

TITLE 8
CHAPTER 3

PROPERTY VACATIONS

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8-3-1: PURPOSE: The purpose of this chapter is to provide a procedure for the vacation of public streets, alleys, or other rights-of-way or parts thereof, taking into consideration that the vacation of a public right-of-way may confer a special benefit to an abutting property.

8-3-2: DEFINITIONS: For purposes of this chapter the following words and phrases shall mean:

AFFECTED PROPERTY The land lying on either side of the public way or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the public way for 400 feet along its course beyond each terminus of the part proposed to be vacated to its termini, the land embraced in an extension of the public way for a distance of 400 feet beyond each terminus shall also be included.

CITY MANAGER The Council appointed City Manager or the manager's designee.

PUBLIC WAY Any public street, alley or other right-of-way reserved for vehicular or pedestrian use.

8-3-3: INITIATION: Proceedings for the vacation of a public way or part thereof, may be initiated upon petition of the abutting owner(s) or upon the majority vote of the Council. The petition of the abutting owner(s) shall be accompanied by an application fee set by resolution. The fee is to cover administrative costs and the costs of publication and notice, and is not refundable.

8-3-4: DETERMINATION OF VALUE:

8-3-4-1: COUNCIL HEARING ON INITIATION: Upon receiving the petition for vacation the City Manager shall set a public hearing before the Council to make a preliminary determination of the public interest in the vacation, if any, and to determine the value of the public way to be vacated if the vacation appears to be in the public interest. Not less than five days prior written notice of the hearing shall be given to the petitioners and the owner(s) of affected property. Such notice shall be by first class U.S. Mail to such property owners as shown in the latest Lane County tax assessment roll or upon the City's utility records.

8-3-4-2: CRITERIA: In determining the value of the public way to be vacated, the Council shall consider any relevant appraisals the City possesses and the public information in the files of the Lane County Assessment and Taxation Department or its successor agency. Except for direct uses by a public body supported by local property taxes, in the absence of more relevant information the Council shall calculate the value based on the square foot value of abutting real property as shown on the current Lane County assessment roll, less a

percentage for easements retained for public use. The abutting owner(s) may request the Council to obtain other evidence of value from a licensed real estate appraiser hired by the City. All such appraisal costs shall be borne by the requesting abutting property owner(s). The Council may consider this evidence and adjust its determination of value as the Council may find to be just and equitable. The basis for any such adjustment shall be stated on the record at the time the Council takes action. A determination of value shall be made and assessed to abutting property owners for all public ways being vacated.

8-3-4-3: ACTION: After the hearing is closed, the Council may deny the petition or may forward the petition to the Planning Commission for its recommendation and shall set the amount of the assessment.

8-3-4-4: PAYMENT OF COSTS: Where the abutting owner(s) is to be assessed the value of the public way proposed for vacation, the petitioner shall deposit with the City the estimated cost of preparing the notice and its publication as required in Sections 8-3-5 and 8-3-6, prior to any further proceedings. The petition shall be deemed denied unless the estimated costs are paid within 30 days following the Council action.

8-3-5: PLANNING COMMISSION RECOMMENDATION:

8-3-5-1: PLANNING COMMISSION HEARING: Upon referral of vacation proceedings from the Council, the City Manager shall set a public hearing before the Planning Commission. Notice shall be given at least seven days before the public hearing by mailing the notice to the petitioner(s), affected property owners and others appearing on the matter before the Council in its hearing under subsection 8-3-4-1.

8-3-5-2: ACTION: After the hearing is closed, the Planning Commission shall determine whether the public interest will be served or prejudiced by the vacation of the public way or part thereof. In determining whether the public interest will be served or prejudiced, the Planning Commission shall consider the goals of the Florence Comprehensive Plan and Section 10-1-1-3 of this Code. The Planning Commission's decision shall be in the form of a recommendation to the Council.

