



Vacation of Right-of-Way Frequently Asked Questions

What is a public right-of-way?

A public right-of-way (R.O.W) is an easement dedicated by subdivision plat or metes and bounds to and for use by the public, and which is separate and distinct from the lots or parcels abutting such right-of-way for public use. **R.O.W includes streets, alleys, ingress/egress easements and prescriptive right-of-way.**

What does it mean to “vacate” a right-of-way?

Vacation of a public right-of-way is the permanent closure of such right-of-way by the public.

How long does the process take?

The vacation process takes approximately two (2) months after submitting a complete application to the Department of Community Development.

Do I need to obtain a release from the utility companies in this process?

Yes, you are responsible for obtaining Easement Release Forms from: Daphne Utilities; Belforest Water System or Park City Water Authority or Daphne Utilities (whichever is applicable); City of Daphne Public Works Department; AT&T; Mediacom; Property owners association; and any other agency or authority with an interest in the easement.

Where should I submit my request?

Submit the application and supplemental documents to our office at: **Department of Community Development**
P.O. Box 400
Daphne, AL 36526

Or hand-deliver it to:

1705 Main Street
Daphne, AL 36526

What happens to my application after the Planning Commission makes a decision on the matter?

There will be a public hearing before the Planning Commission. Once a recommendation is made by the Planning Commission, it will be sent to the City Clerk's Office for the City Council's consideration.

Are there any fees associated with the vacation of easement application?

Yes, \$235 plus a USPS Certified mail fee per notice fee. The certified notices are mailed to each adjoining property owner.

Who can help me with this process?

Community Development staff can help answer questions about the vacation process.

Is the application available on-line?

Yes, in addition to having copies available in City Hall, applications are available at "www.Daphneal.com/forms-applications/community-development-forms". All forms as well as the submittal deadline calendar and the fee schedule are provided on-line.



Vacation of Right-of-Way Application

OFFICE USE ONLY	Application Number: VOR-	Date Submitted:
Planning Commission Decision:		Date Presented:
Date Submitted to City Clerk:		
Council Resolution Approval Date:		RESOLUTION NUMBER#

Legibly print or type responses below. Indicate N/A where item is not applicable.

Property Owner(s): _____

If owner is an LLC or LLP, list managing member: _____

Mailing Address: _____

Daytime Phone: _____ Alternate Phone: _____ Fax: _____

Location: _____ Subdivision: _____ Lot(s): _____ Unit or Phase: _____

Reason for request: _____

To the best of your knowledge, are any utilities in the right-of-way or ingress/egress easement (including drainage ditches or pipes)? _____

Check each item included:

- _____ Completed application form with non-refundable fee
- _____ Notarized *Declaration of Vacation of Right-of-Way* completed by the applicant(s)
- _____ Recorded subdivision plat or recording instrument by which such right-of-way or easement was dedicated
- _____ Metes and bounds description of the property to be vacated & calculations of the total area in square feet
- _____ 1 copy of a survey of the area proposed to be vacated prepared by an Alabama registered surveyor
- _____ *Right of Way Release Form* from City of Daphne Division of Public Works
- _____ Completed *Easement Release Form* from applicable utility providers:
 - Utilities Board of the City of Daphne (Daphne Utilities)
 - Park City Water Authority
 - Belforest Water System
 - Utilities Board of the City of Foley (Riviera Utilities)
 - AT&T
 - Cable Company (Mediacom)
 - Other _____
 - Property Owners Association or similar body (if applicable)
- _____ List of adjacent property owners. Also attach mailing address labels
- _____ Completed *Consent to Vacate* forms **from all owners abutting** the right-of-way that is to be vacated

I hereby make application for vacation of certain right-of-way as cited above. I understand that the City may not approve what I am applying for, or may set conditions on approval. All statements contained in this application are true to the best of my knowledge and belief. I have attached all documents listed above.

Signature/Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)
CITY OF DAPHNE)

PETITION FOR VACATION OF RIGHT-OF-WAY

TO THE HONORABLE MEMBERS OF THE CITY COUNCIL OF DAPHNE, ALABAMA:

We, _____, hereinafter referred to as "The Petitioner", are owner(s) of property located at _____, hereby petition by the attached copies to vacate a certain right-of-way located in the City of Daphne, Alabama in Unit__ of _____ Subdivision, as shown in Map Book # _____, Page__, Instrument# _____ in the Office of the Judge of Probate of Baldwin County, Alabama described herein as follows:

Legal Description

"The Petitioner" presents unto the Honorable Council the following statements:

1. This vacation of _____ is prepared in accordance with the provisions of Section 23-4-20, Code of Alabama, 1975, as may be amended from time to time; and,
2. It is in the best public interest that the right-of-way as described hereinabove be vacated and closed; and,
3. Such vacation will not deprive other property owners of a convenient and reasonable means of ingress and egress to their property; and,
4. All applicable utility providers, by instruments filed herewith, have consented to the vacation of said right-of-way, and the hereinabove described portion of the said right-of-way and the annulment of the dedication thereof as reflected on said recorded plat; and,
5. A copy of the map illustrating the location of the right-of-way as described hereinabove is attached hereto and incorporated into this petition as a part hereof; and,

"The Petitioner" further requests the Mayor and City Clerk be authorized and directed to execute a resolution which approves, ratifies, adopts, and confirms the vacation of the hereinabove described portion of the said right-of-way with the provisions of Section 35-2-54, Code of Alabama, 1975, as may be amended from time to time.

