

PUBLIC FACILITIES

W - Vacations

COUNCIL POLICY NO. W-1

TITLE: VACATION PROCESS

POLICY: See attachment.

REFERENCE: Legal Department Vacation Procedures - Revised March 1992
(Ordinance No. 55-90)

**CITY OF SALEM
VACATION OF PUBLIC PROPERTY
ORDINANCE NO. 55-90**

Vacation of streets, alleys, plats and easements in the City of Salem are governed by state law, ORS Chapter 271, and city ordinance, SRC 76.130 to 76.144. Prior to filing a vacation petition it is recommended you first confer with the Public Works Department and the Planning Administrator relative to the proposed vacation.

Because of the complex nature of vacation proceedings it is suggested you work with a private attorney or land use consultant to prepare the vacation petition.

VACATION PROCESS

1. Petition and Signature Requirements

The petition must include the following:
(The attached sample forms are to be used only as a reference)

- a. Legal Description of the proposed area to be vacated.
- b. Where the City of Salem is an abutting property owner, a consent form should be presented to Public Works (Engineering Division, Traffic Subdv) for the appropriate signature. Consent by the City at this stage does not bind the City Council to ultimately vacate the property in question.

If Public Works refuses to consent to the vacation, the refusal shall be in writing setting forth their reasons. The Petitioner may then proceed to the Council for consent.

- c. The consent of 100% of abutting property owners (not including the street area) is required. Property which abuts only at a point is considered abutting property and owner must sign the consent form.
- d. The consents of the owners of 2/3 of the *affected area (does not include dedicated streets) are required. The affected area is to be shown outlined in red on a map attached to the petition. (* see 2.b)
- e. The petitioner (the person filing the petition) in addition to signing Page 2 of the petition must also sign the consent to vacation on Exhibit "A" (assuming he owns property abutting the portion of street to be vacated).
- f. All signatures must appear the same as those on the property deed, and usually includes that of both husband and wife.
- g. All signatures must be in ink.

- h. The consent of the contract purchaser, if any, is required along with that of the record owner, on property abutting the street proposed to be vacated. The consent of the contract purchaser of record is sufficient on other property within the affected area.
- i. The completed petition is to be filed, with the filing fee at the Permit Application Center, Room 320, first and will be forwarded on to the City Recorder for initial review.
- j. All documents submitted must be typed or printed legibly in blue or black ink.

2. Tax Maps

Accompanying the petition there should be a tax map showing the following:

- a. The street, alley, plat or easement to be vacated;
- b. The area surrounding the proposed vacation known as the "*affected area". (Running 200' parallel and 400' off each end of proposed vacation).
- c. Those ownerships consenting to the vacation by placing a mark on each property consenting.

3. Title Report

Also accompanying the petition there should be a title report verifying ownership of the property abutting the area proposed to be vacated and in the *affected area (*see 2.b). Property is considered abutting even at "a point". If the petition is for a public easement vacation, the title report should also describe the name of the owner of the property where the easement is located, that owner's address, tax lot number, and any liens pertaining to the property where the easement is located.

4. Filing Fee

An initial filing fee of \$1150 payable to the City of Salem is required. This fee is to cover the cost of giving legal notice of the proposed vacation, the recording of the vacation ordinance and other anticipated costs. The costs may be increased or decreased depending on said final cost.

5. Verification

Upon the filing of the petition, the petition shall be referred to the Public Works Department for verification of the petition requirements. Petitions in proper form are returned to the City Recorder for presentment to the City Council.

6. Public Hearing before City Council

Petitions presented to Council will be set down for public hearing. Notice is given of such hearing by publication in a newspaper once a week for two successive weeks and by posting at each end of the property to be vacated. Copy of the legal notice will be mailed to the petitioners and to all abutting property owners. Petitioners should be prepared to appear at the hearing in person or through their attorney or representative. At the hearing the Council will receive the planning commission's recommendation, a staff report from the Director of Public Works setting forth findings in regards to the proposed vacation and testimony for the vacation. The staff report shall also be mailed to the petitioner prior to the hearing by Public Works (588-6075). The staff report will be available on Thursday afternoon before the Monday Council meeting.

7. Assessments and Conditions

- a. It is the policy of the City Council to assess special benefits to the abutting property as a result of the vacation. The amount of the assessment is generally determined by computing the square foot value of property in the vicinity of the vacation and taking this figure and multiplying it by the square footage of the area to be vacated. Special benefits also include the costs of public improvements in the vacated area.
- b. Conditions may also be attached to the vacation. If there are existing utility lines (electric, telephone, sewer, water), the vacation will be made subject to an easement for maintenance of these lines.
- c. Other prerequisites may be required of Council as a condition of the vacation which may require a written agreement to be entered into with the City.

8. Vacation Ordinance

The vacation process is consummated by the passage of an ordinance by Council vacating the public property or plat and the recording of the ordinance with the County Clerk. The vacation will not be effective until it is recorded. City Recorder will not so record until all conditions are satisfied and assessments are paid. Application may be made to pay the assessment in installments.

9. Questions

Should you have further questions, you may contact the City Recorder's office at 588-6097.

BEFORE THE COMMON COUNCIL OF THE CITY OF SALEM

MARION COUNTY, OREGON

In the Matter of the Vacation

of

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PETITION FOR VACATION

I.

The undersigned petitioner(s) hereby request(s) that the following described area be vacated, to-wit:

(Legal Description)

II.

The area described above should be vacated for the following reasons:

III.

That if vacated the area described above is proposed to be used in the following manner:

IV.

There is appended hereto, marked "Exhibit A", and by this reference made a part hereof, the consent of all abutting property owners.

V.

There is appended hereto, Marked "Exhibit B", and by this reference made a part hereof, the consent of the owners of real property in the affected area, as defined in ORS 271.080, and that said owners represent the ownership of more than two-thirds of the property affected by the proposed vacation.

WHEREFORE, your petitioner(s) pray(s) that all of the property described aforesaid be vacated.

PETITIONER(S)

EXHIBIT A

BEFORE THE COMMON COUNCIL OF THE CITY OF SALEM

MARION COUNTY, OREGON

In the Matter of the Vacation)
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 of)
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CONSENT TO THE VACATION BY ALL THE

ABUTTING PROPERTY OWNERS

The undersigned, being owner(s) of all the property abutting the proposed vacation described aforesaid do(es) hereby consent(s) to the vacation.

Dated this _____ day of _____, 19__.

NAME	SIGNATURE	TAX LOTS	RECORDING NO.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

EXHIBIT B

BEFORE THE COMMON COUNCIL OF THE CITY OF SALEM

MARION COUNTY, OREGON

In the Matter of the Vacation)
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 of)
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CONSENT TO THE VACATION BY OWNERS

OF PROPERTY IN THE AFFECTED AREA

The undersigned, being owners of real property in the affected area of the proposed vacation described aforesaid do hereby consent to the vacation.

NAME	SIGNATURE	TAX LOTS	RECORDING NO.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____