



ORDINANCE

5451

AN ORDINANCE OF THE CITY OF BOCA RATON
AMENDING CHAPTER 25, "STREETS AND SIDEWALKS,"
ARTICLE II, "VACATION AND ABANDONMENT OF
STREETS AND EASEMENTS," CODE OF ORDINANCES,
AMENDING AND UPDATING PROCEDURES FOR THE
VACATION AND ABANDONMENT OF RIGHTS-OF-WAY
AND SPECIAL PURPOSE EASEMENTS, BY DELETING,
REVISING AND/OR RESTATING PORTIONS OF SECTIONS
25-31 – 25-40, AND BY CREATING SECTIONS 25-41 AND
25-42, CODE OF ORDINANCES; PROVIDING
PROCEDURES FOR THE VACATION AND ABANDONMENT
OF REQUIRED RIGHTS-OF-WAY AND SPECIAL PURPOSE
EASEMENTS IN CONJUNCTION WITH A SITE PLAN
APPROVAL; PROVIDING PROCEDURES FOR THE
ADMINISTRATIVE ABANDONMENT OF NON-REQUIRED
RIGHTS-OF-WAY AND SPECIAL PURPOSE EASEMENTS;
AND PROVIDING PROCEDURES FOR THE VACATION
AND ABANDONMENT OF RIGHTS-OF-WAY AND SPECIAL

PURPOSE EASEMENTS PURSUANT TO A REPLAT;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
REPEALER; PROVIDING FOR CODIFICATION; PROVIDING
AN EFFECTIVE DATE (AM-16-02/16-92500002)

WHEREAS, City Council of the City of Boca Raton desires to amend and update Chapter 25, "Streets and Sidewalks," Article II, "Vacation and Abandonment of Streets and Easements," Code of Ordinances; providing definitions for rights-of-way, required/non required rights-of-way, special purpose easements, and required/non required special purpose easements; amending procedures for the vacation and abandonment of rights-of-way and special purpose easements; providing procedures for the vacation and abandonment of required rights-of-way and required special purpose easements in conjunction with a site plan approval by the Planning and Zoning Board; providing procedures for the administrative approval of the vacation and abandonment of non required rights-of-way and non required special purpose easements; and providing procedures for the vacation and abandonment of required/non-required rights of way and required/non-required special purpose easements pursuant to a replat; now therefore

THE CITY OF BOCA RATON HEREBY ORDAINS:

Section 1. Chapter 25, "Streets and Sidewalks, Article II, "Vacation and Abandonment of Streets and Easements," is amended to read:

ARTICLE II. VACATION AND ABANDONMENT OF RIGHTS-OF-WAY AND SPECIAL PURPOSE EASEMENTS ~~STREETS AND EASEMENTS~~

1 Section 25-31. Short title

2 This article shall be known and may be cited as “the city right-of-way and special
3 purpose easement street and easement abandonment article.”

4 Section 25-32. Purposes and methods.

5 The purposes of this article are to establish a uniform procedure for the application to the
6 City for the vacation and abandonment of City rights-of-way, and ~~streets, alleys,~~ special purpose
7 easements ~~and other nonfee interest of the City~~; to designate the departments of the City which
8 shall be responsible for the processing of such applications; and to provide the methods and
9 procedures for processing the applications.

10 Section 25-33. Definitions. ~~Application form.~~

11 The following words, terms and phrases, when used in this article, shall have the
12 meanings ascribed to them in this section, except where the context clearly indicates a different
13 meaning:

14 “City manager” shall mean the city manager or city manager’s designee. Any authority or
15 duty of the city manager established in this article may be exercised by the city manager or by
16 the city manager’s designee.

17 “Right-of-way” shall mean the surface and space above and below any real property in
18 which the city has an interest in law or equity including, but not limited to, any public street,
19 boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, pathway, swale, river,
20 tunnel, viaduct, bridge, park or any other place, area, or real property other than real property
21 owned in fee by the city. The term “right-of-way” shall not mean roads under the jurisdiction and
22 control of the State, the County, the Federal Government, any governmental entity other than
23 the city, or any private roads.

