

# RIGHT - OF - WAY REQUEST

APPLICATION DUE \_\_\_\_ or \_\_\_\_ FOR THE \_\_\_\_ or \_\_\_\_ PLAN & ZONING COMMISSION MEETING

Case No. 11 - \_\_\_\_ -- 1 . \_\_\_\_\_

**INSTRUCTIONS:** Complete all the required information listed below for each application to be processed.

**APPLICANT NAME:** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

\_\_\_\_\_  
CITY STATE ZIP CODE: \_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_/\_\_\_\_\_  
AREA CODE

**DATE REQUESTED:** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_

**TYPE OF REQUEST:** (Check Applicable Items Below)

- Vacation & Conveyance of Street or Alley** (Provide all applicable items below)
- Vacation & Lease of Street or Alley** (Provide all applicable items below)
  - Air Rights** (Provide all applicable items below)
  - Surface Rights** (Provide all applicable items below)
  - Subsurface Rights** (Provide all applicable items below)
- Termination of Easement Rights** (Provide all applicable items below)

**ATTACHED REQUIRED INFORMATION:** (Provide all applicable items below)

- Legal Description of Requested Street or Alley Property**  
(Provide if legal requires metes and bounds survey description)
- Site Drawing**  
(Provide if legal requires metes and bounds survey description)
- Elevational Drawings**  
(Only for air rights request)
- Written Statement of Purpose for Request**  
(Required for all requests)
- Written Consents of all Adjoining Property Owners**  
(**Must** have their signature, address and date for all requests)

**FILING FEE**

- \$ 100.00** (RECEIPT FOR PAYMENT ATTACHED)  
(Filing Fee, does not include purchase price or lease payment)

**SUBMIT REQUEST TO:**

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning & Urban Design Division  
602 Robert D Ray Drive  
Des Moines, Iowa 50309  
Phone: (515) 283 - 4182

## Policy for Vacation & Conveyance of Alleys and Streets

By Roll Call No. 3352, June 21, 1976, the City Council adopted a formal policy for street and alley vacations and conveyances. Following are excerpts from that Roll Call:

The purpose is to establish a uniform method of placing value on streets and alleys. Vacating and conveying these unneeded and in many instances unused parcels to the abutting property owners would save the City miscellaneous maintenance costs and also put the land back on the tax rolls. The majority of the conveyances will be in residential areas. However, occasionally there will be parcels zoned commercial and industrial. The City would issue Quit Claim Deeds. The deeds would contain a clause restricting subsequent building or lot improvements (additional parking). In residential alleys, in most cases, we would not use a deed restriction - but in some cases, when necessary, we would reserve easement rights. The purchaser would have the option of having the deed restriction removed by paying the fair market value at the time of his original purchase or at any time in the future. The fair market value would be established as of the date the request was made to remove the deed restriction.

a. **Vacation** (Revised by Roll Call 89-2058, May 15, 1989)

*Request for the vacation and conveyance of public right-of-way shall be reviewed by the Plan and Zoning Commission and the Commission shall make recommendation to the City Council on the matter.*

Community Development Department Policies for Vacation and Conveyance Request.

- Alley has no than one (1) ownership developed land passage way use of the requested area of the alley right of way
- Street has no developed land passage way use of the requested area of the street right of way.
- Street and alley that have developed land passage way use of the requested right of way required to provide written consents from all adjoining property owners along with the Right of Way Request Form.

Streets and alleys will be vacated if no access problems result therefrom. Vacation will not be tied directly to receiving the purchase price or waivers from the abutters, although every effort will be made to collect same.

b. **Conveyance** (Revised by Roll Call 89-2058, May 15, 1989)

Residential Zoned Property

*The public right-of-way proposed to be vacated and conveyed will be divided as equally as possible and a proportionate share of the right-of-way will be offered to each of the property owners abutting the right-of-way. The City will notify by certified mail the abutting property owners of its intent to vacate and convey public right-of-way and the price at which the property owner may purchase his or her proportionate share of the vacated property. The City will also inform the abutting owners that an affirmative response including the purchase amount must be received by the City within a stated period of time (usually 30 days). If an abutting property owner does not wish to purchase, lease or otherwise obtain an interest in his or her proportionate share of such right-of-way, or if the City receives no response from its notification, the City may offer and convey that proportionate share of the vacated property to an interested party such as an adjoining abutter so long as the property of any abutters is not damaged by loss of access thereto. If an abutting property is owned by any government entity or a railway, the City staff may determine whether it is in the City's best interest to offer and convey all the vacated property to the government entity or railway. In the event certain portions of such vacated right-of-way are not purchased, leased or otherwise conveyed, same will remain as City-owned property.*

Commercially and Industrial Zoned Property

*The same policy as applies to residentially zoned property shall apply to commercial and industrial zoned property unless an abutting property owner desires to use more than his or her proportionate share of the vacated right-of-way for purposes of development. In the event a property owner abutting City right-of-way requests that such right-of-way be vacated in order that such vacated property, in whole or in part, may be used to facilitate commercial or industrial development and said property owner has submitted a site plan for said development, the proportion of such vacated property needed for that development shall be offered and conveyed to such property owner, as long as no loss of access to an abutting property results. If such property owner does not purchase, lease, or otherwise obtain an interest in such property, or if less than all of the vacated right-of-way is so conveyed, the City may offer and convey such vacated property in proportionate shares to property owners abutting such vacated property.*

U-1 & FW Zoned Property

Streets and alleys located in U-1 Flood Plain District will be vacated but not sold.



**Consent to Vacation and Sale of Alley or Street Right-of-Way**

**REGARDING** the East/West | North/South alley or street right-of-way in the block bounded by the following Streets:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The undersigned owners hereby consent** to the City of Des Moines vacating (closing) the alley or street described above and to the City offering such alley or street for sale to the owner(s) of the adjoining property(s).

The undersigned **represent and warrant** that they are the owners of property at the address identified below which adjoins such alley or street.

**Date:** \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature of 2nd Owner)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

**Address of adjoining Property:**

**MailingAddress-if different:**

\_\_\_\_\_

\_\_\_\_\_

Des Moines, IA \_\_\_\_\_  
(Zip Code)

\_\_\_\_\_  
\_\_\_\_\_

**Legal Description of Adjoining Property** (if known):

\_\_\_\_\_  
\_\_\_\_\_

**✓ Check applicable line:**

\_\_\_ I/We are interested in purchasing the adjoining portion of the alley or street. This is not a commitment to purchase.

\_\_\_ I/We are **not** interested in purchasing the adjoining portion of the alley or street and consent to the sale of the entire alley to the owner of the property on the other side of the alley or street.

\*\*\*\*\*Community Development Department Use Only \*\*\*\*\*

Case No. 11-20 - 1.

Received: \_\_\_\_\_

Applicant: \_\_\_\_\_