

ORDINANCE NO. 81381

An Ordinance vacating, subject to certain provisions, portions of S.W. 16th and S.W. 17th Avenues, and declaring an emergency.

WHEREAS, it appears to the Council that on June 21, 1945, resolution No. 22647 was, under the provisions of chapter 259, Laws of Oregon, 1931 (O.C.L.A. sections 95-1331 - 95-1340), adopted initiating action for the vacation of the street areas herein specified, and thereupon the City Auditor duly gave notice by posting and publication for a period of four successive weeks that said resolution had been adopted for the vacation of said areas and that the matter of said vacations together with any objections, remonstrances and/or claims for damage which might be made in writing and filed with said Auditor prior to the time of hearing, would be heard and considered at 9:30 o'clock A.M. on Wednesday, July 25, 1945, in the Council Chamber in the City Hall in said City, which notice was first published in the City Official Newspaper, to wit, the Daily Journal of Commerce, on June 25, 1945, and said Auditor within five days from said first publication further published said matter by posting six notices headed, "Notice of Street Vacation" in six conspicuous places, in said street areas so proposed to be vacated (three such notices in each of said areas), as follows, to wit: one notice being on the west side of S.W. 16th Avenue at the northeasterly corner of Block 1, Davenport Tract, on a fence; one on the east side of S.W. 16th Avenue approximately 240 feet south of the south line of S.W. Salmon Street, on a post; one on the west side of S.W. 16th Avenue at the intersection of the south line of S.W. Salmon Street, on a fence; one on the east side of S.W. 17th Avenue at the intersection of the south line of S.W. Salmon Street, on a fence; one on the west side of S.W. 17th Avenue approximately 160 feet south of the south line of S.W. Salmon Street, on a power pole; and, one on the east side of S.W. 17th Avenue near the northwesterly corner of Block 1, Davenport Tract, on a guy pole, and

WHEREAS, at said time and place said matter together with all objections, remonstrances and claims for damages which had been filed with the City Auditor came regularly on for hearing before the Council, none of the claimants, objectors or remonstrators appeared personally or otherwise, the Auditor presented the matter to the Council together with the objections, remonstrances and claims for damages and the Council after giving consideration thereto found the objections, remonstrances and claims without merit, overruled all objections and remonstrances and denied all claims for damages, and

WHEREAS, the reason for this proposed vacation is that all of the property abutting on the street areas herein vacated is required by the abutting property owner, to-wit: School District No. 1, Multnomah County, Oregon, for school purposes, and

WHEREAS, it is the considered judgment of the Council and the Council hereby finds that the use of said street areas by said school district is indispensable as a part of the abutting property for the purpose for which it is intended, that said school district as the sole abutting property owner has consented to and requested such vacation, and that the vacation of said street areas for the purpose aforesaid is in the interest of and will best serve all of the people of the City of Portland; therefore, in contemplation of said proposed use, the Council finds that a vacation of the herein described portions of S. W. 16th Avenue and S. W. 17th Avenue will not injuriously affect the market value of the property abutting or affected by such vacation, but will enhance the same, and that said vacation will be for the general public welfare; and the Council further finds that all things have been done as provided by law for the vacation of said areas and that final action should, subject to the conditions herein stated, now be taken thereon and such vacation made a matter of record; now, therefore,

The City of Portland does ordain as follows:

Section 1. It is hereby ascertained and determined that said vacation will not injuriously affect the market value of any of the property abutting on said street areas to be vacated but will be beneficial thereto; that notice has been duly and regularly given of such vacation and a hearing thereon duly and regularly had at which the City Council found, and does now find and determine, that the public interest will not be prejudiced by such vacation but that said vacation will enhance the public interest and welfare; all of which determinations are hereby made a matter of record.

Section 2. There is hereby vacated all that portion of S. W. 16th Avenue which lies between the southerly line of S. W. Salmon Street and the north line extended easterly in course of the Davenport Tract as platted, and the portion of S. W. 17th Avenue lying between the southerly line of S. W. Salmon Street and the north line of said Davenport

Tract, as platted, all in the City of Portland, Multnomah County, State of Oregon, but it is hereby provided that nothing herein contained shall cause or require the removal or abandonment of any sewer, water main or mains, gas main or mains, conduit of any kind, or other thing used or intended to be used for public service, except that power poles, wires and/or cable are to be removed unless underground in conduit, and the right is hereby reserved for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and/or enlarge the same. A 72-inch sewer being now in the portion of said vacated part of S.W. 17th Avenue, it is expressly provided that no building or structure of any kind shall be built or erected within a distance of 10 feet from the center line of said sewer except upon written consent of the City Engineer first had and that any and all contemplated building plans in said vacated area shall be submitted for approval to the City Engineer and to the Director, Bureau of Building Inspection, to the end that such construction may be so adjusted with reference to all public utilities in said areas as to cause a minimum amount of danger and/or inconvenience to the owner of such utility, and consideration especially shall be given to a 30-inch water main, a 16-inch OD gas transmission main, and a 4-inch CI gas main in portions of said vacated area. The right of reasonable access is hereby reserved to the respective owners of such conduits for inspecting, repairing, restoring, renewing, rebuilding, replacing and/or enlarging such utility facilities except said power poles, wire and cable which are to be removed, and said School District is to pay the reasonable cost of removal. Said School District shall on or before the taking effect of this ordinance file with the City Auditor a document, approved by the City Attorney as to form, guaranteeing to protect and save harmless the City of Portland and its officials against any and all claims for damages resulting from said street vacation, and assume and agree to provide legal counsel for handling any and all litigation involving the City or its officers with reference thereto, provided that such legal counsel be authorized by the city to appear and act for and on behalf of the city and/or its officers in any and all litigation arising in connection therewith.

Section 3. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: That proposed school construction should not be unnecessarily delayed; therefore, an emergency is hereby declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council AUG 30 1945

Carl Riley
Mayor of the City of Portland

Attest:

Pat Bremer

Auditor pro tem of the
City of Portland

L.E.L.

By Order of the
Council

8-29-45
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THE FOLLOWING IS THE
OFFICIAL V. E. O. THE
FOREGOING ORDINANCE

	YEAS	NAYS
BOWES	/	
COOPER	/	
LEE	/	
PETERSOM	/	
RILEY	/	

Recd. SEP 1 1948

For the Auditor

Auditor pro tem
of the CITY OF PORTLAND
L. W. HAVEN
Deputy