

DRAFT LANGUAGE REGARDING STREET VACATIONS FOR A NEW CHAPTER IN THE MUNICIPAL CODE

Chapter 11.19 – Street Vacations

11.19.010 – Purpose.

This chapter establishes the procedures, notice requirements, and fees for the vacation of public streets and alleys within the City in conformance with the authority granted to the City by RCW 35.79 Streets – Vacation.

11.19.020 – Initiation of vacation.

The owner(s) of an interest in any real property abutting any public street or alley who may desire to vacate the street or alley, or any part thereof, may petition the City Council for such vacation. In the alternative, the City Council may initiate a vacation by resolution. The petition or resolution shall be filed with the City Clerk or designee.

- A. Petition for Vacation. The petition shall be in a form prescribed by the City and shall be signed by the owner(s) of more than two-thirds of the real property abutting the portion of the street or alley sought to be vacated.
- B. Petition Fees. Every petition for the vacation of any public street, alley or any part thereof shall be accompanied by a fee in an amount established by resolution of the City to defray the administrative costs incurred in processing the petition and publishing, posting and mailing notices. Upon receipt of the fee(s) such fees shall be non-refundable.
- C. Submittal Requirements for Petitions. Every petition shall be accompanied by the following:
 - 1. A Spokane County assessor’s map showing with a solid red line the portion of the street or alley sought to be vacated;
 - 2. A vicinity map showing the general area of the proposed vacation;
 - 3. A copy of the record of survey or plat, if available, for the subject street and alley proposed for vacation and abutting properties, streets, and alleys within one hundred (100) feet on all sides of the proposed vacation;
 - 4. Written evidence of any and all utility easements, encumbrances, other allowances or reservations, whether public or private, pertaining to the street or alley proposed for vacation; and
 - 5. A written narrative describing the reasons for the proposed street vacation, the physical limits of the proposed street vacation and the public benefit of the proposed street vacation.
- D. Setting of Hearing. Upon receipt of the petition, the mandatory fee, and all required documents, the City Clerk or designee shall determine whether the petition has been signed by the owner(s) of more than two-thirds of the property abutting the part of the street or alley to be vacated. If the petition has been signed by the requisite percentage of such owners, the City Clerk or designee shall bring the petition before the City Council within thirty (30) days of receipt of the petition for the City Council, by resolution, to fix the time and place when the petition will be considered by the City Council, which such time shall

not be more than sixty (60) days nor less than twenty (20) days after the adoption of the resolution. Where the City Council initiates the vacation by resolution, that resolution shall fix the time and place when the proposed vacation will be considered by the City Council.

- E. Notice of Hearing. Upon the passage of the resolution fixing the time for hearing the petition or proposal for vacation, the City Clerk or designee shall give notice of the time, place, and purpose of the hearing. This notice shall be given not more than ninety (90) days and not less than twenty (20) days prior to the hearing. Notice shall be given by:
1. Posting a written notice in three (3) conspicuous places in the City;
 2. Publishing written notice once in the City's official newspaper;
 3. Posting a minimum 24-inch by 36-inch notice/sign in a conspicuous place at each end of the street or alley sought to be vacated describing the proposed vacation and the date, time and location of the public hearing; and
 4. Mailing written notice to all petitioners at the addresses on the petition and all owners of property abutting the street or alley proposed to be vacated, as shown on the records of the Spokane County assessor. The same written notice shall be sent to the representative of the petitioners at the address on the petition.
- F. Staff Report. The City Clerk or designee, shall prepare a report concerning the proposed vacation. The Public Works Director or designee, shall evaluate the advisability of the proposed vacation based on the existing and future transportation system needs and requirements. The report shall address the criteria to be considered by the City Council in determining whether to vacate the street or alley. In preparing the report, the City Clerk or designee shall solicit comments from the other City departments, and may solicit comments from other governmental agencies and utility companies having jurisdiction or utilities within the boundaries of the City. The report shall be submitted to the City Council and to the petitioner(s) and his or her representative not less than three (3) business days before the hearing.
- G. Protest. If, prior to the time of the hearing, fifty percent (50%) or more of the abutting property owners file written objections to a City Council-initiated vacation with the City Clerk, the City shall be prohibited from proceeding with the vacation. Such objection must be submitted to the City prior to 4:00 p.m. on the date of the hearing.

