



## PROCEDURE FOR VACATION BY ABUTTING PROPERTY OWNERS OF PUBLIC RIGHTS OF WAY, EASEMENTS, STREETS, AND ALLEYS

A written petition requesting the vacation of an easement or a public right-of-way shall be filed with Lisa C. Lambert, City Clerk, P. O. Box 1827, Mobile, AL, 36633. The written petition must contain notarized signatures evidencing the consent of all of the following: (a) the owner(s) of the land abutting the street, alley, or public way to be vacated; and (b) if the petition requests the vacation of an open, paved and city maintained street, alley or public way, the owner(s) of eighty percent (80%) of the parcels of land contained within any platted subdivision in which the street, alley, or public way to be vacated is located.

The following is required to be submitted with the written petition:

- (a) The correct legal description of the area sought to be vacated;
- (b) A plat or survey that clearly shows in detail:
  - the area sought to be vacated;
  - the location of all lots or tracts of land that abut the area sought to be vacated;
  - the square footage of the area sought to be vacated;
  - the square footage of each lot or tract of land that abuts the area sought to be vacated.
- (c) The current year fair market appraised unimproved value, as determined by the Mobile County Revenue Commissioner, of all lots or tracts of land that abut the area sought to be vacated.
- (d) A traffic impact study and report prepared by a transportation engineer in accordance with the recommendations of the Institute of Transportation Engineers must be submitted with the petition if the petition requests vacation of a city maintained paved street or public way open to vehicular traffic. The study must show that the proposed vacation will not impede the orderly flow of traffic within 300 feet of the street or public way to be vacated, and, if applicable, the platted subdivision in which such street or public way is located.
- (e) If the petition requests vacation of a city maintained paved street or public way open to vehicular traffic, then an agreement must be signed by all persons requesting the vacation and submitted to the City Clerk wherein those persons jointly and severally agree to indemnify and hold the City of Mobile and its officials and employees harmless of and from any costs, expenses, and attorney fees that may be incurred in connection with any litigation that may be brought by any person or entity challenging the decision to vacate the street, alley, or public way. Such indemnification and hold harmless agreement shall be in a form approved by the Clerk.
- (f) Three (3) sets of printed adhesive labels containing the names and addresses of the owner(s) of any abutting land or other applicable land, and also names and addresses of any entity known to have utility lines within the area to be vacated.
- (g) An original declaration of vacation signed by all abutting landowners to the area to be vacated, and a proposed council resolution assenting to the proposed vacation, in forms approved by the clerk.
- (h) A check in the amount of \$100.00 fee made payable to the City of Mobile as an application fee.
- (i) The written consents from all utility companies (including but not limited to Mobile Area Water and Sewer System, Alabama Power, Spire, AT&T, and Comcast Cable), and any other person or entity that has any easement or right-of-way that would be affected by the proposed vacation.

(j) For petitions submitted by the State of Alabama, Mobile County, Alabama, or other governmental and quasi-governmental agencies or entities, only the consent and signature of abutting landowners, utility companies and other easement/right-of-way holders will be required, and the requirements for traffic study and indemnity will not be required.

#### REVIEW BY CITY DEPARTMENTS AND OFFICIALS.

The City Clerk will submit the petition and any other submitted documentation to the Mayor, the city engineer, the city traffic engineer, the police department, the fire-rescue department, the city attorney, the council attorney, and the real estate department, for their review and comment.

#### SCHEDULING OF PUBLIC HEARING.

(1) After the thirty (30) day comment period expires the clerk will prepare a resolution to set a public hearing on said proposed vacation to be presented to the city council.

(2) After the public hearing is scheduled the applicant(s) must obtain and conspicuously post two signs at the location of the street, alley, or public way, or portion thereof, requested to be vacated. The signs shall be plainly visible to passers-by and posted no less than 15 days before the day of the scheduled public hearing and shall remain so posted at all times until the hearing has been held. The signs shall be weatherproof and the petitioner shall be responsible for providing photographic proof to the City Clerk that such signs were and remained posted as required. The wording on the signs shall not be less than two inches in height and shall be in substantially the following form:

#### **NOTICE OF PUBLIC HEARING**

**APPLICATION HAS BEEN MADE TO THE CITY OF MOBILE TO VACATE THE STREET, ALLEY OR PUBLIC WAY ABUTTING THIS PROPERTY. FOR MORE INFORMATION CALL THE MOBILE CITY CLERK'S OFFICE AT 251-208-7414.**

(3) The applicant(s) shall pay all costs of scheduling the public hearing and providing notice, including the costs of advertisement and mailing. The Clerk shall submit an invoice to the petitioner for such costs which must be paid prior to the scheduling of such hearing. Failure to pay such costs shall constitute a withdrawal of the petition unless the City Council grants a waiver of this requirement.

#### CRITERIA AND CONDITIONS OF VACATION.

(1) The City Council may consider in regard to any proposed vacation the present and long term effects on existing utilities, proposed utilities, master traffic plan, traffic patterns, traffic counts, reasonable and convenient ingress and egress, public services, and any other factor deemed relevant by the City Council.

(2) Any vacation may be subject to reservation of easements and rights-of-way for utilities or conditioned upon easements or rights-of-way being granted or reserved to the City of Mobile, or other conditions, in the discretion of the City Council. Any entities with utility lines, equipment or facilities in place shall continue to have the rights set forth in Code of Alabama § 23-4-20(f), as same now exists or may hereafter be amended.

(3) No vacation of any street, alley, or dedicated public way shall deprive other property owners of any right they may have to convenient and reasonable means of ingress and egress to and from their property, and if that right is not afforded by the remaining streets, alleys, or dedicated public ways, then another street, alley, or dedicated public way affording such right must be dedicated as may be required by applicable State law.

(4) Partial vacations may be approved but are not favored. Partial vacations of any alley will not be allowed without the notarized written consent of all owners of property that abut the entire length of the alley.

#### PAYMENT OF FEES.

It shall be the policy of the City Council to require abutting landowners who will benefit directly from the vacation of a road, street, alley, or other dedicated public way, open or unopen, to pay to the City a fee in accordance with Section 11-49-6 of the Code of Alabama. The fee shall be equal to the fair market appraised unimproved value of the land which will be added to the holdings of the abutting landowners who will directly benefit from the vacation. If the aggregate fee for all lots or tracts of abutting landowners who will directly benefit from the vacation, as determined in accordance with Section 11-49-6, is less than \$5,000.00, then no fee shall be required. If the aggregate fee for all lots or tracts of abutting landowners who will directly benefit from the vacation, as determined in accordance with Section 11-49-6, is equal to or greater than \$5,000.00, then the fee shall be finally determined and assessed by the City Council after a public hearing, notice of which shall be published and mailed in accordance with the requirements of Section 11-49-6 of the Code of Alabama.

The Council may, in its discretion, waive any fee as it determines to be justified or warranted under the circumstances presented.

#### COMPLETION OF PROCESS.

Once all fees and costs have been paid, and any other conditions of the vacation have been met, and if the City Council has approved the petition for vacation, the applicant(s) will receive a certified copy of the Council's resolution to be filed by them together with the declaration of vacation in the Office of the Judge of Probate of Mobile County.

For more detailed information please review City Ordinance 57-032-2022. It is highly recommended petitioners unfamiliar with the process seek legal counsel. The City Clerk's office cannot provide legal advice.