24 “Right-of-way, required” shall mean a right-of-way that is utilized, and/or projected to be
25 utilized for the purpose stated in the respective instrument of dedication, including but not
26 limited to facilities and capital improvements identified in the city’s comprehensive plan. The

1 final determination of right-of-way utilization and/or projected utilization shall be in the sole
2 discretion of the city manager.

3 "Right-of-way, non-required" shall mean a right-of-way that is not utilized, and/or not
4 projected to be utilized for the purpose stated in the respective instrument of dedication,
5 including but limited to facilities and capital improvements identified in the city's comprehensive
6 plan. The final determination of right-of-way utilization and/or projected utilization shall be in the
7 sole discretion of the city manager.

8 "Special purpose easement" shall mean an easement which is dedicated in perpetuity to
9 the public or to the City by plat, or by separate instrument, which instrument has been approved
10 by the City for recordation and subsequently recorded in the Public Records, which authorizes
11 the installation, construction, reconstruction, operation, maintenance and/or repair of one or
12 more of the following city facilities: water, sewer, drainage, transportation, and/or other facilities
13 of the city. The term "special purpose easement" shall also include facilities of public utilities
14 operating non-exclusively pursuant to a franchise or other grant of approval from the city, and
15 any and all other uses authorized by the city. The term "special purpose easement" shall not
16 include instruments of conveyances or easements granted exclusively to specifically named
17 utility companies, property owners' associations, drainage districts, or other governmental
18 agencies.

19 "Special purpose easement, required" shall mean a special purpose easement that is
20 utilized, and/or projected to be utilized for the purpose stated in the respective instrument of
21 dedication, including but not limited to pursuant to facilities and capital improvements identified
22 in the city's comprehensive plan. The final determination of special purpose easement utilization
23 and/or projected utilization shall be in the sole discretion of the city manager.

24 "Special purpose easement, non-required" shall mean a special purpose easement that
25 is not utilized, and/or not projected to be utilized for the purpose stated in the respective
26 instrument of dedication including but not limited to facilities and capital improvements identified

1 in the city's comprehensive plan. The final determination of special purpose easement utilization
2 and/or projected utilization shall be in the sole discretion of the city manager.

3 ~~(1) All requests for vacation and abandonment of city streets, alleys, special purpose~~
4 ~~easements and other non fee interests which the city may have in real property shall be made in~~
5 ~~writing upon an application form which shall be furnished by the city and which shall require the~~
6 ~~following information:~~

7 ~~(a) The name and address of the applicant.~~

8 ~~(b) A general description of the street, alley, special purpose easement or other non fee~~
9 ~~interest of the city which the applicant seeks to have abandoned and the location of same.~~
10 ~~Where possible, a legal description by metes and bounds shall be provided, which description~~
11 ~~shall be accompanied by a plat, map or drawing which also shows the general area involved~~
12 ~~and the location of the specific property interest to be abandoned.~~

13 ~~(c) The reason for the request of abandonment.~~

14 ~~(d) The names and addresses of the owners and occupants of real property bounding~~
15 ~~and abutting the street, alley, special purpose easement or other nonfee interest of the city~~
16 ~~which the applicant seeks to have abandoned.~~

17 ~~(e) Such other relevant information as the city may require.~~

18 ~~The application shall be signed by the party or parties requesting same who shall verify same~~
19 ~~under oath that the information contained therein is true and correct.~~

20 ~~(2) An application for an approval under this section shall be deemed abandoned 30~~
21 ~~days after the date the department of development services notifies the applicant of any~~
22 ~~deficiencies contained in the application. The department of development services may, upon~~
23 ~~written request and justification by the applicant, grant not more than 1 30-day extension. At the~~
24 ~~expiration of the 30-day period, or any extension thereof, the application shall automatically~~
25 ~~expire and become null and void. Permit fees and charges paid at the time of application, and~~
26 ~~plan check fees, shall be refunded, except that an administrative fee shall be retained.~~

1 Section 25-34. Applications for vacation and abandonment of city rights-of-way or
2 special purpose easements. Application Fee.

