ORDINANCE NO. 013-14

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, REPEALING RESOLUTION NO. 1990 AND AMENDING PORT ORCHARD MUNICIPAL CODE CHAPTER 12.08 REGARDING STREET VACATIONS

WHEREAS, recently received applications for street vacations have prompted City staff to review Resolution No. 1990 and Port Orchard Municipal Code (POMC) Chapter 12.08 relating to street vacations; and

WHEREAS, during the review process it was determined that Resolution No. 1990 and Chapter 12.08 set forth rules and levels of compensation to be paid for street vacations that are inconsistent with State law (Chapter 35.79 RCW); and

WHEREAS, Resolution No. 1990 has not been updated since its adoption in 2002 and Chapter 12.08 has not been updated since 1980 or earlier; and

WHEREAS, a repeal of Resolution No. 1990 and an amendment to Chapter 12.08 Vacations are necessary and appropriate in order to bring the City's street vacation laws and policy into compliance with State law; and

WHEREAS, the public property committee has reviewed the changes and supports the repeal of Resolution No. 1990 and the amendments to Chapter 12.08; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. REPEALER: Resolution No. 1990 is hereby repealed in its entirety.

SECTION 2. Port Orchard Municipal Code Chapter 12.08 is hereby amended to read as follows.
Chapter 12.08
VACATIONS

Sections:
12.08.010 Petition by owners – Fixing time for hearing.
12.08.020 Notice of hearing – Objections prior to hearing.
12.08.030 Hearing – Ordinance of vacation.
12.08.040 Limitations on vacations of street abutting bodies of water – Procedure.
12.08.050 Title to vacated street or alley.
12.08.060 Vested rights not affected.

12.08.010 Petition by owners – Fixing time for hearing.

The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the city to make vacation, giving a description of the property to be vacated, or the city council may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, the city council by resolution shall fix a time when the petition will be heard and determined by the city council, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution.

12.08.020 Notice of hearing – Objections prior to hearing.

Upon the passage of the resolution the city clerk shall give twenty days’ notice of the pendency of the petition by a written notice posted in three of the most public places in the city and a like notice in a conspicuous place on the street or alley sought to be vacated. The said notice shall contain a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by resolution of the city council without a petition having been signed by the
owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, in addition to the notice hereinabove required, there shall be given by mail at least fifteen days before the date fixed for the hearing, a similar notice to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street or alley or any part thereof sought to be vacated, as shown on the rolls of the county treasurer, directed to the address thereon shown: PROVIDED, That if fifty percent of the abutting property owners file written objection to the proposed vacation with the city clerk, prior to the time of hearing, the city shall be prohibited from proceeding with the resolution.

12.08.030 Hearing – Ordinance of vacation.

The hearing on such petition shall be held before the city council upon the date fixed by resolution or at the time the hearing may be adjourned to. If the city council determines to grant the petition or any part thereof, the city shall by ordinance vacate such street, or alley, or any part thereof, and the ordinance shall provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate the city in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city shall require the owners of the property abutting the street or alley to compensate the city in an amount that does not exceed the full appraised value of the area vacated. The ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services. A certified copy of such ordinance shall be recorded in the office of the auditor of Kitsap County. One-half of the revenue received by the city as compensation for the area vacated must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city.
12.08.040 Limitations on vacation of streets 
abutting bodies of water – Procedure.

(1) No street or alley may be vacated if any portion of the 
street or alley abuts a body of fresh or salt water unless:

(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 the city council, 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.

(2) Before adopting a resolution vacating a street or alley 
under subsection (1)(b) of this section, the city shall:

(a) Compile an inventory of all rights-of-way within 
the city that abut the same body of water that is abutted by 
the street or alley sought to be vacated;

(b) Conduct a study to determine if the street or alley 
to be vacated is suitable for use by the city for any of the 
following purposes: Port, boat moorage, launching sites, 
beach or water access, park, public view, recreation, or 
education;

(c) Hold a public hearing on the proposed vacation in 
the manner required by this chapter, where in addition to the 
normal requirements for publishing notice, notice of the 
public hearing is posted conspicuously on the street or alley 
sought to be vacated, which posted notice indicates that the 
area is public access, it is proposed to be vacated, and that 
anyone objecting to the proposed vacation should attend the 
public hearing or send a letter to a particular official 
indicating his or her objection; and

(d) Make a finding that the street or alley sought to be 
vacated is not suitable for any of the purposes listed under
(b) of this subsection, and that the vacation is in the public interest.

(3) No vacation shall be effective until the fair market value has been paid for the street or alley that is vacated. Moneys received from the vacation may be used by the city only for acquiring additional beach or water access, acquiring additional public view sites to a body of water, or acquiring additional moorage or launching sites.

12.08.050 Title to vacated street or alley.

If any street or alley is vacated by the city, the property within the limits so vacated shall belong to the abutting property owners, one-half to each.

12.08.060 Vested rights not affected.

No vested rights shall be affected by the provisions of this chapter.

SECTION 3. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 4. This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 22nd day of July, 2014.

ATTEST:

Brandy Rinearson, City Clerk

C. Matthes, Mayor
APPROVED AS TO FORM:

Gregory A. Jacoby, City Attorney

Sponsored by:

Jeff Cartwright, Councilmember
NOTICE OF CITY OF PORT ORCHARD
ORDINANCE

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held July 22, 2014.

ORDINANCE NO. 013-14

AN ORDINANCE OF THE CITY OF PORT ORCHARD,
WASHINGTON, REPEALING RESOLUTION NO. 1990 AND
AMENDING PORT ORCHARD MUNICIPAL CODE CHAPTER 12.08
REGARDING STREET VACATIONS

Copies of Ordinance No. 013-14 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 013-14 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Publish: Port Orchard Independent
August 1, 2014