

## Vacation of Public

### Right of Way Procedure

- 1)** Petitioner must meet with a representative from the Carmel Department of Engineering to notify the City of the intent to request a public vacation of a right of way. This right of way must be located entirely within the corporate limits of the City of Carmel and in, or contiguous to, any lots or parts of lots owned by the Petitioner.
- 2)** Petitioner (or petitioner's attorney) shall prepare a legal description of the right of way proposed to be vacated. The City Engineer must approve the legal description and validate its accuracy.
- 3)** After obtaining approval of the legal description from the City Engineer, Petitioner shall file a Petition for Vacation of Right of Way (the "Petition") with the Clerk-Treasurer's Office for placement on the BPW meeting agenda. The Petitioner must deliver one original and five (5) copies of the Petition to the Clerk-Treasurer's Office in accordance with the deadlines for BPW meetings (deadline schedule can be obtained from the Clerk-Treasurer's Office). Petitioner shall send copies of the Petition to the City Engineer and the City's Office of Corporation Counsel.

Pursuant to Indiana Code §36-7-3-12, the Petition must:

- a) state the circumstances of the case;
- b) specifically describe the property proposed to be vacated; and
- c) give the names and addresses of all owners of land that abut the property proposed to be vacated.

For recording purposes, the Petition must also include the following language:

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document unless required by law (name)," must accompany each Petition.

- 4)** The BPW will vote to send the Petition to the Carmel Common Council (the "Council") with either a positive or negative recommendation. Petitioner shall then obtain an ordinance number from the Office of the Clerk-Treasurer (317-571-2413 or email: [jquinn@carmel.in.gov](mailto:jquinn@carmel.in.gov)) and prepare an ordinance for Vacation of Right of Way which shall contain, as an exhibit thereto, the Petition. The Clerk-Treasurer will work with the Petitioner to establish a date for a public hearing before the Council within thirty (30) days from the date of submission of the vacation ordinance.
- 5)** The Petitioner will prepare the Notice of Public Hearing and forward it electronically to the Office of the Clerk-Treasurer for publication. The Petitioner will be responsible for the cost of

the publication. The Notice of Public Hearing will be published by the Clerk-Treasurer in accordance with Indiana Code § 5-3-1. The Clerk-Treasurer will also send the Notice of Public Hearing by certified mail to each owner of land that abuts the property proposed to be vacated. The Petitioner will be responsible for the cost of mailing.

**6)** Petitioner shall prepare a Vacation of Right of Way ordinance which must be submitted to the Deputy Clerk-Treasurer (jqinn@carmel.in.gov) as a Microsoft Word document. The legal description, a copy of the Petition, drawings, maps or photos of the right of way to be vacated, and any other correspondence or documentation the Petitioner deems helpful should also be forwarded to jqinn@carmel.in.gov in PDF format. The Petitioner must submit the following to the Clerk-Treasurer's Office: one original of the Vacation of Right of Way ordinance, including all exhibits, plus eight line-numbered copies of the ordinance. In order to be placed on the Council meeting agenda, the ordinance must have at least one Council member to sponsor it and include the document preparer's name in the footer section of the document. The Clerk-Treasurer's Office must be in receipt of the electronic document and one original hardcopy of the ordinance in accordance with the agenda deadline for Council meetings (deadline schedule can be obtained from the Clerk-Treasurer's Office).

**7)** In conformance with Indiana Code § 5-14-1.5, the Council shall hold a public hearing and the first reading of the ordinance. It is suggested that the Petitioner attend the public hearing and be prepared for a presentation regarding the ordinance. At the hearing, any person aggrieved by the proposed vacation may object as provided by Indiana Code § 36-7-3-13.

**8)** At a subsequent Council meeting, the Ordinance shall be placed on the agenda for a second reading. Petitioner should attend this hearing and again be prepared with a presentation.

**9)** If the City Council adopts the Vacation of Right of Way Ordinance, the Office of the Clerk-Treasurer will forward the ordinance to the Hamilton County Recorder and to the County Auditor. The recording fees assessed by Hamilton County are the responsibility of the Petitioner.

**10)** Pursuant to Indiana Code § 36-7-3-12(f), within thirty (30) days after the adoption of the vacation ordinance, any aggrieved person may appeal such action to the appropriate circuit, superior or probate court.

Revised 5/11/17