3 (1) All requests for the vacation and abandonment of city rights-of-way and special
4 purpose easements shall be filed with the development services department on an application
5 form prescribed by the city. Every application shall be accompanied by the applicable fee
6 specified in the municipal facilities and services user fee schedule.

7 (2) Upon receipt of an application, the city manager shall review the application to
8 determine whether the application is complete. If the city manager determines that the
9 application is complete, the application shall be reviewed in accordance with the standards and
10 procedures of this article. The city manager shall not process the application until it is
11 determined to be complete. The development services department shall reject the application if
12 a similar application has been considered by the city council or the planning and zoning board at
13 a public hearing at any time within 6 months of the date the application is submitted. If the city
14 manager determines that the application is incomplete or cannot be processed, the city
15 manager shall notify the applicant of the deficiencies of the application. The applicant may
16 correct any such deficiencies and resubmit the application for a new completeness
17 determination. If the applicant fails to resubmit an application within 30 calendar days after
18 being notified of deficiencies, the application shall be considered withdrawn, and the application,
19 along with the submitted fee, shall be returned to the applicant, except that an administrative fee
20 shall be retained.

21 ~~If the application for abandonment pursuant to this article is submitted by a citizen,~~
22 ~~owner or lessee of adjoining or affected property, the application shall be accompanied by an~~
23 ~~applicable fee.~~

24 Section 25-35. Reserved. ~~Departments designated to receive applications.~~

25 ~~Applications for abandonment pursuant to this article, together with the fees therefor,~~
26 ~~shall be made in duplicate and directed to the department responsible for processing the~~

1 application, as follows:

2 (a) ~~Applications for vacation and abandonment of city streets and alleys shall be made~~
3 ~~to the development services department and directed to the attention of the Director thereof.~~

4 (b) ~~Applications for abandonment pursuant to this article, together with the fees~~
5 ~~therefore, shall be made in duplicate and filed with the development services department.~~

6 Section 25-36. Procedures for applications for abandonment of required rights-of-way.

7 (1) The procedures in this section shall apply to applications for the abandonment of
8 required rights-of-way, except as provided in section 25-39.

9 ~~(1)(2) Upon receipt of an application for the abandonment of a required right-of-way and~~
10 ~~determination that the application is complete pursuant to Section 25-34, together with the~~
11 ~~applicable fees therefor, the development services department shall review same for~~
12 ~~completeness and for compliance with the requirements of this article. The development~~
13 ~~services department may reject the application if a similar application has been considered at~~
14 ~~any time within 6 months of the date the application is submitted. Upon the application being~~
15 ~~properly submitted, it shall be accepted for filing with the development services department, who~~
16 ~~shall give a receipt to the applicant for the fee paid. As soon as practicable thereafter, the~~
17 ~~development services department shall proceed as follows:~~

18 (a) Advise each and every public utility company that may be involved or concerned with
19 the abandonment of the required right-of-way by sending them a copy of the application and
20 requesting their review thereof and recommendations of approval or disapproval thereon.

21 ~~Reserved.~~

22 (b) Advise both the utility services director and the municipal services director of the
23 application by forwarding a copy thereof for their review thereof and recommendations of
24 approval or disapproval thereon. ~~Set a date for public hearing thereon to be held by the~~
25 ~~planning and zoning board, and refer the matter to the board by forwarding the original~~
26 ~~application to it.~~

1 (c) Set dates for public hearings on the application by the planning and zoning board and
2 by the city council, respectively.

3 (d)(e) Notify by regular mail the owners and occupants of real property bounding and
4 abutting the required right-of-way street or alley, or portion of the required right-of-way
5 affected, and all the owners of property within 500 feet in all directions from the boundary
6 lines of the required right-of-way street or alley or portion of the required right-of-way thereof
7 affected of the dates, times and location of the public hearings by the planning and zoning
8 board and by the city council, respectively. Notification shall be mailed not less than 10 days
9 prior to the day of the applicable public hearings. For the purposes of this subsection, Tt
10 owners of property within 500 feet shall be deemed to be the persons shown on the current
11 ad valorem tax city tax assessment roll of the property appraiser of Palm Beach County as
12 being the owners and such notice shall be sent to the address given in the such assessment
13 roll for each owner for that person. It shall not be necessary to send such notice by mail to
14 any owner or occupant of property who has signed the application for abandonment as a
15 requesting party.

