



## APPLICATION FOR Right-of-Way Abandonment

Town of Zebulon Planning Department

1003 N. Arendell Avenue

Zebulon, NC 27597

Phone: (919)823-1502; Fax: (919)269-6200

Website: [www.townofzebulon.org](http://www.townofzebulon.org)

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## PURPOSE

A Right-of-Way Abandonment application is required when an owner of property located adjacent to a street or other public right-of-way seeks to close the street or other public right-of-way and convert it to private property. Upon request, the Town may consider abandonment of public right-of-way.

North Carolina General Statute (NCGS) 160A-299 gives the Zebulon Board of Commissioners the authority to abandon street right-of-way following a public hearing and a determination that the abandonment:

- Is not contrary to the public interest.
- Does not deprive any individual(s) that own property nearby of reasonable means of ingress and egress to their property.
- Is contrary to the adopted policy to preserve existing right-of-way for connectivity.

## INSTRUCTIONS

1. **Application Procedure** – To initiate the process to close a street or alley, or any portion thereof, the applicant must submit a written application to the Zebulon Planning Department using the forms included in this packet. The non-refundable application fee is **\$1,200.00**.
2. The following documents shall be included with the application:
  - a. A legal survey identifying the area to be abandoned. The boundaries of the right-of-way shall be described on the survey map. Include a note on the survey map giving the source of the boundary information. Dimensions shall be shown which clearly define the location of the right-of-way subject to abandonment. The survey map shall also show the names of all abutting/adjoining property owners to the abandonment area. The original survey map should be labeled “Exhibit A” and be on 8 ½” x 11” paper. The legal description (metes/bounds) should be labeled “Exhibit B”. In the event that multiple streets/alleyways are submitted, the original survey maps should be labeled “Exhibits A-1, A-2...” and the legal descriptions (metes/bounds) labeled “Exhibits B-1, B-2...” **The applicant must supply 14 copies of the supplemental materials.**
  - b. List of Property Owners. Signatures are required by the owners of all abutting/adjoining property to the area proposed for abandonment.
3. **Public Hearing Procedure** – The processing of applications for permanently closing streets is prescribed by the NCGS §160A-299. Upon submittal of a complete application packet and filing fee payment, the Planning Department will prepare the information, provide a recommendation, and submit a report to the Zebulon Board of Commissioners for the next regularly scheduled meeting. The Board of Commissioners may adopt a *Resolution of Intent* declaring its intent to close the street or alleys, set a date for a public hearing on the proposed closure, and authorize its advertisement. If the *Resolution of Intent* is adopted by the Board of Commissioners, the following actions shall be completed:
  - a. Petitioner receives a copy of the resolution fixing the date of the public hearing.
  - b. Advertise the public hearing for four successive weeks prior to the hearing in accordance with NCGS §160A-299.

- c. Provide the Board of Commissioners with the names and addresses of all surrounding property owners and land uses.
  - d. Send by registered or certified mail letters of the public hearing notification to all owners of property adjoining the street or alley.
  - e. Post a notice of the closing and public hearing in at least two places along the street or alley.
  - f. Hold a public hearing before the Board of Commissioners and the resolution ordering the closing of the street or alley is either adopted or denied.
4. **Approval** - If adopted, petitioner will receive a copy of the adopted resolution by mail. Resolution ordering the closure will be recorded at the Register of Deeds office. Once recorded, the portion of the street or alley is considered formally closed. Each adjoining property owner receives his/her portion of the closed area as set out in the General Statutes of North Carolina.
5. **Utility Improvements or Easements** – The Town may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to NCGS §160A-299.
6. All of the items noted above shall be delivered to town hall or be mailed to:
- Zebulon Planning Department**  
**1003 N. Arendell Avenue**  
**Zebulon, NC 27597**
7. **Questions about Right-of-Way Abandonments** - If you have any questions about the applicable procedures, contact one of the Town of Zebulon Planning Department representatives listed below:

Name	Title	Phone Number	Email
Mark Hetrick	Planning Director	(919)823-1808	<a href="mailto:mhetrick@townofzebulon.org">mhetrick@townofzebulon.org</a>
Julie Spriggs	Senior Planner	(919)823-1809	<a href="mailto:jspriggs@townofzebulon.org">jspriggs@townofzebulon.org</a>
Mackenzie Day	Planner I	(919)823-1811	<a href="mailto:mday@townofzebulon.org">mday@townofzebulon.org</a>

