

ORDINANCE No. 153079

An Ordinance conditionally repealing Ordinance No. 144855 which vacated the Bridlewood pathway between S.W. Lowell Court and S.W. 48th Place, attaching certain conditions to said repeal and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. That on December 7, 1977, the Council passed Ordinance No. 144855 which vacated a public walkway lying between Lots 12 and 13, Block 7, Bridlewood, in the City of Portland.
2. The vacation was subject to certain conditions and restrictions. Specifically, Condition No. 3 provided that the petitioner was to construct at its expense and to make provisions for the maintenance of a walkway following the alignment of the vacated walkway in Block 7, Bridlewood, and the existing easement between Lots 10 and 11, Block 8, Bridlewood, and to provide the public unrestricted access between S.W. 48th Place and S.W. Lowell Court. Further, Condition No. 4 provided that in the event Condition No. 3 was not met within six (6) months of the passage of the ordinance, it would be subject to repeal by the Council.
3. Condition No. 3 was not met in that maintenance provisions were not made for the walkway and that presently the public does not have unrestricted access between S.W. 48th Place and S.W. Lowell Court, and therefore the Council finds that not all of the conditions attached to the passage of Ordinance No. 144855 have been met.
4. The Council further finds that it is in the public's interest that there be unrestricted public access between S.W. 48th Place and S.W. Lowell Court and that it is necessary that the public pathway which was vacated by Ordinance No. 144855 be again provided for that public access subject to the conditions of this ordinance.
5. That a majority of the homeowners in Block 8, Bridlewood, have agreed to upgrade the pathway, as evidenced by their Petition to that effect which is marked Exhibit "A" and attached hereto, to the standards of the City Engineer, at which time the City would then provide for

its maintenance. Said property owners have further agreed that if they do not commence to upgrade the pathway within thirty (30) days from the repeal of said ordinance, the City shall establish a Local Improvement District to do so and assess the cost of same to the properties within Block 8, Bridlewood. That the majority of the property owners in Block 8, Bridlewood, have signed an instrument waiving their right to remonstrate against the formation of a Local Improvement District to improve the pathway, said waiver being marked as Exhibit "B" and attached hereto allowing the city to improve the pathway in the event they fail to do so.

NOW, THEREFORE, the Council directs:

- a. That the owners and contract purchasers of Block 8, Bridlewood, who have expressed the desire to provide for the upgrading of the vacated public walkway lying between Lots 12 and 13, Block 7, Bridlewood, as evidenced by their petition to that effect which has been marked Exhibit "A" and attached hereto, may commence through a private contractor to upgrade the vacated public walkway, to the standards of the City of Portland, with such work to be completed to City's satisfaction not later than October 1, 1982.
- b. That in the event the upgrading of said pathway is not commenced by the owners of property within Block 8, Bridlewood, within thirty (30) days from the passage of this ordinance, the City of Portland shall immediately proceed to establish a Local Improvement District to upgrade the pathway and shall assess all properties within Block 8, Bridlewood. Further, it is acknowledged that the majority of property owners in Block 8, Bridlewood, have executed a waiver of remonstrances against a Local Improvement District to provide for such improvements and the assessment thereof in the event of their failure to do so, said waiver being marked as Exhibit "B" and attached hereto. In the event a Local Improvement District is formed, the construction of the pathway shall be in conformance with the plans and specifications as provided in Exhibit "C" attached hereto.
- c. That the improvement of the walkway shall be completed prior to October 1, 1982.
- d. Upon completion of the upgrading of the pathway to City standards by either the owners of property in Block 8, Bridlewood, or through the Local Improvement District

process, the City shall assume all responsibility for the design and maintenance of same and any liabilities arising therefrom. Such acceptance and assumption shall occur prior to October 1, 1982.

- e. Upon the passage of this ordinance the Homeowners Association for Block 8, Bridlewood, shall maintain the existing restrictive deed covenants for maintenance and liability for the pathway and a comprehensive liability insurance which provides coverage for liability related to the demolition and/or alterations of the existing improvements on the walkway and the construction of the improvements provided for in this ordinance and which names both the City and the abutting property owners in Block 7, Bridlewood, as additional insureds until such time as the pathway has been upgraded and accepted by the City.

Section 2. That upon completion of the upgrading of the pathway and acceptance by the City Engineer, Ordinance No. 144855 passed by the City Council December 7, 1977, which vacated the public walkway lying between Lots 12 and 13, Block 7, Bridlewood, shall be repealed. Further, a written statement by the City Engineer to that effect shall be placed on file in Multnomah County Deed Records.

Section 3. That in the event the upgrading of the pathway is not substantially completed prior to October 1, 1982, the pathway vacation provided for in Ordinance No. 144855 will be permanent and unconditional and the ownership of the walkway shall be deemed to be vested in the adjoining owners as provided by law. The Portland City Council shall make the sole determination as to whether pathway construction has been substantially completed by that date and may consider labor strikes and acts of God to have extended that date.

Section 4. Upon the passage of this ordinance and during the pendency of this matter, the owners of property adjoining Lots 12 and 13, Block 7, Bridlewood, shall grant an access easement to the general public and a construction easement to whoever shall be performing the upgrading of the pathway. However, public access to the pathway shall not be allowed during the period of its reconstruction until completion and acceptance by the City.

ORDINANCE No.

Section 5. The Council declares that an emergency exists because it is necessary that there be no delay in resolving the issue of the improvement and acceptance of the pathway; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **APR 12 1982**
Commissioner Lindberg
RC Ireland/pm
April 12, 1982

Attest:


Auditor of the City of Portland

Sub Calendar No. 903

ORDINANCE No. 153079

Title

An Ordinance conditionally repealing Ordinance No. 144855 which vacated the Bridlewood pathway between S.W. Lowell Court and S.W. 48th Place, attaching certain conditions to said repeal and declaring an emergency.

| THE COMMISSIONERS VOTED AS FOLLOWS: | | |
|-------------------------------------|------|------|
| | Yeas | Nays |
| JORDAN | 1 | |
| LINDBERG | 1 | |
| SCHWAB | 1 | |
| STRACHAN | 1 | |
| IVANCIE | 1 | |

| FOUR-FIFTHS CALENDAR | |
|----------------------|--|
| JORDAN | |
| LINDBERG | |
| SCHWAB | |
| STRACHAN | |
| IVANCIE | |

| |
|-----------------------|
| INTRODUCED BY |
| Commissioner Lindberg |

| |
|----------------------------|
| NOTED BY THE COMMISSIONER |
| Affairs |
| Finance and Administration |
| Safety |
| Utilities |
| Works <i>ML/MD</i> |

| | |
|--|---------------|
| BUREAU APPROVAL | |
| Bureau: | |
| Prepared By: RC Irelan/pm | Date: 4/12/82 |
| Budget Impact Review: | |
| <input type="checkbox"/> Completed <input type="checkbox"/> Not required | |
| Bureau Head: | |

| | |
|----------|---------|
| CALENDAR | |
| Consent | Regular |

| |
|----------------------------------|
| NOTED BY |
| City Attorney <i>[Signature]</i> |
| City Auditor |
| City Engineer |

Filed April 12, 1982

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *[Signature]*
Deputy