

INSTRUCTIONS & EXPLANATIONS
TO ABANDON/VACATE RIGHTS OF WAY,
EASEMENTS AND PLATS
UNDER THE JURISDICTION OF
THE BOARD OF COUNTY COMMISSIONERS
OF PALM BEACH COUNTY

The following are explanations of the required exhibits that must accompany the petition application for abandonment determination.

I. **PETITION APPLICATION PROCEDURE**

In addition to any other information required by the Department, the petition will contain the following:

- A. Legal description of Petition Site - a complete and accurate legal description of the Petition Site only.
- B. Public Interest - a statement identifying the petition site as:
 1. type of easement (utility, drainage, access, etc.);
 2. plat (name of plat)
 3. public right-of-way (name of Street, if known). The statement shall identify the source of the County's or public's interest, together with a reference to the recording information for same (Plat Book #/ Page #, Official Record Book #/ Page #).
- C. Survey
 1. A certified land survey measuring 8 ½" x 11" paper. Care should be taken to maintain adequate print size (one tenth of an inch) to assure that in reproduction, legibility is preserved.
 2. The survey must be prepared by a Florida registered land surveyor in accordance with the minimum technical standards as set forth by the Florida Board of Professional Land Surveyors in Chapter 5J-17.050-052, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes, and attached as an exhibit to the petition.
 3. The survey drawing shall show, in addition to the petition site, the following:
 - a. The boundaries of abutting properties.
 - b. The square footage of the Petition Site; and
 - c. Existing structures, utilities, easements, encroachments and other improvements, including but not limited to the location of underground or surface utility lines and equipment, ditches, fences, buildings, pathways, and drainage structures located within the Petition Site.

- D. Location Map - a drawing measuring not less than 8-1/2" x 11" and no larger than 11" x 17" which clearly and legibly identifies the location of the Petition Site in relation to the nearest public right-of-way, (excluding the Petition) and all affected properties. [**This procedure is required if the petition site is subject to a Public Hearing, Section X (1)**].
- E. Lists of owners of affected property – [**This procedure is required if the petition site is subject to a Public Hearing, Section X (1)**].
- F. A complete list of all owners of affected property, their mailing addresses and legal description of the property owned. These properties should be legibly identifiable on the Location Map.
- G. The Petition shall state the source of the information used to compile the list and shall contain an affidavit of the preparer that to the best of his knowledge said list is complete and accurate. If the affected property is under the jurisdiction of a Community Association, this requirement of notice to affected property owners may be fulfilled by mailing such notice to the Community Association's registered agent. All abutting property owners must be included in the mailing list. Said lists shall be accompanied by a Number Ten (10) white envelope for each affected and abutting property owner as follows:
1. The following return address shall be printed or typed on the envelope and certifying postal documents:

Engineering and Public Works Department
Attn: Land Development Division
Post Office Box 21229
West Palm Beach, FL 33416-1229
 2. The envelope shall be pre-stamped with sufficient postage for certified, return receipt postage for addresses in the United States and registered mail postage for addresses in foreign countries. DO NOT USE PREDATED METER POSTAGE.
 3. A properly completed certified mail receipt or registered mail receipt, as applicable, shall be attached to each envelope. No pre-dated metered postage allowed.
 4. All envelopes addressed, both TO and FROM, for international registered mail must be either written or stamped – no labels are to be used. Also, no tape on envelopes.
- Note: e, f, and g are needed only if the petition site is a right-of-way or a public drainage easement.**
- H. Utility service providers and drainage district approvals - the written consent of

the utility companies providing service to or within the Petition Site shall be attached to the petition. In the case of any petition affecting drainage easement, canals, lakes or other water management systems, the written consent of the drainage district or community association having jurisdiction over the Petition Site shall also be attached to the petition.

