

VACATION OF PLAT
or VACATION OF PART(S) OF PLAT

PETITION CHECKLIST
HANCOCK COUNTY AREA PLAN COMMISSION

Filing Deadline is 11:00 AM

The following items must be submitted before the petition can be scheduled for a public hearing. Any questions regarding these items should be directed to the Plan Commission office at (317) 477-1134.

- Application Form with original signatures (attached):**
If the petitioner is not the land owner, then the petition shall include a notarized affidavit and consent of the property owner(s) bearing the owner's original signature.

- Option 1: Submittal Requirement / Written Instrument / Without Notice of Hearing:**
The petition shall include a written instrument per Indiana Code 36-7-3-10 (see Page 5):
 - The written instrument must be executed and acknowledged in the same manner as a deed to land.
 - All the owners of land in the plat must declare the plat or part of the plat to be vacated in the written instrument.

- Option 2: Submittal Requirement / With Notice of Hearing:**
The petition shall include information per Indiana Code 36-7-4-711 (see Page 6):
 - State the reasons for and the circumstances prompting the request.
 - Specifically describe the property in the plat proposed to be vacated.
 - Give the name and address of every other owner of land in the plat.
 - May include a request to vacate any recorded covenants filed as part of the plat.

- Option 2: Affidavit of Notice of Hearing with list of land owners in the plat (attached):**
The petitioner must publish the public hearing in a local newspaper at least ten days before the hearing date. The Proof of Publication and Certificate of Mailing receipt must be submitted to the Plan Commission office by the petitioner no less than 24 hours before the hearing date.

- Option 2: Notice of Public Hearing (attached):**
Notice of the public hearing must be sent to all owners of property in the plat.

- Warranty Deed, Quitclaim Deed, or Contract:**
The property deed or contract must be executed and recorded.

- Filing Fee: \$ _____**
Cash, Check, or Money Order payable to the Hancock County Area Plan Commission or HCPC. The filing fee is not refundable.

- Approval Process:**
The request will be scheduled for a hearing before the Plan Commission. The Commission may approve or disapprove the request. Pursuant to Option 2, the Commission may approve the request only upon a determination that: 1) conditions in the platted area have changed so as to defeat the original purpose of the plat; 2) it is in the public interest to vacate all or part of the plat; and 3) The value of that part of the land in the plat not owned by the petitioner will not be diminished by the vacation. If the plat involves the vacation of dedicated right-of-way or easements, then the owner(s) must also file a separate petition for vacation with the legislative body. Contact the Hancock County Auditor's office (317-477-1105) for more information.

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APPLICATION
HANCOCK COUNTY AREA PLAN COMMISSION

Petitioner's Contact Information:

Petitioner's Name: _____ Phone: _____

Address / City / Zip: _____

Email Address: _____

Project Description:

I (We), the above listed petitioner, request to vacate all or part(s) of a plat for property located at:

_____.

Name of Subdivision: _____ Lot Number(s): _____

Township Name: _____ (Section _____ Township _____ Range _____)

Use/Zoning of Property: _____ Parcel # _____

Owner's Contact Information: *If the petitioner is not the land owner, then the petitioner must provide a notarized Letter of Owner's Consent bearing the owner's original signature.*

Name: _____ Phone: _____

Address / City / Zip: _____

Registered Engineer or Surveyor Contact Information (if applicable):

Name: _____ Phone: _____

Address / City / Zip: _____

Email Address: _____

Petitioner or Agent Signature

Date

AFFIDAVIT OF NOTICE OF PUBLIC HEARING
(Option 2)

HANCOCK COUNTY AREA PLAN COMMISSION

Legal Notice: I (We) understand that a public hearing will held by the Plan Commission to consider this petition and that I (we) will prepare and pay for a legal notice consistent with the requirements of IC 5-3-1 for publication in the local newspaper. The legal notice shall appear in the newspaper no less than one time at least ten days prior to the public hearing, not including the date of the hearing. The legal notice shall include the information pursuant to HCC 156.101(A).

