

**REQUIREMENTS FOR
VACATION AND ABANDONMENT OF ROAD RIGHTS-OF-WAY
MARTIN COUNTY, FLORIDA**

1. LEGAL REFERENCES:

Right-of-way abandonments in Martin County, Florida are governed by the following laws and ordinances:

- A. Sections 336.09 through 336.12, FLORIDA STATUTES, a copy of which is attached hereto as Exhibit "A".
- B. Section 155.3, MARTIN COUNTY CODE, VOLUME 1. CODE OF ORDINANCES, a copy of which is attached hereto as Exhibit "B".
- C. Section 139.2, MARTIN COUNTY CODE, VOLUME 1. CODE OF ORDINANCES, (Regarding Privilege Fee for Abandonments) a copy of which is attached hereto as Exhibit "C".

Note: If the public interest is abandoned by the Board of County Commissioners, this does NOT abandon any private interests other property owners may have.

2. PRE-APPLICATION MEETING:

Prior to submitting applications for right-of-way abandonments, prospective applicants or their agents are required to present their proposals during a pre-application conference with Staff for review and comment. When necessary, Staff will inspect site for existing features such as swales and utility installations and assess the site's potential for future county needs including drainage and storm water retention.

3. REQUIRED ITEMS:

APPLICATION PACKAGE MUST INCLUDE THE ORIGINAL OF EACH OF THE FOLLOWING ITEMS:

- A. PETITION FORM (see attached sample). Use this form only.
- B. CERTIFICATION FORM (see attached sample) stating that no property owner will be denied access to their property as a result of the proposed abandonment, accompanied by the legal documentation, for review by Staff, substantiating this claim.
- C. LETTERS OF NO OBJECTION from *all* property owners who may be affected by the proposed abandonment (see attached sample).

- D. LETTERS OF NO OBJECTION from *all* utility companies which may be affected by the proposed abandonment (see attached sample). Responses from the utilities should be sent directly to petitioner so that any problems with the utilities can be resolved before the package is submitted to the County.
- E. CERTIFIED LEGAL DESCRIPTION AND SKETCHES of all parcels to be abandoned or dedicated, including acreage amounts, by a Registered Florida Land Surveyor.
- F. COPIES of all right-of-way deeds and plat maps affected by proposed abandonment.
- G. APPRAISAL: In accordance with Section 139.2.B, General Ordinances, Martin County Code, an appraisal shall be prepared in accordance with staff requirements to determine the value of the County's interest being abandoned. The appraisal must be presented in a Self-Contained format that meets the current requirements of the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal and the report may only be subject to Ordinary Limiting Conditions, Extraordinary Assumptions and Certification included within the report. Martin County may obtain a separate appraisal or letter of review. Appraisal to be less than three months old.
- H. COPIES OF THE PETITIONER'S TITLE DEEDS which reflect the current ownership of the premises lying adjacent to the proposed abandonment.
- I. CHECK FOR APPLICATION FEE: \$3,200.00 payable to the Martin County Board of County Commissioners to be submitted with application.
- J. CHECK FOR PRIVILEGE FEE: Privilege fee equals 100% of the appraised value of the right-of-way being abandoned. Payment is not required until the adoption of the Resolution for Abandonment, but prior to its recordation in the public records. Land may be offered to the County in partial or total satisfaction of the privilege fee subject to the approval of the Board of County Commissioners. Applicant will be required to provide a survey, a sketch and legal description, an appraisal and a title insurance policy for any land being conveyed to the County. Applicant may also be required to submit an environmental audit. Consult Staff prior to submittal of application.
- K. REQUESTS made by Staff for additional submittals or revisions that have not been acted upon by the petitioner for a period of twelve (12) months will affect the expiration of their application and forfeiture of the application fee.

