

Chapter 17.84 Street Vacations

(Chapter amended by Ordinance No. 184957, effective November 25, 2011.)

17.84.005 Definitions.

A street vacation is the termination of the public interest in a right-of-way; it extinguishes the easement for public travel that is represented by the right-of-way. In the typical case, city and county governments hold an easement for public travel on lands designated or used as roads, streets, and alleys; they do not generally own the fee title to the property underlying the right-of-way.

17.84.010 Plat Must Be Filed.

No vacation of a street, public place or plat shall become effective until the ordinance providing for the vacation and a plat, as provided by law, has been filed in the office of the county clerk of the county where the street, public place or plat is located. The cost of the filing and the preparation of the plat shall be paid by the person petitioning for the vacation.

17.84.015 Administration.

A. The Director of the Bureau of Transportation (the "Director") may establish rules and procedures for Street Vacations.

B. The Director shall be the City's recording officer and clerk for purposes of ORS 271.005 to 271.230 pertaining to the vacation of a public right-of-way, plat, public square or place.

17.84.020 Fees.

(Replaced by Ordinance No. 172859; amended by Ordinance No. 184957, effective November 25, 2011.)

A. Whenever a request for a petition for the vacation of a street, public place or plat, or any part thereof is presented to the ~~Director of the Bureau of Transportation~~ Portland Bureau of Transportation ("PBOT"), the person making the

request shall pay to ~~PBOT the Director of the Bureau of Transportation~~ a fee for preparation of the petition document for vacation. The fee for this service shall be established annually by the Director ~~of the Bureau of Transportation~~ and shall ~~recover full costs including all applicable overhead charges.~~

B. When a completed petition is presented to ~~PBOT the City Auditor~~ for filing and consideration by the Portland City Council (the "Council"), the person presenting the petition for the vacation shall pay to ~~PBOT the City Auditor~~ a fee, established by the Director ~~of the Bureau of Transportation~~, to cover the estimated costs of processing the petition. All departments or bureaus involved in processing a vacation shall keep records of the costs incurred on each individual vacation proceeding and shall submit such costs to the Director ~~of the Bureau of Transportation~~ prior to passage of the vacating ordinance. If the actual cost of advertising and expenses, and all processing costs, including employee salaries and applicable overheads, related to the vacation exceed the fee collected, a sum sufficient to cover all such costs shall be collected before the vacation is completed, and payment thereof shall be a condition of the vacating ordinance.

C. ~~The Council, upon hearing the petition, may grant the same in whole or in part or deny it in whole or in part, and may make reservations or conditions as appear to be in the public interest. The reservations or conditions may pertain to:~~

- ~~1. The maintenance and use of underground public utilities or service facilities in the portion vacated;~~
- ~~2. Limitations on use of the area above and adjacent to underground utilities or service facilities;~~
- ~~3. Moving at petitioner's expense of utility or service facilities either below, on or above the surface;~~
- ~~4. Construction, extension or relocation of sidewalks and curbs;~~
- ~~5. Grading or pavement extensions;~~
- ~~6. Dedication for street use or other area in lieu of the area to be vacated;~~
- ~~7. Replat; and~~

~~8. Any other matter of like or different nature relating to the vacated area and remaining or relocated street area adjacent to petitioner's property, or area dedicated in lieu of the vacation area.~~

17.84.025 Approval Criteria for Vacating Streets.

(Added by Ordinance No. 188177; Amended by Ordinance No. 188695, effective May 24, 2018.)

A. In considering whether the vacation will prejudice the public interest, the Council will consider the following factors, as relevant:

1. The area proposed to be vacated is not needed presently, and is not identified in any adopted plan, for public services, transportation functions, utility functions, stormwater functions, view corridors and/or viewpoints, tree planting/retention, pedestrian amenities, or community or commercial uses.
2. The vacation does not prevent the extension of, or the retention of public services, transportation functions, utility functions, stormwater functions, view corridors and/or view points.
3. Public services, transportation functions, or utilities can be extended in an orderly and efficient manner in an alternate location;
4. The vacation does not impede the future best use, development of, or access to abutting property;
5. The area of the vacation is not presently, or will not in the future be, needed as part of an interconnected system of public streets that is generally consistent with the street connection and bicycle/pedestrian spacing requirements in Section 17.88.040 Through Streets.

