

3.6 Checklist

Vacation of Street

This applies to all applications to vacate a public street, highway, or utility easement. See UDC Section 50-37.6 for more information.

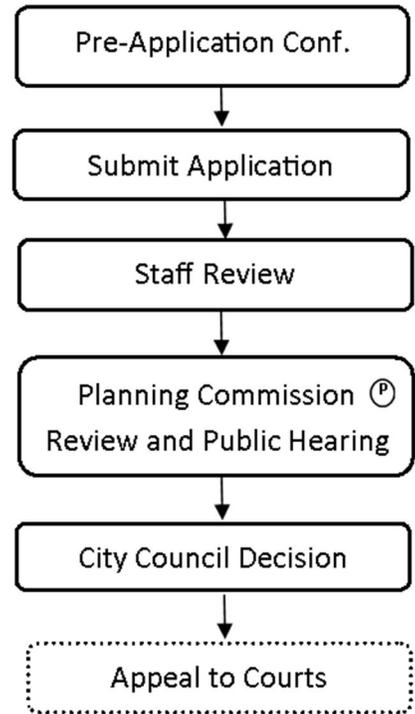
Starting the Application Process

- Call 218-730-5580 or email planning@duluthmn.gov to schedule a pre-application meeting. The pre-application meeting is intended to discuss the application process and general timeline. A comprehensive review of the proposed project is not possible at this meeting; detailed review of the project will occur once a complete application, with sufficient supporting information and exhibits, is submitted.

Your Application

- Submit your application materials by the Planning Commission application deadline. There are numerous in-person and electronic application methods available; visit <https://duluthmn.gov/planning-development/land-use-zoning-and-applications/applications-checklists/> for current information. Your application must include the following:
 - Application Cover Sheet, available at <https://duluthmn.gov/planning-development/land-use-zoning-and-applications/applications-checklists/>, and applicable fee
 - A plat or map, clearly showing the portion of the street to be vacated (must meet standards of the County Recorder's Office). The City Engineer and staff will review the exhibit, and may ask for corrections/amendments. **Important note: Until the exhibit has been reviewed, and approved, by the City Engineering, the application is considered incomplete.**
 - Legal description in recordable form, printed clearly on an 8.5"x 11" sheet (consult a surveyor or attorney if needed)
 - A petition of the majority of landowners abutting the right of way or easement to be considered for vacation; see the Vacation Petition Form. Note that the City generally only considers vacations of right of ways on a block by block basis; even if you are only interested in vacating one small section of right of way, the City will generally not accept an application unless it plans for vacating the entire section of right of way within the block.
 - If there are Minnesota Power utility line the right of way, contact Minnesota Power before submitting your application. Minnesota Power may either require the applicant to pay for relocating the line, or require a utility easement be preserved over the entire right of way line.

Vacation of Street



^(P) Indicates Public Hearing Required

Important Dates

Application Deadline:

Sign Notice Placed:

Planning Commission:

City Council*:

Effective*:

**Please note that these dates are approximate guidelines and may change*

After Submitting Your Application

1. Determination of Completeness. Within 15 business days of your application, you should expect one of the following (remember, until the exhibit has been reviewed, and approved, by the City Engineering, the application is considered incomplete):

- Receive an “Applicant Letter,” which acknowledges a complete application, shares the date of the Planning Commission meeting and the assigned staff person, and notifies you of State-mandated deadlines for the City to make a decision, **OR**
- Receive notification that your application is incomplete, with details on further information to submit.

2. Public Notice. A mail notice will be sent by the City to property owners abutting the portion of the street proposed to be vacated, and to the portion of the street extending 350 feet from the ends of the portion.

- You are required to post a sign notice on the property at least two weeks before the date of the public hearing.** See UDC Section 50-37.1.H for information on size, placement, and content of each sign; you may want to contact a sign company or printing company to have the sign made. You must provide evidence that the signs were in place; ***submit photo(s) of the signs to the Planning Division at least two weeks before the date of the public hearing.***

3. Staff Review. Planning staff will evaluate your application and prepare a staff report. When considering a recommendation for a vacation of street request, Planning Staff generally review the current and projected usefulness of the street (is it being used now and/or is there a chance it could be useful in the future) for vehicular, pedestrian, and utility purposes, surrounding land uses, surrounding traffic circulation and projected future traffic circulation, the likelihood of creating a dead-end street, any additional criteria in the UDC, and other related factors.

- You will receive an email with the Planning Commission agenda and a link to this staff report about 5 days prior to the meeting.

4. Planning Commission Hearing. Planning Commission meetings are scheduled at 5:00 pm on the second Tuesday of each month. **We ask that applicants or an agent attend this meeting.**

The Planning Commission will conduct a public hearing and make a decision to adopt, adopt with modifications, or deny the application.

5. City Council Decision. The Planning Commission recommendation will be forwarded to City Council in the form of a resolution. City Council will make a decision whether to approve the proposed vacation, approve it with modifications, or deny it.

