

VACATING A PUBLIC RIGHT OF WAY CHECKLIST

Petition and Ordinance

1. Gather all the information needed for the petition.
 - _____ 1. Common description of the property to be vacated (e.g., 101 Main Street)
 - _____ 2. Legal description of the property (see "Legal Description Requirements")
 - _____ 3. Identify all land owners that abut the property.
2. Fill out the petition with information gathered in Step 1.
3. Fill out proposed ordinance form
4. Take completed petition and proposed ordinance to Auditor's office and get placed on the Commissioners agenda, taking into account time needed to send notice and that the petition must be heard in 30 days from receipt by Auditor.

Notice

5. Publish notice in the newspaper, using newspaper notice form.
 - _____ 1. Publish the notice of the petition one (1) time, at least ten (10) days before the date of the hearing or meeting, in a newspaper of general circulation published in the county where the property is located.
6. Send certified mail to each property that abuts the property proposed to be vacated. The petitioner shall pay the expense of providing this notice.
 - _____ 1. Send the "Landowner's Notice form" and your petition in this mailing.

Optional Consent

7. If possible, contact landowners that abut property proposed to be vacated to see if they will consent.
8. If so, have them fill out "Consent to Petition to Vacate Right of Way" form.
9. Return filled consent forms to the Auditor or bring to the public hearing.

Attend Hearing

10. Attend the public hearing on the petition within 30 days after it is received by the Commissioners.
11. At the hearing, any person aggrieved by the proposed vacation may object.
12. If it is approved, then the commissioners will tell the Auditor to record the ordinance.
13. If it is denied, the Petitioners have 30 days to appeal to the circuit court.

ORDINANCE TO VACATE PUBLIC WAY OR PLACE

1. WHEREAS, a sworn petition presented to the Board of Commissioners of Perry County, Indiana, requesting a public way or place commonly known as:

2. With said property having a legal description of:

3. WHEREAS, after due and proper notice, a timely public hearing was convened by the Board of Commissions of Perry County, Indiana, at which time all interested persons were permitted to address the Board of Commissioners of Perry County, Indiana, regarding said vacation.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS
OF PERRY COUNTY, INDIANA AS FOLLOWS:

SECTION 1 - FINDINGS

4. The Board of Commissioners of Perry County, Indiana, after due investigation and consideration has determined that the nature and extent of the public use and

public interest to be subserved is such as to warrant the vacation of the public way or place described in Paragraphs 1 and 2 of this ordinance.

SECTION 2 - VACATION

5. The Board of Commissioners of Perry County, Indiana does hereby find that the above-described public way or place is no longer required for public use and the public interest will be served by such vacation, and the Board of Commissioners of Perry County, Indiana, does hereby vacate that public way or place described above.

SECTION 3 - RECORDING

6. The County Auditor shall furnish a copy of this Ordinance to the County Recorder to record.

SECTION 4 – EFFECTIVE DATE

7. This Ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Perry County, Indiana.

First passed following public hearing this _____

Final passage this _____

ATTEST:

BY:

Auditor, Perry County

President, Commissioner

Vice-President, Commissioner

Commissioner

STATE OF INDIANA)
) SS:
COUNTY OF PERRY)

BEFORE THE BOARD OF)
COMMISSIONERS OF)
PERRY COUNTY, INDIANA)
IN THE MATTER OF THE PETITION)
FOR VACATION OF A PLATTED)
PUBLIC WAY OR PLACE)

PETITION

TO: THE BOARD OF COMMISSIONERS OF PERRY COUNTY, INDIANA
The below signed Petitioner(s), to your Honorable Board represent as follows:

1. That said Petitioner(s) reside at _____,
and are resident freeholders of Perry County, Indiana.
2. That said Petitioner(s) are the owners of the real estate adjacent to property,
described in Paragraph 3, a platted public way or place.
3. That the Petitioner(s) respectfully petition that the Board of Commissioners of
Perry County, Indiana proceed as authorized by law to vacate the platted public
way or place located in Perry County, Indiana commonly described as follows:

4. With said property having a legal description of:

5. That the only other real estate which could have any conceivable interest in said platted public way or place to be vacated is that real estate owned by those persons whose address and ownership of land in the area are as follows (include additional properties on a separate sheet of paper, if necessary):

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

WHEREFORE, Petitioner(s) respectfully pray that the Board of Commissioners of Perry County, Indiana, take all the necessary steps to properly vacate said platted public way or place in the manner as by law now provided.

