

# ORIGINAL

0046.191.001  
WDT/srf  
05/04/93

ORDINANCE NO. 59

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ESTABLISHING PROCEDURES FOR STREET VACATIONS; PROVIDING FOR NOTICE; AUTHORIZING FEES; ESTABLISHING CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, RCW 35.79 authorizes the City to vacate streets and rights of way, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Definition. The term "owner of an interest in real estate" means the owners of fee title, mortgagors, and contract vendees.

Section 2. Owners of Private Property--Sufficient Signature Determination. For the purposes of determining the sufficiency of signatures of owners of private property on the petition or consent to vacate, the following rules shall govern:

- A. The signature of an owner, as determined by the records of the County Auditor, shall be sufficient without the signature of his or her spouse.
- B. In the case of mortgaged property, the signature of the mortgagor shall be sufficient.
- C. In the case of property subject to a contract of purchase, the signatures of the contract vendor and vendee shall be required.

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D. In the case of ownership by corporation, the signature of any officer authorized by the bylaws or resolution of the board of directors shall be sufficient when evidenced by an excerpt of the bylaws of the resolution, certified by the secretary of the corporation, granting such authority.

E. In the case of property owned by the estate of a decedent or incompetent, the signature of the duly qualified administrator or executor or guardian shall be equivalent to the signature of the owner of the property.

Section 3. Petition--Right to Make. The owners of an interest in any real estate abutting upon any street or alley may petition the City Council to vacate the street or alley, or any portion thereof, or the City Council may itself initiate such vacation procedures by resolution.

Section 4. Petition--Contents--Signature. The petition shall describe the street or alley or a portion thereof desired to be vacated, and shall be signed by owners of more than 2/3 of the private property abutting upon the part of the street or alley sought to be vacated.

Section 5. Petition--Filing Fee.

A. The petition properly signed shall be filed with the City Clerk upon payment of a filing and appraisal fee, which shall be paid into the general fund of the City to aid in defraying of expenses incurred by the City in appraising the property, checking the sufficiency of such petition and investigating or reporting the facts and shall not be returned to the

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petitioners, regardless of the City Council's action on such petition. The amount of the fee shall be determined as follows:

1. One (1) to 5 separate ownership abutting the proposed vacation, a minimum fee of \$500.00;
2. An additional sum of \$25.00 for each additional ownership over 5.

B. The minimum appraisal fee shall be \$500.00.

C. In the event that the filing and appraisal fee, computed on petitioner's estimate, proves to be insufficient, as evidenced by the City investigation, the balance of the fee shall be paid by the petitioner before notices of hearing are mailed.

## Section 6. Petitioner--Hearing--Time Fixed.

A. Petition Method. If signed by the owners of more than 2/3 of the property abutting the portion of the street or alley to be vacated, at a regular Council meeting following the filing of such petition, the Council, by resolution, shall fix a time when the petition will be heard and determined, which time shall not be more than 60 days nor less than 20 days after the date of passage of such resolution.

B. Resolution Method. In cases where vacation is initiated by City Council resolution, the resolution shall include the date for a hearing on the vacation.

Section 7. Petition--Withdrawal Prohibited. No petitioner may withdraw the petition or consent after the Council

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has set a time for hearing, although the petitioners may be heard at the public hearing, to present any information which bears upon the public advantage to be served or harmed by the proposed vacation.

## Section 8. Hearing--Posting Notice.

A. Petition Method. At least 20 days prior to the hearing, the City Clerk shall issue a written notice, which shall be posted as follows:

1. In 3 public places in the City and;
2. On a conspicuous place on a portion of the street or alley to be vacated.

The notice shall contain a statement that a petition requesting vacation has been filed or a resolution passed to vacate the portion described in the notice, along with a statement of the time and place set for the hearing on the matter.

B. Resolution Method--Additional Notice. In all cases where the proceeding is initiated by City Council resolution, in addition to the above required notice, a similar notice shall be sent by mail at least 15 days before the hearing to each owner of any property abutting upon any part of the portion of the street or alley sought to be vacated. Ownership shall be determined as shown on the rolls of the County Treasurer, and directed to the address shown thereon.

C. Resolution Method--Divestiture of Jurisdiction to Proceed. If 50 percent or more of the abutting property

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owners file written objections to the proposed vacation with the Clerk, prior to the time of hearing, the City shall not proceed with the resolution.

Section 9. Hearing--Decision. At the time of the hearing on the vacation, or at such time as the same may be continued by the City Council, the matter shall be considered, and those desiring to speak on the vacation shall be heard. Following the hearing, the Council shall determine whether to grant the petition and/or proceed with the vacation. Such determination shall include, but not be limited to, consideration of the following criteria:

- A. Whether a change of use or vacation of the described portion will better serve the public good;
- B. Whether the street, alley or portion thereof is no longer required for public use;
- C. Whether the substitution of a new and different way would be more useful to the public; or
- D. Whether conditions may so change in the future as to provide a greater use or need than presently exists; and
- E. Whether objections to the proposed vacation are made by owners of private property (exclusive of petitioners) abutting the same.

Section 10. Petitions--Supplemental--Conditions. Supplemental petitions, or objections, containing signatures of additional persons or owners of abutting property petitioning for and consenting to such vacation may be filed as a part of, and

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considered with, the initial petition; provided, that such supplemental petitions shall not extend the description of the area sought to be vacated or add a new or different condition to such vacation.

Section 11. Granting--Conditions. If the City Council determines to grant the vacation, such action shall be made by ordinance with such conditions or limitations as the Council deems necessary and proper to preserve any desired public use or benefit.

A. Easements. If the City Council deems that to grant the vacation shall be to the public's interest and advantage, the Council may, by ordinance, vacate such street, alley or part thereof, reserving to the City an easement or the right to exercise the grant easements in respect to the vacated land for the construction, repair and maintenance of public utilities and services and may impose such other conditions or limitations as it deems necessary and proper to preserve any desired public use or benefit.

B. Rededication. If the Council finds that future development of undeveloped land abutting such street or alley may alter or increase need or public use in such strip, such vacation may be granted only upon execution of a covenant running with such abutting land to rededicate such a portion upon a declaration of public use and necessity by the Council.

C. Waterfront. The City shall not be authorized or have authority to vacate such street, or alley, or any parts thereof if any portion thereof abuts on any body of water

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unless such vacation be sought to enable the City to acquire the property for port purposes, boat moorage or launching sites, park, viewpoint, recreational or educational purposes, or other public uses. This proviso shall not apply to industrial zoned property.

D. Compensation. Any ordinance granting a street vacation may provide that it shall not become effective until the owners of property abutting upon each side of the street or alley, or part thereof so vacated, shall compensate the City in an amount which does not exceed 1/2 the appraised value of the area vacated, except, in the event the subject property or portions thereof were acquired at public expense, compensation may be required in an amount equal to the full appraised value of the vacation.

E. Recording. Upon its effective date, a certified copy of the ordinance granting vacation shall be recorded by the City Clerk in the office of the King County Department of Records and Elections.

Section 12. Granting--Portion of Petitioned Area. If, after a hearing, the Council determines that the petition cannot be granted in whole, but that a portion of the area described in the original petition may be vacated, the Council may, by ordinance, vacate such portion in accord with the provisions of Section 11.

Section 13. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such

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invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 14. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED by the City Council of the City of Woodinville this 24<sup>th</sup> day of May, 1993.

APPROVED:

Lucy DeYoung  
MAYOR, LUCY DEYOUNG

ATTEST/AUTHENTICATED:

Marie O'Connell  
CITY CLERK, MARIE O'CONNELL

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY [Signature]

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
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