

**BOARD OF COUNTY COMMISSIONERS  
GULF COUNTY, FLORIDA  
COUNTY ATTORNEY'S OFFICE**

1000 CECIL G. COSTIN SR. BLVD., ROOM 302, PORT ST. JOE, FLORIDA 32456  
PHONE (850)229-4700 • FAX (850) 229-1148 • EMAIL: JTNovak@novaklaw.us  
*DATE AND TIME OF MEETINGS • SECOND AND FOURTH TUESDAY AT 9:00 P.M., E.T.*

FILED FOR RECORD  
REBECCA L. MORRIS  
CLERK OF CIRCUIT COURT  
GULF COUNTY, FLORIDA  
14 JUL -2 AM 10:18

**Memorandum**

**To:** Gulf County Board of County Commissioners  
**From:** Jeremy T.M. Novak, County Attorney  
**CC:** County Administrator, Don Butler  
**Date:** 05/31/14  
**Re:** Gulf County Vacation, Abandonment, Discontinue or Close Easements, Right of Ways, Roadways, Alleyways and Plats Policy

Following the review and analysis of the current Gulf County "Alleyway/Roadway Abandonment Procedures" adopted on March 28, 2000 in conjunction with a review and consideration of Florida Statute, various administrative and planning department recommendations, the following policy is being submitted for this Board's review, consideration and discussion. Following this Board's review and discussion of this Gulf County Vacation, Abandonment, Discontinue or Close Easements, Right of Ways, Roadways, Alleyways and Plats Policy and Procedures and thereafter any public discussion or comment in accordance with county ordinance no. 2013-07, it is the recommendation that this Board consider the following for approval and adoption.

**PURPOSE:**

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

**UPDATES:**

Future updates to this policy will be the responsibility of the department heads for recommendation to the County Administrator and thereafter upon final adoption of any amendments by the Board of County Commissioners.

**AUTHORITY:**

Florida Statutes, Section 125.01, Section 336 and Section 177.

Florida Statutes, Section 336.09: The commissioners, with respect to property under their control may in their own discretion, and of 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

**BCC APPROVED**  
DATE 7/8/14 D.C. 

CONSENT  
DATE 7/8/14 LL

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.

**GULF COUNTY RIGHT OF WAY, ALLEYWAY, ROADWAY AND PLAT ABANDONMENT POLICY:**

The vacation 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 Planner's Office, for review by staff members and affected entities, and pay the fee as set forth by the Board of County Commissioners to "Vacate, Abandon, Discontinue or Close Easements, Rights-of-Way, Alleyway, Roadways and Plats"
  - b. Provide the County Planner's Office with seven (7) 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 Planner's Office with seven (7) 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 Gulf County and its citizens.
  - d. Upon determination that the Application and supporting documents are complete, Applicant must pay the Petition fee prescribed on the "Instructions to Vacate, Abandon, Discontinue or Close Easements, Rights-of-Way, and Plats" (to be authored by the county Planning Department and approved by the Administrator). 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 the appropriate officials.
2. Advertisement and posting
    - a. For rights-of-way, easements, and alleys, a Notice of Intent to Vacate will be published in a newspaper of general circulation, in Gulf County where 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 Gulf County where 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. Petitioner shall be responsible for posting the right-of-way, alley, easement or plat for which the Petition has been made, with appropriate notice and signs as reviewed and approved by the County Attorney. 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.
  4. Petitioner shall pay all costs of advertising, recording documents, mailing notices, posting property, and an application fee.
  5. At the public hearing the Board shall take testimony under oath as to the best interests of Gulf County.
  6. After the public hearing, if the Board favors granting the Petition, the Board will adopt a resolution vacating the roadway, right-of-way, alley, easement or plat.
    - a. The Petitioner, 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 Gulf County.

- b. The Petitioner shall through the Clerk of Court have recorded in the Official Records of Gulf 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.
- c. The Petitioner shall thereafter provide the County Attorney copies of the recorded documents vacating roadway, rights-of-way, alleys, easements and plats who shall then distribute to the requesting parties that include the Planning Department, Public Works Department, the Property Appraiser, the Building Department and Administration.

**Other Countywide Policies:**

This policy should be utilized in conjunction with all other countywide policies and regulations that address land use including the Gulf County land development regulations and Gulf County comprehensive plan.

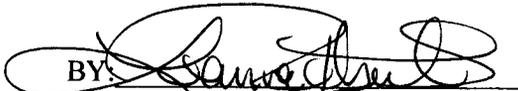
**Effective Date**

This policy shall have an effective date of July 8, 2014.

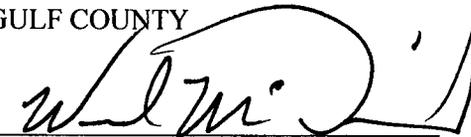
The foregoing policy was offered by Commissioner Smiley, who moved its adoption. The motion was seconded by Commissioner Yeager and, being put to vote:

DULY PASSED AND ADOPTED THIS 8<sup>th</sup> day of July, 2014

ATTEST: Rebecca Norris  
CLERK OF COURT

BY:   
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS  
OF GULF COUNTY

BY:   
Chairman Ward McDaniel

APPROVED AS TO FORM:

BY:   
Jeremy T.M. Novak, County Attorney