- I. Abutting property owners - abutting property owners should be listed as indicated. The consent of those owners, other than the petitioner, should be attached and identified. **(This statement applies to Right-of-way Abandonment request only.)**
- J. Access to affected property - the petition shall contain a statement that to the best of the Petitioner's knowledge, the granting of the petition would not affect the ownership or right of convenient access of persons owning other parcels within the area of the subdivision. **(This statement applies to Right-of-way abandonment requests only.)**
- K. Federal or State highway statement - the petitioner shall certify that the Petition Site or any portion thereof, is not a part of any State or Federal highway and was not acquired or dedicated for State or Federal purposes. **(This statement applies to Right-of-way abandonment requests only.)**
- L. Notice of Intent - Proof of the publication of the Notice of Intent as required by Section VII shall be attached to the petition.
- M. Evidence of title - the petition shall state the source of petitioner's ownership of interest in and to the Petition Site, and a reference to the recording information for that document. A copy of the source instrument shall be certified by the Clerk & Comptroller and attached to the petition.
- N. Evidence of taxes paid - the petition shall state that all state, municipal and county taxes on the Petition Site have been paid. The certificate(s) of the Tax Collector's Office certifying payment of the same shall be attached to the petition. A duplicate receipt showing taxes paid and date of payment is acceptable. If the Petition Site is a public right-of-way and therefore tax-exempt, the petition shall so state and a certificate or a tax receipt for properties abutting the public right-of-way will be required.
- O. Municipal resolution - the petition shall state whether the Petition Site lies within the corporate limits of a municipality, or within the unincorporated area. If any portion of the petition site lies within the corporate limits of a municipality, the municipality shall first abandon its interest in the Petition Site by appropriate resolution, and a certified copy of the municipal resolution shall be attached to the petition.

P. Fees - the petition shall state whether the petition site is subject to the privilege fee, the amount of said fee, and that the privilege fee is attached. The petition shall include the appropriate documentation supporting the petitioner's calculation of the privilege fee. Said fee **applies to a Public Right-of-way only**.

1. Total sq. ft. of Right-of-way (Petition Site).....sq ft
2. Total sq. ft. of easement for.....sq ft
3. Total square feet subject to Privilege Fee.....sq ft
4. Average square footage value of
parcels abutting the right-of-way.....per sq ft
5. Overall value.....\$.....
6. 80% of value..... (.80).....\$.....
7. Less Filing Fee (if approved).....\$-1,600.00
8. Total cost (Privilege Fee).....\$

**EXAMPLE OF HOW TO CALCULATE
THE PRIVILEGE FEE STATEMENT FOR AN ABANDONMENT**

Example: An east/west right-of-way is proposed to be abandoned/vacated. The privilege fee will be based on the average land value of the abutting land. The petitioner is responsible to pay 80% of the average land value of the land to be vacated, based on the property Appraiser's value. **NOTE: This example is for a petition site with only TWO abutting properties:**

- A. The property south (Property Control No.) of the (abandonment/vacate site) has been appraised at \$8.000 per square foot by the Palm Beach County Property Appraiser.
- B. The property north (Property Control No.) of the (abandonment/vacate site) has been appraised at \$12.000 per square foot by the Palm Beach County Property Appraiser.
- C. The average square foot land value of both properties would be \$10.
- D. The (abandonment/vacate site) consists of 18,000 square feet (that is, 600' x 30'). Take the average land value of the (abandonment/vacate site), which is based on appraisals by the Palm Beach County Property Appraiser of real estate south and north as described above and multiply it by 18,000 square feet (that is: $18,000 \times \$10 = \$18,000$)
- E. 20% Reduction in cost. Take 80% of \$18,000 ($18,000 \times 0.80$) = \$15,840.
- F. Petitioner provides a privilege fee in the amount of \$15,840.
- Q. Justification - the petition shall state the prevailing conditions and reasons to support the request.

DEFINITIONS

This is a list of definitions for particular terms used throughout the petition application.

- 1 Abandon - the term abandon, and any variant thereof, shall be deemed to include the terms "vacate and annul."
- 2 Petition Site - any parcel or real property subject to a petition for abandonment pursuant to this ordinance.
- 3 Abutting property - any parcel of real property whose boundaries, or any part thereof, also serves as the boundary, or portion thereof, of the petition site.
- 4 Affected property - any parcel of real property, or portion thereof, which lies within three hundred feet (300') of the boundaries of the petition site.
- 5 Petition for abandonment or Petition - The form prescribed by the Department which requests the abandonment of a plat or portion thereof, right-of-way, or public easement pursuant to this ordinance.
- 6 Petitioner - the person(s), governmental entity or business entity submitting a petition for abandonment pursuant to this ordinance. The term petitioner shall include "co-petitioner" where appropriate.
- 7 Right-of-way - any strip of land dedicated or deeded for ingress and egress or access purposes. The term shall include the terms "road," "highway," "alley," "access-way," and any other similar term. The term shall mean both public right-of-way and private right-of-way.
- 8 Plat - any drawing of real property made and recorded pursuant to Chapter 177, Florida Statutes, or to the ordinances of Palm Beach County.
- 9 Public easement - any utility or drainage easement which is dedicated by plat in perpetuity for utility or drainage purposes, or which is conveyed by separate instrument, recorded in the Public Records, to the public or the County; which instrument has been approved by the County for recordation. The term shall **not** include instruments of conveyances or dedications made to specifically named utility companies, owners associations, drainage districts, or other governmental agencies.
- 10 Private right-of-way - any right-of-way dedicated or deeded to an owners' association or the owner of the abutting property or which is dedicated as right-of-way and is the perpetual maintenance obligation of any owners' association of the owner of abutting property.
- 11 Department - The Palm Beach County Engineering and Public Works Department.
- 12 County - Palm Beach County, Florida, and its Board of County Commissioners.
- 13 Utility company - any public or franchised entity which provides electrical, water and sewer, gas or communication services.
- 14 County right-of-way - any right-of-way acquired by the County or the public by virtue of a dedication to the public or the County on a plat, by separate instrument of conveyance, or by prescription.
- 15 Public Records - the records filed in the Office of the Clerk & Comptroller in and for Palm Beach County, Florida.
- 16 Owner - that person, governmental entity or business entity which is the fee simple title