16 (e)(d) Notify the general public by publishing a notice in a newspaper of general
17 circulation in the city of the public hearings to be held on the application by the planning and
18 zoning board and by the city council, respectively. Notification shall be published not less than
19 10 days prior to the day of the applicable public hearing.

20 (f)(e) Further notify the general public by posting signs upon the required right-of-way
21 street or alley, or portion of the required right-of-way thereof affected, setting forth notice of
22 the proposed abandonment and of the date of the public hearings to be held on the
23 application by the planning and zoning board and by the city council, respectively. Said
24 notification shall be posted not less than 10 days prior to the day of the applicable public
25 hearing.

1 (g)(f) Provide its written analysis and recommendation on the application to the
2 planning and zoning board and to the city council prior to each body's public hearing on the
3 application ~~Advise the city council of its concurrence or disagreement with the report of the~~
4 ~~planning and zoning board to the city council as hereinafter provided for.~~

5 ~~(3)(2)~~ The planning and zoning board shall hold a public hearing and shall make a report
6 ~~its recommendations or status on the application for abandonment to the city council within 30~~
7 ~~days after the date of the public hearing.~~ application has been made to the planning and zoning
8 ~~department, and shall specifically include in its report the recommendations of approval or~~
9 ~~disapproval of the city manager on the application as requested theretofore.~~

10 ~~(4)(3)~~ In making their respective recommendations on the application, the development
11 services department and the The planning and zoning board shall also consider the right and
12 interest in the required right-of-way ~~subject to the application for abandonment from the~~
13 ~~standpoint of the benefit of the community as a whole, and shall make appropriate~~
14 ~~recommendations regarding any rearrangement of streets and rights-of-way which are involved~~
15 ~~therein in order to secure a more regular and harmonious system for~~ transportation ~~traffic~~
16 ~~circulation.~~

17 (5) The city council shall act upon the application as provided in Section 25-38.

18 Section 25-37. Procedures on applications for abandonment of required special purpose
19 ~~easements and other nonfee interest:~~

20 (1) The procedures in this section shall apply to applications for the abandonment of
21 required special purpose easements, except as provided in Section 25-39.

22 ~~(2)(4)~~ Upon receipt of an application and fee for abandonment of a required special
23 purpose easement and determination that the application is complete pursuant to Section 25-
24 34, ~~the development services department shall review same for completeness and for~~
25 ~~compliance with the requirements of this chapter. The development services department may~~
26 ~~reject the application if a similar application has been considered at any time within 6 months of~~

1 ~~the date the application is submitted. Upon the application being properly submitted, it shall be~~
2 ~~accepted for filing with the development services department, who shall give a receipt to the~~
3 ~~applicant for the fee paid. As soon as practicable thereafter, the development services~~
4 ~~department shall proceed as follows:~~

5 (a) Advise each and every public utility company that may be involved or concerned with
6 the abandonment of the required special purpose easement by sending them a copy of the
7 application and requesting their review thereof and recommendations of approval or disapproval
8 thereon, ~~to be made to the development services department within not more than 20 days time.~~

9 (b) Advise both the utility services director and the municipal services director ~~of the~~
10 ~~City of Boca Raton~~ of the application made by forwarding a copy thereof ~~to each of them for~~
11 their review thereof and recommendations of approval or disapproval thereon, ~~to be made to~~
12 ~~the development services department within not more than 20 days time.~~

