

**TOWN OF PITKIN
PROCEDURE: PETITION TO VACATE STREET OR ALLEY**

- A. Definition
- B. Standard for Vacation
- C. Petition by Owners
- D. Petition — Filing fee
- E. Survey, vicinity map, plat map, and legal description
- F. Staff report
- G. Public hearing
- H. Action by Board of Trustees
- I. Vacation by ordinance

A. Definition

A street or alley “vacation” means that the public is setting aside its interest in the subject property, and thereby conveying the property to the landowners of the property abutting the vacated alley or street as set forth at C.R.S. 43-2-301 et seq. **After a street or an alley is vacated, the public no longer has a right to use the property for access. IS THIS CORRECT? ATTY CHRIS?**

Commented [CM1]: True. The Town may, however, provide for a public access easement or private access easement to access certain lands as put forth in CRS 43-2-302 and 303.

B. Standard for Vacation

Petitions will be evaluated on the basis of the information provided, and the statutory requirements for Colorado municipalities (see C.R.S. 43-2-301 et seq. as amended), agreement with the Town of Pitkin 1879 Articles of Incorporation and recorded plat of the Town of Pitkin, Colorado, and testimony and evidence presented through public comments. ~~Pursuant to C.R.S. 31-15-713, the sale of any real property used or held for any governmental purpose must be approved by the electorate at regular or special election. Thus,~~ when the subject street or alley is in active use it reasonably follows that the vacation of the subject street or alley must be approved by the registered voters of the Town of Pitkin at a regular or special election. The town may retain certain rights or utility easements to the vacated area as deemed appropriate by the Board of Trustees. All petition materials are public information. Processing time from determining sufficiency of signatures to consideration for approval: 90 days.

C. Petition by Owners

The town council will accept a petition to vacate a street or alley signed by owners representing 50% of an interest in any real property abutting upon the portion of street or alley under consideration. The petition shall be filed with the town clerk.

D. Petition—Filing Fee

Every petition for the vacation of any street or alley, or any part thereof, shall be accompanied by a fee in an amount established by resolution of the town to defray the administrative costs incurred in processing the petition. The petitioner shall be responsible for all additional costs, including its attorney’s fees, incurred by the town regardless of the outcome of the petition.

E. ~~Compensation to the Town of Pitkin~~

~~The Town of Pitkin shall receive reasonable consideration for vacating the subject street or alley. In most instances the compensation shall be reasonably related to the appraised value of the subject property, either in a~~

- ~~1. cash payment; or~~

- ~~2. the conveyance of personal property or real property whose value is reasonably related to the appraised value of the subject property; or~~
- ~~3. a forbearance, whose reasonable value is reasonably related to the appraised value of the subject property; and~~
- ~~4. recognizing that in some instances it may be difficult if not impossible to reasonably value a small segment of real property or its value to the Town of Pitkin.~~

F. **E.** Survey, vicinity map, plat map and legal description:

Every petition shall be accompanied by:

1. ~~A survey, containing an exact legal description of the portion of right of way to be vacated, prepared and sealed by a professional land surveyor licensed in the State of Colorado. Flagging which indicates the boundaries of the street or alley under consideration shall be installed when the survey is conducted. WILL BE MOVED TO...~~
2. A vicinity map showing the general area of the proposed vacation and all pertinent land features.
3. ~~A plat map prepared and sealed by a professional land surveyor, licensed in the state of Colorado, indicating the specific parcels abutting the proposed street or alley under consideration. WILL BE MOVED TO...~~
4. The name and address of all property owners for properties that lie adjacent to the street or alley to be vacated.
5. Reason or justification for the request.

G. **F.** Staff Report

Upon receipt of the petition, the fee and all required documents, the town clerk shall verify that the documentation is complete and that it contains the required number of signatures. The town clerk shall then forward the petition and required documents to the Zoning Board of Adjustments for further review and recommendation. The Zoning Board of Adjustments shall consider the following criteria and make a recommendation that the Board of Trustees approve, approve with conditions, or deny the application, or shall remand it to the petitioner with instructions for modification or additional information or action. In its review of the petition, the Zoning Board of Adjustments shall consider, among others, the following factors:

1. Will the vacation be a benefit to the public interest?
2. Will the vacation result in any parcel of land being denied direct access?
3. Does the subject street or alley or part thereof abut any body of water?
4. Will the vacation result in the alleviation of a hardship for the petitioner?
5. Would the vacation be detrimental to future land development opportunities, traffic circulation, recreational access, emergency services, utility facilities, or other similar right-of-way purposes?
6. Would the proposed street or alley vacation have detrimental aesthetic impacts?

