



## CHARTER TOWNSHIP OF WATERFORD

### CLERK'S OFFICE

5200 Civic Center Dr. • Waterford, MI 48329

Phone 248-674-6266 • Fax 248-674-5455

Web Page [www.waterfordmi.gov](http://www.waterfordmi.gov)

### APPLICATION FOR THE VACATION OF A SUBDIVISION STREET

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

Application Fee \$500.00

Paid \_\_\_\_\_

	<u>Returned</u>	<u>Charges</u>
Assessing		
Building		
Clerk		
Engineering		
Fire		
Planning		
Police		
Water		
Total:		
Balance		

#### 1. Applicant Information

NAME	ADDRESS
PHONE NUMBER	E-MAIL ADDRESS

#### 2. Street to be Vacated

(The Circuit Court has exclusive jurisdiction, and the Township does not have jurisdiction, to consider the vacation of public streets having any part within twenty-five (25) meters of a lake or the general course of a stream.)

STREET NAME

**IMPORTANT:** Anyone who has a legal interest in this property must sign that they are aware of a vacation request.

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**The following information must be included for petitions for a street vacation.**

(a) Qualification. A petition seeking vacation under this article may be filed by:

- (1) One (1) or more owners of lots abutting the street proposed to be vacated; or
- (2) Any ten (10) persons residing in the Township.

(b) Contents. A person or entity requesting the Township Board to vacate a subdivision street shall prepare and file with the Township Clerk copies of a petition, in the quantity established by the Township Clerk, as well as the following documentation:

- (1) A description of the part or parts of the street sought to be vacated.
- (2) The reasons for seeking the vacation.
- (3) An identification of each public utility known to the petitioner to have installations or equipment in the subdivision, or which has a recorded easement or franchise right in the existing street right-of-way, or which would otherwise be affected by the vacation.
- (4) A copy of the file and resolution of the governing street agency abandoning and discontinuing the street.
- (5) Any and all additional facts known to the petitioner relative to:
  - a. The use or non-use of the street to be vacated.
  - b. Any function performed, or anticipated to be performed by the street, or the lack of present or anticipated function to be performed by the street.
  - c. Any other relevant facts and circumstances.

(c) Preliminary review. Upon receipt of a petition by the Township Clerk, copies shall be distributed to the Township Supervisor, Building Official, Zoning Official, Township Engineer, Public Works Official, Police Chief and Fire Chief. Such officials shall undertake a review and provide a report to the Township Board, to be filed with the Township Clerk for distribution, providing a recommendation on whether the petition for vacation of the street should be granted. If a recommendation is that the petition should be denied, the reasons for such denial should be stated. In addition, such report shall include a recommendation to the Township Board with regard to any conditions or reservations that should be made in the event the petition for vacation is granted, such as, the reservation of right-of-way for drainage and/or utilities, fire access, or similar public interests.

	Date	Returned	
Forwarded to Supervisor			
Board Meeting Agenda			
Notified Applicant			
Denied / Granted:			
Reason denied			
Public Hearing Date			
Notified Drain Commission			
Notice to owners w/I 300'			

**CHARTER TOWNSHIP OF WATERFORD CODE OF ORDINANCES  
CHAPTER 15 SUBDIVISION AND LAND MANAGEMENT REGULATIONS**

**(CHAPTER 15, ARTICLE IV, SECTION 15-087 cont.)**

such parcels into one zoning lot upon request of the Zoning Official. The intent of such consolidation is to ensure that the boundaries of a zoning lot match the boundaries established on an approved site plan. This section does not prevent the Assessing Official from establishing multiple tax parcels within a zoning lot owned by the County, containing wireless communication facilities, or developed with condominium units in accordance with Public Act 59 of 1978, Condominium Act.

