

**66.1003** **66.1003 Discontinuance of a public way.****66.1003(1)** 

(1) In this section, "public way" means all or any part of a road, street, slip, pier, lane or paved alley.

**66.1003(2)** 

(2) The common council of any city, except a 1st class city, or a village or town board may discontinue all or part of a public way upon the written petition of the owners of all the frontage of the lots and lands abutting upon the public way sought to be discontinued, and of the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder of the public way which lies within 2,650 feet of the ends of the portion to be discontinued, or lies within so much of that 2,650 feet as is within the corporate limits of the city, village or town. The beginning and ending of an alley shall be considered to be within the block in which it is located. This subsection does not apply to a highway upon the line between 2 towns that is subject to [s. 82.21](#).

**66.1003(3)** 

(3) The common council of any city, except a 1st class city, or a village or town board may discontinue all or part of an unpaved alley upon the written petition of the owners of more than 50% of the frontage of the lots and lands abutting upon the portion of the unpaved alley sought to be discontinued. The beginning and ending of an unpaved alley shall be considered to be within the block in which it is located. This subsection does not apply to a highway upon the line between 2 towns that is subject to [s. 82.21](#).

**66.1003(4)** 

(4)

**66.1003(4)(a)** 

(a) Notwithstanding [subs. \(2\)](#) and [\(3\)](#), proceedings covered by this section may be initiated by the common council or village or town board by the introduction of a resolution declaring that since the public interest requires it, a public way or an unpaved alley is vacated and discontinued. No discontinuance of a public way under this subsection may result in a landlocked parcel of property.

**66.1003(4)(b)** 

(b) A hearing on the passage of a resolution under [par. \(a\)](#) shall be set by the common council or village or town board on a date which shall not be less than 40 days after the date on which the resolution is introduced. Notice of the hearing shall be given as provided in [sub. \(8\) \(b\)](#), except that in addition notice of the hearing shall be served on the owners of all of the frontage of the lots and lands abutting upon the public way or unpaved alley sought to be discontinued in a manner provided for the service of summons in circuit court at least 30 days before the hearing. When service cannot be made within the city, village or town, a copy of the notice shall be mailed to the owner's last-known address at least 30 days before the hearing.

**66.1003(4)(c)** 

(c) Except as provided in this paragraph, no discontinuance of the whole or any part of a public way may be ordered under this subsection if a written objection to the proposed discontinuance is filed with the city, village or town clerk by any of the owners abutting on the public way sought to be discontinued or by the owners of more than one-third of the frontage of the lots and lands abutting on the remainder of the public way which lies within 2,650 feet from the ends of the public way proposed to be discontinued or which lies within that portion of the 2,650 feet that is within the corporate limits of the city, village or town. If a written objection is filed, the discontinuance may be ordered only by the favorable vote of two-thirds of the members of the common council or village or town board voting on the proposed discontinuance. An owner of property abutting on a discontinued public way whose property is damaged by the discontinuance may recover damages as provided in [ch. 32](#). The beginning and ending of an alley shall be considered to be within the block in which it is located.

66.1003(4)(d) 

(d) No discontinuance of an unpaved alley shall be ordered if a written objection to a proposed discontinuance is filed with the city, village or town clerk by the owner of one parcel of land that abuts the portion of the alley to be discontinued and if the alley provides the only access to off-street parking for the parcel of land owned by the objector.

66.1003(5) 

(5) For the purpose of this section, the narrowing, widening, extending or other alteration of any road, street, lane or alley does not constitute a discontinuance of any part of the former road, street, lane or alley, including any right-of-way, which is included within the right-of-way for the new road, street, lane or alley.

66.1003(6) 

(6) Whenever any of the lots or lands subject to this section is owned by the state, county, city, village or town, or by a minor or incompetent person, or the title to the lots or lands is held in trust, petitions for discontinuance or objections to discontinuance may be signed by the governor, chairperson of the board of supervisors of the county, mayor of the city, president of the village, chairperson of the town board, guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent.

66.1003(7) 

(7) The city council or village or town board may by resolution discontinue any alley or any portion of an alley which has been abandoned, at any time after the expiration of 5 years from the date of the recording of the plat by which it was dedicated. Failure or neglect to work or use any alley or any portion of an alley for a period of 5 years next preceding the date of notice provided for in [sub. \(8\) \(b\)](#) shall be considered an abandonment for the purpose of this section.

66.1003(8)   
(8)

66.1003(8)(a) 

(a) Upon receiving a petition under [sub. \(2\)](#) or [\(3\)](#) or upon the introduction of a resolution under [sub. \(4\)](#), the city, village, town, or county shall deliver a copy of the petition or resolution to all of the following:

### 66.1003(8)(a)1.

1. The secretary of transportation, if the public way or unpaved alley that is the subject of the petition or resolution is located within one-quarter mile of a state trunk highway or connecting highway.

### 66.1003(8)(a)2.

2. The commissioner of railroads, if there is a railroad highway crossing within the portion of the public way that is the subject of the petition or resolution.

### 66.1003(8)(b)

(b) Notice stating when and where the petition or resolution under this section will be acted upon and stating what public way or unpaved alley is proposed to be discontinued shall be published as a class 3 notice under [ch. 985](#).

### 66.1003(9)

(9) In proceedings under this section, [s. 840.11](#) shall be considered as a part of the proceedings.

### 66.1003(10)

(10) Notwithstanding [ss. 82.10](#) and [82.21](#), no city council or county, village, or town board may discontinue a highway when the discontinuance would deprive a landowner or a public school of all access to a highway.

### 66.1003 - ANNOT.

**History:** 1973 c. [189](#) s. 20; *Sup. Ct. Order*, 67 Wis. 2d 585, 774 (1975); 1975 c. [46](#); 1993 a. [184](#), [246](#), [491](#); 1995 a. [239](#); 1999 a. [150](#) ss. [265](#), [337](#) to [343](#); *Stats.* 1999 s. 66.1003; 2003 a. [214](#); 2009 a. [107](#), [223](#).

### 66.1003 - ANNOT.

**NOTE:** 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

### 66.1003 - ANNOT.

**Cross-reference:** See s. [236.43](#) for other provisions for vacating streets.

### 66.1003 - ANNOT.

*The enactment of sub. (2m) [now sub. (5)] did not eliminate any vested rights of abutting property owners. Miller v. City of Wauwatosa, 87 Wis. 2d 676, 275 N.W.2d 876 (1979).*

### 66.1003 - ANNOT.

*An abutting property owner under sub. (2) (c) [now sub. (4) (c)] at the very least must be somehow supporting or sustaining travel on the street. Voss v. City of Middleton, 162 Wis. 2d 737, 470 N.W.2d 625 (1991).*

**66.1003 - ANNOT.**

*The plain language of this section unambiguously shows that a town has authority to proceed under sub. (3) to vacate unpaved alley segments, even when considered in conjunction with ch. 236, which provides for county vacation of platted alleys in towns. The legislature could have exempted roads and alleys that fall under ch. 236, but it did not. That omission shows that the legislature did not intend for ch. 236 to be the exclusive means of dealing with unpaved alleys in*

*recorded plats. Smerz v. Delafield Town Board, 2011 WI App 41, \_\_\_ Wis. 2d \_\_\_, \_\_\_ N.W.2d \_\_\_*, [10-1186](#).