

# INSTRUCTIONAL MEMORANDUMS

## To Local Public Agencies



To: Counties	Date: May 20, 2019
From: Local Systems Bureau	I.M. No. 2.270
Subject: County Road Vacations	

**Contents:** This Instructional Memorandum (I.M.) includes guidelines and procedures for a County to list the necessary steps to vacate a county road as provided by the Iowa Code Section 306.10. This I.M. also includes the following attachments:

[Attachment A](#) - Resolution for Road Vacation Public Hearing ([word](#))

[Attachment B](#) - Notice of Public Hearing ([word](#))

[Attachment C](#) - Resolution to Vacate a County Road ([word](#))

### Introduction

If a county desires to vacate a road, follow the steps listed below:

1. Determine if the county has jurisdiction and control over the road. If the road is located in more than one county, the boards of supervisors must act jointly. If the road is located on a corporation line of a city, the board of supervisors must act jointly with the appropriate city council. If the road vacation is within 2 miles of the corporation lines of a city, the city may have an extended zoning jurisdiction applying to this area; in that case, the board of supervisors shall work with the city in order to comply with Iowa Code Section [414.23](#).
2. In conformance with Iowa Code Section [306.11](#), set a time, date and place for a public hearing by resolution or motion of the board of supervisors. If the road to be vacated is split by a jurisdictional boundary, a resolution or motion for a joint hearing must be passed by both agencies. If the proposed vacation is part of a road right-of-way held by easement and will not change the existing traveled portion of the road or deny access to the road by adjoining landowners, a hearing is not required. If a public hearing is not required for the vacation process, the Board(s) simply acts per Item 8 of this I.M. during its meeting.  
  
Note: When drafting a resolution to hold a public hearing, describe the road(s) to be vacated in a way that does not conflict with the terminology of the original establishment. The description should also account for any subsequent changes and include the original road number, if any. It may also be helpful to state the intention of the vacation in the resolution.
3. In conformance with Iowa Code Sections [306.12](#) and [306.13](#), publish a notice for a public hearing in a newspaper of general circulation in the county not less than four (4) or more than twenty (20) days prior to the hearing. State the time, date and place for the hearing, location of the road and any other pertinent data in the notice.
4. In conformance with Iowa Code Section [306.12](#), notify the following people or agencies of the hearing, by certified mail:
  - A. All adjoining property owners.
  - B. All utility companies adjoining or on the right-of-way.
  - C. Boards of Supervisors
  - D. Agency in control of affected state land, if any.
5. If a farm-to-market road or road classified as a major collector or minor collector is proposed for vacation, notify the appropriate Iowa DOT District Planner. Refer to [I.M. 2.170](#) for procedures to modify the farm-to-market system. For federal-aid routes, the county should consult with the appropriate Iowa DOT District Planner.

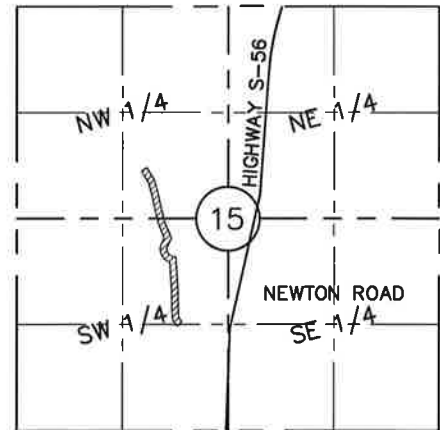
6. Retain in road vacation file the following items:
  - A. Proof of publication for public hearing notice
  - B. Receipts from notices sent by certified mail
  - C. List of parties sent notices
7. Hold the public hearing.
8. Pass a resolution of the board of supervisors to vacate the road if a favorable vote is obtained (see Iowa Code Section 306.16). The board may vacate all, part or none of the road. The resolution must state the portions of the road vacated, remaining open or if the vacation proceedings were dropped. Describe any objections or claims for damages and how they were resolved. The following items may also need to be considered and addressed:
  - A. In lieu of paying damages, the county may acquire property (see Iowa Code Section 306.15) and sell it after vacating the roadway, without providing access. If there are damages to be paid as a result of vacating the road, those damages have to be listed out by claimant in the resolution.
  - B. Vacated road right-of-way held by fee title may be sold under Iowa Code Section 306.22 (unused right-of-way).
  - C. The county may agree to remove drainage structures and do work to clear and shape for cultivation, or stake the property line for new fence. Based on a 1930 Attorney General's opinion, if a bridge is located on a vacated road, the county must do something positive about its disposition such as removing or selling the bridge.
  - D. If the federal functional classification of the road vacated is higher than local or the road is a farm-to-market road, steps need to be taken to reconcile the continuity of the systems.