B. When approving, or approving in part, a petition to vacate a street the Council may make reservations or conditions. Reservations or conditions may pertain to:

1. The maintenance and use of underground public utilities or service facilities in the portion vacated;
2. Limitations on use of the area above and adjacent to underground utilities or service facilities;

3. Moving at petitioner's expense the utility or service facilities either below, on or above the surface;
4. Construction, extension or relocation of sidewalks and curbs, multi-use paths, trails, or other similar pedestrian or bicycle facilities;
5. Grading or pavement extensions;
6. Dedication for street use or other area in lieu of the area to be vacated;
7. Replat; and
8. Any other matter of like or different nature relating to the vacated area and remaining or relocated street area adjacent to petitioner's property, or area dedicated in lieu of the vacation area.

17.84.030 Preliminary Consideration of Petition.

(Replaced by Ordinance No. 182760; Amended by Ordinance Nos. 184046 and 184957, effective November 25, 2011.) Pursuant to ORS 271.080 through 271.100, when a petition for the vacation of a street, public place or plat is presented to the City, ~~the Auditor-Director, it shall be reviewed the petition, and if found to be sufficient as provided by the statutes, and upon a formal investigation and review by city bureaus, utility companies, and other agencies, a report will be generated by PBOT and shall submitted the petition to the Commissioner in-Charge of the Bureau of Transportation, the Director of the Bureau of Transportation and Bureau of Planning and Sustainability for review. The Commissioner in charge of the Bureau of Planning and Sustainability shall refer the petition to the Planning and Sustainability Commission ("PSC") for action. The Commissioner in charge of the Bureau of Planning and Sustainability Following the PSC hearing, PBOT shall prepare a report to Auditor containing the findings from the formal investigation and any recommendations of the PSC. Planning and Sustainability Commission and Director of the Bureau of Transportation, and The report and petition shall be submitted the report and petition to Council for consideration. Notice of the vacation hearing shall be published and posted pursuant to ORS 271.110. The report may include recommended conditions of approval. Upon receiving the report of the Commission, the Auditor shall file the petition and forward the petition and Commissioner's report to the Council for it's preliminary consideration as provided by ORS 271.100. This review process shall be completed before the City publishes or posts public notices of the contemplated vacation.~~

17.84.040 Bond or Cash Deposit.

(Amended by Ordinance No. 184957, effective November 25, 2011.) When the Council is petitioned to vacate any street, public place or plat or part thereof, in which water mains, fire hydrants, police or fire alarm system, gas mains, steam heating mains, conduits, sewer mains or laterals, manhole structures, poles, wires or other utility or public service facilities are constructed and maintained, and the proposed vacation will require the removal of the utility or public service facilities or any portion of them, or if curbs or sidewalks are required to be extended or relocated, or if grading or additional paving is required, the ordinance vacating the street or part thereof may provide that the vacation shall not be effective unless the petitioner shall file with the ~~Auditor-Director, of the City~~ his/their acceptance of the terms and provisions of the ordinance together with a surety bond or cash deposit, in such sum as shall be fixed by the Council. The surety bond or cash deposit shall be to the effect that, in the event the vacation is granted, the petitioner will, within 90 days or such other time as the Council may fix after the vacation ordinance is effective, remove or have removed by the owner, all or any part of the utility or public service facilities as required by the vacation ordinance and reconstruct and relay the facilities or have them reconstructed and relaid by the owner in the places as may be required by the Director ~~of the Bureau of Transportation~~, and obtain other work as required by the ordinance in the manner directed by ~~the Director of the Bureau of Transportation~~ PBOT, all at the expense of the petitioner.

17.84.050 Statutory Procedures Applicable.

The provisions applicable to a vacation, set forth in ORS 271, shall apply to each vacation. Alternative procedures therein allowed may be followed.

17.84.060 Consent to Vacation for City as Owner.

Whenever City owned property abuts area of a street or plat sought to be vacated by petition, or is located within "affected area" fixed by statute, the Mayor, City Commissioner or ~~City Commission~~ Director under whose jurisdiction the property has been placed may sign consent to the vacation as an owner for the purpose of Council jurisdiction and consideration.

17.84.065 Vacation on Council's Own Motion; Notification.

(Added by Ordinance No. 136419, effective May 28, 1973.) Whenever the City Council shall initiate vacation proceedings on its own motion, the ~~City Auditor~~ Director shall give notice of the proposed action and hearing to all owners of real property affected pursuant to ORS 271.130 thereby. ~~The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case, not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. When a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted.~~ Whenever the Council shall initiate proceedings to vacate a plat or portion thereof, the ~~City Auditor~~ Director shall notify all property owners within such plat or part thereof proposed to be vacated of the proposed action and hearing.

The notification required by this Section shall be given not less than 28 days before the hearings on the proposed action.