4. PROCEDURE:

- A. Submit to the Martin County Public Works Department: Petition with all necessary signatures, certification form, letters of no objection, maps, surveys, plat maps, appraisal, deed copies and application fee. Applications found to be incomplete will *not* be acted upon.
- B. The petition and all related documentation will be sent to Staff for review and comments. Staff review to include research on variances, easements and existing abandonments in the vicinity. The Petitioner will be advised of any objections or discrepancies.
- C. After all materials submitted by the Petitioner are reviewed by Staff, including any additional information required during the review process, and *all* Staff comments are complete, the Public Works Department will publish, in accordance with Florida State Statute Section 336.10, one time, a Notice of Public Hearing in a newspaper of general circulation in the County at least two weeks prior to the public hearing.
- D. The newspaper in which the Notice is published will furnish an Affidavit showing proof of publication of Notice of Public Hearing. This Affidavit will then be recorded in the public records of Martin County.
- E. The Public Works Department will give written notification to the Petitioner or representative of the public hearing. A copy of the final Board of County Commissioners agenda item will be sent to the Petitioner.
- F. Upon the adoption of the Resolution for Abandonment by the Board, a check made payable to the Martin County Board of County Commissioners for the privilege fee and/or warranty deeds for exchange parcels, must be submitted. *All* conditions of the Resolution for Abandonment must be satisfied prior the recordation of the resolution.
- G. The Public Works Department will publish a Notice of Adoption of the Resolution for Abandonment, one time within thirty days of adoption by the Board, in a newspaper of general circulation in the County.
- H. The newspaper will furnish to the Public Works Department an Affidavit showing proof of publication of the Notice of Adoption of the Resolution for Abandonment. This Affidavit will then be recorded in the public records of Martin County.
- I. The Public Works Department will send the Petitioner or representative a certified copy of the recorded Resolution for Abandonment and the Affidavit from the newspaper showing proof of the publication of the Notice of Adoption of the Resolution for Abandonment.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

PETITION TO ABANDON

TO THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA:

Petitioner(s) Rio North Dixie, LLC, petition(s) this Board to abandon a public right-of-way, alleyway or easement in Martin County, Florida, and as grounds therefor say the following:

1. Petitioner(s) request(s) abandonment of the following legally described right-of-way, alleyway or easement:

SEE ATTACHED EXHIBIT "A"

NOTE: Partial rights-of-way shall not be abandoned unless Petitioner(s) show(s) just cause and that the partial abandonment is not contrary to the public interest.

2. Petitioner requests this abandonment for the following reasons:

Charlotte Street is within the boundary's of the proposed development. After conversation with Staff

it has been determined that it is within the best interest of both the applicant and County to let the property

owner assume continous maintentance of the ROW.

3. The following persons or entities own all of the property abutting said right-of-way alleyway or easement:

Rio North Dixie LLC owns the property abutting the subject ROW on NE Charlotte Street.

All of the above-named persons or entities have either joined in the Petition or have signed letters of no objection (which are attached hereto).

4. Said paved/unpaved right-of-way, alleyway or easement is not open to the public for use and does not afford access to navigable water.
5. No property owner shall be deprived of legal access to his property as a result of this right-of-way, alleyway or easement being abandoned.

NOW, THEREFORE, Petitioner(s) request(s) that this Board of County Commissioners abandon the above-described right-of-way, alleyway or easement in accordance with Chapter 336, Florida Statutes, and applicable provisions of the Martin County Code.

DATED this _____ day of _____, _____.

Petitioner

Address _____

Telephone _____

Petitioner

Address _____

Telephone _____

Petitioner

Address _____

Telephone _____

Petitioner

Address _____

Telephone _____

Attorney for Petitioner(s)

CERTIFICATION

DATE: _____

I have reviewed the abandonment petition filed by _____ and all related documents, maps, aerials, etc., and I hereby certify that no property owner will be denied access to their property as a result of the abandonment of the property described on Exhibit "A" (Legal Description).

(Seal)
(If Available)

Name: _____

Address: _____

Title: _____

Notary Public

My Commission Expires:

NOTE: This form must be signed by either an Attorney, Title Company, Engineer or Surveyor.