A utility company retains its right to continue in possession of a right-of-way (Iowa DOT General Counsel, December 30, 1977) after vacation or sale of road right-of-way. Iowa Code Section 306.22 continues rights that were in effect prior to the sale of right-of-way; Iowa Code Section 478.17 assures utility companies of reasonable access and Iowa Code Section 479.24 gives pipeline companies the right of eminent domain.
9. Record the road vacation instrument in the county recorder's office for purposes of future reference and research. If the instrument transfers ownership of property, make sure the transfer is recorded in the county auditor's real estate transfer books.
10. Send a copy of the resolution to vacate the road, along with a map, to the Iowa DOT Research and Analytics Bureau. Send a copy of the resolution to any other government agency involved. If the roadway being vacated was funded under the Revitalize Iowa's Sound Economy (RISE) program within the last 20 years, the county shall notify the RISE manager at the Iowa DOT, and arrangements will be made for the LPA to provide prorated repayment of grant funds.

Occasionally a county will be asked to vacate portions of platted streets and alleys. This can occur in areas where a plat was filed with the county but no development occurred. Iowa Code Section 354.23 provides requirements for vacating portions of platted areas.



PROPERTY OWNER INFORMATION PER ASSESSOR'S WEBSITE	
QUARTER-QUARTER	PROPERTY OWNER(S)
SW1/4SW1/4	DEWAYNE K AND JILL M WATTERS
SE1/4SW1/4	ROBERT L JACKSON
SW1/4SE1/4	GALEN G RASMUSSEN
NW1/4SW1/4	SCOTT T JACKSON
NE1/4SW1/4	ROBERT L JACKSON
NW1/4SE1/4	ROBERT L JACKSON & SCOTT T JACKSON & BRUCE R SPRAGUE
SW1/4NW1/4	UNITED STATES OF AMERICA
SE1/4NW1/4	UNITED STATES OF AMERICA & ROBERT L JACKSON
SW1/4NE1/4	UNITED STATES OF AMERICA & ROBERT L JACKSON & SCOTT T JACKSON



VICINITY MAP  
NOT TO SCALE

**NOTE:**  
TO THE BEST OF THE COUNTY'S KNOWLEDGE AND BELIEF, THE ROAD  
RIGHT-OF-WAY WIDTH OF 220TH STREET IS 66-FEET.

**WAYNE COUNTY**  
ENGINEER'S OFFICE  
**WAYNE COUNTY**  
SECONDARY ROAD DEPARTMENT  
WAYNE COUNTY ENGINEER'S  
OFFICE AND SECONDARY ROAD  
DEPARTMENT  
POST OFFICE BOX 463  
100 NORTH LAFAYETTE STREET  
CORYDON, IOWA 50060  
P: (641) 872-2025  
F: (641) 872-2838

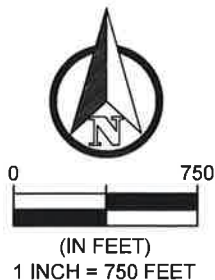


EXHIBIT 'A'

VACATION OF A PART OF 220TH STREET  
SECTION 15, TOWNSHIP 69 NORTH, RANGE 20 WEST

COUNTY OF WAYNE  
JANUARY 2022