13 (c) Examine, analyze and review the application and report its recommendation to the
14 city council. The written analysis and recommendation of the development services department
15 shall include the recommendations of approval or disapproval of those public utility companies,
16 and of the utility services director and municipal services director. ~~Notify by regular mail the~~
17 ~~owners and occupants of real property bounding and abutting the special purpose easement or~~
18 ~~other nonfee interest of the city, or portion thereof affected. The owner of property shall be~~
19 ~~deemed to be the person shown on the current city tax assessment roll as being the owner and~~
20 ~~such notice shall be sent to the address given on such assessment roll for that person. It shall~~
21 ~~not be necessary to send such notice by mail to any owner or occupant of property who has~~
22 ~~signed the application for abandonment as a requesting party.~~

23 (d) Notify the general public by publishing a notice in a newspaper of general circulation
24 in the city of the public hearing to be held on the application by the city council. Notification shall
25 be published no less than 10 days prior to the public hearing. ~~Examine, analyze and review the~~
26 ~~application for abandonment and report its recommendations or status on the application for~~

1 ~~abandonment to the city council within 30 days after the application has been made, and shall~~
2 ~~specifically include in its report the recommendations of approval or disapproval of those public~~
3 ~~utility companies, property owners and occupants contacted, and of the directors of the utility~~
4 ~~services department and municipal services department, as requested theretofore.~~

5 (e) Further notify the general public by posting signs upon the required special purpose
6 easement, or portion of the required special purpose easement thereof affected, setting forth
7 notice of the proposed abandonment and of the date of the public hearing to be held on the
8 application by the city council. Said notification shall be posted not less than 10 days prior to the
9 day of the public hearing.

10 (3) The city council shall act upon the application as provided in Section 25-38.

11 Section 25-38. Action by city council on applications for abandonment of required rights-
12 of-way or required special purpose easements.

13 (1) The city council shall consider the aforesaid reports and recommendations on
14 applications for abandonment of a required right-of-way or required special purpose easement,
15 as hereinbefore provided for, within 10 days after receipt of same, and shall, after public hearing
16 and due consideration, either grant accept, modify or deny the application recommendation in
17 accordance with the best interests of the public welfare.

18 (2) In the event that the abandonment of a required right-of-way or required special
19 purpose easement would require ~~If by the acceptance, modification or denial of the~~
20 ~~recommendation,~~ a change in the land use of the comprehensive plan (including, but not limited
21 to, the comprehensive plan map series) (district map) is required, or if the aforesaid action of the
22 ~~city council necessitates a change in the existing property interests or rights, an ordinance~~
23 setting forth the change shall be introduced and adopted prior to the approval of any application
24 pursuant to Sections 25-36 or 25-37, as applicable as soon as possible.

1 Section 25-39. Abandonment of required rights-of-way or required special purpose
2 easements pursuant to a site plan. ~~Notice by city clerk.~~

3 (1) Notwithstanding any provision of this article to the contrary, an abandonment of a
4 required right-of-way or required special purpose easement wherein the abandonment is
5 necessitated by, and/or is a condition of, a proposed site plan, such abandonment shall be
6 considered contemporaneously with the proposed site plan, and shall be approved, approved
7 with conditions, or not approved by the body that has authority to act upon the proposed site
8 plan, as part of the site plan development order. Provided, however, that the procedures for
9 applications for abandonment specified in sections 25-34 through 25-37, as appropriate, shall
10 be applicable, and in making its determination on an abandonment, the approving body shall
11 take such action in accordance with the best interests of the public welfare. Further provided,
12 that the standards in section 25-38(2) shall be applicable.

13 (2) A decision on an application for abandonment pursuant to this section shall be
14 subject to appeal in the same manner as the decision on the site plan in connection therewith,
15 as otherwise provide in this code.

16 ~~The city clerk shall notify by regular mail the owners and occupants of real property~~
17 ~~bounding and abutting the street alley, special purpose easement or other nonfee interest of the~~
18 ~~city, or portion thereof, and each and every public utility company that was notified theretofore~~
19 ~~by the city and, in the case of a change in land use of the comprehensive plan, all of the owners~~
20 ~~of property within 500 feet in all directions from the lines of the property involved, of the date of~~
21 ~~the public hearing on the aforesaid proposed ordinance, and the city clerk shall cause to be~~
22 ~~published in a newspaper of general circulation in the city the time and place of the public~~
23 ~~hearing of the proposed ordinance at least 10 days prior to the public hearing.~~

24 Section 25-40. Abandonment of non-required rights-of-way or non-required special
25 purpose easements. ~~Posting of Notice.~~

1 (1) The procedures in this section shall apply to the abandonment of non-required rights-
2 of-way or non-required special purpose easements.

