

ORDINANCE 20-__

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, FLORIDA, AMENDING TITLE V, PUBLIC WORKS, OF THE CODE OF ORDINANCES TO INCLUDE CH. 55, EASEMENTS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St Lucie, Florida (“City”) desires to amend Title V, Public Works of the Port St Lucie Code of Ordinances (“City Code”) to include Chapter 55 Easements; and

WHEREAS, the purpose and intent of the addition of this Chapter 55, Easements, is to allow landowners reasonable use of their property while protecting and preserving the intended use of the easement.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. Ratification of Recitals. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Ordinance.

Section 2. Title V, Public Works, is amended by adding the following Chapter 55 (~~strikethrough text~~ indicates deletions while underlined text indicates additions):

CHAPTER 55. - EASEMENTS

Article I. - GENERAL PROVISIONS

Sec. 55.01. - Purpose and intent.

- (a) The city has reserved the right to use and/or cross land owned by others for stormwater/ drainage facilities, water utilities, sewer facilities, reuse facilities, access, maintenance, or other such purposes in the form of city-owned easements.
- (b) The intent of this chapter is to allow the landowners reasonable use of their property while protecting and preserving the intended use of the city-owned easement.

Sec. 55.02. - Usage of easements.

- (a) Unpermitted alterations or improvements that limit or hinder the use of the city-owned easements are prohibited.
- (b) Alterations or improvements within a 20-foot wide city-owned easement may be allowed if the property owner is granted a revocable encroachment permit.

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(c) Upon request from the city, the property owner shall remove permitted or unpermitted alterations or improvements within the city-owned easement. The cost of removing permitted or unpermitted alterations or improvements within easements shall be that of the property owner.

Sec. 55.03. - Violation.

(a) It shall be a violation of this chapter for any structure, object, feature, or material to be placed upon, over, or beneath the surface of any city-owned easement unless authorized by a revocable encroachment permit, a contract with the city, other approval of the city, or specific legal authority.

(b) If a property owner fails to remove and restore the easement areas as required by this chapter, the city shall take any actions deemed necessary and appropriate to remove and restore the easement area, and may collect the costs of such removal and restoration from the owner of the property.

Secs. 55.04 - 55.19. - Reserved.

Article II. - ABANDONMENT OF EASEMENT

Sec. 55.20. - Requirements.

(a) Due to the existing use or potential future use, the city rarely abandons easements. However, at the sole discretion of the city engineer, the city will consider abandoning an easement or a part of an existing easement for which the city has no future plans to construct, install, or otherwise use the easement area.

(b) A written request justifying an abandonment, along with the appropriate attachments, and review fee shall be submitted to the city engineer for review. The city engineer will review the request and submit a written recommendation for city council review and action.

(c) The applicant shall be responsible for all costs required to accomplish the abandonment including the preparation and recording of plats, warranty deeds, or other such instruments.

Secs. 55.21—55.29. - Reserved.

Article III. - REVOCABLE ENCROACHMENT PERMIT

Sec. 55.30. - Permit required.

The city may issue a revocable encroachment permit that allows removable items to encroach into a 20-foot wide easement. The removable structure shall meet the required zoning

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setbacks. The following table shows the allowed items and maximum encroachment distance with a revocable encroachment permit.

<u>Permitted Easement Encroachments</u> (Applies to 20-Foot Wide Easement Only)		
<u>Description</u>	<u>Residential</u> <u>Property</u>	<u>Commercial</u> <u>Property</u>
	<u>Distance into Easement (feet)</u>	
<u>Accessory Pad (Includes Dumpster)</u>	-	<u>10</u>
<u>Deck of Swimming Pool (pool may not encroach)</u>	<u>10</u>	-
<u>Detention Area</u>	-	<u>10</u>
<u>Fence</u>	<u>20</u>	<u>20</u>
<u>Flag Pole</u>	<u>10</u>	-
<u>Generator Pad</u>	<u>10</u>	-
<u>Lighting</u>	-	<u>10</u>
<u>Moveable (skid mounted) Accessory Building</u>	<u>10</u>	<u>10</u>
<u>Parking Lot</u>	-	<u>10</u>
<u>Patio and/or Decks</u>	<u>10</u>	-
<u>Satellite and/or Antenna (Outside edge of dish)</u>	<u>10</u>	-
<u>Screen Enclosure</u>	<u>10</u>	-
<u>Sidewalk</u>	<u>10</u>	-
<u>Signage</u>	-	<u>10</u>
<u>Trees, Landscaping, Irrigation</u>	-	<u>10</u>
<u>Solar Energy System</u>	<u>10</u>	-
<u>Wall</u>	<u>0 to 20</u>	<u>0 to 20</u>

Sec. 55.31. - Application.

- (a) The revocable encroachment application and permit is managed and processed by the public works department.
- (b) The public works department shall charge a fee for the review and processing of the revocable encroachment permit and the applicant is responsible for payment of the recording fees.
- (c) A record of the permits issued under the provisions of this article shall be kept in the public works department.

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(d) The approved revocable encroachment permit shall be recorded in the public records of St. Lucie County.

Section 3. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word “ordinance” may be changed to “section” or other appropriate word as may be necessary.

Section 6. Effective Date. This Ordinance shall become effective immediately upon final adoption on second reading.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this ____ day of _____, 2020.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Gregory J. Oravec, Mayor

ATTEST:

Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney