

(D2)

ORDINANCE 2000-13

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, CLOSING, VACATING AND DISCONTINUING AN ALLEY IN THE LONGBEACH SUBDIVISION, WITH CONDITIONS, IN ACCORDANCE WITH SECTIONS 97.10 - 97.13 OF THE TOWN OF LONGBOAT KEY CODE OF ORDINANCES, SAID ALLEY BEING DESCRIBED AS A TEN (10) FOOT WIDE RIGHT-OF-WAY OF AN UNNAMED ALLEY LOCATED IN BLOCK 11 OF THE REVISED LONGBEACH SUBDIVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, William L. Carman and Judith J. Carman, owners of property located at 6901 Poinsetta Avenue, Kim Ross and Michael C. Riter, owners of property located at 591 Hibiscus Way, Frank R. Sylvester, Linda Sylvester and Eric Sylvester, owners of property located at 6889 Poinsetta Avenue, Paul Berriff and Hilary Berriff, owners of property located at 6900 Longboat Drive South, Glenn Luke and Vivian Luke, owners of property located at 6890 Longboat Drive South, Robert Seeger, owner of property located at 575 Linley Street, and Judy Perry, owner of property located at 600 Cedar Street, (hereinafter referred to collectively as "Petitioner") have made application to vacate, discontinue and abandon a certain alley and/or alley right-of-way located in Block 11 of the Revised Longbeach subdivision; and

**WHEREAS**, after public hearing and compliance with the provisions of Section 166.041, Florida Statutes, and in reliance on the representations made in the Petition for the Closing, Discontinuing and Vacation of the subject alley and/or alley right-of-way, as well as testimony offered at the public hearing, the Town Commission finds that the closing and discontinuing of the described alley and/or alley right-of-way is in the best interest of the public.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

Section 1. The Town Commission having considered the Staff Report, Petitioners' Petition for the closing, Discontinuing and Vacation of the subject advertised public hearing of this matter, the following described alley right-of-way be and is hereby closed, vacated, and abandoned, to wit:

BOOK 13 PAGE           

2000-13

(ORD. 2000-13, D., CONT.)

**A TEN (10) FOOT WIDE RIGHT-OF-WAY OF AN UNNAMED ALLEY  
LOCATED IN BLOCK 11 OF THE REVISED LONGBEACH SUBDIVISION**

provided the condition as set forth below is met:

The property owners execute a conservation, Utilities and Use Restriction Easement in the form attached hereto as Exhibit "A", and record it within the public records of Manatee County within 90 days of adoption on second reading and public hearing of this Ordinance. The failure to meet this condition shall render this Ordinance null and void and without further force and effect.

Section 2. The Town Clerk is directed to record a certified copy of this Ordinance in the Public Records of Manatee County, Florida.

Section 3. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 4. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 5. This Ordinance shall take effect upon second reading and public hearing in accordance with law and the Charter of the Town of Longboat Key.

PASSED on first reading and public hearing this 6th day of MARCH, 2000.

ADOPTED on second reading and public hearing this 3rd day of APRIL, 2000.

  
MAYOR

ATTEST:

  
TOWN CLERK

Attachment: Exhibit "A"  
Conservation, Utilities and Use Restriction Easement

This Document Prepared by:  
David P. Persson, Esq.  
Hankin, Persson, Davis, McClenathen & Darnell  
2033 Main Street, Suite 400  
Sarasota, FL 34237

CONSERVATION, UTILITIES & USE RESTRICTION EASEMENT

In consideration of the premises and mutual covenants, terms, conditions and restrictions contained herein and other good and valuable consideration the receipt of which is hereby acknowledged, \_\_\_\_\_ ("Grantor(s)), as owner(s) of the property described as follows:

[See Legal Description attached as Exhibit A (the "Property")]

on behalf of themselves and their successors, heirs and assigns, grant and give unto the Town of Longboat Key, Florida, a municipal corporation ("Grantee"), a Conservation Easement over the above-described Property of the Grantor:

A. Grantor shall be expressly prohibited from the following acts and activities within the boundaries of this Conservation Easement:

(a) Construction or placing of buildings, roads, signs, or other structures on or above the ground, except any existing drive and the maintenance thereof.

(b) Construction or placing of utilities on, below or above the ground without appropriate local permits or other authorization or in violation of Section B. below.

(c) Dumping or placing of soil or other substances or material as landfill without appropriate local, state and federal permits or other authorizations, or the dumping or placing of trash, waste, or unsightly or offensive materials.



BOOK 13 PAGE \_\_\_\_\_

2000-13

(d) Removal, destruction or trimming of protected trees, shrubs or other vegetation without appropriate local, state and federal permits or other authorizations, except for routine maintenance.

(e) Excavation, dredging, or removal of loam, peat, gravel, soil, rock or other material substances in such manner as to affect the surface without appropriate local, or other authorizations.

(f) Surface use, except for purposes or uses that permit the land or water areas to remain predominantly in their natural condition including normal sunning, fishing and recreational uses.

(g) Activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.

(h) Acts or uses detrimental such retention of land or water areas.

B. Grantor hereby grants and conveys to Grantee, its successors and assigns, perpetual, non-exclusive easements over the subject Property, for the purpose of installing, operating, maintaining, repairing, replacing and renewing any and all utility lines and related facilities, as well as similar facilities requiring the installation of equipment for the purpose of providing services to the adjacent residential property.

C. Grantor hereby expressly agrees that the property shall not be utilized for calculating any expansion of building area or determination of setbacks or density.

D. Grantee, as consideration of accepting this easement, expressly accepts and relies upon the grant of restrictions by Grantor.

IN WITNESS WHEREOF, Grantor(s) has (have) caused these presents to be executed in its (their) name by its (their) on the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

Witnesses as to GRANTOR(S)

GRANTOR(S)

\_\_\_\_\_  
(Sign Name)

\_\_\_\_\_  
(Sign Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Sign Name)

\_\_\_\_\_  
(Sign Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public State of Florida  
Typed Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_

Personally Known \_\_\_\_\_  
OR Produced Identification

Type of Identification Produced

\_\_\_\_\_

C:\LINE\BKEASEMENT.CONSERVATION

EXHIBIT "A"  
LEGAL DESCRIPTION OF PROPERTY

BOOK 13 PAGE \_\_\_\_\_

100 13