

ORDINANCE NO. 2023-01

AN ORDINANCE AMENDING CHAPTER 46 OF THE HILLIARD TOWN CODE, SUBDIVISIONS TO ENACT A PROCESS FOR THE VACATION OF PUBLIC RIGHT-OF-WAYS WITHIN THE TOWN LIMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS the Town Council desires to update the Town Code relating to a process for vacating existing right-of-ways by adopting this ordinance for placement within the Chapter related to Subdivisions; and

WHEREAS the Town Council has determined that the following amendment promotes and protects the general health, safety, and welfare of the residents of the Town of Hilliard by regulating the vacation of existing right-of-ways consistent with applicable Florida law, specifically implementing Town Code Section 46-7.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILLIARD, FLORIDA:

SECTION 1. The foregoing findings are true and correct and are hereby adopted and made a part hereof.

SECTION 2. Chapter 46 of the Town Code is amended to create a new Section 46-7, which shall be codified as follows:

“Sec. 46-7. Right-of-way vacations.

(a) *Definitions.* The following words, terms, and phrases, when used in Section 46-7, shall have the meanings ascribed to them in this Subsection, except where the context clearly indicates a different meaning:

1. *Vacate.* Vacate shall mean the relinquishment of the Town’s right, title, or interest in a public right-of-way.
2. *Public right-of-way.* A public right-of-way in the Town of Hilliard shall mean public road, street, lane, thoroughfare or travelway that has been platted or dedicated for public purposes such as roads, utilities, or stormwater.

(b) *Review Procedures.*

1. *Application.* An application to vacate a public right-of-way may be submitted by the Town Council, Land Use Administrator, or by a property owner abutting or surrounding the public right-of-way.
 - a. Applicant must submit an application with a statement outlining the reason for the request, and a sketch of description and legal

description of the area to be vacated, including the tax parcel identification number, if applicable. The burden will be on the applicant to show that the request complies with all of the following:

- i. That the request is in conjunction with a new development, redevelopment, or new use of the property;
 - ii. That the request is in the “public interest” (defined as something that benefits the public as a whole, not just a singular property owner – such as increasing size of property);
 - iii. That the request will not adversely affect surrounding property owners; and
 - iv. That the request conforms with utility company regulations by providing a letter from each utility company stating they approve or disapprove the vacate.
2. *Board review.* Applications to vacate a public right-of-way shall be reviewed by the Planning and Zoning Board and the Town Council according to the criteria provided in this section, with notice of the board hearings provided in accordance with law and this article. The Planning and Zoning Board's review shall be a recommendation to the Town Council. Prior to the public hearing before the Planning and Zoning Board, the application shall be reviewed by the Land Use Administrator in accordance with the development plan review process as stated in Section 46-7.
3. *Fees.* The application shall be accompanied by a fee, which amount shall be determined by a fee schedule passed by a resolution of the Town Council. Any fees incurred by the Town in order to process the application, including advertising, mailing, and legal fees, shall also be charged to the applicant and be payable prior to any vacating of the right-of-way being recorded or final.

(c) *Review criteria.* Rights-of-way may only be vacated by the Town Council upon its finding that the criteria in both 1. and 2. as provided below have been met:

1. *Public Interest.* The public right-of-way no longer serves a public purpose and the vacation of the public right-of-way is in the public interest, which shall be based on a consideration of the following:
 - a. Whether the public benefits from the use of the subject right-of-way as part of the city street system;
 - b. Whether the proposed action is consistent with the Comprehensive Plan;

- c. Whether the proposed vacation is consistent with the minimum block size requirements and other applicable street connectivity standards;
 - d. Whether the proposed action would deny access to private property;
 - e. The effect of the proposed action upon public safety;
 - f. The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
 - g. The effect of the proposed action upon the provision of municipal services including, but not limited to, emergency service and waste removal;
 - h. The necessity to relocate utilities both public and private; and
 - i. The effect of the proposed action on the design and character of the area.
2. *Streets*. If the public right-of-way is a street, the city shall not vacate the right-of-way except if the following additional criteria are met:
- a. The loss of the street will not foreclose reasonably foreseeable future bicycle/pedestrian use;
 - b. There is no reasonably foreseeable need for any type of transportation corridor for the area.

(d) *Notice requirements.*

1. *Specific Notice Requirements for Vacations*. Public hearing notices to vacate a public right-of-way or portion thereof shall be published in a manner consistent with Florida and Town law regarding ordinances.
2. *Neighbors*. If the parcel to be vacated includes an alley, all property owners serviced by the alley and all property owners serviced by a connecting alley shall be noticed.
3. *Petitioner's Responsibility*. The Town, Town Council, and all officers, employees, and agents thereof shall not assume any responsibility or liability for any matters and things to be done or completed by the petitioner pursuant to the provisions hereof. It is recognized that this procedure may affect substantial interests in real property and other proprietary rights, and the petitioner shall assume full and complete responsibility for compliance with the requirements of law, and these procedures in connection with or

arising out of any vacation proceedings instituted by the petitioner, including the payment of all fees required by this Section.”

SECTION 3. This Ordinance shall become effective upon its passage.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction such portion shall not affect the validity of the remaining portion of this Ordinance.

ADOPTED this 18th day of May, 2023, by the Hilliard Town Council.



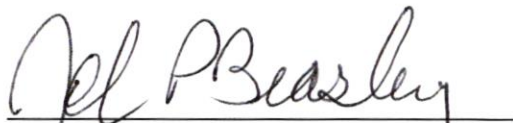
Kenneth A. Sims
Council President

ATTEST:



Lisa Purvis
Town Clerk

APPROVED:



John P. Beasley
Mayor

First Reading:	April 20, 2023
Publication Date:	May 3, 2023
Public Hearing:	May 18, 2023
Second/Final Reading:	May 18, 2023