IN WITNESS WHEREOF, the Petitioner(s) have heretofore set their hand and seals on this the ____ day of _____, 20____.

OWNER(S) SIGNATURE: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned, a Notary Public in and for said County in said State hereby certify that _____, whose name is signed to the foregoing instrument and who is known to me on this day that, being informed of the contents of said instrument they executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this ____ day of _____, 20____.

Notary Public
My Commission Expires _____

RIGHT-OF-WAY/EASEMENT RELEASE FORM

WHEREAS, there currently exists a _____ foot right of way dedicated as a public street, but not in use, known as _____

_____ located in the City of Daphne; and,

WHEREAS, a petition has been submitted to vacate a certain right-of-way as shown in "Exhibit A", we the undersigned, _____, do hereby give our permission/consent to vacate the drainage and utility easement within the right-of-way located in Unit__ of _____ Subdivision, as shown in Map Book____, Page____, Instrument#_____ in the Office of the Judge of Probate of Baldwin County, Alabama pursuant to the following terms and conditions:

- No objections, terms, or conditions to the vacation described above.
- No objections to the vacation described above, provided the following terms and conditions:

- Objects to the vacation described above, reason described below.

AGENCY NAME: _____

By: _____

Its: _____

**STATE OF ALABAMA)
COUNTY OF BALDWIN)**

I, the undersigned, a Notary Public in and for said County and in said State hereby certify that _____, whose name is signed to the foregoing instrument and who is known to me on this day that, being informed of the contents of said instrument they executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the ___ day of _____, 20__.

Notary Public
My Commission Expires _____

**CONSENT TO VACATE RIGHT-OF-WAY
ADJACENT PROPERTY OWNER**

STATE OF ALABAMA)
COUNTY OF BALDWIN)
CITY OF DAPHNE)

TO THE HONORABLE MEMBERS OF THE CITY COUNCIL OF DAPHNE, ALABAMA:

The undersigned _____ is/are the owner(s) of property adjacent to _____, a right-of-way proposed to be vacated by _____. The right-of-way is located in Unit__ of _____ Subdivision, as shown in Map Book____, Page__, Instrument# _____ in the Office of the Judge of Probate of Baldwin County, Alabama.

We, the undersigned, have consented to the vacation of said right-of-way. Such vacation will not deprive the undersigned of a convenient and reasonable means of ingress and or egress to our property located at _____.

OWNER(S) SIGNATURE: _____

**STATE OF ALABAMA)
COUNTY OF BALDWIN)**

I, the undersigned, a Notary Public in and for said County and in said State hereby certify that _____, whose name is signed to the foregoing instrument and who is known to me on this day that, being informed of the contents of said instrument they executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the ____ day of _____,

Notary Public
My Commission Expires _____

CERTIFICATION OF PROPERTY OWNER NOTIFICATION LIST

Public hearings vacation of right of way as provided for in the Code of Alabama, 1975, (as amended) requires notification to adjacent property owners. The list of names and addresses shall be a current listing obtained for the records available in the Baldwin County Revenue Office and/or Judge of Probate Office.

We, the owner of subject property and/or project engineer or surveyor, do hereby certify that the attached adjacent property owners' list was obtained from the Baldwin County Revenue Office and/or Judge of Probate Office and to the best of our knowledge is a current list of all real property owners adjacent to the subject property.

Project Engineer Name or Surveyor

Registration Number

Project Engineer Signature or Surveyor

Date

Owner or Authorized Agent Name

Owner or Authorized Agent Signature

Date

SAMPLE

PROJECT NAME

HEADER:

ADJACENT PROPERTY OWNER'S LIST

Doe Sr., John
P O Box 123
Daphne, AL 36526

Doe, Jr., John
P O Box 456
Daphne, AL 36526

Claus, Santa
111 North Pole
North Pole, Ant. 00001

The Snowman, Frosty
112 North Pole
North Pole, Ant. 00001

Flintstone, Fred and Wilma
5 T-Rex Street
Bedrock, Bedrock 2007

Griffith, Andy
15 Pollard Road
Mayberry, AL

Mouse, Mickey and Minnie
1 Disney Way
Orlando, Florida 32811

Brown, Charlie
1 Knotts Berry Farms
Los Angeles, CA 90231

Format:	Last name, First name Mailing Address City, State Zip code
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It is the applicant's responsibility to assure that each adjoining property owner is listed and that the address is correct. Note: the notification fee is directly related to the number of adjoining property owners listed.