

Not Adopted

**CITY OF ST. PETE BEACH, FLORIDA**

**ORDINANCE NO. 2009 – 36**

**AN ORDINANCE OF THE CITY OF ST. PETE BEACH, PINELLAS COUNTY, FLORIDA PROVIDING FOR VACATION OF RIGHT OF WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, notice of this ordinance has been provided in accordance with applicable law; and

**WHEREAS**, the record owners of real property located at 103, 105, and 107 6<sup>th</sup> Avenue and 102, 104, and 106 7<sup>th</sup> Avenue have requested the City to vacate the alley adjacent to said properties; and

**WHEREAS**, the City will receive easements and other public property as part of the development of the aforesaid property, improving the property available for use of the public; and

**WHEREAS**, the City Commission has found the subject application meets all of the criteria for approval of the vacation request, and that it would be in the best interest of the Citizens of St. Pete Beach for the application to be granted;

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, HEREBY ORDAINS:**

**Section 1.** The City of St. Pete Beach hereby vacates the right-of-way, generally known as a 10 foot East/West Alley between 6<sup>th</sup> and 7<sup>th</sup> Avenues bounded on the north by Lots 6, 7, and 8; on the east by an 18 foot alley; on the south by lots 14, 15, and 16; and on the west by an 18 foot alley; all in Block 7, Morey Beach, according to the map or plat thereof, as recorded in Plat Book 1, Page 102, of the public records of Hillsborough County, Florida, of which Pinellas County was formerly a part, and illustrated in the map attached hereto as exhibit "A".

**Section 2.** The City of St. Pete Beach makes no warranties of any kind as to the title or ownership of the property being vacated, or as to the existence of any liens, easements or encumbrances against the same. This Ordinance shall only be construed to release any legal or equitable interest the City may have in the subject property. Nothing contained herein shall be construed to affect the rights of parties having an interest in the subject property prior to its becoming a City right-of-way, except to the extent provided in this Ordinance and allowed by law. The applicant and owners of the properties described in Section 1 hereof, their successors and assigns, hereby hold the City, its officers and employees harmless, and shall indemnify the City, its officers and employees against any and all claims arising out of the adoption of this Ordinance made by any person or entity against the City, its officers and employees, including any and all attorneys fees and costs incurred by the City, its officers and employees, in defending the

same, whether caused by the actions of the City, its officers and employees, or not. The aforesaid applicant and owners, their successors and assigns, acknowledge and represent that the City of St. Pete Beach has the full legal authority to adopt this Ordinance.

**Section 3.** The City of St. Pete Beach hereby reserves and retains a public access and utility easement in the right-of-way vacated, and the applicants shall execute such documents as the City of St. Pete Beach deems advisable to provide for such easement. Said easement agreements shall be delivered to the City and recorded in the public records by all recipients of the property vacated hereby, in the form and content provided by the City, within 60 days of the adoption of this ordinance. Until all conditions of this Ordinance are complied with, including the granting of the easement provided in this Section, no alteration shall be made to the right-of-way vacated hereby, without the express written consent of the City, and the same shall be maintained in the condition in which it now exists, by the owners of the properties described in Section 2 hereof, their successors and assigns, at their sole expense, in accordance with all City standards for City roads and shall be fully open to the public for use as a City road.

**Section 4.** By requesting the vacation provided by this Ordinance, the applicant and owners of the properties described in Section 1 hereof, agree to all of the terms and conditions hereof and agree to be bound thereby.

**Section 5.** If any portion, part or section of this Ordinance is declared invalid, the valid remainder hereof shall remain in full force and effect.

**Section 6.** This Ordinance shall become effective immediately upon final passage as required by law.

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**Michael Finnerty, MAYOR**

**FIRST READING** : \_\_\_\_\_  
**PUBLISHED** : \_\_\_\_\_  
**SECOND READING** : \_\_\_\_\_  
**PUBLIC HEARING** : \_\_\_\_\_

I, Theresa B. McMaster, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Theresa B. McMaster, City Clerk