

CITY OF PORT ORCHARD

INFORMATION AND PROCEDURE

PETITION TO VACATE CITY RIGHT-OF-WAY

(RCW 35.79/City Resolution No. 1990)



City Clerk's Office
216 Prospect Street
Port Orchard, WA 98366
Phone (360) 876-4407



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Dear Property Owner:

This package is intended to provide basic information regarding a petition to vacate public right-of-way. It is important to remember that each petition and request is unique and must be addressed separately. The City Council is the guardian of all public property and has the obligation to carefully review each request.

Public right-of-ways were established as a means to provide the public free and convenient access throughout the community. Private property owners occasionally have a desire or need to acquire portions of the public right-of-way for their private use.

The following is the minimum criteria, which is considered by the Public Property Committee and the City Engineer for preliminary recommendation to the City Council who makes the final decision after the required Public Hearing process on all Petitions to Vacate City Right-of-Way. Other information unique to individual parcels of Right-of-Way may also be considered.

Right-of-Way should only be vacated if:

1. The City does not have a foreseeable or possible use of the property.
2. The removal of public access does not adversely affect access to other property(s).
3. The vacation of the property does not adversely affect utilities such as water, sewer, storm, electric and others.
4. The enlarging of property area does not create potential or actual land uses that are inconsistent with city growth plans and goals.
5. The City receives the fullest monetary amount allowed by law.
6. The cost of vacating public property must be paid by the applicant. A non-refundable \$100 application fee is paid by the petitioner(s). In the event the administrative cost to process a Petition to Vacate exceeds \$100, the petitioner will be assessed additional fees.
7. There has been a public hearing as set forth by RCW 35.79, with adjacent property owners receiving notification of the pending vacation request(s).

If you feel your request would meet the above basic criteria and not be detrimental to the community, procedural guidelines and a sample petition to vacate are attached for your convenience. Please submit your petition with the proper supporting document to the office of the City Clerk, along with the deposit of \$100 and a certificated check for the full appraised value. The petition will then be reviewed by the City Engineer and Public Property Committee **prior** to the date being set for Public Hearing.

Should you have any questions, please feel free to contact my office at (360) 876-7024, by mail at 216 Prospect Street, Port Orchard, WA 98366, or by email pkirkpatrick@cityofportorchard.com.

Sincerely,

City of Port Orchard

Patti Kirkpatrick, CMC
City Clerk



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PROCEDURE TO SUBMIT PETITION TO VACATE CITY RIGHT-OF-WAY

(RCW 35.79/City Resolution No. 1990)

- 1) Obtain an appraisal of right-of-way proposed to be vacated. In lieu of an appraisal value of the land may be based on the following square foot valuations: residential \$5; Commercial \$10; and Industrial \$10.
- 2) Submit to the City Clerk's office a Petition to Vacate signed by all abutting property owners* with following information or attachments:
 - a. Full Appraisal;
 - b. Legal Description of portion of right-of-way proposed to be vacated;
 - c. Dimensions of area proposed to be vacated;
 - d. Copy of Kitsap Co. Assessor's map with right-of-way proposed to be vacated outlined or highlighted;
 - e. Application fee of \$100;
 - f. Certified check in an amount equal to the full appraised or estimated value of land.

**In the event an abutting property owner does not oppose the request to vacate, but is not interested in ownership of the portion abutting their property, a notarized statement may be submitted by the non-interested property owner, to allow another abutting property owner to receive ownership of that portion of vacated right of way.*

PROCESSING PROCEDURE:

- 1) Staff review Petition package prior to actual acceptance of Petition to confirm all information, fees and attachments are included.
- 2) Accepted petition is transmitted to Public Property Committee and the City Engineer for review and recommendation. Review standards consist of, but are not limited to:
 - a. The City does not have a foreseeable or possible use of the property.
 - b. The removal of public access does not adversely affect access to other property(s).
 - c. The vacation of the property does not adversely affect utilities such as water, sewer, storm, electric, and others. Mail copy of the application to: Attn: Kitty Ogg, Puget Sound Energy, 6522 Kitsap Way, Bremerton, WA 98312
 - d. The enlarging of property area does not create potential or actual land uses that are inconsistent with city growth plans and goals.
 - e. The City receives the fullest monetary amount allowed by law. (The cost of vacating public property must be paid by the applicant. A non-refundable \$100 Application Fee is paid by the petitioner(s). In the event the administrative cost to process a Petition to Vacate exceeds \$100, the petitioner will be assessed additional fees.)
 - f. There has been a public hearing as set forth by RCW 35.79, with adjacent property owners receiving notification.

