



**INSTRUCTIONAL MEMORANDUMS
To County Engineers**

To County Engineers	Date September 2002
From Office of Local Systems	IM No. 4.03
Subject County Road Vacations	

The purpose of this I.M. is to list the necessary steps to vacate a county road as provided by the Iowa Code section 306.10.

Step 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.

Step 2 In conformance with Iowa Code section 306.11, fix a time, date and place for a public hearing by resolution of the board of supervisors. If the road to be vacated is split by a jurisdictional boundary, a resolution 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 Step 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 establishment road number, if any. It may also be helpful to state the intention of the vacation in the resolution.

Step 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.

Step 4 In conformance with Iowa Code section 306.12, notify the following people or agencies by certified mail:

- A. All adjoining property owners.
- B. All utility companies adjoining or on the right-of-way.
- C. The appropriate Iowa Department of Transportation (Iowa DOT) District Local Systems Engineer.
- D. Boards of Supervisors
- E. Agency in control of affected state land, if any.

- Step 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 by regular mail. Refer to I.M. [4.21](#) for procedures to modify the farm-to-market system. For federal-aid routes, the county should consult with the appropriate Iowa DOT District Planner.
- Step 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 by regular mail
- Step 7 Hold the public hearing.
- Step 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 without providing access.
 - 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.

- Step 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.
- Step 10 Send one (1) copy of the resolution to vacate the road, along with a map, to the appropriate District Local Systems Engineer. Send a copy of the resolution to any other government agency involved.

Note: The District Local Systems Engineer will review the document and forward it to the Office of Transportation Data for processing.

The following sample notice and resolutions for vacating roads are attached to this I.M. for use and reference:

1. [Resolution for Road Vacation Public Hearing](#)
2. [Notice of Public Hearing](#)
3. [Resolution to Vacate a County Road](#)

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.