

AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, RELATING TO VACATIONS OF STREETS, ALLEYS, AND EASEMENTS AND ESTABLISHING CRITERIA AND PROCEDURES FOR THESE VACATION.

WHEREAS, the Revised Code of Washington establishes the authority of the City to vacate public rights-of-way; and

WHEREAS, it is desirable to establish fair and certain procedures and criteria to govern the vacation of streets alleys and easements; and

WHEREAS, an Environmental Checklist was prepared and a Final Declaration of Non-Significance was made pursuant to the requirements of the State Environmental Policies Act (RCW 43.21C; WAC 197-10 and Ordinance No. 2473) City Council considered this information before taking final action on this Ordinance.

BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Scope. This Ordinance establishes the procedure and criteria that the City will use to decide upon vacations of streets, alleys, and public easements.

Section 2. Applicability. This Ordinance applies to each request for vacation by City Council or by petition.

Section 3. Purpose. A vacation is a mechanism by which the City may relinquish its interest in streets, alleys, or easements.

Section 4. Criteria. The City Council may vacate a street, alley, or easement only if it finds that

- a. The vacation is in the public interest; and
- b. No property will be denied direct access as a result of the vacation.

Section 5. Reservations. In vacating a street, alley, or easement, the City Council may reserve for the City any easements or the right to exercise and grant any easements for public utilities and services.

Section 6. Initiation of Vacation Proceedings. A Vacation may be initiated by --

1. City Council; or
2. The owners of more than two-thirds of property abutting the portion of the street or alley to be vacated or, in the case of an easement, two-thirds of property underlying the portion of the easement to be vacated.

Section 7. Application, requirements of submittal. An applicant may apply for a vacation by submitting the following:

1. A vacation petition with supporting affidavits on forms provided by the Department of Community Development (hereafter referred to as the Planning Department).
2. A legal description of the street, alley, easement, or part thereof to be vacated. This legal description shall be prepared by a surveyor licensed in the State of Washington.
3. 26 paper copies of a site map showing the street, alley, easement or part thereof to be vacated and showing all properties with subdivision, block, lots, and specifying open and unopen rights-of-ways for a radius of 400 feet from the street, alley, easement, or part thereof, to be vacated. These site maps must be at a scale of 1" = 100'.
4. An 8 1/2" x 11" clear plastic transparency of the site map.
5. Address labels obtained from the King County Comptroller's office containing the names and addresses of the owners of all property within 300 feet of any boundary of the street, alley, easement, or part thereof, to be vacated.
6. A copy of the King County Assessor's map identifying the properties specified in paragraph 5 of this section.
7. Two (2) copies of an appraisal prepared by a qualified land appraiser establishing the fair market value of the street, alley, or part thereof to be vacated. An appraisal is not required if an easement only is proposed to be vacated.
8. A completed Environmental Checklist on a form provided by the Planning Department.
9. The vacation application fee as established by Ordinance.
10. Any additional information or material that the Director of the Department of Community Development or his appointee (hereafter referred to as the Planning Director) determines is reasonably necessary for the City Council to consider the requested vacation.

Section 8. Vacation File.

1. Content. The Planning Director shall compile a vacation file which contains all information pertinent to the proposed vacation.
2. Availability. This file is a public record. It is available for inspection and copying in the Planning Department during regular business hours.

Section 9. Hearing Date. Subsequent to the completion of an application, or initiation by City Council, the City Council shall by resolution fix a time when City Council will hold a public hearing on the proposed vacation. The hearing will be not more than 60 days nor less than 20 days after date of passage of the resolution.

Section 10. Staff Report

1. Contents. The Planning Director shall prepare a staff report containing the following information:
 - a. All pertinent application materials submitted by the applicant.
 - b. All comments regarding the vacation received in the Planning Department prior to distribution of the staff report.
 - c. An analysis of the requested vacation in relation to the provisions of this Ordinance and the applicable provisions of the comprehensive plan.
 - d. A recommendation on the vacation.
2. Distribution. Prior to the hearing, the Planning Director shall distribute this report to --
 - a. Each member of the City Council; and
 - b. Each applicant (if applicable).

Section 11. Public Notification.

1. Content. The Planning Director shall prepare a public notice containing the following information:
 - a. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by City Council.
 - b. A locational description in non-legal language along with a vicinity map that identifies the street, alley, easement, or part thereof.
 - c. A statement of the time and place of the public hearing before City Council.

