

ORDINANCE NO. 16 – 325

Amendment to Chapter 18 of the City Code

An ordinance to add Sections 18-80 through 18-87 to Chapter 18 of the municipal code book of the City of Morenci, regulating the process for vacating and abandoning streets and alleys.

The City of Morenci ordains:

Section 1. Amendment.

Chapter 18 of the City of Morenci municipal code is amended to add Sections 18-80 through 18-87 to read in their entirety, as follows:

Sec 18-80 Title

This Chapter of the Morenci Code of Ordinances shall be known as the “Alley and Street Vacating Procedures”.

Sec 18-81 Purpose

The purpose of this Chapter is to provide procedural guidelines for the vacating of alley and streets owned by, or otherwise granted to, the City of Morenci.

Sec 18-82 No Partial Abandonment, Easements Maintained

- (a) The Council of the City of Morenci may vacate or abandon the entire block length of a street or alley by way of the procedure described herein.
- (b) There shall be no partial abandonment of any street or alley within a block length with the exception of those partial alley abandonment’s that may be initiated and granted by the Council if:
 - (1) An encroachment existed on and prior the date of adoption of this ordinance AND
 - (2) Infringing owner(s) formally petition for abandonment of the encroachment within 60 days of adoption of this Ordinance; AND
 - (3) The vacating does not land lock or close access to other parcels of property after the date of adoption of this ordinance; AND

- (4) In all instances of such vacating, existing and/or necessary easements shall be maintained.

Sec 18-83 Definitions

For general, preliminary purposes (and not to the exclusion of more specific applications)

"Abandonment" To surrender, relinquish or disclaim an interest or right in property. *"Alley"* A narrow way designed for the accommodation of the property it reaches. *"Easement"* A right or privilege held by an entity to use of the land of another for a special purpose.

"Street" An urban thoroughfare (held by deed, dedication or easement) providing primary access to the structures fronting thereon.

"Vacate" To put an end to, to abandon.

Sec 18-84 Vacating Procedure

(a) Initiating procedure.

- (1) *Property Owner Petition.* Vacating or abandoning a street or alley connecting two streets and servicing the property owners between may be initiated by the filing of a petition signed by not less than one hundred percent (100%) of the contiguous property owners, including terminus owners, if any. Further, the petition must be accompanied by:
 - (i) a survey and complete legal description for the land being proposed for vacation or abandonment;
 - (ii) the proposed legal descriptions for all contiguous properties, in the event the street or alley is declared vacated or abandoned; and
 - (iii) a deposit equal to the cost of recording any deeds needed to transfer the vacated land to the contiguous property owners, which deposit shall be return to the petitioner(s) in the event the petition is not approved.

Whenever a petition by property owners is filed, no further action will be taken unless a resolution is approved by a majority of the members of the City Council, giving Council's preliminary approval.

- (2) *Resolution of Council.* Vacating or (abandonment) of a street or alley connecting two streets and servicing the property owners between may also be initiated by the resolution of a majority of the council members giving Council's preliminary approval
- (b) **Submission to Planning Commission for report and recommendation.** Whenever a resolution of preliminary approval to vacate a street or alley is adopted, the matter shall be referred to the City of Morenci Planning Commission to conduct a public hearing on the proposal, to receive recommendations from City staff, and to make a recommendation to the City Commission.
- (c) **Review and Report by Departments.** City departments shall make recommendations on the proposal in writing to the Planning Commission prior to the public hearing, and shall identify existing easements and public or private improvements located within the area proposed to be vacated.
- (d) **Planning Commission to Conduct Public Hearing.**
 - (1) *Public Hearing.* Upon referral by the City Council the Planning Commission shall conduct a public hearing on the proposal, not less than 28 days after the referral by City Council.
 - (2) *Notice of Public Hearing.* Notice of the proposal and the public hearing on it shall be published once a week for three weeks prior to the public hearing. Notice shall also be sent by first class mail to:
 - (i) All public utilities servicing the City of Morenci.
 - (ii) All service departments (e.g. Police, DPW, fire, water treatment, etc.) of the City.
 - (iii) All contiguous and terminus property owners as related to the street or alley.
 - (3) On the date of such hearing, the Planning Commission shall review (i) the reports prepared City Departments and (ii) all oral and/or written objections to the vacating of the street or alley, and by majority vote issue a written report recommending approval, approval with conditions or denial of the proposal.

- (e) **Planning Commission Report and Recommendation.** Within 14 days after the date of the public hearing, the Planning Commission shall report to the City Commission a summary of the written and oral comments received at the public hearing on the proposal, and shall recommend final approval or denial of the proposal, with a recommendation and description of the size and location of any easement to be reserved by the City in the area proposed to be vacated.

Sec 18-85 City Council to Act On Proposal.

Not sooner than 28 days nor later than 90 days after receiving the report of the Planning Commission, the City Council shall act on the proposal by resolution, with a majority vote of Council being required to give final approval to the proposed plan to vacate, discontinue, or abolish any highway, street, lane, alley or public ground or any part thereof.

Sec 18-86 Conveyance of title; Retention of Easement

Whenever the City Council shall, by resolution, vacate any street or alley, title to the vacated property shall vest in the contiguous platted property owners, as directed by statute. The Council shall, in the same resolution, reserve an easement therein for public utility purposes within the right-of-way of any such street or alley so vacated.

Sec 18-87 Record of vacating

- (a) **Auditor General.** Within thirty (30) days of the vacation of a street or alley becoming effective, the City Clerk shall forward to the Michigan Auditor General a certified copy of said resolution, together with his/her certificate giving the name or names of any plat, subdivision or addition affected by such resolution.
- (b) **Register of Deeds.** Within thirty (30) days of the vacation of a street or alley becoming effective, the City Clerk shall record with the Register of Deeds a certified copy of said resolution.

Section 2. Severability.

If any court of law of equity within the State of Michigan determines that any provision within this Ordinance is unconstitutional, void, voidable, or unenforceable, the remaining provisions of the same Section and other Sections of this Ordinance shall be deemed separate, distinct and valid in all respects from said provision.

Section 3. Effective Date.


This Ordinance shall become effective ten (10) days after its adoption.

YEAS: Councilors Berger, Cox, Lampson, Leahy, Seger, Walsh, and Mayor Bell

NAYS: None

ABSENT: None

Ordinance declared adopted on July 25, 2016.



Jeffrey D. Bell, Mayor
City of Morenci

CERTIFICATE OF ADOPTION AND PUBLICATION

I, Michael Sessions, the Clerk of the City of Morenci certify that the foregoing ordinance is a true and correct copy of the ordinance enacted by the City Counsel of the City of Morenci on July 25, 2016 and published in the State Line Observer, a newspaper circulated in the City of Morenci on July 27, 2016.



Michael S. Sessions, Clerk
City of Morenci