H. **G.** Public Hearing

Upon receipt of the recommendation from of the Zoning Board of Adjustments **to continue** the process of vacation, the Board of Trustees will set a time for hearing the proposal for vacation. **The Board of Trustees and the Zoning Board of Adjustments will be present to receive comments at the public hearing.** The town clerk shall give written notice by mail to all petitioners at the address on the petition and all owners of property abutting the portion of street or alley under consideration, as shown on the records of the Gunnison County assessor. Public notice shall be made no less than

Commented [CM2]: "If the Zoning Board of Adjustments makes a recommendation to the Board of Trustees to approve the vacation request, approve the vacation request with conditions, or deny the vacation request, the Board of Trustees will set a time for hearing the proposal for vacation upon receipt of the recommendation. Both the Board of Trustees and the Zoning Board of Adjustments will be present at the public hearing to receive comments. The town clerk..."

seven (7) days prior to the public hearing on the petition. **(CLEAN LANGAUGE MAKE CLEAR BOTH ZONING BOARD AND BOT HOST PUBLIC HEARING)**

Commented [CM3]: What does the Town do if the zoning board recommends denial? The way this paragraph is worded it seems like a public hearing will only be held if the zoning board recommends to "continue the process of vacation" which sounds like approval/approval with conditions. I added "deny" to my recommended language above so that a public hearing occurs w/ recommendation of approval, approval w/ conditions, or denial.

H. Action by Board of Trustees

~~The Board of Trustees shall consider the recommendations of the Zoning Board of Adjustments following the public hearing. In making its decision upon the petition, the Board of Trustees shall consider, among other things, the criteria set forth above in section F as reviewed by the Zoning Board of Adjustments, including, whether or not disposal of town property is in the best interest of the town.~~ The Board of Trustees may approve, approve with conditions, or deny the proposed vacation or may remand it to the applicant with instructions for modification or additional information or action. ~~The Board of Trustees shall determine the appropriate consideration for such vacation. There is no presumption in favor of vacating an alley or street, and the Board of Trustees retains authority to deny a proposed vacation with consideration of the criteria set forth in this section and irrespective of the Board of Zoning Adjustments' recommendation.~~

Commented [CM4]: I think we have to include something like this so that the board of trustees can consider whether or not it wants to be in the "business" of giving away property. All the trustees have raised this concern. The board of zoning adjustments will not consider whether or not it is in the public interest or the town's interest to give away property.

J. Petitioner's Response to Board of Trustees Action

- ~~1. Within seven days of the Board of Trustees decision, the Petitioner may object to the Board of Trustees proposed compensation or any conditions made upon the proposed property vacation. Petitioner shall be responsible to tender payment for the costs incurred by the Town of Pitkin in relation to the subject petition through the date of such objection and there shall be no further action by the Town of Pitkin.~~
- ~~2. Petitioner may make a counterproposal either immediately after the Board of Trustees makes its decision or may make a counterproposal in writing within a reasonable time thereafter. The Board of Trustees may take action upon such counterproposal but is not required to do so.~~

Commented [CM5]: Do we want to include language about denial? i.e. if the board of trustees decides to deny, it will make its reasons for denial in a public hearing on the record?

Commented [CM6]: Once again I think we include something like this just to make it crystal clear that the board retains authority to deny with consideration of the factors in section F, "best interest of the town," and additional factors.

K. I. Vacation by Ordinance

~~When the Board of Trustees determines to grant a petition to vacate, or any part thereof, the area to be vacated shall be appraised at the cost of the petitioner by an appraiser licensed in the state of Colorado. The Town of Pitkin reserves the right to object to a submitted appraisal and obtain a separate appraisal at the Town's expense, or otherwise set a value as it deems appropriate. The town shall have authority to vacate such street or alley, or any part thereof, by ordinance. The ordinance shall not become effective until the petitioner has compensated the town for its expenses related to the petition as set forth above and a sum equal to the appraised value of the area vacated or such other value as determined by the Board of Trustees. Once the payment is processed the town shall sign and record the ordinance, which shall serve as the means of conveyance pursuant to C.R.S. 43-2-303(1). The vacated portion shall vest in the owners of the land abutting such vacated portion as detailed at C.R.S. 43-2-302.~~