

#0-93-24

ORDINANCE NO. 93-24

AN ORDINANCE ESTABLISHING PROCEDURES FOR VACATING ALL OR PART OF
A PUBLIC PLACE OR PUBLIC WAY

WHEREAS, I.C. 36-7-3-12 provides that any person who owns or is interested in any lots or parts of lots and wants to vacate all or part of a public way or public place in Whitley County (if outside of the corporate boundaries of a municipality) which is in, or contiguous to, those lots or parts thereof, may file a petition for vacation with the Board of Commissioners; and

WHEREAS, the Board of Commissioners desires to establish a clear procedure for filing a petition so that all such petitions can be handled as expeditiously as possible; and

WHEREAS, the Board of Commissioners can and will review only petitions which describe public ways or public places of Whitley County outside of the corporate boundaries of a municipality, and desires to minimize the filing of invalid petitions which do not describe such public ways or places; and

WHEREAS, such petitions require the services of the County Engineer and/or the County Attorney to review and evaluate legal descriptions, confirm ownership and provide guidance to the Board of Commissioners on the need to keep said public way or place, and such additional administrative costs should be offset by a fee paid by those who file such petitions;

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of Whitley County, Indiana, as follows:

Section 1: All persons who are entitled to file, and desire to file, a petition for vacation of a public way or public place of Whitley County, pursuant to I.C. 36-7-3-12, shall file the petition with the County Engineer. In addition to the information required by I.C. 36-7-3-12(b), the petition shall be accompanied by the following:

(a) The fee specified in Section 3 below.

(b) A title search issued by a reputable title company and/or surveys and/or copies of documents, plats or maps of record, which establish that (1) the property to be vacated, as described and designated in the petition, is in fact a public way or public place of Whitley County located outside the corporate boundaries of a municipality, and (2) the petitioner in fact owns or has an interest in the property contiguous to the public way or public place described in the petition.

RECEIVED FOR RECORD

93 DEC -7 AM 11:28

EVELYNE S. GEMEN
WHITLEY COUNTY RECORDER

93-12-131

The County Engineer will then review the petition and all items submitted therewith, together with any other records and information at his disposal, to confirm ownership by the County and the accuracy of the legal descriptions before the petition is forwarded to the Board of Commissioners for consideration.

Section 2: Upon proper filing of the petition, the Board of Commissioners shall hold a public hearing within thirty (30) days thereafter, and the notices required by I.C. 36-7-3-12(c) must be given at the petitioner's expense. After the hearing, the Board of Commissioners may, by ordinance, vacate the public way or public place. The form of ordinance to be used by the Board of Commissioners to vacate property, if it elects to vacate the same, must be prepared by the petitioner or its counsel for consideration by the Board of Commissioners at the public hearing.

Section 3: A fee of One Hundred Fifty Dollars (\$150.00) shall be paid when each petition hereunder is submitted to the County Engineer. Said fee is non-refundable even if the petition is subsequently withdrawn by the petitioner or rejected by Whitley County. The Board of Commissioners may elect to refund the fee, in its discretion, if the petitioner is a church or is designated as a charitable organization by the Internal Revenue Service under IRC §501(c)(3), and if a request for a refund is made by the petitioner at the public hearing. Said fee shall be used to offset the administrative costs related to the review of the petition, the legal descriptions, title searches, plats, surveys and documents submitted by the petitioner and the records of Whitley County to determine if the property is in fact a public way or public place of Whitley County, if the petitioning party has the right to file a petition under Indiana law, and whether vacating the same is appropriate.

Section 4: This Ordinance shall become effective immediately upon passage.

ADOPTED THIS 6th DAY OF December, 1993.

BOARD OF COMMISSIONERS OF
WHITLEY COUNTY, INDIANA:

James Argerbright
James Argerbright, Chairman

James Pettigrew
James Pettigrew, Vice Chairman

Joe Redman
Joe Redman, Member

ATTEST: B.J. Grube, Deputy Auditor
Connie Nestel Tegtmeyer
Whitley County Auditor

JLG:rla:ordvacate

Connie Nestel Tegtmeyer
12/7/93