- d. A statement of the availability of the vacation file.
 - e. A statement of the right of any person to submit written comments to the City Council prior to or at the Public Hearing and to appear before the City Council at the hearing to give comments orally.
2. Distribution. At least 20 calendar days before the public hearing the Planning Director shall distribute the public notice as follows:
- a. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement or part thereof to be vacated.
 - b. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated.
 - c. A copy will be published in the official newspaper of the City.
 - d. At least 3 copies will be posted in conspicuous public places in the City.
 - e. A copy will be posted on the street, alley, easement, or part thereof to be vacated.

Section 12. Limitation on Authority.

1. Areas that may not be vacated.

The City may not vacate any street, alley, easement, or part thereof that abuts any body of water unless --

- a. The vacated area will thereby become available for the City or other public entity to acquire and to use for a public purpose; or
- b. The vacated area is zoned for industrial uses.

2. Objection by Property Owner

The City may not hold the public hearing or grant the vacation if the owners of 50 percent or more of the property abutting the street or alley or part thereof, or underlying the easement or part thereof, to be vacated file a written objection in the Planning Department prior to the time of the hearing.

Section 13. Public Hearing

1. Hearing in General. The City Council shall hold a Public Hearing on each requested vacation.

2. Hearing Declared Open. The hearings of the City Council are open to the public.

Section 14. Electronic Recordings and Minutes

1. Electronic Recordings. The City Council shall make a complete electronic sound recording of each hearing.

Section 15. Continuation of the Hearing

The City Council may continue the hearing if, for any reason, it is unable to hear all of the public comments on the vacation, or if the City Council determines that it needs more information on the vacation. If during the hearing the City Council announces the time and place of the next hearing on the vacation, no further notice of that hearing need be given.

Section 16. Planning Director's Presentation at the Hearing. At the outset of the hearing, the Planning Director shall make a brief presentation of --

1. An analysis of the requested vacation in relation to the provision of this Chapter and the applicable provisions of the comprehensive plan; and
2. A recommendation on the requested vacation.

Section 17. Public Comments and Participation at the Hearing. Any interested person may participate in the public hearing in either or both of the following ways:

1. By submitting written comments to City Council either by delivering these comments to the Planning Department prior to the hearing or by giving these directly to the City Council at the hearing.
2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the City Council. The City Council may reasonably limit the extent of these oral comments to facilitate the orderly and timely conduct of the hearing.

Section 18. Final Decision.

1. General. Following the public hearing, the City Council, shall by motion approved by a majority of the entire membership in a roll call vote, make a final decision that either --

a. Grants the vacation and either--

- (1) Accepts monetary compensation in the amount of up to 1/2 the fair market value for the street, alley, or part thereof to be vacated; or
- (2) Accepts the grant of a substitute public right-of-way which has value as an access way at least equal to the vacated street, alley, or part thereof;
- (3) Accepts any combination of 1 and 2 above totaling but not more than 1/2 the fair market value of the street or alley, or part thereof to be vacated;
- (4) Accepts a grant of an easement in exchange for the easement vacated; or
- (5) Accepts no compensation or grant in exchange for the vacated easement; or

b. Denies the vacation.

2. Additional Requirement. Subsequent to passage of an Ordinance vacating a street, alley, or part thereof the applicant shall deposit with the City Clerk any moneys or dedications required by City Council for compensation for the vacation, and any documents for reservation made under Section 5 of this Ordinance. The City Clerk must receive these before the Director of Administration and Finance signs the Ordinance and before the Ordinance is recorded with the King County Department of Elections and Records.

3. Distribution. Within 5 work days of City Council's decision, or after the City receives any required compensation, or reservations, whichever is later, the Planning Director shall mail a copy of the Notice of Decision to the applicant.

Section 19. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance.

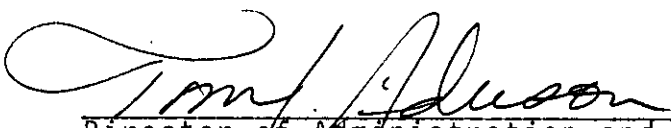
Section 20. This Ordinance shall be in force and take effect five (5) days from and after its passage by the City Council and publication as required by law.

SIGNED IN AUTHENTICATION thereof on the 5th day
of November, 1979



Mayor

ATTEST



Director of Administration and
Finance
(ex-officio City Clerk

APPROVED AS TO FORM



City Attorney