

## ORDINANCE No. 185103

Vacate a portion of NW Irving St between NW 4<sup>th</sup> Ave and NW 5<sup>th</sup> Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10077)

The City of Portland ordains:

Section 1. The Council finds:

1. On May 2, 2008, the Bureau of Transportation received a request for the vacation of NW Irving Street between NW 4<sup>th</sup> Avenue and NW 5<sup>th</sup> Avenue.
2. The petition states that the reason for the vacation is for TriMet to have control over property that has been improved with Light Rail tracks and switches, for operation and maintenance of their facilities.
3. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the City Engineer and Planning and Sustainability Commission, as provided in the City Engineer's Report, dated May 3, 2011 and on file with the Office of the City Auditor and the Bureau of Transportation.
4. In accordance with ORS 271.100, the Council fixed a time and place for public hearing before the Council; the Auditor published notice thereof, and posted notice in the areas proposed for vacation.
5. Other procedural requirements of ORS 271 have been complied with, and the Council having held a public hearing, finds no objections were made or filed hereto, and it is in the public interest that said street be vacated.

NOW, THEREFORE, the Council directs:

- a. The following described street area, as depicted on the attached Exhibit 1, is hereby vacated:

Parcel 2, Partition Plat No. 1994-84, recorded July 22, 1994 in Document No. 94-111727, Multnomah County Plat Records, as depicted on attached Exhibit 1 and by this reference made a part hereof.

Said vacation area contains 16,602 square feet, more or less.

- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:
  1. A public sewer easement is hereby reserved to provide for the maintenance, operation, repair, reconstruction, replacement and enlargement of the existing public sewer facility and is described as follows:

A strip of land over, under, and across a portion of Parcel 2, Partition Plat No. 1994-84 situated in the northwest one-quarter of Section 34, T1N, R1E, W.M., in the City of Portland, County of Multnomah, State of Oregon, said strip being the south 13.00 feet of said Parcel 2 as depicted on Exhibit 2 attached hereto and by this reference made a part hereof.

Contains 780 square feet, more or less.

This easement is reserved on the condition that no building construction, material storage, filling, grade change or tree planting will be permitted within said easement area without the prior written consent of the Director of the Bureau of Environmental Services (BES), and further that the City or its contractors will not be responsible for damage to any improvements, including landscaping existing on the easement area, if such things are damaged or destroyed by the City or its contractors in the course of reconstruction or maintenance of the existing public sewer facility.

This easement allows BES access at all times.

2. Ownership and maintenance of all sewer pipes active and/or abandoned located north of but not including the combination sewer manhole referenced by BES as ABG 333 and the ownership and maintenance of all sewer pipes active and/or abandoned located north of but not including the storm only manhole referenced by BES as ABG 378 are to be transferred to the property owner through a quitclaim document, to be recorded concurrently with the vacation ordinance. Approximate locations of said manholes are shown on Exhibit 3, attached hereto.
3. In accordance with ORS 271.120 and City of Portland policy, the street vacation ordinance shall not cause or require the removal or abandonment of any sewer, water or gas main, conduit of any kind, wire, pole or thing used, or intended to be used, for any public service, including, but not limited to those identified by Qwest. The ordinance will reserve an easement for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and/or enlarge any and all such thing; that no building or structure of any kind shall be built or erected within a distance of ten (10) feet from the centerline of any such utility, except with the prior written consent of the City Engineer and the owner of the utility 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 of the Bureau of Development Services, to the end that such construction may be so adjusted with reference to all public utilities in said areas as to cause a minimum of danger or inconvenience to the public and to the owner of such utility and to protect and preserve the same as presently constructed or hereinafter reconstructed, renewed, replaced and/or enlarged. Removal or relocation of existing utilities in the street vacation area will require written agreements between the Petitioner and owner(s) of the utilities.

- 801281
4. Notwithstanding b3 and except for b1, this Ordinance will serve as a full release of City interests in the street vacation area and will provide City Bureaus with the authority necessary to take all other legal actions as may be reasonably necessary (including the issuance of quitclaim deeds acknowledging the release of any interests) to achieve this intent.
  5. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
  6. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, City Council may repeal the Ordinance at its sole discretion.

Section 2. Petitioner shall file with the City Auditor, in form approved by the City Attorney, a document in writing, accepting the terms and conditions of the Ordinance.

Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the vacating Ordinance have been met, and that all vacation costs have been paid.

Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, which shall, at the expense of the Petitioner, file with the recorder, the assessor, and the surveyor of the county in which said property is located, the certified copy of this Ordinance and the acceptance, and any map, plat or other record which may be required by law. The Right-of-Way Acquisition Section shall return the recorded Ordinance to the Auditor.

Passed by the Council, JAN 11 2012

Mayor Sam Adams  
Prepared by: Lance D. Lindahl:slg  
December 12, 2011  
RWA # 7180

**LAVONNE GRIFFIN-VALADE**

Auditor of the City of Portland

By

DEPUTY

801281

Agenda No. **ORDINANCE NO. 185103**  
Title

Vacate a portion of NW Irving St between NW 4<sup>th</sup> Ave and NW 5<sup>th</sup> Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10077)

**INTRODUCED BY**  
Commissioner/Auditor:  
**MAYOR SAM ADAMS**  
*W. Griffin-Valade on behalf of Mayor Adams*

**COMMISSIONER APPROVAL**

Mayor—Finance and Administration - Adams

Position 1/Utilities - Fritz

Position 2/Works - Fish

Position 3/Affairs - Saltzman

Position 4/Safety - Leonard

**BUREAU APPROVAL**

Bureau: Bureau of Transportation  
Group Manager: Greg Jones *for Greg Jones*  
Development & Capital Program

Prepared by: Lance D. Lindahl:slg  
Date Prepared: December 12, 2011 *slg*

Financial Impact & Public Involvement Statement  
Completed  Amends Budget   
Not Required  *for David McElhinney*

Portland Policy Document  
If "Yes" requires City Policy paragraph stated in document.  
Yes  No

Council Meeting Date  
January 4, 2012

City Attorney Approval

CLERK USE: DATE FILED DEC 29 2011

LaVonne Griffin-Valade  
Auditor of the City of Portland

By: *[Signature]*  
Deputy

**ACTION TAKEN:**

JAN 04 2012 **PASSED TO SECOND READING** JAN 11 2012 9:30 A.M.

**AGENDA**

**TIME CERTAIN**   
Start time: \_\_\_\_\_

**Total amount of time needed:** \_\_\_\_\_  
(for presentation, testimony and discussion)

**CONSENT**

**REGULAR**   
**Total amount of time needed: 5 Minutes**  
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz ✓	
2. Fish	2. Fish ✓	
3. Saltzman	3. Saltzman ✓	
4. Leonard	4. Leonard ✓	
Adams	Adams ✓	