



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

PETITION TO VACATE PLATTED RIGHT OF WAY / PLATTED PUBLIC EASEMENT / PLATTED PUBLIC AREA

PUBLIC HEARING REQUIRED

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Subdivision Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

SUBMITTAL REQUIREMENTS

A platted right of way vacation (ROWV) application will be scheduled for the next available planning commission meeting after a complete application has been received.

- ☒ - \$500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- ☐ - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- ☒ Bangerter Court platted public right of way proposed to be vacated was dedicated by the plat of Sleepy Hollow Subdivision, filed as Plat No. 80-122 in the Kenai Recording District.
- ☒ - 3 copies of the plat or map showing the platted right of way to be vacated. Must not exceed 11 x 17 inches in size. Area to be vacated must be clearly depicted. Proposed alternative public access to be shown and labeled on the sketch.
- ☒ - **REASON FOR VACATING** The petitioner must attach a statement with reasonable justification for the vacation of the platted right of way / platted easement / platted public area.

Has the platted right of way been fully or partially constructed?	☐	Yes	☒ No
Is the platted right of way used by vehicles / pedestrians / other?	☐	Yes	☒ No
Is alternative right-of-way being provided?	☐	Yes	☒ No
Are there utility easements associated with the right of way to be vacated?	☒	Yes	No
Is the platted right of way and or associated utility easement in use by any utility company?	☒	Yes	No
If so, which utility provider? <u>ENSTAR</u>			

LEGAL DESCRIPTION ADJOINING LAND:

Lot, Block, Subd. or street address <u>Block 1</u> <u>11A, 11B, 11C, 11D Sleepy Hollow Subdivision longmore landing Addition</u>	
Section, township, range <u>SE 1/4 Section 30, T5N, R9W, S4W, Kenai Peninsula Borough</u>	
City (if applicable) <u>Sterling</u>	General area <u>South end of longmore lake</u>

The petition must be signed by owners of a majority of the land affected by the platted right of way proposed to be vacated. Each petitioner must include address and legal description of his/her property. Attach additional signature sheets if needed.

Submitted by:

Land Owner

Name (printed): <u>Dustin Padeta</u>	Signature <u>[Signature]</u>
e-mail: <u>padeta27@gmail.com</u>	Address:
Owner of: <u>All adjoining lots.</u>	

Land Owner:

Name (printed):	Signature
e-mail:	Address:
Owner of:	

FOR OFFICE USE ONLY

RECEIVED BY _____

DATE SUBMITTED _____

KPB FILE # _____

**VACATION OF PLATTED RIGHT OF WAY /
PLATTED PUBLIC EASEMENT / PLATTED PUBLIC AREA**

20.65.010. Authority; Legislative intent; Scope.

This chapter is enacted under the authority of AS 29.40. A vacation decision is a discretionary legislative land use decision. The purpose of this chapter is to establish procedures for the vacation of a platted public right-of-way, public area, or other public easement dedicated on a borough approved plat, and to provide procedures for the alteration, including removal, of platted utility easements. This chapter does not apply to easements or property owned or held by a city or the borough in their proprietary capacity which may only be extinguished through the terms of the controlling document or applicable law. This chapter does not apply to private easements.

20.65.030. Vacation Criteria.

Vacation of a platted public right-of-way, access, area or other easement granted for public use or public benefit must conform to the requirements of this chapter and AS 29.40.120 through AS 29.40.160 as now enacted or as amended.

20.65.040. Vacation Application.

An informal pre-application conference by appointment with borough staff prior to the submittal of the application for vacation of a public right-of-way is encouraged. The application shall include the following items.

- A. A petition, provided by the borough planning department, signed by:
 - 1. The owners of the majority of the land abutting the area being vacated; or
 - 2. An official representative of the state, the borough, an affected utility, or a city when the area to be vacated is within the city.
- B. A sketch that depicts the area to be vacated, a preliminary vacation plat, or a copy of the existing plat showing the proposed alteration or replat. The format and number of copies of the sketch submittal shall be determined by the planning director;
- C. Written recommendations, comments, or meeting minutes from the planning and zoning commission of the affected city, if the area to be vacated is within a city. The sketch or submittal provided to an affected city must be the same submittal that is provided to the borough.
- D. The appropriate fee; and
- E. Applicant statement containing the reasons in support of the vacation.

20.65.050. Action on vacation application.

- A. Staff shall review the application and supporting materials for compliance. If the application is incomplete, staff will return it to the applicant with a written list of deficiencies to be satisfied for acceptance.
- B. After acceptance of the application, staff will:
 - 1. Send notice of the proposed vacation and the public hearing in accordance with KPB 20.10.100.
 - 2. Prepare a staff report that evaluates the merits of the proposed vacation. Revisions to the application submitted subsequent to the preparation of the staff report and after notice is sent will not be considered at the scheduled public hearing. Any such revisions will be treated as a revised application under this chapter.
- C. An accepted application shall be placed on the agenda of a regularly scheduled planning commission meeting. The public hearing on the vacation may not be more than 60 days after acceptance of the application, unless the applicant requests postponement.
- D. The planning commission shall consider the merits of each vacation request. A platted dedication to public use of land or interest in land may be vacated if the dedication is no longer necessary for present or future public use and in all cases the planning commission shall deem the area being vacated to be of value to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
 - 1. The right-of-way or public easement to be vacated is being used;
 - 2. A road is impossible or impractical to construct, and alternative access has been provided;
 - 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
 - 4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
 - 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
 - 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
 - 7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.
 - 8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
- E. The planning commission may impose such conditions as it deems necessary to ensure compliance with the requirements and purpose of this title.

- F. The borough will consider realignment of a right-of-way by vacation and rededication where the planning commission finds that the right-of-way realignment will enhance access and the realigned right-of-way is located to provide reasonable means of ingress and egress.
- G. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.
- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.
- J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

20.65.060. Title to vacated area.

- A. The title to the street or other public area vacated on a plat attaches to the lot or land bordering the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area that lies on one side of the boundary line shall attach to the abutting property on that side, and the street area that lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street that lies inside the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in a city if it lies inside the city, and in the borough if it lies inside the borough but outside all cities. If the property vacated is a lot, title vests in the rightful owner.
- B. If the municipality acquired the street or other public area vacated for legal consideration or by express dedication to the municipality other than as a subdivision platting requirement, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid to the municipality on final vacation.
- C. Other provisions of this subsection notwithstanding, the planning commission may determine that a portion of the area proposed to be vacated should be reserved and if so, title to the area vacated and held for another public easement purpose remains in the borough or city, as applicable.