**Secs. 15-088--15-099. Reserved**

## **ARTICLE V. TAX PARCELS**

### **Sec. 15-100. Creation of tax parcels**

Tax parcels, as defined in Section 1-002(f) of this Code, may be established by the Assessing Official within the boundaries of a lot or zoning lot to identify buildings, sections of a building, or structural improvements for the purpose of treating such improvements as separate units for tax administration purposes. Except as provided in Section 15-087, the procedures under Article IV of this Chapter shall not be used to create tax parcels.

**Secs. 15-101--15-109. Reserved.**

## **ARTICLE VI VACATION OF SUBDIVISION STREETS**

### **Sec. 15-110. Intent and purpose**

It is the intent and purpose of this article to establish the authority and procedure for vacating certain streets dedicated as part of the subdivision of land under the Land Division Act, Act 288 of the Public Acts of 1967, as amended, and to provide standards for Township Board consideration of petitions for vacation. It is the further intent and purpose of this article to clarify and reflect the law in the State of Michigan that the Township Board's jurisdiction to vacate streets is limited, and even when exercised, may not be sufficient to vest title in vacated street areas without relief in the circuit court.

*(Ord. of 3-11-1996, § 1)*

### **Sec. 15-111. Jurisdiction**

- (a) Concurrent jurisdiction. The Township Board and the circuit court have concurrent jurisdiction to consider petitions for the vacation of streets dedicated to the public as part of the subdivision of land under the Land Division Act following abandonment of such streets by the governing street agency, except as provided in the next subparagraph.
- (b) Exclusive circuit court jurisdiction. The Circuit Court has exclusive jurisdiction, and the Township does not have jurisdiction, to consider the vacation of:
  - (1) Subdivision streets not dedicated for public use.
  - (2) Public streets having any part within twenty-five (25) meters of a lake or the general course of a stream.
- (c) For streets that the Township board does not have jurisdiction to vacate, if requested or required by law and without requiring the petition and processing in Sections 15-112 and 15-113, by Resolution the Board may state its position regarding a pending circuit court action that seeks vacation of a publicly dedicated street to the Township.

*(Ord. of 3-11-1996, § 1)*

### **Sec. 15-112. Petitions for vacation**

- (a) Qualification. A petition seeking vacation under this article may be filed by:
  - (1) One (1) or more owners of lots abutting the street proposed to be vacated; or
  - (2) Any ten (10) persons residing in the Township.

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**(CHAPTER 15, ARTICLE VI, SECTION 15-112 cont.)**

- (b) **Contents.** A person or entity requesting the Township Board to vacate a subdivision street shall prepare and file with the Township Clerk copies of a petition, in the quantity established by the Township Clerk, as well as the following documentation:
  - (1) A description of the part or parts of the street sought to be vacated.
  - (2) The reasons for seeking the vacation.
  - (3) An identification of each public utility known to the petitioner to have installations or equipment in the subdivision, or which has a recorded easement or franchise right in the existing street right-of-way, or which would otherwise be affected by the vacation.
  - (4) A copy of the file and resolution of the governing street agency abandoning and discontinuing the street.
  - (5) Any and all additional facts known to the petitioner relative to:
    - a. The use or non-use of the street to be vacated.
    - b. Any function performed, or anticipated to be performed by the street, or the lack of present or anticipated function to be performed by the street.
    - c. Any other relevant facts and circumstances.
- (c) **Preliminary review.** Upon receipt of a petition by the Township Clerk, copies shall be distributed to the Township Supervisor, Building Official, Zoning Official, Township Engineer, Public Works Official, Police Chief and Fire Chief. Such officials shall undertake a review and provide a report to the Township Board, to be filed with the Township Clerk for distribution, providing a recommendation on whether the petition for vacation of the street should be granted. If a recommendation is that the petition should be denied, the reasons for such denial should be stated. In addition, such report shall include a recommendation to the Township Board with regard to any conditions or reservations that should be made in the event the petition for vacation is granted, such as, the reservation of right-of-way for drainage and/or utilities, fire access, or similar public interests.