Notice to Interested Parties: In addition, I (we) will prepare, pay for, and distribute written notice of the application to all interested parties. The written notice shall be distributed at least ten days prior to the public hearing, not including the date of the hearing. In no instances shall streets, alleys, streams, or other features be considered boundaries for precluding notification. The notice shall contain the same information as the legal notice that is published in the newspaper as outlined in HCC 156.101(A). The notices will be sent by certificate of mailing no later than the _____ day of _____, 20____, being at least ten (10) days prior to _____, 20____, the date of the public hearing.

Notification Requirements: I (We) will provide notification to all owners of land within the plat. The most current **list of property owners will be obtained from the Plan Commission office** and will be verified through the County Auditor's office. Where any adjacent parcels of land are owned by me (us), the subject property will include adjacent land owned by me (us). Attached is the list of the land owners.

Signature of Petitioner or Agent

Signature of Petitioner or Agent

Printed Signature

Printed Signature

Dated this _____ day of _____, 20_____.

Subscribed and sworn before me, a Notary Public, in and for said County and State, this _____ day of _____, 20_____.

Notary Public

County

Commission Expires

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(Option 2)

NOTICE OF PUBLIC HEARING
HANCOCK COUNTY AREA PLAN COMMISSION

Notice is hereby given that on the _____ day of _____, 20 ____ at 6:30 P.M. a public hearing will be held by the Hancock County Area Plan Commission in the **Hancock County Annex, 111 American Legion Place, Greenfield, Indiana**, for the purpose of considering a petition to vacate all or part(s) of a plat described below:

Attach copy of legal description

The subject site is located on the N/S/E/W side of _____ between roads _____ and _____ in _____ Township with a street address/city/zip of _____. The purpose of the petition is to vacate (remove) all or a portion of this property from the _____ Subdivision.

Petitioner's Contact Information: (Name / Mailing Address / Phone Number) _____

Available Information: More information regarding this petition is available for examination at the office of the Hancock County Area Plan Commission.

Written Comments: Written comments on the petition will be accepted prior to the public hearing and may be submitted to the Planning Director.

All interested persons desiring to present their views on the petition will have an opportunity to be heard. Pursuant to the Americans With Disabilities Act, any individual interested in attending the hearing should contact the Hancock County Area Plan Commission and advise what, if any, accommodation is needed to attend the hearing. Said hearing may be continued from time to time without further notice.

Petitioner and all members of the public wishing to provide documents or other written information for consideration by the Board regarding a petition shall provide to the Plan Director any and all such documents intended to be considered by the Board no later than 12 o'clock noon on the Friday before the petition is scheduled for hearing. No further documents, including visual or written presentations, videos, illustrations, written evidence, or written testimony of any kind will be accepted or considered at the hearing if not provided to the Plan Director in a timely manner as set forth above.

For more information, contact the Hancock County Plan Commission at (317) 477-1134. The Commission office is located at 111 American Legion Place, Suite 146, Hancock County Annex Building, Greenfield, IN 46140.

Note to Publisher: This notice must appear at least one (1) time not less than ten (10) days prior to the hearing date.

Indiana Statute – Vacation of Plat by Owners
(All Owners Agree)

IC 36-7-3-10: Vacation of plat by owners; written instrument; filing and approval; recording; land outside municipal boundaries excepted from approval; effect; public ways

Sec. 10. (a) The owners of land in a plat may vacate all or part of that plat under:

(1) this section; or

(2) IC 36-7-4-711. (*This section is applicable when not all the owners of land in the plat are in agreement regarding the proposed vacation.*)

(b) In a case in which all the owners of land in a plat are in agreement regarding a proposed vacation, the owners may file a written instrument to vacate all or part of that plat. All the owners of land in the plat must declare the plat or part of the plat to be vacated in the written instrument. The instrument must be executed, acknowledged, and recorded in the same manner as a deed to land.

(c) Before offering the instrument for recording under this section, an owner must file a copy of the instrument in the county auditor's office and must submit the instrument vacating all or part of the plat for the approval of the plan commission that has jurisdiction over the platted area under IC 36-7-4 or the plat committee acting on behalf of the plan commission. If no plan commission has jurisdiction over the platted area under IC 36-7-4, the instrument must be submitted for the approval of:

(1) the county executive, in the case of land located in an unincorporated area; or

(2) the municipal works board, in the case of land located inside the corporate boundaries of a municipality.

