


## MEMORANDUM

**TO:** Mayor England  
Vice Mayor Kostka  
Commissioner George  
Commissioner Samora  
Commissioner Rumrell

**FROM:** Max Royle, City Manager 

**DATE:** September 16, 2020

**SUBJECT:** Ordinance 20-12, Second Public Hearing and Final Reading: to Amend Section 6.02.03 of the Land Development Regulations for Provisions to Permit the Access to Private Property from Dead-End Streets

### BACKGROUND

Pyrus Street, east of State Road A1A, is a short street that dead ends at the western boundary of a home at 240 Bluebird Lane in the Island Hammock subdivision. At your June 1<sup>st</sup> meeting, some Pyrus Street residents complained to you about the 240 Bluebird Lane residents using the end of Pyrus for access to their property. The outcome of the discussion was that Mayor England would meet with the residents and Commander Ashlock of the Police Department to work on a solution. The Mayor asked the City staff for a City policy on accessing private property from dead-end streets.

Attached as page 1 is a brief memo from the Building Official, in which he proposed that Section 6.02.03 of the Land Development Regulations be amended to provide for a fee and a permit approved by the Public Works Director to access private property from a public right-of-way. You reviewed his proposal at your July 7 continuation meeting. Attached as page 2 is the discussion you had concerning it.

As a result of your discussion, the City Attorney prepared an ordinance (pages 3-5). You reviewed it at your August 3<sup>rd</sup> meeting, when you passed the ordinance on first reading without changes.

The Comprehensive Planning and Zoning Board reviewed the ordinance at its August 25, 2020, meeting and recommended by a 7-0 vote that you approve it. The Board's motion and vote is stated in the attached (page 6) memo from the Building Department's Executive Assistant, Ms. Bonnie Miller.

You held the first public hearing on the ordinance at your September 14, 2020, meeting when you passed it on second reading without any changes.

### ACTION REQUESTED

It is that you hold the ordinance's second public hearing and then decide whether to pass it on its third and final reading.



**City of St. Augustine Beach Building and Zoning Department**

**TO: Max Royle**  
**FROM: Brian Law**  
**SUBJECT: Right of ways access and permitting**  
**DATE: 6-19-2020, 7-14-2020, 9-15-2020**

Max

As a result of the ongoing neighboring disputes between residents at Pyrus street and Bluebird Ln, I am proposing a code change to section 6.02.03 Rights-of-way of the City of St. Augustine Beach Land Development Regulations as directed by the City Commission. This proposed modification should provide another mechanism for the City to regulate its Rights-of-way. This permitting process will be approved by the Public Works Director and the fee shall be placed in the appropriate account as determined by the Finance Director. The current software, MCSJ, used by City Staff will have no problem handling this new transaction.

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7-14-2020

Section 6.02.03 has been modified from the July City Commission meeting to include the ability for extensions of the Rights-of-Way permit as directed by the Commission.

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9-15-2020

Section 6.02.03 has been modified from the 9-14-2020 Commission meeting to reduce the fee associated with the Rights-of Way permitting to \$150.00 as directed by the Commission.

Brian W Law CBO, CFM, MCP  
City of St. Augustine Beach  
Director of Building and Zoning  
2200 A1A South  
St. Augustine Beach, FL 32080  
(904) 471-8758  
[blaw@cityofsab.org](mailto:blaw@cityofsab.org)

July 7, 2020

8. Accessing Private Property from Dead-End Streets: Review of Proposal (Presenter: Brian Law, Building Official)

Mayor England introduced Item 8 and explained that she met with people on Blueberry Street and Pyrus Street and then asked Building Official Law to give his staff report.

Building Official Law advised there is a neighbor dispute will pass last year. He explained that the rights-of-ways are under the Public Works Director purview and it would cost approximately a \$250 fee and any fees would go to the Bridge and Road Fund. He commented that the application will be created.

Discussion ensued regarding whether to create another resolution for the fee schedule or keeping the fee in the ordinance; did staff analyze all the rights-of-ways that this apply to; on Pyrus Street make a horse type fence; and Police Department having a call every day on Pyrus Street.

Commissioner George asked if she should be recused because the Commission mentioned Pyrus Street. She said that creating an ordinance for the City she should be a part of because that is not one particular location.

Building Official Law advised that the Commission advised staff to build a barricade in a previous meeting.

Mayor England agreed and said that this was an administrative staff action and they could place barricades on the City's rights-of-way where needed. She explained that the ordinance would go through the general process.

Building Official Law asked if the City Attorneys could draft the ordinance and bring it to the Comprehensive Planning and Zoning Board first and then to the Commission for three more meetings.

Commissioner Samora asked since the permit has a 30-day time limit; what would they do if they pass the 30 days.

Building Official Law advised that the property owner would have to reapply for another permit and pay for another permit.

Mayor England opened the Public Comments section. Being none, Mayor England closed the Public Comments section and asked staff to moved forward with the ordinance procedures.

Sec. 6.02.03. - Rights-of-way.