*(Ord. of 3-11-1996, § 1)*

**Sec. 15-113. Proceedings on petition**

- (a) Following receipt of the reports and recommendations from the several Township officials, consideration of the petition for vacation shall be placed on an agenda of the Township Board. In connection with such agenda item, the Board shall be provided with a copy of the petition, together with the reports and recommendations of the Township officials.
- (b) Notice of the time, date and place of the meeting shall be given to the petitioner, which shall include a statement that the Township Board shall commence its consideration of the petition at such meeting.
- (c) At the meeting, which the Board may adjourn, for reasons stated at the meeting, the petition shall be analyzed in light of the reports and recommendations of the respective Township officials. In addition, the petitioner shall be provided with an opportunity to be heard.
  - (1) On the basis of the reports and recommendations of the Township officials, taking into consideration the materials and any presentation of the petitioner, if the Township Board determines that the petition for vacation should be denied, the Board shall adopt a resolution denying the petition for vacation, including a statement of the reasons for denial.
  - (2) If the Township Board finds that the street sought to be vacated has not been dedicated and accepted for public use as part of the establishment of a subdivision, or that any part of the street to be vacated is within twenty-five (25) meters of a lake or the general course of a stream, the Board shall deny the petition for vacation on the ground that the Board lacks jurisdiction to vacate such a street.
  - (3) If the Township Board has not otherwise denied the petition for vacation in accordance with subparagraphs (1) or (2), above, and if the Board tentatively determines that the petition for vacation may be granted, the Board shall set a date for a public hearing on the petition. The Board may require the petitioner to submit additional information and documentation on or before a date specified by the Board, for consideration at the public hearing.
- (d) Notice of the time, date and place of the public hearing on the petition for vacation shall be transmitted to the petitioner, and to the owners of each lot or zoning lot within three hundred

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**(CHAPTER 15, ARTICLE VI, SECTION 15-113(d) cont.)**

(300) feet of the street sought to be vacated, with ownership being determined on the basis of the Township tax assessment roll. Notice shall also be transmitted to the County Water Resources Official.

(e) On the date scheduled for public hearing, which may be adjourned from time-to-time, as determined by the Township Board, the Board shall provide the petitioner with an opportunity to be heard, and also provide an opportunity to be heard to interested parties. The Board may also elect to consider further reports and/or testimony from the Township officials or other experts and consultants.

(f) Following the public hearing, the Township Board shall adopt a resolution granting the petition for vacation, denying the petition for vacation or granting the petition for vacation with conditions and/or reservations. If vacation is granted, the effective date of vacation shall be the date recorded by the Township Clerk with the Register of Deeds or such later date as may be specified in the Resolution. If vacation is denied, the reasons for denial shall be specified.

*(Ord. of 3-11-1996, § 1)*

**Sec. 15-114. Standards for decision making**

In arriving at its decision on a petition for vacation at the conclusion of a public hearing, the following standards for decision making shall be considered by the Township Board:

(a) If objections to the petition for vacation are presented which create a material question as to whether the street is necessary for the promotion or protection of the public health, safety and general welfare, the petition for vacation may be denied by the Board.

(b) The Township Board may adopt a resolution granting the petition if it is found by the Board that there are no material questions as to whether the street is necessary for the promotion or protection of the public health, safety and general welfare, and that there are no reasonable objections presented. In reaching its conclusions on these issues, the Board shall take into consideration:

- (1) Whether any property intended to be served by the street would be landlocked, considering property improvements and divisions previously made, as well as those likely to occur in the future.
- (2) Whether access to any one (1) or more properties, natural features, or natural resources would be terminated, and the nature of any objections with regard to such termination.
- (3) The positive and negative impacts of a transfer of ownership of the land to be vacated to adjacent property owners upon vacation of the street, including impact relating to law enforcement and fire and emergency medical services, views of natural features and resources, buffering, and other public or private purposes, services, rights, or interests, and the likelihood of losing effective control of land which is used or usable for maintaining grades relative to drainage and/or the installation, repair and/or maintenance of utilities, telecommunications facilities, or other subdivision improvements.
- (4) The present or future need for the right-of-way for through traffic purposes.
- (5) Any impact vacation would have on future right-of-way planning.
- (6) Other considerations which are relevant to the particular facts and circumstances attendant to the street sought to be vacated.