3 (2) The city manager shall have the authority to administratively process an application
4 for the abandonment of a non-required right-of-way or non-required special purpose easement
5 upon the review and recommendation of the directors of municipal, utility and development
6 services departments, and each and every public utility company that may be involved or
7 concerned with the abandonment. Based upon said recommendations, the city manager shall
8 either approve, approve with conditions or not approve the abandonment.

9 (3) Any person aggrieved by a decision of the city manager regarding an application for
10 the abandonment of a non-required rights-of-way or non-required special purpose easement,
11 may file a notice of appeal with the city clerk and pay the appeal fee specified in the municipal
12 facilities and services user fee schedule within 14 days of the date of the written notification of
13 the decision of the city manager. The notice of appeal shall specify the decision rendered by the
14 city manager and in what respect the appellant is aggrieved by such decision, and the action
15 which the appellant desires the city council to take with respect to the decision of the city
16 manager. Upon the filing of a notice of appeal, the city council shall hold a public hearing on the
17 matter as soon as practicable and shall either affirm, affirm with modifications or reverse the
18 decision of the city manager.

19 ~~It shall be the duty and responsibility of the development services director to change the~~
20 ~~sign posted upon the subject property, where applicable, under this article, so as to be in~~
21 ~~conformity with the proposed ordinance as to the date of the public hearing by the city council.~~

22 Section 25-41. Vacation and abandonment pursuant to a replat.

23 Notwithstanding any provision of this article to the contrary, the approval by the city
24 council of a replat which encompasses lands embraced in all or part of a prior plat filed of public
25 record shall, upon recordation of the replat, automatically and simultaneously vacate and annul

1 all of the prior plat encompassed by the replat, including vacating and abandoning all rights-of-
2 way and special purpose easements, except as otherwise reinstated on the replat.

3 Section 25-42. Recordation.

4 (1) The abandonment of a right-of-way or special purpose easement pursuant to
5 sections 25-36 through 25-40 shall be by an instrument declaring such abandonment, and shall
6 be recorded in the public records of Palm Beach County, Florida.

7 (2) The abandonment of a right-of-way or special purpose easement pursuant to section
8 25-41 shall be by recordation of the replat in the public records of Palm Beach County, Florida.

9 Section 2. If any section, subsection, clause or provision of this ordinance is held
10 invalid, the remainder shall not be affected by such invalidity.

11 Section 3. All ordinances and resolutions or parts of ordinances and resolutions and all
12 sections and parts of sections in conflict herewith shall be and hereby are repealed.

13 Section 4. Codification of this ordinance in the City's Code of Ordinances is hereby
14 authorized and directed.

15 Section 5. This ordinance shall take effect immediately upon adoption.
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1 PASSED AND ADOPTED by the City Council of the City of Boca Raton this 10th
2 day of April, 2018.

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4 CITY OF BOCA RATON, FLORIDA

5
6 ATTEST:

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8
9 Susan S. Saxton
10 Susan S. Saxton, City Clerk

11
12 Susan Haynie
13 Susan Haynie, Mayor

14 Approved as to form:

15
16 Joshua P. Koehn
17 for Diana Grub Frieser
18 City Attorney

19
20
21

COUNCIL VOTE			
	YES	NO	ABSTAINED
MAYOR SUSAN HAYNIE	✓		
DEPUTY MAYOR SCOTT SINGER	✓		
COUNCIL MEMBER MONICA MAYOTTE	✓		
COUNCIL MEMBER ANDREA LEVINE O'ROURKE	✓		
COUNCIL MEMBER JEREMY RODGERS	✓		