EXHIBIT "A"

Ch. 336

COUNTY ROAD SYSTEM

F.S. 1989

336.08 Relocation or change of roads.—The commissioners may establish, locate, change, or discontinue public county roads by resolution.

History.—s. 48, ch. 29985, 1955; s. 5, ch. 27-778, s. 72, ch. 24-309.

336.09 Closing and abandonment of roads; authority.—

(1) 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.

(2) The commissioners, upon such motion, request, or petition, may adopt a resolution declaring that at a definite time and place a public hearing will be held to consider the advisability of exercising the authority granted in this section.

History.—s. 49, ch. 29985, 1955.

336.10 Closing and abandonment of roads; publication of notice.—Before any such road shall be closed and vacated, or before any right or interest of the county or public in any land delineated on any recorded map or plat as a road shall be renounced and disclaimed, the commissioners shall hold a public hearing, and shall publish notice thereof, one time, in a newspaper of general circulation in such county at least 2 weeks prior to the date stated therein for such hearing. After such public hearing, any action of the commissioners, as herein authorized, shall be evidenced by a resolution duly adopted and entered upon the minutes of the commissioners. The request of any agency of the state, or of the United States, or of any person, to the commissioners to take such action shall be in writing and shall be spread upon the minutes of the commissioners; provided, however, that the commissioners of their own motion and discretion, may take action for the purposes hereof. Notice of the adoption of such a resolution by the commissioners shall be published one time, within 30 days following its adoption, in one issue of a newspaper of general circulation published in the county. The proof of publication of notice of public hearing, the resolution as adopted, and the proof of publication of the notice of the adoption of such resolution shall be recorded in the deed records of the county.

History.—s. 50, ch. 29985, 1955.

336.11 Closing and abandonment of roads; ratification of prior actions.—The actions by the commissioners, heretofore taken, closing, vacating, or abandoning any road as herein described, and appearing in the minutes of such commissioners, are hereby ratified, approved and confirmed in all respects, and such roads are declared closed, vacated and abandoned, consistent with the provisions of the resolution or other action of such commissioners, as shown by their minutes.

History.—s. 51, ch. 29985, 1955.

336.12 Closing and abandonment of roads; termination of easement; conveyance of fee.—The act of any commissioners in closing or abandoning any such road, or in renouncing or disclaiming any rights in any land delineated on any recorded map as a road, shall abrogate the easement theretofore owned, held, claimed or used by or on behalf of the public and the title of fee owners shall be freed and released therefrom; and if the fee of road space has been vested in the county, same will be thereby surrendered and will vest in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.

History.—s. 52, ch. 29985, 1955.

336.41 Counties; employing labor and providing road equipment; definitions.—

(1) The commissioners may employ labor and provide equipment as may be necessary, except as provided in subsection (3), for constructing and opening of new roads or bridges and repair and maintenance of any existing roads and bridges.

(2) It shall be the duty of all persons to whom the commissioners deliver equipment and supplies for road and bridge purposes to make a strict accounting of the same to the commissioners.

(3) All construction and reconstruction of roads and bridges, including resurfacing, full scale mineral seal coating, and major bridge and bridge system repairs, to be performed utilizing the proceeds of the 80-percent portion of the surplus of the constitutional gas tax shall be let to contract to the lowest responsible bidder by competitive bid, except for:

(a) Construction and maintenance in emergency situations, and

(b) In addition to emergency work, construction and reconstruction, including resurfacing, mineral seal coating, and bridge repairs, having a total cumulative annual value not to exceed 5 percent of its 80-percent portion of the constitutional gas tax or \$250,000, whichever is greater,

for which the county may utilize its own forces. However, if, after proper advertising, no bids are received by a county for a specific project, the county may use its own forces to construct the project, notwithstanding the limitation of this subsection. Nothing in this section shall prevent the county from performing routine maintenance as authorized by law.

History.—s. 86, ch. 29985, 1955; s. 1, ch. 57-783, ss. 23, 35, ch. 89-106, s. 11, ch. 77-165, s. 37, ch. 83-3, s. 85, ch. 87-90.

