



CITY OF EVANSVILLE COMMON COUNCIL
Room 314, 1 N.W. Martin Luther King, Jr. Blvd.
Evansville, Indiana 47708

PETITION TO VACATE

Before filing a Petition to Vacate with the City Clerk's Office, ALL UTILITIES MUST BE NOTIFIED and the responses* must be included with each copy of the filed petition:

* *printed utility responses via email are acceptable*

1) AT&T

Attention: Marc Clark, Engineer
mc3429@att.com
812-464-6050
134 N. W. 6th Street, Evansville, IN 47708

2) Evansville Water/Sewer Utility

Attention: Michael D. Labitzke, P.E., Deputy Director of Utilities – Engineering
Hard copy preferred
mlabitzke@ewsu.com
812-421-2130 x2228
1931 Allens Ln., Evansville, IN 47708

3) Charter Communications/Spectrum

Attention: Daryl Hulsey
Daryl.Hulsey@charter.com
812-253-2755
1900 North Fares Ave., Evansville, IN 47711

4) Vectren

Attention: Colby Morris, Right of Way Agent
cmorris@vectren.com
812-491-4785
P.O. Box 209, Evansville, IN 47702

5) W.O.W.

Attention: James Fambrough, Construction Engineer
James.Fambrough@wowinc.com
812-305-4756
6600 Hank Dr., Evansville, IN 47715

- or -

Attention: Courtney Stevens, Construction Supervisor
Courtney.Stevens@wowinc.com
812-305-0531
6600 Hank Dr., Evansville, IN 47715

Before filing a Petition to Vacate with the City Clerk's Office, the following CITY DEPARTMENTS MUST BE NOTIFIED and the responses must be included with each copy of the filed petition:

1) City Engineer's Office

Attention: Brent A. Schmitt, P.E., City Engineer
baschmitt@evansville.in.gov
812-436-4990
Rm. 321, 1 N.W. Martin Luther King, Jr. Blvd., Evansville, IN 47708

2) Department of Transportation and Services

Attention: James Cruse, Supervisor, Traffic Engineering
jcruse@evansville.in.gov
812-435-6003
1304 Waterworks Rd., Evansville, IN 47713

3) Evansville Fire Department

Attention: Greg Main, Chief Fire Marshal
gmain@evansvillefiredepartment.com
812-436-4464
550 S.E. 8th St., Evansville, IN 47713

Once all responses are collected, prepare the Ordinance according to Evansville Municipal Code 12.05.450. **Prior to making twenty five copies, Petition to Vacate and Ordinance must be reviewed by Corporate Counsel, Ted Ziemer, tziemer@zsws.com, 20 N.W. First St., 9th floor, Evansville, IN 47708 for approval of filing.**

Upon filing, please have the following items:

- A. Twenty five copies of the **petition** and **ordinance**
- B. Three **certified checks** payable to:
 1. The Evansville Courier Co. – costs of publication in newspaper
 2. County Recorder – costs of recording
 3. City Clerk – \$100 filing fee
- C. Two **notices**:
 1. **Notice by certified mail** to landowners whose land lies within 200 ft. of the property to be vacated, and to each registered neighborhood association whose boundaries lie within 200 feet of the property to be vacated with **pre-addressed envelopes** and **pre-addressed return receipts** for certified mail returnable to the City Clerk with proper postage affixed
 2. **Notice by publication** for one time publication in newspaper

ARTICLE IV. STREET VACATIONS

12.05.450 Petition for vacation.

(A) Persons who own or are interested in any lots or parts of lots within the City, and want to vacate all or part of a public way or public place in or contiguous to those lots or parts of lots within the City, may file a petition for vacation with the Common Council of the City.

