

PROPOSED
ORDINANCE NO. 01-19

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-12-4 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, VACATION OF STREETS, ALLEYS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-12-4 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-12-4. - Vacation of streets, alleys.

This section is established to provide for the vacation of streets, alleys or other public rights-of-way by official action of the city council.

(A) *Application.* An application for vacation of streets, alleys or other public right-of-way shall be filed with the ~~community development~~ Planning department and shall include the reason for vacation and a legal description of the property to be vacated. Application for an alley vacation shall be in petition form signed by all property owners abutting the portion of the alley to be vacated. If all property owners do not sign the petition requesting such alley vacation, city staff shall determine the portion of the alley to be vacated.

- (1) An application for vacation of streets, alleys or other public right-of-way must be submitted to the ~~community development~~ Planning department at least twenty-one (21) days prior to the regularly scheduled meeting of the planning board.
- (2) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.
- (3) No application shall be considered complete until all of the following have been submitted:
 - (a) The application shall be submitted on a form provided by the board secretary.
 - (b) Each application shall be accompanied by the following information and such other information as may be reasonably requested to support the application:
 1. Accurate site plan drawn to scale;
 2. A legal description of the property proposed to be vacated;
 3. Proof of ownership of the adjacent property, including a copy of the deed and a title opinion, title insurance policy, or other form of proof acceptable to the city attorney;

4. Reason for vacation request;
 5. Petition form signed by all property owners abutting the portion of the right-of-way or alley to be vacated.
- (c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.
 - (d) Any party may appear in person, by agent, or by attorney.
 - (e) Any application may be withdrawn prior to action of the planning board or city council at the discretion of the applicant initiating the request upon written notice to the board secretary.
- (B) *Planning board review and recommendation.* The ~~community development~~ Planning department will distribute copies of the request to vacate to the appropriate city departments and public agencies for review and comment: Said departments shall submit written recommendations of approval, disapproval or suggested revisions, and reasons therefore, to the city planning department. The planning board shall review the vacation request and make a recommendation to the city council at a regularly scheduled planning board meeting. When a request for vacation of a right of way adjacent to a street or alley is made, the vacation shall be limited to a minimum of no less than 10' from the existing back-of-curb. In no case shall a right of way vacation result in a lesser level of accessibility to the public. Any existing sidewalk on a right of way must be maintained or rebuilt by an owner granted such a vacation in order to preserve ADA accessibility to the public.
- (1) *Public notice for vacation of streets, alleys.*
 - (a) A sign shall be prominently posted on the property to which the application pertains at least seven (7) days prior to the scheduled board meeting.
 - (b) The ~~community~~ Planning department shall notify property owners within a three hundred-[foot] radius, as identified by the current county tax roll maps, of the property proposed for vacation with a public notice by post card at least five (5) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting.
- (C) *City council review and action.* The planning board recommendation shall be forwarded to the city council for review and action.
- (1) *Notice and hearing.* The city council shall set a date for a public hearing to be conducted during a regularly scheduled city council meeting. Planning staff shall post a sign specifying the date and time of the public hearing at least seven (7) days prior to the hearing. A public notice shall be published in a local newspaper of general distribution stating the time, place and purpose of the hearing at least ten (10) days prior to the public hearing. The ~~community development~~ Planning department shall notify property owners by certified mail, as identified by the current county tax roll, at least fifteen (15) days prior to the city council public hearing.
 - (a) In case of an alley vacation request all adjacent owners shall be notified.

- (b) In the case of a street vacation request, all property owners within three hundred (300) feet of the request shall be notified.
- (2) *Action.* The city council shall approve, approve with modifications, or deny the vacation request at the council public hearing. If the request is approved by the council, an ordinance will be drawn and read two (2) times following the public hearing, at which time the vacation becomes effective. When a request for vacation of a right of way adjacent to a street or alley is made, the vacation shall be limited to a minimum of no less than 10' from the existing back-of-curb. In no case shall a right of way vacation result in a lesser level of accessibility to the public. Any existing sidewalk on a right of way must be maintained or rebuilt by an owner granted such a vacation in order to preserve ADA accessibility to the public.
- (D) *Easements retained.* If the city council determines that any portion of a public street or right-of-way is used or in the reasonably foreseeable future will be needed for public utilities, the street may be vacated only upon the condition that appropriate easements be reserved for such public utilities.
- (E) *Zoning of vacated property.* Whenever any street, alley or other public right-of-way is vacated, the district use and area regulations governing the property abutting upon each side of such street, alley or public right-of-way shall be automatically extended to the center of such vacation and all area included within the vacation shall thereafter be subject to all appropriate regulations of the extended use districts.
- (F) *Ownership of property.* Whenever any street, alley or public right-of-way is vacated, ownership of said property conferred by such action shall extend from the right-of-way line to the center of said property, unless otherwise specified.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk