

**ORDINANCE 2018-13**

**ORDINANCE AMENDING FAIRMONT CITY CODE CHAPTER 23,  
ARTICLE I. IN GENERAL, SEC. 23-1. VACATING PUBLIC GROUNDS AND  
STREETS.**

**WHEREAS**, after review of Fairmont City Code Chapter 23, Article I. In General, Sec. 23-1. Vacating Public Grounds and Streets, it was determined that this section is inconsistent with Minnesota Statutes; and,

**WHEREAS**, it is in the best interest of the City to amend Fairmont City Code Chapter 23, Article I. In General, Sec. 23-1. Vacating Public Grounds and Streets to be consistent with state statute.

**NOW THEREFORE THE CITY OF FAIRMONT DOES ORDAIN**, that Fairmont City Code Chapter 23, Article I. In General, Sec. 23-1. Vacating Public Grounds and Streets shall be amended as follows:

**Sec. 23-1. Vacating public grounds or streets.**

(a) No public grounds or streets shall be vacated except ~~under the motion~~ after a public hearing upon a resolution of the council passed by a four-fifths vote or upon the petition ~~directed to the council of a majority~~ any of the owners of property on the line abutting property owner(s) of such public grounds or streets residing within the city, and completion of the procedure hereinafter specified, and in Minnesota Statutes Section 440.135. Such petition shall set forth the reasons for such desired vacation, accompanied by a plat of such public grounds or streets proposed to be vacated, and such petition shall be verified by the oath of ~~a majority of the petitioners residing within the city~~ any of the abutting property owners. If in the discretion of the council, it is expedient that the matter be proceeded with, it may order the petition filed for record with the city clerk, order a hearing on such petition and fix the time and place of such hearing.

(b) The city clerk shall give post notice of such hearing ~~by publication once at least fifteen (15) days in advance of such hearing, and by mail to the last known address of all the owners of property on the line of such public grounds or streets proposed to be vacated at least ten (10) days in advance of such hearing, such last known address to be obtained from the office~~

~~of the county auditor.~~ and publish notice in the city's legal newspaper at least two weeks prior to the hearing. Newspaper publication must be once a week for two weeks. In addition, written notice of the hearing must be mailed to each property owner affected by the proposed vacation at least ten (10) days before the hearing. Such notice shall state in brief the object of such hearing, the time, place and purpose thereof and the fact that the council ~~or a board or commission designated by it~~, shall hear the testimony and examine the evidence of the parties interested.

(c) The council, after the public hearing on the property owner(s) petition, ~~hearing the same, or upon the report of such board or commission designated to hold such hearings~~, may by resolution passed by ~~such~~ a simple majority of a quorum ~~as set in the charter~~, declare such public grounds or streets vacated, or deny such petition. The resolution, if granting the petition, shall be certified by the city clerk and shall be filed for record and duly recorded in the office of the registrar of deeds of the county.

Motion by: Council Member Bruce Peters  
Seconded by: Council Member Ruth Cyphers  
All in Favor: Council Members Ruth Cyphers, Tom Hawkins, Wayne Hasek, Bruce Peters  
And Jim Zarling  
Opposed: None  
Abstained: None  
Absent: None

PASSED, APPROVED AND ADOPTED THIS 11th day of June 2018.

/s/ Deborah J. Foster  
Deborah J. Foster, Mayor

/s/ Patricia J. Monsen  
Patricia J. Monsen, City Clerk

1<sup>st</sup> Reading: May 14, 2018  
2<sup>nd</sup> Reading: June 11, 2018