All Ordinances or part of Ordinances in conflict with the provisions herewith are hereby repealed to the extent of such conflict.

Section 10. Effective date

This ordinance shall be published within twenty (20) days of adoption and shall take effect twenty (20) days after its adoption.