

Sec. 72-4. - Criteria for abandoning public rights-of-way.

- (a) All applications for the abandonment of public rights-of-way shall be reviewed and acted upon by the town commission. The burden of proof shall be upon the applicant to show that the application is consistent with the town's comprehensive plan and all of the standards listed in this section.
- (b) The town commission may approve an abandonment application if the applicant demonstrates, by clear and convincing evidence, that a right-of-way is no longer required for a public use and convenience. Any proposed abandonment of a public right-of-way shall demonstrate that such action furthers the health, safety and welfare of the town's residents. In making this determination, the town commission shall consider whether:
 - (1) The abandonment deprives any business or individual of a reasonable means of ingress and egress to that business or individual's property;
 - (2) The abandonment adversely affects utility service efficiency, or precludes the future provision of public or private utility services;
 - (3) The abandonment reduces adjacent property values; and
 - (4) The abandonment eliminates the potential use of dedicated property for a public purpose, including, but not limited to, pedestrian or vehicular access, recreation, environmental preservation, or stormwater management.
- (c) Generally abandonments for an entire right-of-way should be considered, unless there are extenuating circumstances for considering the partial abandonment of a right-of-way.
- (d) Each abandonment application shall include written statements from all public utilities serving the town, including water, sewer, electric or cable television utilities, stating whether or not the proposed abandonment would adversely affect that utility.
- (e) Prior to the commission's consideration of the abandonment application the community development director shall obtain an appraisal from a Florida licensed real estate appraiser of the subject property and the applicant shall reimburse the town for the cost of same.
- (f) The abandonment of a public right-of-way shall not occur until the applicant has paid to the town the appraised value of the property to be abandoned, except as allowed by subsection (g) below. An abandonment approval shall be void if payment does not occur within 90 days from the date of approval by the town commission.
- (g) The town commission may abandon an unused alley, street, utility easement, located within a residential zoning district, without payment to the town, provided the abandonment is to the benefit of the town, and the right-of-way is currently not used, or is not contemplated for future use by the public entity, such as a water, sewer, electric or cable television utility.

(Ord. No. 16-2008, § 2, 10-1-2008; Ord. No. 06-2009, § 2, 4-1-2009)

Sec. 72-5. - Application for abandonment.

All requests for abandonment to the town shall be made in writing upon an application form giving the following information:

- (1) The name and address of the applicant.
- (2) A description of the real property if any owned by the applicant, which would be affected by the abandonment request.
- (3) The reason for the abandonment request.
- (4) A general description of the street, alley or easement, other non-fee interest of the Town in real estate, which is to be abandoned and its location. A legal description, and a plat, survey or engineering drawing of the area involved.
- (5) The names and addresses of the owners, businesses or occupants of real property bounding and abutting the street, alley, or easement sought to be abandoned, and the property owners located within 250 feet thereof.
- (6) Such other relevant information as may be required in order to fully present the full circumstances of the abandonment request.

(Ord. No. 16-2008, § 2, 10-1-2008; Ord. No. 06-2009, § 2, 4-1-2009)

Sec. 72-6. - Procedures for abandonment applications.

Applications for abandonment, together with the fee therefore, shall be made and presented to the director of the community development department, who shall proceed as follows:

- (1) The director shall review the application for compliance with the above requirements, returning incomplete or inaccurate applications to the applicant submitting same for correction or completion.
- (2) The director shall consult with the public works director, town engineer, town attorney, or other staff advisors to the town to review the relevant information concerning the abandonment requested.
- (3) The town shall require the applicant to notify all public utilities that may be affected by the abandonment requested, and obtain their response thereto.
- (4) The town shall require the applicant to notify the general public by posting signs and publishing notice upon the street or alley, or portion thereof affected, setting forth notice of the proposed abandonment, and of the date of the hearings to be held thereon by the town commission.

(Ord. No. 16-2008, § 2, 10-1-2008; Ord. No. 06-2009, § 2, 4-1-2009)

Sec. 72-7. - Commission hearing and report.

- (a) The town commission shall hold a public hearing regarding the application for abandonment.
- (b) The commission shall consider the public right and interest in the right-of-way, subject to the application for abandonment from the standpoint of the benefit of the community as a whole, and may make findings regarding any rearrangement of streets and rights-of-way, which are involved therein in order to secure a more regular and harmonious system for traffic circulation. The commission shall also determine valuation of any such street, alley, easement, or right-of-way to be abandoned, and the extent to which the public interest and general welfare of the community might be compensated by obtaining any alternate right-of-way, or any monetary contribution for additional right-of-way, or by any combination thereof, in exchange for the abandonment requested. The commission may recommend conditions as appropriate for the requested abandonment.

(Ord. No. 16-2008, § 2, 10-1-2008; Ord. No. 06-2009, § 2, 4-1-2009)