

**CITY OF PAPILLION
MAYOR AND CITY COUNCIL REPORT
JULY 6, 2021 AGENDA**

Subject:	Type:	Submitted By:
Approval of Ordinance No. 1933 to amend Section 166-15 (Vacation) of Article II (Streets) of Chapter 166 (Streets and Sidewalks) of the Papillion Municipal Code having to do with the vacation of streets and alleys. The applicant is the City of Papillion. (Street and Alley Vacation Amendment)	Ordinance #1933 (Introduction)	Jeffrey L. Thompson, P.E. Public Works Director/City Engineer

SYNOPSIS

This is a request to amend Section 166-15 of the Papillion Municipal Code to update the City's procedures for vacating right-of-way to be consistent with Neb. Rev. Stat. 16-609 and Neb. Rev. Stat. 16-611.

BACKGROUND

Currently, Section 166-15 of the Papillion Municipal Code requires the City to retain title to any vacated street, unless only half of the right-of-way is vacated. There are times when retaining title to the City is not in the City's best interest. For example, when right-of-way needs to be vacated and realignment within a subdivision that is being replatted. Based on the current ordinance the City would need to retain title to the vacate right-of-way and then consider a separate ordinance to convey such title to the adjoining landowner(s). This typically requires an agreement between the City and the adjoining landowner(s) to establish the consideration for the sale or exchange of the property. Neb. Rev. Stat. 16-611 provides a City with the flexibility to either release title to the adjoining landowner(s) or to retain title. This will simplify the process when the City wishes to vacate streets with title conveying to the adjoining landowner(s). Staff recommends that Section 166-15 be updated to allow for this flexibility.

FISCAL IMPACT

Not applicable.

RECOMMENDATION

Approval.

ATTACHMENTS:

Ordinance #1933
Legislative Tracked Changes

ORDINANCE NO. 1933

AN ORDINANCE TO AMEND SECTION 166-15 (VACATION) OF ARTICLE II (STREETS) OF CHAPTER 166 (STREETS AND SIDEWALKS REGULATIONS) OF THE PAPIILLION MUNICIPAL CODE HAVING TO DO WITH THE ADOPTION OF REGULATIONS FOR VACATING STREETS AND ALLEYS; TO REPEAL SECTION 166-15 AS PREVIOUSLY EXISTING; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and City Council of the City of Papillion, Nebraska, as follows:

Section 1. That Section 166-15 Vacation of Article II Streets of Chapter 166 Streets and Sidewalks, having to do with vacating streets and alleys, be amended to read as follows:

§ 166-15 Vacation.

- A. Power to vacate. The Council shall have the power to vacate any street or alley within the limits of the city or within its extraterritorial jurisdiction.
- B. Title of vacated street or alley. Upon the vacation of any street or alley, the title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof, unless the city reserves title in the ordinance vacating such street or alley. When a portion of a street or alley is vacated, only one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property, unless the city reserves title in the ordinance vacating a portion of such street or alley. In any vacation under this section, if title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.
- C. Recording. Upon the vacation of all or any portion of a street of alley, the City Clerk or such person's designee shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Sarpy County Register of Deeds to be indexed against all affected lots.
- D. Easements. The title to property vacated pursuant to this section shall be subject to the following:
 - (1) There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
 - (2) There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral

connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

Section 2. That Papillion Municipal code Section 166-15, as previously existing, is hereby repealed.

Section 3. Effective Date. This Ordinance shall be in full force and effect fifteen (15) days after its passage. The City Clerk is directed to effectuate the publishing of this Ordinance for at least one (1) week in a newspaper in general circulation within the City of Papillion, which publication must take place within fifteen days of the passage of this Ordinance by the City Council. The City Clerk shall cause this Ordinance to be published in book or pamphlet form. That this Ordinance shall have the same force and effect as though it had been published at large. That a copy of said Ordinance shall be filed for use and examination by the public in the office of the City Clerk.

PASSED AND APPROVED this ____ day of _____, 2021.

CITY OF PAPILLION,

DAVID P. BLACK, Mayor

Attest:

NICOLE BROWN, City Clerk

(SEAL)

City Council:

First Reading: 07/06/2021

Second Reading:

Third Reading:

Ordinance No. 1933
Legislative Changes

§ 166-15 Vacation.

A. Power to vacate. The Council shall have the power to vacate any street or alley within the limits of the city or within its extraterritorial jurisdiction.

Commented [MR1]: Neb. Rev. Stat. 16-609

B. Title of vacated street or alley. Upon the vacation of any street or alley, the title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof, unless the city reserves title in the ordinance vacating such street or alley. ~~the same so vacated shall be and remain the property of the municipality but may be sold and conveyed by the municipality for any price that shall be agreed upon by the Mayor and 3/4 of the City Council. When an alley is vacated the same shall revert to the owner of the adjacent real estate, 1/2 on each side thereof except that when any alley is taken wholly from one or more lots, upon the vacation thereof, it shall revert to the owner of the abutting property and become a part of such property.~~ When a portion of a street or alley is vacated, only one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property, unless the city reserves title in the ordinance vacating a portion of such street or alley. In any vacation under this section, if title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

Commented [MR2]: Neb. Rev. Stat. 16-611

C. Recording. Upon the vacation of all or any portion of a street or alley, the City Clerk or such person's designee shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Sarpy County Register of Deeds to be indexed against all affected lots.

Commented [MR3]: Neb. Rev. Stat. 16-611

Commented [MR4]: Neb. Rev. Stat. 16-611

D. Easements. The title to property vacated pursuant to this section shall be subject to the following:

(1) There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

~~(2)~~ There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

Commented [MR5]: Neb. Rev. Stat. 16-611