

**ORDINANCE No. 187750**

Vacate a portion of NW 101<sup>ST</sup> Ave south of NW Thompson Rd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10104)

The City of Portland ordains:

Section 1. The Council finds:

1. On November 2, 2015 the Office of the City Auditor certified a petition for the vacation of the easterly 25 feet of a portion of NW 101<sup>ST</sup> Avenue south of NW Thompson Road. The petition was initiated by Elizabeth J. Denney (the "Petitioner"), who owns the adjacent property to the west of the street vacation area.
2. The Forest Heights Homeowners' Association owns the abutting property to the east of the vacation area. All of the vacation area will revert to them and they have stated support for the vacation as proposed.
3. NW 101<sup>ST</sup> Avenue has a total width of 50 feet. The westerly 25 feet of the street is located outside of the City of Portland limits and is under the jurisdiction of Multnomah County. This portion of street is currently being vacated through the Road Vacation process under Multnomah County Code Section 5.10.225. The westerly 25 feet of the street will revert back to the Petitioner upon approval of the vacation by City Council.
4. The petition states that the reason for the vacation is to consolidate property and to restrict trespassing on the Petitioner's property.
5. 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 March 8, 2016 and on file with the Office of the City Auditor and the Bureau of Transportation.
6. 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.
7. 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 portion of street be vacated.

NOW, THEREFORE, the Council directs:

- a. The following described street area is hereby vacated:

As described on Exhibit A and depicted on Exhibit B attached hereto and by this reference made a part hereof.

Contains 6,550 square feet, more or less.

- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:

1. In accordance with ORS 271.120 and City of Portland policy, this ordinance (this "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. Subject to Paragraph 3 below, this 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.
2. Notwithstanding 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.
3. If any property, encumbered by an easement reserved in this Ordinance, is ever rededicated as public right-of-way, that portion of the easement located in the rededicated right-of-way shall automatically be terminated.
4. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
5. 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 this 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 this Ordinance.

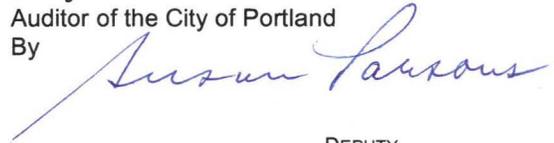
Section 3. Notice is given that the street vacation will not be effective until a certified copy of this Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording this Ordinance are that 30 days have passed after final Council passage of this Ordinance, that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

Section 4. After the prerequisites to recording this 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, PBOT, 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 and retain a copy in RWA File No. 8040.

Passed by the Council, MAY 18 2016

Commissioner Steve Novick  
Prepared by: Lance D. Lindahl;  
Date Prepared: March 29, 2016  
RW # 8040

**Mary Hull Caballero**  
Auditor of the City of Portland  
By



DEPUTY

Agenda No. **187750**  
**ORDINANCE NO.**  
 Title

Vacate a portion of NW 101<sup>ST</sup> Ave south of NW Thompson Rd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10104)

<p><b>INTRODUCED BY</b>                  Commissioner/Auditor:  <b>COMMISSIONER STEVE NOVICK</b></p>	<p>CLERK USE: DATE FILED <u>MAY 03 2016</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety – Novick <i>CW</i></p>	<p>Mary Hull Caballero                  Auditor of the City of Portland</p> <p>By: <i>[Signature]</i>                  Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureau: <b>Transportation</b>                  Development, Permitting &amp; Transit Group                  Manager: Christine Leon <i>[Signature]</i>                  Assistant Director: Maurice Henderson <i>[Signature]</i></p> <p>Prepared by: Lance D Lindahl <i>[Signature]</i>                  Date Prepared: March 29, 2016                  Supervisor: David McEldowney                  RWA: <i>John R. Dery on behalf of David McEldowney</i></p>	<p><b>ACTION TAKEN:</b></p> <p>MAY 11 2016 PASSED TO SECOND READING MAY 18 2016 9:30 A.M.</p>
<p><b>Impact Statement</b>                  Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p><b>Portland Policy Document</b>                  If "Yes" requires City Policy paragraph stated in document.                  Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p><b>City Auditor Office Approval:</b>                  required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b>                  required for contract, code, easement, franchise, comp plan, charter <i>GF</i></p>	
<p><b>Council Meeting Date</b>                  May 11, 2016</p>	

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time:                  Total amount of time needed:                  (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p>Total amount of time needed: <b>5 Minutes</b>                  (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Novick	4. Novick <input checked="" type="checkbox"/>	
Hales	Hales <input checked="" type="checkbox"/>	