



## VACATION PROCEDURE FOR PUBLIC RIGHT-OF-WAYS / EASEMENTS

### (Article 3 of Chapter 2 of Title 35 of the Code of Alabama, 1975)

It is recommended that the following items be prepared or reviewed by an Attorney at Law and submitted to the Planning Department of the City of Decatur (21) days prior to the review by the Planning Commission (next to the last Tuesday of each month):

All applications must be submitted in writing and electronically as either a ".docx or .PDF" file format and emailed to [planningcommissionapplications@decatur-al.gov](mailto:planningcommissionapplications@decatur-al.gov).

1. A Declaration of Vacation signed by all of the property owners adjacent to the right-of-way and/or easement required to be vacated. (Original and 2 copies).

*See attached example.*

2. Map and/or other descriptive materials showing ingress and egress for all property owners affected, identifying their location, name, and address.
3. A Resolution to be adopted by the Decatur City Planning Commission recommending the approval of the Vacation to the City Council. (Original and 2 copies).

*See attached example.*

4. A Resolution to be adopted by the Decatur City Council approving said Vacation with appropriate certificate to be executed by the City Clerk of the City of Decatur authenticating the resolution. (Original and 2 copies).

*See attached example.*

5. Review Checklist: Upon submission of your application to the City of Decatur, the application will be reviewed and evaluated based upon the following criteria:

- a. If a Right-of-way:

- i. Should it be open?
- ii. How is it currently being used?
- iii. Will it need to be used in the future?
- iv. Will it create a "dead-end"
- v. Are there utilities underneath or overhead for which an easement needs to be retained?

- b. If a Utility Easement for drainage, telephone, electric or gas:

- i. How it is currently being used?
- ii. Is it needed?
- iii. Will it need to be used in the future?
- iv. Will it create a "deadend?"
- v. Do certain utilities need to remain as an easement?



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6. The entire review and approval process may take one to two months. If there are no unusual circumstances, the Planning Commission hears and may grant the request on the next to the last Tuesday of each month (3:15 pm). Then, at the next City Council meeting (if all conditions are met) the City Council may grant approval. The City Council meets the first Monday of each month in the evening and on the third Monday of each month in the morning.
7. Recording Fee: Monies will be requested prior to submission to the City Council.

# SAMPLE

## DECLARATION OF VACATION OF EASEMENT / RIGHT OF WAY

Please note this is only a sample document. Please contact the Planning Department at 256-341-4720 or [planningcommissionapplications@decatur-al.gov](mailto:planningcommissionapplications@decatur-al.gov) with any questions or for a Word document template.

STATE OF ALABAMA        )

COUNTY OF MORGAN        )

### KNOW ALL MEN BY THESE PRESENTS, THAT:

                  OWNER'S NAME                  , owner of all of the property adjacent to that certain ***drainage, utilities, and telecommunications easement and/or right-of-way*** hereinafter described and desiring to vacate the same, does hereby declare that a portion of the ***drainage utilities and telecommunications easement and/or right-of-way*** heretofore granted to the City of Decatur, Alabama by ***subdivision plat of XYZ SUBDIVISION*** of record in the Office of the Judge of Probate of Morgan County, Alabama in ***Plat Book #, at Page ##*** situated in the City of Decatur, Morgan County, Alabama and particularly described as follows, to-wit:

Insert legal description here

be and the same is hereby vacated and all public rights therein are hereby divested.

It is hereby declared that the said vacation does not interrupt public utilities or required storm drainage access to any areas served by the City of Decatur and that the easement covering the above described property is excessive to the need of the City of Decatur in and about the maintenance and provision of public utilities or storm drainage.

It is further declared that the assent to the foregoing vacation be procured from the City Council of the City of Decatur, the governing body of the municipality in which said easement was located, and shall be assented to by a resolution adopted by said City Council, a copy of which, certified by the Clerk of the City of Decatur, Alabama shall be attached to, and filed and recorded with this written Declaration of Vacation, and further that the assent of the Decatur City Planning Commission to the foregoing vacation shall be procured, and said assent to be evidenced by a resolution adopted by the said Decatur City Planning Commission, a copy of which, certified by the Secretary thereof, shall be attached to and filed and recorded with this written Declaration of Vacation.

