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Title:	AN ORDINANCE AMENDING SECTION 100 OF THE DULUTH CITY CHARTER, 1912, AS AMENDED TO AUTHORIZE VACATION OF PUBLIC WAYS ON MOTION OF THE CITY COUNCIL.		

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AN ORDINANCE AMENDING SECTION 100 OF THE DULUTH CITY CHARTER, 1912, AS AMENDED TO AUTHORIZE VACATION OF PUBLIC WAYS ON MOTION OF THE CITY COUNCIL.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That subsection (a) of section 100 of the Duluth City Charter, 1912, as amended, is hereby amended to read as follows:

Sec. 100. Vacation of highways; use of public highways by abutting property owners.

(a) The council may vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated. The council shall have the exclusive power to vacate in whole or in part public Highways within the city, but only upon the petition of the person or persons who own a majority of the lineal frontage of the land abutting upon the portion of the highway proposed to be vacated;

(b) In the exercise of this power the council shall, by ordinance, provide that:

(1) The council shall refer petitions for vacation to the planning commission for investigation, public hearing, report and recommendation to the council, without undue delay and within sixty days from the time of the initial filing of the petition;

(2) Before holding a public hearing on any petition the planning commission shall give notice of the time, place and purpose of the hearing in such manner and form as the council may designate to the persons who own the land lying within a distance of 300 feet in a line beyond each end of the portion of the highway proposed to be vacated and to such other class or category of persons whom the council may designate in such ordinance;

(3) At the time and place set forth in the notice the interested persons shall be given an opportunity to be heard;

(4) The planning commission shall take into consideration the matters ascertained by its investigation in addition to the matters presented at the hearing;

(5) Upon considering the report of the planning commission, the council may vacate the public highway in whole or in part by resolution adopted by a vote of six of its members and as a condition of its action, the council may reserve easements in favor of the public within the area vacated;

(6) If the resolution be vetoed by the mayor, it may nevertheless be adopted by a vote of seven members of the council; and

(7) A record of all vacations shall be made either in the office of the register of deeds or the registrar of titles of St. Louis County, Minnesota. The council may set forth in such ordinance such additional terms, provisions and procedures not inconsistent with this Section as it may deem appropriate;

(c) All vacation proceedings heretofore or hereafter completed pursuant to the Charter provisions and ordinances in effect at the time of the initial filing of the petition shall be valid and effective for all purposes;

(d) The council may by ordinance permit abutting owners to make use of portions of public highways not physically being used or occupied by the public upon such terms and conditions and by such procedure as the council, in each such ordinance, may provide.

Section 2. That this ordinance shall take effect 90 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to amend Section 100 of the Charter to make clear the authority of the City to vacate highways upon its own motion without a petition having been filed by adjacent property owners. The City has historically exercised this power based on its common law authority as the custodian of public easements in the City. This change would clarify that authority and prevent any confusion. The new language is identical to Minn. Stat. 412.851 (Vacation of streets) applicable to statutory cities.