holder of real property.

- 17 Owners' Association - any association or corporation created under the laws of the State of Florida, the membership of which is comprised of all owners' of real property over which the owner's association has jurisdiction by virtue of a declaration of covenants and restriction, declaration of condominium, or similar instrument. The term shall include the terms "homeowner's association" and "property owner's association."
- 18 Land value - the value of land as established for the tax base by the Property Appraiser's Office prior to any or all exemptions. Do not use "Preliminary" Land Values.

SAMPLE OF ABUTTING PROPERTY OWNERS CONSENT TO ABANDON

Before me this day personally appeared _____
who, being duly sworn, deposes and says:

He/she/they is/are the owner(s) of _____
(legal description of property)

He/she/they has/have been furnished a drawing which clearly indicates the right-of-way to be
abandoned and its relationship to his/her/their property.

He/she/they hereby consent to the abandonment of the described petition site which is
(west/east/south/north) _____ to his/her/their property as described above.

(Signature)

(Signature)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or
online notarization, this _____ day of _____, 20____, by _____
who is personally know to me or who has produced _____ (type of identification) as
identification.

Signature and name of Notary Public

Seal

SAMPLE LETTER TO BE SENT TO UTILITY/DRAINAGE INTERESTS

FPL
ATT
WATER & SEWER SERVICE
CABLE DISTRIBUTOR
PUBLIC GAS (IF SUPPLIED)

SUBJECT: PETITION TO ABANDON/VACATE (Brief description of petition site)

Dear Sirs:

Please consider this letter our request for a LETTER OF NO OBJECTION to the abandonment of the above described site.

I have enclosed a copy of the survey and description of the site to be abandoned which is located in the unincorporated area of Palm Beach County, for your review and comments. A self-addressed envelope is attached for your early reply.

If you have any questions or if I may be of further assistance, please contact me at (daytime phone number).

Thank you for your assistance in this matter.

Sincerely yours,

(Petitioner or agent)

Encl: Petition/survey

**SAMPLE OF AFFIDAVIT VERIFYING PROPERTY OWNERS WITHIN
300 FEET OF PETITION SITE**

AFFIDAVIT FOR _ ABANDONMENT PETITION

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority personally appeared who after being sworn, stated the following:

1. That I have prepared the complete list of all owners of affected property, their mailing addresses, and the legal descriptions of those properties within three hundred (300) feet of the Petition Site as set forth in the current 20__ Official Tax Roll. As such Exhibit "5" is attached to the Petition to Abandon.
2. That to the best of my knowledge, said list is complete and accurate.

Signature of preparer

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20__, by _____ who is personally know to me or who has produced _____ (type of identification) as identification.

Signature and name of Notary Public

Seal

PETITION TO ABANDON/VACATE

TO: BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FLORIDA

The undersigned hereby petitions the Board of County Commissioners of Palm Beach County, to vacate, abandon, discontinue and close (**use an introductory description of petition site**) and to renounce and disclaim any easement, plat or right-of-way to the County and the public in and to any land in connection therewith.