- A. *Right-of-way widths.* Right-of-way requirements for road construction shall be as specified in Table 6.02.02A of this Code. The right-of-way shall be measured from lot line to lot line.
- B. *Protection and use of rights-of-way.*
1. No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the St. Augustine Beach City Commission.
  2. Use of the right-of-way for public or private utilities, including, but not limited to, sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electricity transmission, shall be allowed subject to the placement specifications in any applicable St. Augustine Beach regulations.
  3. Sidewalks and bikeways shall be placed within the right-of-way.
- C. *Vacation of rights-of-ways.* Applications to vacate a right-of-way shall be approved by ordinance upon a finding that all of the following requirements are met:
1. The requested vacation is consistent with the Transportation Circulation Element of the St. Augustine Beach Comprehensive Plan.
  2. The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.
  3. The vacation would not jeopardize the current or future location of any utility.
  4. The proposed vacation is not detrimental to the public interest, and provides a positive benefit to St. Augustine Beach.
  5. The proposed vacation was not acquired or dedicated for state, county or federal highway purposes.
  6. The proposed vacation was not acquired or dedicated for utility purposes;
  7. The proposed vacation does not provide access to the ocean and/or beach, or other recreational resource;
  8. The proposed vacation does not provide access to public drainage facilities.
  9. No portion of a street or alley lying between two (2) intersecting streets shall be vacated unless the entire portion of the street or alley between such intersecting streets is vacated.
- D. Residential driveways in the city rights-of-way shall be limited to a maximum of eighteen (18) feet in width with a maximum five (5) by five (5) foot apron flair on either side. The city shall not be responsible for the repair and maintenance of residential driveways in city rights-of-way.
- E. Vehicular traffic through City Rights-of-Ways at the end of dead end no access streets shall be prohibited except by :
1. All governmental vehicles
  2. With a Rights-of-way permit as authorized by the Public Works Director, not to exceed 30days for a fee of \$150.00 dollars, extensions may be granted for 30 day intervals at a fee of \$53.00 each as authorized by the Public Works Director.

(Ord. No. 18-08, § 1(Exh. 1), 7-2-18; Ord. No. 18-18, § 1, 1-7-19)

ORDINANCE NO. 2020-12

**AN ORDINANCE OF THE CITY OF SAINT AUGUSTINE BEACH, FLORIDA, MAKING FINDINGS OF FACT; AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS SECTION 6.02.03 RIGHT OF WAYS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.**

**WITNESSETH:**

**WHEREAS**, the City Commission controls the use and regulation of its right of ways.

**WHEREAS**, the City Commission seeks to lessen disputes between neighbors.

**NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAINT AUGUSTINE BEACH:**

SECTION 1. The foregoing recitals are incorporated as legislative findings of fact.

SECTION 2. From and after the effective date of this ordinance, Land Development Code of Saint Augustine Beach section 6.02.03 is amended as follows:

**Sec. 6.02.03. - Rights-of-way.**

- A. *Right-of-way widths.* Right-of-way requirements for road construction shall be as specified in Table 6.02.02A of this Code. The right-of-way shall be measured from lot line to lot line.
- B. *Protection and use of rights-of-way.*
  - 1. No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the St. Augustine Beach City Commission.
  - 2. Use of the right-of-way for public or private utilities, including, but not limited to, sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electricity transmission, shall be allowed subject to the placement specifications in any applicable St. Augustine Beach regulations.
  - 3. Sidewalks and bikeways shall be placed within the right-of-way.
- C. *Vacation of rights-of-ways.* Applications to vacate a right-of-way shall be approved by ordinance upon a finding that all of the following requirements are met:
  - 1. The requested vacation is consistent with the Transportation Circulation Element of the St. Augustine Beach Comprehensive Plan.
  - 2. The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.
  - 3. The vacation would not jeopardize the current or future location of any utility.
  - 4. The proposed vacation is not detrimental to the public interest and provides a positive benefit to St. Augustine Beach.
  - 5. The proposed vacation was not acquired or dedicated for state, county or federal highway purposes.
  - 6. The proposed vacation was not acquired or dedicated for utility purposes;
  - 7. The proposed vacation does not provide access to the ocean and/or beach, or other recreational resource;



8. The proposed vacation does not provide access to public drainage facilities.
9. No portion of a street or alley lying between two (2) intersecting streets shall be vacated unless the entire portion of the street or alley between such intersecting streets is vacated.
- D. Residential driveways in the city rights-of-way shall be limited to a maximum of eighteen (18) feet in width with a maximum five (5) by five (5) foot apron flar on either side. The city shall not be responsible for the repair and maintenance of residential driveways in city rights-of-way.
- E. Vehicular traffic through City Rights-of-Ways at the end of dead end or no access streets shall be prohibited except by:
  1. All governmental vehicles
  2. A Rights-of-Way permit as authorized by the Public Works Director, not to exceed 30 days for a fee of \$250.00 dollars, extensions may be granted for 30 day intervals at a fee of \$53.00 each as authorized by the Public Works Director.

(Ord. No. 18-08, § 1(Exh. 1), 7-2-18; Ord. No. 18-18, § 1, 1-7-19; Ord. No. 20-\_\_\_\_, § 1, \_\_\_\_ -20 )

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

SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the City of Saint Augustine Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 5. This Ordinance shall take effect immediately upon passage.

**PASSED, APPROVED AND ADOPTED** at the regular meeting of the City Commission of the City of Saint Augustine Beach, Florida this \_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MAYOR

Published in the \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_,  
2020. Posted on [www.staugbch.com](http://www.staugbch.com) on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

# MEMO

**To:** Max Royle, City Manager  
**From:** Bonnie Miller, Executive Assistant  
**Subject:** Ordinance No. 20-\_\_  
**Date:** Wednesday, August 26, 2020

Please be advised at its rescheduled regular monthly meeting held Tuesday, August 25, 2020, the City of St. Augustine Beach Comprehensive Planning and Zoning Board voted unanimously to recommend the City Commission approve passage of Ordinance No. 20-\_\_ on final reading.

Passed on first reading by the City Commission at its regular monthly meeting held Tuesday, August 3, 2020, this proposed ordinance amends Section 6.02.03, Rights-of-way, of the City's Land Development Regulations, to establish a permitting process for right-of-way permits for the protection, use, vacation and regulation of City rights-of-way.

The motion to recommend the City Commission approve passage of Ordinance No. 20-\_\_ was made by Mr. Pranis, seconded by Mr. Mitherz, and passed 7-0 by the Board by unanimous voice-vote.