

City of Milton, Georgia

Right-of-Way Abandonment Policy and Procedures

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Right-of-Way Abandonment Policy and Procedures

General Requirements

- a. Abandonment of a road or right of way requires that the City Council make a finding of one of the following with respect to the roadway in question:
 1. That no substantial public purpose is served by it; or,
 2. That its removal from the municipal street system is in the best public interest.
- b. Requests for abandonment of roads within the City of Milton roadway network shall be made to the Department of Public Works by a homeowner association (“HOA”) or, if no HOA exists, an individual or group of individuals whose property adjoins or is accessed by the public right of way being considered for abandonment (referred to herein as “Applicant”).
- c. Any abandonment request that is denied by the Mayor and City Council may not be resubmitted for a period of one year following the date of denial.
- d. After the public hearing process and an affirmative action by the mayor and city council to privatize any right of way, the right of way must remain private for a minimum of five years before being eligible to submit for public status again. If, after five years, a right of way is submitted for public acceptance the road shall be required to meet the construction and testing standards established by the City of Milton.

Step 1. Initial Consideration by the Mayor and City Council

- a. Once it has been determined that the initial application is complete and conforms to the requirements of the City of Milton, the application will be placed on the City Council agenda for initial consideration. At that time, the council will determine whether to accept the application for further processing or to reject the application outright. Acceptance of the application by the council does not constitute final approval of the application or the abandonment of the public road or right of way, or any portion thereof.
- b. Any application that is not accepted for further processing by the council shall not be re-filed for a period of one (1) year from the date that the application was rejected.
- c. Prior to the initial consideration by the mayor and City Council the applicant shall submit the following information:
 - i. Completed application form
 - ii. Map or subdivision plat with sufficient information to identify the right-of-way under consideration.

Step 2. Initial Public Hearing

- a. After the application is accepted for consideration by the Mayor and City Council two public hearings shall be held; provided, however, the second public hearing shall not occur on the same day as the first. However, if 100% approval is obtained by the community prior to the initial public hearing, the second public hearing will not be required.
- b. The Applicant shall be required to provide all necessary information demonstrating compliance with the requirements of this section and all applicable State laws prior to the initial public hearing. Any costs associated with the preparation of such data shall be the sole responsibility of the Applicant.
- c. Prior to the initial public hearing on abandonment, the Applicant shall provide the following information:
 - i. Sufficient documentation to establish that no substantial public purpose is served by the right of way or that its removal from the municipal street system is in the best public interest. This information may include traffic counts or traffic studies as may be determined necessary by the Department of Public Works.
 - ii. Documentation demonstrating contact and coordination with pertinent emergency service providers, utility providers, Fulton County Schools, and the Postmaster to ensure that said services can be accommodated and that such vital public services will not be significantly impaired.
 - iii. Documentation that all property owners in the community have been contacted by the Applicant via certified mail. Notice must be mailed by the Applicant to the community members no less than thirty days prior to the initial public hearing date. No notification will be required for any person who has previously signed the petition in favor of abandonment.
 - iv. The applicant shall file financial statements reflecting assets similar to what is required for a homeowner association to finance a line of credit for capital assets. This information will not be made public to the fullest extent allowed by the Open Records Act and is only to insure solvency and to further demonstrate that the applicant has the financial means to fund those future costs associated with maintaining the asset.

Step 3. Final Public Hearing

- a. Prior to the final public hearing on abandonment, the Applicant shall provide the following information:
 - i. A completed formal petition and all supporting forms and documentation shall be submitted to the Department of Public Works. The formal petition submitted on behalf of the community shall comply with the minimum numerical standards set forth Table 1.

- ii. When the application has been made for the privatization of a right of way the applicant may request to delay tendering the formal petition until such time as the Council has adopted a resolution conditionally approving the abandonment. The formal petition must be tendered to the Council within six (6) months of the resolution of conditional abandonment having been approved, and that a failure to tender the petitions within this period shall result in the abandonment request being deemed withdrawn. The Director of Public Works may grant one extension of up to 90 days in his/her reasonable discretion. Once the abandonment petition has been received the final resolution shall then be placed upon a Council consent agenda for final ratification of the abandonment.

Table 1. – Required Percent Approval to Process Abandonment Petition

Number of Lots	Required % Approval **
20 or less	100%
21-90	75%
91 or more	67%

**Note: Compliance with the required approval percentage rates is in no way determinative of the city’s intent to abandon any right of way. The required approval percentage is merely one component of the process, state law considerations shall prevail.

- iii. Each lot within the community shall be given an opportunity to sign a petition, expressing their opinion in favor of or in opposition to the abandonment. Any abstention, non response or indication other than a “yes” by community members will be considered a “no.” Signatures on the petition shall not be considered valid after a period of one year from the date of signing.

Step 4. Final Disposition

- a. If, after the final public hearing, the Mayor and City Council finds that no substantial public purpose is served by the right-of-way or that the removal of the right-of-way from the municipal street system is otherwise in the best public interest, it may approve a resolution authorizing the abandonment of the public right of way. Such approval may be conditioned on the submittal of a signed petition meeting the approval percentages provided in Section 2, Table 1. If the Mayor and City Council approve such a resolution then the right of way shall be considered surplus property and disposed of in accordance with O.C.G.A. 32-7-3, 32-7-4, and 36-37-6.
- b. The Applicant will file a revised plat, legal description(s) indicating the new dispensation of the property and any other documentation required by the city. Any expenses or fees incurred in the filing will be the sole responsibility of the Applicant.