(B) Persons desiring such vacation must file with the Common Council no later than seven days prior to the first reading on the vacation ordinance a sworn petition containing the following:

- (1) The name and address of the applicant, including the following:
 - (a) If an individual, whether the individual is acting for only himself or in a representative capacity for any other person.
 - (b) If a partnership, the names of all of the partners.
 - (c) If a corporation, the names of the officers and directors, the principal place of business, and the state in which incorporated.
 - (d) If any other legal entity, the names and addresses of the legal holders of title.
- (2) The circumstances of the case.
- (3) A legal description of the property proposed to be vacated, to include the common known address, signed and certified by a land survey or registered by the State of Indiana.
- (4) The correct names, addresses, and Zip Codes of all owners of land within 200 feet of the property proposed to be vacated.
- (5) A location map and site plan showing existing conditions and public way or public place marked “to be vacated” on the map.
- (6) A statement as to whether the Water and Sewer Utility of the City of Evansville, Indiana, or any other public utility desire to retain an easement within the area to be vacated, and if so, a legal description of said easement.
- (7) An attachment to the petition from the Traffic Engineer and the Fire Department of the City of Evansville concerning the effect of such vacation on traffic flow, accessibility of emergency equipment, and any other matter concerning public safety.

(C) At the time of the filing of the petition, the person desiring such vacation shall file a completed vacation ordinance, the form of which is set forth in EMC [12.05.470](#) with a location map and site plan attached.

(D) At the time of the filing of the petition, the person desiring such vacation shall provide the City Clerk with two certified checks in sufficient amounts to pay for the costs of publication in the City newspapers and for the costs of recording. The checks shall be made out in the proper amounts to “The Evansville Courier Co.” and the County Recorder. Further, at the time of the filing of the petition, the person desiring the vacation shall provide the City Clerk with a filing fee of \$100.00 payable by certified check to the City Clerk.

(E) All petitions and ordinances shall be filed along with 25 copies on eight and one-half by 11-inch paper with the petition as the first document and the ordinance as the second document.

(F) At the time the petition and ordinance are filed, the applicant shall also supply the City Clerk with notices to landowners whose land lies within 200 feet of the property to be vacated, and to each registered neighborhood association, pursuant to EMC [2.108.060](#), whose boundaries lie within 200 feet of the property to be vacated, the form of the notice being set forth in EMC [12.05.460](#) with pre-addressed envelopes and pre-addressed return receipts for certified mail returnable to the City Clerk with proper postage affixed. [Ord. G-98-14, passed 6-8-98; Ord. G-91-2, passed 1-30-91; Ord. G-89-3, passed 1-31-89; Ord. G-89-24, passed 6-14-89; Ord. G-86-

13, passed 4-21-86; Ord. G-85-72, passed 12-16-85; Ord. F-84-39, passed 7-23-84; Ord. G-81-51, passed 10-26-81. 1962 Code, Art. 5, Ch. 3, § 1; 1982 Code § 96.70; 1983 Code § 9.96.70.]

12.05.460 Notice.

- (A) The City Clerk shall give notice of the petition and of the time and place of the hearing, the form of which is set forth below, by publication one time in a newspaper of general circulation in the City at least 10 days before the public hearing.
- (B) In addition, the City Clerk shall give notice of the petition and of the time and place of the hearing by certified mail to landowners whose land lies within 200 feet of the property proposed to be vacated, the notice to be mailed at least 10 days prior to the date of the public hearing.
- (C) The notice by publication shall be substantially as follows:

NOTICE OF A PUBLIC HEARING REGARDING THE VACATION OF

The purpose of this hearing is for the consideration of the vacation of the following public way or public place:

(Herein describe the property legally and commonly)

The public hearing on the proposed action will be held on the _____ day of _____, 20____, at _____ o'clock in Room _____, of the Civic Center Complex, Evansville, Indiana.

City Clerk

- (D) The notice by certified mail shall be substantially as follows:

To Whom It May Concern:

Persons owning or having an interest in any lots or parts of lots contiguous to a public way or public place commonly referred to as _____

_____ have petitioned the Common Council of the City of Evansville to vacate the aforesaid public way or public place. It is required by law that a public hearing be held regarding this vacation, at which time any person aggrieved by the proposed vacation may object on the basis of certain grounds which are set forth in Indiana Code 36-7-3-13. The public hearing on this proposed action will be held on the _____ day of _____, 20____, at _____ o'clock _____.m., in Room _____, of the Civic Center Complex, Evansville, Indiana.