11.19.030 – City Council review.

The hearing on the petition or proposal shall be held before the City Council upon the day fixed by resolution. In its consideration of the proposed vacation of the street or alley, the City Council shall render a decision based on the following criteria:

- A. Whether a vacation of the street or alley will better serve the public;
- B. Whether the street or alley is no longer required for public use or public access;
- C. Whether the substitution of a new and different public way would be more useful to the public;
- D. Whether conditions may so change in the future as to provide a greater use or need than presently exists; and
- E. Whether objections to the proposed vacation are made by owners of private property (exclusive of petitioners) abutting the street or alley or other governmental agencies or members of the general public.

If the proposed vacation abuts a body of water one of the following must apply:

- A. The vacation is sought to enable the City to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;
- B. The City, by resolution of its legislative authority, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any of the following purposes: Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or
- C. The vacation is sought to enable the City to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline area to which the streets or alleys sought to be vacated abut, had the properties included in the plan not been vacated.

11.19.040 – City Council decision.

If the City Council determines to grant the vacation, the action shall be made by ordinance with such conditions or limitations as the City Council deems necessary and proper to preserve any desired public use or benefit. The ordinance shall contain a provision retaining or requiring conveyance of easements for construction, repair and maintenance of existing and future utilities and services.

Pursuant to RCW 35.79.040, the City Council, in approving a street vacation request, shall specify that the vacated portion of the street or alley shall belong to the abutting property owners, one-half to each, unless factual circumstances otherwise dictate a different division and distribution of the street or alley to be vacated.

The City Council reserves the right to require compensation consistent with RCW 35.79.030, including up to one-half of appraised value (or up to full appraised value if the right-of-way has been dedicated for twenty-five (25) years or more or was acquired at public expense). One-half (1/2) of all compensation received shall be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the City, as required by RCW 35.79.030. Any required compensation shall be paid to the City prior to the City's participation in required title transfer actions.

11.19.050 – Vacation of Streets abutting bodies of water.

Prior to adopting a resolution under MLMC Section 11.19.020(D), declaring unsuitability, the City shall:

- A. Compile an inventory of all rights-of-way within the City that abut the same body of water;
- B. Conduct a study to determine if the subject right-of-way is suitable for port, boat moorage, launching, beach or water access, park, public view, recreation, or education purposes;
- C. Provide posted notice on the subject right-of-way stating that the area is public access, is proposed to be vacated, and that objections may be made at the public hearing or by letter; and
- D. Make findings that the right-of-way is not suitable for the listed purposes and that the vacation is in the public interest.

No vacation of a street or alley abutting a body of water is effective until the fair market value has been paid for the vacated area. Proceeds may be used only for acquiring additional beach or water access, additional public view sites, or additional moorage or launching sites, consistent with RCW 35.79.035(3).

11.19.060 – Application of zoning district designation.

The zoning district designation of the properties adjoining each side of the street or alley to be vacated shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts. The adopting ordinance shall specify this zoning district extension inclusive of the applicable zoning district designations.

11.19.070 – Recording of ordinance.

The City Clerk or designee shall cause a certified copy of the ordinance vacating a street or alley or part thereof, to be recorded in the office of the Spokane County Auditor.

11.19.080 – Compliance to City Council conditions.

All conditions of the City Council authorization and approval for any vacation shall be fully satisfied prior to any transfer of title by the City.

11.19.090 – Record of survey required.

Following the City Council's passage of the ordinance approving the proposal to vacate the street or alley, a record of survey prepared by a registered surveyor in the state of Washington and including an exact metes and bounds legal description and specifying, if applicable, any and all easements for construction, repair and maintenance of existing and future utilities and services shall be submitted by the proponent to the City Clerk or designee. Said record of survey shall contain the professional stamp and signature of the registered surveyor, and the proponent indicating acceptance of the vacated property.

11.19.100 – Monumentation.

The surveyor shall locate a monument at the intersection of the centerline of the vacated right-of-way with each street or right-of-way in accordance with the standards established by this chapter.

11.19.110 – Costs of title transfer to be borne by proponent.

All direct and indirect costs of title transfer of the vacated street or alley from public to private ownership including, but not limited to, title company charges, copying fees, and recording fees are to be borne by the proponent. The City assumes no financial responsibility for any direct or indirect costs for the transfer of title.