336.44 Counties; contracts for construction of roads; procedure; contractor's bond.—

Exhibit "B"

Sec. 155.3. Closing roads giving access to navigable waters restricted.

155.3.A. No public road, street, or thoroughfare in unincorporated Martin County that gives direct access to any navigable waters shall be closed, vacated, or abandoned without the approval of a majority of the electors participating in a referendum election, as provided, except in those instances wherein the person or persons petitioning the Board of County Commissioners for such closing, vacating, or abandoning of such public roads, streets, or thoroughfares giving direct access to any navigable waters offers to trade or give to the County comparable land or lands for a public road, street, or thoroughfare to give access to the same body of water, such access to be of such condition as not to work a hardship to the users thereof, the reasonableness of the distance being left to the discretion of the Board of County Commissioners.

155.3.B. Such question, wherein the person or persons petitioning the Board of County Commissioners for the closing, vacating, or abandoning of public roads, streets, or thoroughfares in unincorporated Martin county that gives direct access to any navigable waters do not offer to trade or give to the County comparable land within a reasonable distance of the same body of water, shall be submitted by the Board of County Commissioners of Martin County to the qualified electors of said County after giving notice thereof in at least three weekly publications in a newspaper published in said County, three publications being sufficient. A special election may be called for such purpose or such referendum election may be held at the same time and may be conducted by the same election officials as any primary or general election.

(Code 1974, § 30-3; Laws of Fla. ch. 63-1617, §§ 1, 2; Ord. No. 1132, pt. 2, subpt. 1, 5-5-2020)

Cross reference(s)—Referendum required prior to sale of County lands contiguous to navigable waters, § 139.1.

Exhibit "C"

Sec. 139.2. Privilege fee for abandonment and vacation of County property and roads.

139.2.A. There is hereby established a privilege fee, payable by any firm, person or corporation petitioning the Board of County Commissioners for the abandonment and vacation of the interests of the County in and to any real property or street, alleyway, road, highway or other place used for travel, or any portion thereof; such fee to be for the purpose of making available funds for the County's various eminent domain proceedings to acquire real property for road rights-of-way, beach access strips and other open space recreational land for public use. Such privilege fee shall be in addition to an application fee to reimburse the County's administrative expenses connected with petitions for abandonment.

139.2.B. Such privilege fee shall be equal to the value of the County's interest that is being abandoned. The value of the County's interest shall be determined by an appraisal to be submitted by the petitioner. Such an appraisal shall be prepared in accordance with staff requirements and is subject to approval by the Board of County Commissioners.

139.2.C. Such privilege fee shall not apply to petitions made by the original gratuitous donor of the County's interest to be abandoned, nor when F.S. § 255.22 or a reverter clause in the instrument of conveyance to the County shall take effect.

139.2.D. The board may waive the privilege fee required pursuant to paragraph A of this section upon a showing of good cause.

(Code 1974, § 27-2; Ord. No. 10, §§ 1—3, 4-11-1972; Ord. No. 324, pt. 1, 4-28-1987; Ord. No. 391, pt. 1, 3-12-1991)

Cross reference(s)—Streets, roads and bridges, ch. 155.

UPON ACCEPTANCE OF A COMPLETE APPLICATION BY THE COUNTY, COMPLETION OF THE ABANDONMENT WILL REQUIRE TWO (2) MONTHS OR MORE.

UTILITY COMPANY CONTACTS

Florida Power & Light Company
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Palm City, FL 34990

Rob Morris, Project Manager
rob.morris@fpl.com
Phone 772 223-4215

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AT&T Florida
329 NW Dixie Highway
Stuart, FL 34994

James P. Virga, Manager OSP Engineering
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.....

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Stuart, FL 34995-9000

Jeremy Covey, Technical Services Administrator
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Phone 772 597-2121
772 597-2201, James Hewitt, Superintendent
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772 597-2104, Jeffrey S. Leslie, President/CEO