8-3-6: COUNCIL DECISION:

8-3-6-1: COUNCIL HEARING: Following the Planning Commission's recommendation, the City Manager shall set a public hearing before the Council.

- A. Commencing at least 20 days before the hearing the notice required by this subsection shall be:
 - 1. Published for three consecutive weeks in a newspaper of general circulation in the City;
 - 2. Posted at each end of the public way proposed for vacation and if the length of the public way exceeds 150 feet, within the area to be vacated in a conspicuous place at least once every 150 feet of length;
 - 3. Mailed to the petitioner(s), the owners of affected property and any other person appearing before the Council and Planning Commission in the earlier hearings.

- B. The notice required by this subsection shall:
 - 1. Describe the public way proposed to be vacated;
 - 2. Identify the name of at least one petitioner;
 - 3. Identify the date the Council initiated the proceedings and, if appropriate, the cost to be assessed abutting property;
 - 4. The date, time and place by which any written remonstrance must be filed;
 - 5. The date, time and place of the public hearing before the Council; and
 - 6. Where people may telephone or write for additional information.

8-3-6-2: COUNCIL ACTION:

- A. After the hearing is closed, the Council shall determine whether the consent of the abutting owners has been obtained, whether notice has been duly given, and whether the public interest will be served or prejudiced by the vacation of the public way or part thereof. In determining whether the public interest will be served or prejudiced, the Council shall consider the goals of the Florence Comprehensive Plan, Section 10-1-1-3 of this Code, and whether the public way to be vacated may be needed for future public use. The Council may grant the petition in whole or in part, with such reservations as would appear to be for the public interest, including reservations pertaining to the public use of any easements retained by the City in the portion vacated.
- B. If such matters are determined in favor of the petition, the Council shall direct that an ordinance be prepared that would make such determination a matter of record and vacate the public way or part thereof. After the abutting owner(s) has paid or agreed to pay the value of the public way to be vacated, as provided in Section 8-3-6-3 of this chapter, the Council may take final action on the ordinance. If the abutting owner(s) has not done so or taken reasonable steps to do so within 30 days after the Council has directed that an ordinance be prepared, the petition shall be deemed withdrawn and the Council shall take no further action.
- C. Denial of the petition shall be by resolution setting forth the reasons for the denial.

8-3-6-3: PAYMENT OF COSTS OF VACATION:

- A. The abutting owner(s) shall, within 30 days after the Council has directed that a vacation ordinance be prepared, either pay the amount of the assessment in full, or, where the assessment is to be one hundred dollars (\$100.00) or more, apply, upon forms provided by the City Manager, for the voluntary imposition upon the parcel for a lien for the full amount of the assessment and the payment of that lien in twenty (20) semi-annual installments plus interest at the rate of ten percent (10%) per annum. Upon receipt of such an application, and following adoption of the vacation ordinance in the manner described in Section 8-3-6-2-B. Of this chapter, the City Manager shall compute the amount of the assessment and shall report to the City Recorder the amount of the assessment, the date upon which that assessment is due, the name of the owner of record or the purchaser of record, and the description of the property, and upon receiving that report the City Recorder shall docket the lien in her docket of liens, and from the time that docketing is completed, the City shall have a lien upon that described land for the amount of the charge and interest upon that charge at the rate of ten percent (10%) per annum, which interest shall be the full and only compensation to the City for its administrative costs. That lien shall be enforced in the manner provided in ORS chapter 223.
- B. If the proposed vacation is wholly denied, only the actual costs of preparing and giving the notice occasioned by the proceedings shall be retained by the City.
- C. Any money retained, and any sum assessed and collected as benefits, shall be paid into the City treasury.

Resolution No. 61, Series 1989 repealed and Ordinance No. 24, Series 1990 established 11-19-90 effective 12-19-90.
Amended by Ord. No. 11, Series 1996
Section 8-3-4-2 amended by Ord. No. 11, Series 2014