**THE BELOW SECTION SHOULD BE FOR EACH PROPERTY OWNER AS THEY APPEAR ON THE DEED SEPARATELY AND NOTARIZED SEPARATELY.**

# SAMPLE

IN WITNESS WHEREOF, \_\_\_\_\_ has caused  
this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Applicant's Name

STATE OF ALABAMA     )  
COUNTY OF MORGAN    )

I, the undersigned authority, a Notary Public in and for said County in said State,  
hereby certify that \_\_\_\_\_, whose name is signed to the foregoing  
declaration, and who is know to me, acknowledged before me on this day that, being  
informed of the contents of the declaration, he executed the same voluntarily on the day  
the same bears date.

GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, \_\_\_\_\_ has caused this  
instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Applicant's Name

STATE OF ALABAMA     )  
COUNTY OF MORGAN    )

I, the undersigned authority, a Notary Public in and for said County in said State,  
hereby certify that \_\_\_\_\_, whose name is signed to the foregoing  
declaration, and who is know to me, acknowledged before me on this day that, being  
informed of the contents of the declaration, he executed the same voluntarily on the day  
the same bears date.

GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

# SAMPLE

STATE OF ALABAMA     )  
COUNTY OF MORGAN    )

## RESOLUTION OF THE DECATUR PLANNING COMMISSION

BE IT RESOLVED by the Planning Commission of the City of Decatur that in accordance with Article 3 of Chapter 2 of Title 35 of the CODE OF ALABAMA, 1975, determination has been made upon presentation of material facts submitted by the owner of certain real property, to-wit, OWNER'S NAME that the portion of the **drainage, utilities and telecommunications easement and/or right-of-way** contained within the boundaries of the hereinafter described property, to-wit:

Insert legal description here

is determined to be void of public benefit and superfluous to any interest the City of Decatur, a municipal corporation in the State of Alabama, may have in the reasonable facilitation of traffic flow, utility installations, or any other municipal interests, and

BE IT FURTHER RESOLVED that the Planning Commission of the City of Decatur does hereby recommend to the City Council of Decatur, the governing body of the municipality having interest and jurisdiction in said **drainage, utilities and telecommunications easement and/or right-of-way** that said governing body adopt and place on file and of record in the Office of Probate Judge, Morgan County, Alabama, a duly certified resolution effecting the abandonment and vacation of any and all rights and interests under the Laws of Alabama to that certain **drainage, utilities and telecommunications easement and/or right-of-way** as described above.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 20 .

STATE OF ALABAMA     )  
COUNTY OF MORGAN    )

I \_\_\_\_\_, the duly elected, qualified and acting Secretary of the City of Decatur Planning Commission, hereby certify that the above is a true and correct copy of a resolution adopted by the City of Decatur Planning Commission at a meeting held there of on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ as the same appears on file and record in the minutes of said City of Decatur Planning Commission.

In witness whereof, I hereby affix my hand as Secretary of the City of Decatur Planning Commission on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST: \_\_\_\_\_  
Secretary to the Planning  
Commission of the City of Decatur

# SAMPLE

## RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DECATUR

BE IT RESOLVED by the City Council of the City of Decatur that in accordance with Article 3 of Chapter 2 of Title 35 of the Code of Alabama, 1975, determination has been made upon presentation of material facts submitted by the owner of certain real property, to-wit: OWNER'S NAME, that the portion of the **drainage, utilities and telecommunications easement and/or right-of-way** contained within the boundaries of the hereinafter described property, to-wit:

Insert legal description here

is determined to be void of public benefit and superfluous to any interest the City of Decatur, a municipal corporation in the State of Alabama, may have in the reasonable facilitation of traffic flow, utility installations, or any other municipal interests, and

BE IT FURTHER RESOLVED that the assent of the City Council of the City of Decatur, Alabama, being the governing body of the municipality in which the above described portion of the **drainage, utilities and telecommunications easement and/or right-of-way** is located, be and the same is given to the vacation by OWNER'S NAME, the owner of all land abutting thereon, of said **drainage, utilities, and telecommunications easement and/or right-of-way**.

BE IT FURTHER RESOLVED that the City Clerk of the City of Decatur, Morgan County, Alabama, be and she is hereby, authorized and empowered to attach a certified copy of this resolution to the declaration of vacation.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

### CERTIFICATE OF CLERK

STATE OF ALABAMA )

COUNTY OF MORGAN )

I, \_\_\_\_\_, City Clerk of the City of Decatur, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Decatur, Alabama, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Witness my hand and seal of office this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST: \_\_\_\_\_  
City Clerk of the City of Decatur, Alabama