- 3) After Public Property Committee and the City Engineer review, Clerk's Office shall prepare draft resolution for Council consideration setting date and time for Public Hearing on Petition to Vacate. Such Public Hearing shall not be more than 60 days and not less than 20 days after date of passage of such Resolution.
- 4) After passage and publication of resolution the following notification process shall be followed:
 - a. Resolution published in official newspaper
 - b. Post notice of Public Hearing at the following locations:
 - (1) Subject property
 - (2) City Hall bulletin board
 - (3) Library bulletin board
 - (4) Kitsap County Courthouse bulletin board
 - c. Mail notice (copy of Resolution) to all abutting property owners as provided by the County Treasurer/Auditor.

Public Hearing

1. Staff report
2. Committee report and recommendation
3. Public input/comment
4. Council consideration and action

Petition approved/denied:

1) DENIED:

- a. 50% of abutting property owners file writes objection to the Clerk 15 days prior to hearing the City is prohibited from proceeding with the Resolution.
- b. Process ends, should Council deny the Vacation request. Certified check returned to petitioner(s) on _____.

2) APPROVED:

_____ Certified check of the appraised value receipted by Clerk's Office with copy of receipt provided to Petitioner(s)

_____ Ordinance is prepared and submitted for legislative approval at next regular meeting of City Council.

_____ Approving ordinance or a summary thereof shall be published in the City's official newspaper. Vacation of right of way is effective five (5) days after date of such publication.

_____ Ordinance is recorded with Kitsap County Auditor's Office.

SHOULD YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE CITY CLERK'S OFFICE AT; 216 PROSPECT STREET, PORT ORCHARD, WA OR BY PHONE (360) 876-4407



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STREET VACATION PETITION

TO THE CITY COUNCIL OF THE CITY OF PORT ORCHARD:

- 1. The undersigned, owners of two-thirds of the real property abutting upon that public street described below, do hereby petition the City of Port Orchard to vacate said street/alley, described as follows:

Legal description:

(Legal description of portion of right-of-way, which is subject of petition)

all situated in the City of Port Orchard, County of Kitsap, State of Washington, and request that said City Council by Resolution fix a time and place when this Petition shall be heard and determined by that authority, which time shall not be more than sixty (60) days nor less than twenty (20) days after passage of such Resolution.

- 2. The undersigned proposes the following:
 - a. Proposed use of the vacated Right-of-Way: _____
 - b. The proposed vacation is located in _____ zoning district.
 - c. The property is approximately _____ feet wide by approximately _____ feet long, containing approximately _____ total square feet.
 - d. Provide a map with Right-of-Way proposed to be vacated outlined or highlighted.
 - e. The undersigned hereby agree to pay the full appraised value of the vacated right-of-way to the City of Port Orchard, and comply with all conditions required by the City, upon approval of the petition. The petitioner hereby requests that:

_____ Obtain an appraisal of right-of-way proposed to be vacated. In lieu of an appraisal value of the land may be based on the following square foot valuations: residential \$5; Commercial \$10; and Industrial \$10.

_____ Certified check is an amount equal to the full appraised or estimated value of land. *(Certified check to be held until vacation is approved or denied by Council)*

- 3. Verification by the City of Port Orchard of the undersigned who are the legal property owners representing one hundred (100) percent of the abutting property.

Patricia J. Kirkpatrick, CMC, City Clerk

4. The undersigned has paid to the City Clerk the \$100 application fee. It is understood that this fee is not refundable, that it is for the purpose of partially defraying the normal administrative, engineering and legal expenses in processing the petition for vacation, and that it does not constitute a payment for the street vacation requested in the petition.

Receipt No: _____ Date _____

These pages are a group of pages containing an identical text and prayer intended by the signers of this Petition to be presented and considered as one Petition and may be filed with other pages containing additional signatures, which cumulatively may be considered as a single Petition.

WARNING: Every person who signs this Petition with any other than his true name, or who knowingly signs more than one of these Petitions, or signs a Petition when he is otherwise not qualified to sign, or who make any false statement shall be guilty of a misdemeanor.

PRAYER OF PETITION: For the vacation of a portion of that street/alley commonly known as City right-of-way and called _____.

Signatures of petitioners (Note: all persons who have an ownership interest **must sign** the petition. This includes co-owner(s) and/or spouse.

Name Address Phone Tax Parcel Number

(Name Printed or Typed)

(Signature)

Name Address Phone Tax Parcel Number

(Name Printed or Typed)

(Signature)

Name Address Phone Tax Parcel Number

(Name Printed or Typed)

(Signature)