The instrument may be approved under this section without notice or a hearing. The provisions of IC 36-7-4 concerning notice and hearing do not apply to the approval of an instrument under this section.

(d) The county recorder may record the instrument only if a certificate showing the approval of the vacation by the plan commission, county executive, or municipal works board is attached to it. If the instrument is not executed and approved as required by this section, it is void.

(e) The owners of land in a plat that is located outside the corporate boundaries of any municipality may vacate all of the plat without the approval required by subsections (c) and (d) if no lots have been sold and no roads constructed in the plat, and all of the owners of land in the plat declare the plat to be vacated in a written instrument. The instrument must be executed, acknowledged, and recorded in the same manner as a deed to land.

(f) An instrument recorded under this section terminates the effect of the plat or part of the plat declared to be vacated, and it also terminates all public rights in the public ways and public places described in the plat or part of the plat. However, a public way that has been improved, or that is part of an improved plat, may be vacated only in accordance with section 12 of this chapter or with IC 36-7-4-712, whichever is applicable.

If the plat involves the vacation of dedicated right-of-way or easements, then the owner(s) must also file a separate petition for vacation with the legislative body. Contact the Hancock County Auditor's office (317-477-1105) for more information.

[Pre-Local Government Recodification Citation: 18-5-10-42.]

As added by Acts 1981, P.L.309, SEC.22. Amended by P.L.220-1986, SEC.5; P.L.126-2011, SEC.3.

Indiana Statute – Proceedings Controlling Vacation of Plats
(Not All Owners Agree)

IC 36-7-4-711: Vacation of plats; alternate procedure; petition; notice and hearing

Sec. 711. (a) The plan commission (or plat committee acting on its behalf), proceeding in accordance with IC 36-7-3-10 or with this section, has exclusive control over the vacation of plats or parts of plats.

(b) In a case in which not all the owners of land in a plat are in agreement regarding a proposed vacation, this section provides an alternate procedure under which one (1) or more owners of land in the plat may file with the plan commission a petition to vacate all the plat or only that part of the plat that pertains to land owned by the petitioner or petitioners. A petition under this section must:

- (1) state the reasons for and the circumstances prompting the request;
- (2) specifically describe the property in the plat proposed to be vacated; and
- (3) give the name and address of every other owner of land in the plat.

(c) Subject to section 714 of this chapter, a petition under this section may also include a request to vacate any recorded covenants filed as a part of the plat.

(d) Not more than thirty (30) days after receipt of a petition under this section, the plan commission staff shall announce the date for the hearing before the plan commission (or plat committee acting on the plan commission's behalf). The plan commission shall adopt rules prescribing procedures for setting hearing dates and for providing other notice as may be required in accordance with this chapter. The petitioner shall pay all expenses of providing the notice required by this subsection.

(e) The plan commission shall adopt rules prescribing procedures for the conduct of the hearing, which must include a provision giving every other owner of land in the plat an opportunity to comment on the petition.

(f) After hearing the petition, the plan commission or plat committee shall approve or disapprove the request. The commission or committee may approve the vacation of all or part of a plat only upon a determination that:

- (1) conditions in the platted area have changed so as to defeat the original purpose of the plat;
- (2) it is in the public interest to vacate all or part of the plat; and
- (3) the value of that part of the land in the plat not owned by the petitioner will not be diminished by the vacation.

(g) The commission or committee may impose reasonable conditions as part of any approval. The commission or committee shall furnish a copy of the commission's or committee's decision to the county recorder for recording.

(h) An applicant or other interested party may appeal the approval or disapproval of a vacation by the plat committee in the manner prescribed by section 402(d) of this chapter.

If the plat involves the vacation of dedicated right-of-way or easements, then the owner(s) must also file a separate petition for vacation with the legislative body. Contact the Hancock County Auditor's office (317-477-1105) for more information.

[Pre-Local Government Recodification Citations: 18-7-2-56 part; 18-7-4-711(a) part; 18-7-5-54 part.]

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.220-1986, SEC.23; P.L.126-2011, SEC.22.