The undersigned hereby certify:

1. That attached hereto is a signed and sealed legal Description and sketch accurately drawn and legally describing the (**easement, plat or right-of-way**) of the petition site to be abandoned (exhibit #1).
2. That title of interest of the County and the Public in and to the (**easement, plat or right-of-way**) was acquired and is evidenced by **plat number and identification**, as recorded in Plat Book ___ Page(s)___ through ___ **or type of deed recorded in the Official Record Book and Page** of the Public Records, of Palm Beach County Florida.
3. That attached hereto is a location map which clearly and legibly identifies the location of the petition site in relation to the nearest public right-of-way and all affected properties (exhibit #2).
4. That attached hereto is a listing which clearly and legibly identifies the ownership, including correct mailing addresses and legal descriptions of the affected properties (exhibit 3)
5. That said lists shall be accompanied by a Number Ten (10) white envelope for each affected and abutting property owner. The return address shall be printed or typed on the envelope and certifying postal documents: Engineering and Public Works Department, Attn: Land Development Division , Post Office Box 21229, West Palm Beach, FL 33416-1229. The envelopes shall be pre-stamped with sufficient postage for certified, return receipt postage for addresses in the United States and registered mail postage for addresses in foreign countries. A properly completed certified mail receipt or registered mail receipt, as applicable, shall be attached to each envelope. No pre-dated metered postage allowed (exhibit #4).
6. That attached hereto is an affidavit attesting to the validity of the ownership listing of the affected properties (exhibit #5).
7. That attached hereto is the approval of, or consent to, this petition by the utility providing service to or within the petition site and/or the drainage district having jurisdiction over the petition site (exhibit #6).
8. That the following constitutes a complete and accurate schedule of all owners **abutting** the petition site:

<u>Name</u>	<u>Address</u>	<u>Description of Property</u>

The owners above have signed a notarized statement consenting to the abandonment of public right-of-way and those consents are attached hereto and made a part hereof (exhibit #7).

9. That in the event this petition is granted, the vacation of the subject right-of-way will not adversely affect other property owners.
10. That the petition site is not a part of any State or Federal highway and was not acquired or dedicated for State and Federal highway purposes and that such right-of-way is under the control and jurisdiction of the Board of County Commissioners.
11. That proof of publication of "Notice of Intent" is attached hereto and made a part hereof (exhibit #8).
12. That the petitioner's ownership and/or interest in and to the petition site is evidenced by an instrument recorded in Official Record book_____, **Page**_____, of the Public records of Palm Beach County, Florida. A certified copy of that source instrument is attached hereto (exhibit #9).
13. That attached hereto and made a part hereof is evidence of payment of all current taxes on said property (exhibit #10).

14. a) That the **(easement, plat or right-of-way)** to be abandoned is not within the corporate limits of any municipality.
- OR**
- b) That the **(easement, plat or right-of-way)** to be abandoned lies within the corporate limits of **(name of the municipality)** and attached is their resolution of abandonment of the **(easement, plat or right-of-way)**, as applicable (exhibit 11).

15. a) That this petition site is not subject to a privilege fee.
- OR**
- b) That this petition site is subject to a privilege fee in the amount of \$ _____. Said amount submitted by Check Number _____. The documentation supporting the calculation of the privilege fee is attached hereto (exhibit #12)

- Total square footage of Right-of-way (Petition Site) =
- Total square footage of Right-of-way for =
- Total square feet subject to Privilege Fee =
- Average sq ft value of parcels abutting the right-of-way =
- Overall value \$.....
- 80% of value (.80) \$.....
- Less Filing Fee (if approved) \$- 1,600.00
- Total cost (Privilege Fee) \$

16. That the grounds and reasons in support of this petition are as follows (exhibit #13):

Date _____

Name of Corporation

Signature of Petitioner

Address

City, State, Zip

Print Petitioner's Name

Indicate position if Corporation

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20____, by _____ who is personally know to me or who has produced _____ (type of identification) as identification.

Notary Public
My Commission Expires:

Seal

NOTICE OF INTENT TO ABANDON

It is the intention of (*owner-petitioner abandoning subject property*) to petition the Board of County Commissioners to vacate and abandon (should be for example, , a portion of the unimproved road, *located on the west side of the “Some Street”, .25 miles south of “some other” Boulevard*”).

PUBLISH: The Palm Beach Post

Advertise once per week for two consecutive weeks

Provide the “Proof of Publication” in your application

Per Section VII of Abandonment Ordinance 86-18:

“Petitioner shall cause to be published a Notice of Intent in a newspaper of general circulation in the County once weekly for two consecutive weeks. Such Notice of Intent shall state the intent of the Petitioner to file a petition pursuant to this Ordinance and, in the case of plat abandonment, or any portion thereof, Chapter 177, Florida Statutes.”

Revised 10/06/2015, 07/17/2017, 02/15/2018, 01/01/2020