City Clerk

[Ord. G-86-13, passed 4-21-86; Ord. G-81-51, passed 10-26-81. 1962 Code, Art. 5, Ch. 3, § 2; 1982 Code § 96.71; 1983 Code § 9.96.71.]

12.05.470 Public hearing.

- (A) The Common Council of the City shall hold a public hearing on the petition within 30 days of the receipt of the petition. The public hearing is subject to the State Open Door Law (see IC [5-14-1.5-1](#) et seq.). At the public hearing, any person aggrieved by a proposed vacation may object to that vacation on one of the below grounds:

- (1) The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.

- (2) The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
 - (3) The vacation would hinder the public’s access to a church, school, or other building or place.
 - (4) The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.
- (B) At the time of the public hearing, the City Clerk shall provide proof of publication from the Evansville Printing Corporation and the return receipts from the certified mail notice which was sent to abutting landowners. The person desiring the vacation shall explain any unreturned receipts.
- (C) After the public hearing and vote, the Common Council may by ordinance vacate the public way or place.
- (D) The ordinance of vacation shall, omitting formal parts, be substantially as follows:

Ordinance No. G- _____ Introduced By: _____
 Committee: Public Works

AN ORDINANCE TO VACATE CERTAIN PUBLIC WAYS OR PUBLIC PLACES WITHIN THE CITY OF EVANSVILLE, INDIANA, COMMONLY KNOWN AS

BE IT ORDAINED by the Common Council of the City of Evansville, Indiana, as follows, to-wit:

Section I. That pursuant to EMC [12.05.450](#), a sworn petition was presented to the Common Council of the City of Evansville, requesting that the public place or public way described in Section III below be vacated by the City of Evansville.

Section II. That after due and proper notice a timely public hearing was convened by the Common Council, at which time all interested persons were permitted to address the Common Council regarding said vacation.

Section III. That the Common Council of the City of Evansville, after due investigation and consideration has determined that the nature and extent of the public use and the public interest to be subserved is such as to warrant the vacation of that part of the public way or public place described as follows, and further indicated by the words “To Be Vacated” on the drawing hereto attached, which is made a part of this Ordinance.

(here insert legal and common description)

Section IV. That the vacation of said public way or public place described in Section III above, is subject to an easement in favor of (herein designate Water and Sewer Utility of the City of Evansville, Indiana and such other public utilities as are requesting an easement), said easement is more particularly described as follows:

(Note: Omit in total or in part if inapplicable)

(Here Insert Easement Description)

Therefore, the Common Council of the City of Evansville, Indiana, does hereby find the above-described public way or public place is no longer required for public use and the public interest will be served by such vacation, and the Common Council of the City of Evansville does hereby vacate that portion of the public way or public place described in Section III above subject to the terms and conditions as stated in this Ordinance.

(E) Upon passage of the ordinance of vacation, the City Clerk shall furnish a copy of the ordinance to the County Recorder for recording and to the County Auditor. [Ord. G-89-17, passed 10-25-89; Ord. G-83-38, passed 10-3-83; Ord. G-81-51, passed 10-26-81. 1962 Code, Art. 5, Ch. 3, § 3; 1982 Code § 96.72; 1983 Code § 9.96.72.]

12.05.480 Subsequent proceeding limited.

After the termination of a vacation proceeding under this article, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two years. [Ord. G-81-51, passed 10-26-81. 1962 Code, Art. 5, Ch. 3, § 4; 1982 Code § 96.73; 1983 Code § 9.96.73.]

12.05.490 Public utilities.

Notwithstanding this article, vacation proceedings in a municipality do not deprive a public utility of the use of all or part of a public way or public ground to be vacated if at the time the proceedings are instituted, the utility is occupying and using all or part of that public way or public ground for the location and operation of its facilities. However, the utility may waive its rights under this section by filing its written consent in the vacation proceedings. [Ord. G-81-51, passed 10-26-81. 1962 Code, Art. 5, Ch. 3, § 5; 1982 Code § 96.74; 1983 Code § 9.96.74.]