Petitioner

Petitioner

Petitioner

Petitioner

Petitioner

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, on this _____ day of _____, 202__, personally appeared

_____,
known to me to be the person who signed the foregoing Petition and acknowledged signing it as their voluntary act with the intentions and for the purposes stated in it.

WITNESS, my hand and Notarial Seal.

Notary Public

My Commission Expires:

A resident of _____ County, IN.

STATE OF INDIANA)
) SS:
COUNTY OF PERRY)

BEFORE THE BOARD OF)
COMMISSIONERS OF)
PERRY COUNTY, INDIANA)
IN THE MATTER OF THE PETITION)
FOR VACATION OF A PLATTED)
PUBLIC WAY OR PLACE)

CONSENT TO PETITION TO VACATE RIGHT OF WAY

1. The undersigned are owners of property described as follows:

2. The undersigned have received a copy of the petition requesting vacation of a right of way continuous to our property.
3. The undersigned consent to vacation of the right of way.

Owner

Owner

Owner

Owner

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, on this ____ day of _____, 202__, personally appeared

_____)
known to me to be the person who signed the foregoing Consent to Petition to Vacate Right of Way and acknowledged signing it as their voluntary act with the intentions and for the purposes stated in it.

WITNESS, my hand and Notarial Seal.

Notary Public

My Commission Expires:

A resident of _____ County, IN.

DATE: _____

Dear Property Owner,
Persons owning or having an interest in any parts of lots contiguous to a public way
or public place commonly referred to as (see attached petition):

have petitioned the Perry County Board of Commissioners to vacate the aforesaid public
way or public place.

It is required by law that a public hearing be held regarding this vacation, at which time
any person aggrieved by the proposed vacation may object on the basis of certain grounds
which are set forth in Indiana Code 36-7-3-13.

The public hearing on this proposed action will be held on

in the Perry County Commissioner's Room, Perry County Courthouse, 219 Payne Street
Tell City, IN 47586.

If you should have any questions, please feel free to contact me at your convenience.

Very truly yours,

Petitioner Name: _____

Address: _____

Telephone Number: _____

LEGAL DESCRIPTION REQUIREMENTS

A legal description identifies the location, shape, and size of a property. A legal description may be obtained in one of the following ways:

1. A legal description is part of the deed to the property. Get the deed and make a copy of the legal description. If there is a mortgage, the lending institution may have a copy of the deed.
2. If the property owner does not have a copy of the deed, one may be obtained from the Perry County Recorder's Office:
3. If the legal description cannot be obtained via the above methods, a licensed surveyor can draft one for the property.

Additional Information:

- Be sure that the copies of the legal description can be easily read. Otherwise, the copies **cannot** be accepted.
- The abbreviated property descriptions which are on the property record card or property tax documents are **not** acceptable.
- The Perry County Recorder's Office:
 - Telephone: 812-547-4261
 - E-mail: recorder@perrycounty.in.gov

**NOTICE OF PUBLIC HEARING REGARDING THE VACATION OF A PUBLIC
WAY OR PLACE**

The purpose of this hearing is for the consideration of the vacation of the following public way or place located in Perry County, Indiana, and more particularly described as follows, to-wit:

Legal Description: (Put Description Here)

Common Address: (Common Address Here)

The public hearing for this proposed action will be held on the

in the Perry County Commissioner's Room, Perry County Courthouse, 219 Payne Street Tell City, IN 47586. Any person aggrieved by the proposed vacation may object on the basis of certain grounds which are set forth in Indiana Code 36-7-3-13.