

CLOSING AND ABANDONMENT OF COUNTY-OWNED ROADS, ALLEYS, EASEMENTS AND PLATS

POLICY NO. 19-07

PURPOSE:

To set forth authority, policy, procedures and applicable fees for applications and petitions to vacate rights-of-way, easements and plats; and to ensure proper notification of all property owners of scheduled public hearings for the abandonment and vacation of any county-owned right-of-way, alley or plat and the public's interest therein.

AUTHORITY:

Section 177.101, F.S.: The governing bodies of the counties of the state may adopt resolutions vacating plats in whole or in part of subdivisions in said counties, returning the property covered by such plats either in whole or in part into acreage. Before such resolution of vacating any plat either in whole or in part shall be entered by the governing body of a county, it must be shown that the persons making application for said vacation own the fee simple title to the whole or that part of the tract covered by the plat sought to be vacated, and it must be further shown that the vacation by the governing body of the county will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

Section 336.09, F.S.: The commissioners, with respect to property under their control may in their own discretion, and of their own motion, or upon the request of any agency of the state, or of the federal government, or upon petition of any person or persons, are hereby authorized and empowered to: (a) Vacate, abandon, discontinue and close any existing public or private street, alleyway, road, highway, or other place used for travel, or any portion thereof, other than a state or federal highway, and to renounce and disclaim any right of the county and the public in and to any land in connection therewith; (b) Renounce and disclaim any right of the county and the public in and to any land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or highway purposes, other than lands acquired for state and federal highway; and (c) Renounce and disclaim any right of the county and the public in and to land, other than land constituting, or acquired for, a state or federal highway, delineated on any recorded map or plat as a street, alleyway, road or highway.

POLICY:

Vacations of plats in whole or in part, or vacations of any existing public or private street, alleyway, road, highway, or other place used for travel, or any portion thereof, shall follow the procedures set forth herein. With respect to platted easements, vacation shall be required as a prerequisite to issuance of a building permit for any structure in such easements, except to the extent that the Building Official determines that construction of particular structures do not interfere with the dedicated purposes of such easements. It is the intent of the Board of County Commissioners hereby that such uses as parking surfaces and appurtenances, ground-level driveways, and landscaping are the types of construction that would normally not interfere with the dedicated purposes of such platted easements. In such instances, the Building Official or his designee may request confirmation in writing from affected entities, including County departments and public or private utilities, that a proposed use does not interfere with the dedicated purposes of such easements and shall at all times have the discretion to require vacation of such easements, whether or not any affected entity objects to the proposed use. When improvements, whether permitted or not, are erected in an un-vacated easement, the burden and cost of removing such improvements, and the risk thereof in the event such removal is required by an authorized user of the easement, shall be wholly the responsibility of the person or entity erecting the improvements.

PROCEDURE FOR VACATION:

1. Anyone wishing to petition the Board of County Commissioners to vacate, close, or abandon places dedicated to the County or public pursuant to statutory vacation authority, or to vacate a plat previously approved by the Board, shall:
 - a. Complete and sign an Application and a Petition to Vacate, which may be obtained from the County Attorney's Office, for review by staff members and affected entities, and pay the fee therefor as set forth on the attached "Instructions to Vacate, Abandon, Discontinue or Close Easements, Rights-of-Way, and Plats."
 - b. Provide the County Attorney's Office with twenty-one (21) copies of a current survey from a registered surveyor and mapper showing any and all easements, encroachments or appurtenances, relevant drainage elevations, and continuing an accurate legal description of the area to be vacated; and showing all adjoining property owners, including names and addresses, whose land adjoins the right-of-way, alley, or plat proposed for vacation.

For plat vacations in whole, provide the County Attorney's Office with

twenty-one (21) copies of a certified copy of the plat together with a certified letter from the Tax Collector certifying no outstanding or delinquent taxes against the plat petitioned for vacation.

When deemed necessary to establish ownership, County staff may request an applicant to provide a title opinion prior to proceeding with a Petition to Vacate.

- c. Every Petition to Vacate shall state with specificity the reasons why a vacation is requested and why the vacation is in the best interest of the County.
 - d. Upon determination that the Application and supporting documents are complete, Applicant must pay the Petition Fee prescribed on the attached "Instructions to Vacate, Abandon, Discontinue or Close Easements, Rights-of-Way, and Plats." The Petition will then be reviewed by the County departments and affected entities. The Petition will be presented to the Board of County Commissioners for a public hearing upon recommendation by staff for approval or upon written request of Petitioner, if staff does not recommend approval. Public hearings will not be scheduled until all staff comments have been received and reviewed by Property Management.
2. a. For rights-of-way, easements, and alleys, a Notice of Intent to Vacate will be published in a newspaper of general circulation, in the County in which the tract or parcel of land is located, two weeks prior to the public hearing. A copy of the notice of public hearing, as printed in the newspaper, will be mailed to each land owner whose land adjoins the proposed vacation. Said notice must be mailed by Certified Mail, Return Receipt Requested, at least ten (10) days prior to the Public Hearing.
- b. For plat vacations, a Notice of Intent to Vacate will be published in a newspaper of general circulation in the County in which the tract or parcel of land is located, in not less than two weekly issues of said paper. A copy of the Notice of Intent to Vacate, as printed in the newspaper, will be mailed to each land owner whose land adjoins the platted property proposed for vacation. Said notice must be mailed by Certified Mail, Return Receipt Requested, at least ten (10) days prior to the Public Hearing.
3. a. Petitioner shall be responsible for posting the right-of-way, alley, easement or plat for which the Petition has been made, with signs supplied by the County Attorney's Office. The signs must be posted in a conspicuous location at least fifteen (15) days prior to the public

hearing and shall remain posted until after the public hearing.

- b. Petitioner shall pay all costs of advertising, recording documents, mailing notices, posting property, and an application fee.
- 4. At the public hearing the Board shall take testimony under oath as to the best interests of the County.
- 5.
 - a. After the public hearing, if the Board favors granting the Petition, the Board will adopt a resolution vacating the right-of-way, alley, easement or plat.
 - b. For rights-of-way, the County Attorney's Office, within thirty (30) days following the adoption of the resolution, will publish a Notice of Adoption of such a resolution one (1) time, in one issue of a newspaper of general circulation published in Hernando County.
 - c. The Clerk of Court shall have recorded in the Official Records of Hernando County, the proof of publication of the Notice of Intent to Vacate, and the resolution as adopted by the Board.
 - d. For rights-of-way the Clerk of Court shall have recorded in the Official Records of Hernando County, the proof of publication of the Notice of Intent, the resolution as adopted by the Board, and the Notice of Adoption of such resolution.
 - e. The County Attorney's Office will provide copies of the recorded documents vacating rights-of-way, alleys, easements and plats to the Petitioners, the Department of Public Works, the Property Appraiser, the Building Department and Property Management.

Replaces: Policy No. 17-01

Reference:	October 30, 1979
Adopted:	September 18, 1991
Amended:	June 3, 2003