6. Recording. If approved, City staff will submit a certified copy of the vacation resolution and signed exhibit to the County Recorder. **You will receive a bill for any recording fees.** Once it has been legally recorded, planning staff will send notice of the Council action to the applicant.

Petition to Vacate Street, Alley, or Utility Easement

Name: _____

Description of street, alley, or easement to vacate: _____

My request for this vacation is to (indicate purpose of vacation):

The City of Duluth will not need this street, alley, or easement in the future because:

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition) ¹:

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof. ²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s): _____

Date: _____

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.



Engineering

Room 240
411 West First Street
Duluth, Minnesota 55802

 218-730-5200

Preparing and Recording Easements or Vacations

February 2022 Guideline

The party requesting or requiring an easement shall employ their Attorney and Land Surveyor to prepare a property description and the Exhibit.

- Submit Legal Description with Exhibit to Peggy Billings, Public Works and Utilities Dept., Room 240, 411 W. 1st Street, Duluth, MN 55802. The city will review the legal description and exhibit, and will draft an easement agreement.
- If the Recorder requires additional documents, please provide these original documents concurrently with the Easement Description and Exhibit in order to file. An example of additional documents that may be required is if the property is under a Trust. If so provide a copy of the Certificate of Trust and the Affidavit of Trustee.
- The Assistant City Attorney, the Public Works project engineer, surveyor and GIS Staff will review the Easement Agreement and Exhibits.
- The party requesting the easement will modify the Agreement and Exhibit as needed.
- The party requesting the easement will acquire the signatures, except for the City signatures, and convey the original document with the signatures to the City Engineer.
- Public Works and Utilities will then prepare a Resolution for the City Council to consider accepting the easement.
- After the City Council adopts the easement, the City shall file the Easement Agreement with the County Recorder and/or Registrar of Titles. The recording fees charged to the city by the Recorder will be deducted from the Developer Deposit. The process to get a document approved by council and recorded takes approximately 1 month after the city approves the final documents.

Requirements for filing:

- Legal Description of the easement and underlying property.
- Marital status of people signing, spouses if married.
- If the property is under a trust, a copy of the Certificate of Trust and the Affidavit of Trustee.
- Acknowledged signature of grantor/grantors (notarized signatures)
- Names of all grantees
- Date
- Drafting statement (who created text of Agreement)
- Submit one original signed Agreement. City will send a copy of the recorded document to the Owner upon our receipt of the document. Provide address or e-mail where you want the document sent.
- For Torrens (registered land) property, the easement must be approved by Examiner of Titles and additional filing fees apply.



Engineering

Room 240
411 West First Street
Duluth, Minnesota 55802

 218-730-5200

County forms for filing: Abstract Filing Request and Torrens Filing Request. The carboned filing forms have tracking numbers in the Abstract and Torrens Offices. The Abstract ones are known as AFR's and the Torrens ones are known as TFR's. These numbers are totally trackable on the County's system.

The Agreement requires an exhibit with a legal description and a sketch, to make it clear to the reviewer and signers of the Agreement what the subject is. This may not be necessary if the easement is bounded solely by a lot created in a recorded subdivision plat.

Easement/Vacation Sketch requirements:

- Sketch is to be 8.5" x 11", or multiple sheets of that size.
- Do not rely on colored text or lines, as black and white copies will be circulated.
- The minimum size of the lettering font is L80 (0.08 inches).
- Label dimensions referred to in legal description.
- For Metes and Bounds description, label the Point of Beginning.
- North arrow and scale bar.
- Signature line for the Registered Land Surveyor and City Engineer and date.
- If the sketch is on engineering plans, the proposed easement and its dimensioning and references have to be clear and not obstructed with engineering details.
- Engineering plans may be submitted along with the proposed Easement Agreement, to aid the City reviewer in seeing that the proposed easement covers the location of the utility or other improvement, and its future maintenance area needs.
- Include a legend that clearly matches any areas to be vacated with a utility easement retained.
- Do not use shading to show the easement area or other area subject to the legal document as shaded areas do not always show up once recorded. Hatching should be used in place of shading.

Street Vacation, follow Planning Department and UDC procedures:

- Pre-application
- Land Use Supervisor, City Engineer and GIS review
- Sign notice
- Mail notice
- Planning commission hearing
- Council decision
- Original signed vacation Exhibit document to the Land Use Supervisor.

The Planning Division will arrange to have the vacation recorded.

Developer's requirements for easements are described in City of Duluth – Engineering Guidelines, II.B.1.i.

County Recorder filing fee is \$46 per document as of 1/1/19.



Engineering

Room 240
411 West First Street
Duluth, Minnesota 55802

 218-730-5200

The Engineering Division is responsible for filing Agreements for utility easements. The Planning Division is responsible for filing vacations. In both cases, the recording of the documents is completed by Danielle Erjavec.

I:\PWU\ENGINEER\Administration\Right of Way & Easements\Guidelines and Process\February 2022 Guidelines.docx

www.duluthmn.gov

The City of Duluth is an Equal Opportunity Employer.