8. **Board of Commissioners Submittal Deadline and Schedule of Meetings:**

Submittal Deadline (5:00 p.m.)	Board of Commissioners Meeting Date (7:00p.m.)
November 28, 2017	January 8, 2018
January 8, 2018	February 5, 2018
February 5, 2018	March 5, 2018
March 5, 2018	April 2, 2018
April 9, 2018	May 7, 2018
May 7, 2018	June 4, 2018
June 4, 2018	July 11, 2018
July 9, 2018	August 6, 2018
August 13, 2018	September 10, 2018
August 31, 2018	October 1, 2018
October 8, 2018	November 5, 2018
November 5, 2018	December 3, 2018
December 3, 2018	January 7, 2019

FOR OFFICE USE ONLY	
Application Received By:	Application Date:
File Name:	Case #:
Filing Fees Paid:	Date Fees Received:
Date of Board of Commissioners Meeting:	
Date of Public Hearing (if applicable):	
<b>Planning Department Hours: Monday – Friday 8:00 a.m. – 5:00 p.m.</b>	



APPLICATION FOR  
**Right-of-Way Abandonment**

**STATE OF NORTH CAROLINA**

**COUNTY OF WAKE**

**TO THE MEMBERS OF THE BOARD OF COMMISSIONERS OF  
ZEBULON, WAKE COUNTY, NORTH CAROLINA**

\_\_\_\_\_ respectfully files this  
Name of Petitioner  
Petition and requests that (a portion or all of),

\_\_\_\_\_ lying \_\_\_\_\_  
Official name of street or location of alley  
General description of location

as shown on the map attached hereto and made a part hereof marked "Exhibit A", be closed and abandoned in accordance with the provisions of Chapter 160A, Section 299, subsection (a) of the General Statutes of North Carolina.

In support of this Petition, your petitioner respectfully alleges that:

1. \_\_\_\_\_  
Give reason for requested closing

2. The closing of \_\_\_\_\_ street is not contrary to the public interest.

3. No individual, partnership or corporation owning property in the vicinity of \_\_\_\_\_ street or in the subdivision in which it is located will be deprived of Reasonable means of ingress or egress to his or her property by virtue of the closing.

4. The street (or portion thereof) which petitioner requests be closed and abandoned is more particularly described in "Exhibit B", attached hereto and made a part thereof.

Wherefore, petitioner respectfully requests the Board of Commissioners of the Town of Zebulon consider this Petition and set the time for public hearing upon this matter as required by law.

Respectfully submitted the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Print Name

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_



# APPLICATION FOR Right-of-Way Abandonment

<b>We, the undersigned property owners, owning land abutting the street or alley shown on the attached map, hereby petition the Zebulon Board of Commissioners to close and withdraw acceptance of dedication of such land for street purposes. The parcel identification numbers below refer to parcels as shown on the attached map.</b>	Date of Map
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<b>Parcel Identification Number:</b>	Road frontage (from Deed):	
Property Owner(s):		
Mailing Address:		
City:	State:	Zip:
Signature(s):		

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## APPLICATION FOR Right-of-Way Abandonment

### North Carolina General Statutes §160A-299 Procedure for Permanently Closing Streets and Alleys

- (a) When a city proposes to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street, or any portion thereof, is located.
- (b) Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the city council, the council's decision to close the street was in accordance with the statutory standards of subsection (a) of this section and any other applicable requirements of local law or ordinance.

No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

- (c) Upon the closing of a street or alley in accordance with this section, subject to the provisions of subsection (f) of this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

The provisions of this subsection regarding division of right-of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

- (d) This section shall apply to any street or public alley within a city or its extraterritorial jurisdiction that has been irrevocably dedicated to the public, without regard to whether it has actually been opened. This section also applies to unopened streets or public alleys that are shown on plats but that have not been accepted or maintained by the city, provided that this section shall not abrogate the rights of a dedicator, or those claiming under a dedicator, pursuant to G.S. 136-96.
- (e) No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto.
- (f) A city may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to this section. Such reservation shall be stated in the order of closing. Such reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.
- (g) The city may retain utility easements, both public and private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the city council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements. Notice by certified or registered mail shall be provided to the party withdrawing the street from dedication under G.S. 136-96 at least five days prior to the hearing. The declaration must be passed prior to filing of any plat or map or declaration of withdrawal with the register of deeds. Any property owner filing such plats, maps, or declarations shall include the city declaration with the declaration of withdrawal and shall show the utilities retained on any map or plat showing the withdrawal.

(1971, c. 698, s. 1; 1973, c. 426, s. 47; c. 507, s. 5; 1977, c. 464, s. 34; 1981, c. 401; c. 402, ss. 1, 2; 1989, c. 254; 1993, c. 149, s. 1.)