*(Ord. of 3-11-1996, § 1)*

**Sec. 15-115. Conditions and reservations**

With or in conjunction with a resolution granting a petition to vacate, the Township Board may impose conditions and/or reservations. A resolution granting a vacation of a street being used by a public utility for public utilities purposes shall reserve an easement for the use of public utilities and may reserve an easement for other purposes, including such things as drainage, law enforcement, fire and emergency medical access, views of natural features and resources, buffering, telecommunications, and other public purposes.

*(Ord. of 3-11-1996, § 1)*

(**CHAPTER 15, ARTICLE VI cont.**)

**Sec. 15-116. Vesting of title upon vacation of street**

- (a) Upon the effective date of a street vacation granted under this article the Township shall have no interest in or jurisdiction of the vacated street, and subject to any requirement under the Act for a circuit court order or judgment and the preparation and recording of an amended plat, title to the land occupied by the vacated street may vest in the owners of the lots abutting the vacated street as provided for in the Act.
- (b) In granting a street vacation under this article, the Township Board is not guaranteeing or warranting, to the petitioner or any other person, the transfer of ownership of the vacated street as provided in this Section, or that all requirements under the Act related to this street vacation will be satisfied upon the Township Clerk recording the Township Board resolution granting such street vacation and filing copies with the S.E.A. as provided in this Chapter and in the Act. The language of this subsection shall be incorporated into all resolutions adopted by the Township Board to grant street vacations in accordance with this Article.
- (c) All resolutions adopted by the Township Board granting street vacations in accordance with this Article shall indicate that the resolution is conditioned on the petitioner for the street vacation:
  - (1) Complying with and being solely responsible for satisfying any additional requirements under the Act related to the subject street vacation, and
  - (2) Indemnifying and holding the Township harmless from any and all costs and expenses that the Township may be required to incur in connection with any such additional requirements.

*(Ord. of 3-11-1996, § 1)*

**Sec. 15-117. Requirements upon approval**

The Township Clerk shall record a certified copy of the Resolution granting a petition for vacation with the Register of Deeds and file a copy with the S.E.A. as defined in Section 1-002(g) of this Code, within thirty (30) days following approval of the minutes of the meeting at which the vacation was granted.

*(Ord. of 3-11-1996, § 1)*

**Sec. 15-118. Fees**

At the time of filing of a petition for vacation under this article, the petitioner shall pay the fee established by resolution of the Township Board.

*(Ord. of 3-11-1996, § 1)*

**Secs. 15-119--15-129. Reserved**

**ARTICLE VII. PRIVATE STREET REQUIREMENTS**

**Sec. 15-130. Private street requirements**

In all cases where a parcel resulting from or proposed in a land division pursuant to this Chapter does not possess frontage on a public street, access to which is or proposed to be provided over a vehicular access easement that is or may be used by more than one (1) parcel, such vehicular access easement shall comply with the following private street requirements:

- (a) All private streets shall have a minimum right-of-way of sixty (60) feet in width, and shall conform to governing street agency standards and the Township Engineering Standards.
- (b) Prior to building occupancy, the street shall be completed in accordance with subsection (1) above.
- (c) The private street shall be named. All private street names shall be approved in accordance with any street-naming procedure established by the Township Board.
- (d) The applicant seeking approval of a private street shall provide evidence satisfactory to the Township Board of the physical and financial ability to regularly maintain said private street. The evidence of ability to maintain the street shall include: