

**CITY OF WEST RICHLAND
RESOLUTION NO. 04-23**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST RICHLAND,
WASHINGTON ADOPTING CITY OF WEST RICHLAND POLICY ON SMALL
TRACT ACT RIGHT OF WAY RESERVATIONS.**

WHEREAS, in early 2018, the City of West Richland embarked on a public process to formally accept portions of the 33' right of way reservations contained in the federal land patents for lots located in Willamette Heights Section 6 and 8 within the West Richland's city limits; and

WHEREAS, the public process culminated with passage of Ord. No. 10-20 by the City Council on March 17, 2020; and

WHEREAS, as a result of litigation challenging the City's actions, the City delayed adopting a formal policy regarding the matter; and

WHEREAS, the litigation has now been resolved by a decision of the United States Federal Court for the Eastern District of Washington in a ruling issued January 26, 2022, which sustained the City's actions; and

WHEREAS, the trial court's decision was affirmed by the Ninth Circuit Court of Appeals on September 22, 2022; and

WHEREAS, the City now establishes this policy to help provide clarity to its residents and other interested persons regarding practical effects of the City's actions.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST RICHLAND,
WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

- Section 1.** The City of West Richland Policy on Small Tract Act Right of Way Reservations, attached hereto as Exhibit A, is hereby adopted.
- Section 2.** **Ratification.** Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.
- Section 3.** **Severability.** The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.
- Section 4.** **Effective Date.** This Resolution shall be in effect immediately upon approval.

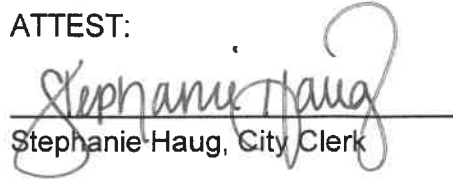
RESOLVED this 17th day of January 2023.

CITY OF WEST RICHLAND



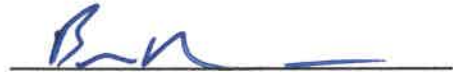
Brent Gerry, Mayor

ATTEST:



Stephanie Haug, City Clerk

APPROVED AS TO FORM:



Bronson Brown, City Attorney



CITY OF WEST RICHLAND
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WEST RICHLAND, WA 99353
(509) 967-3431

City of West Richland Policy on Small Tract Act Right of Way Reservations

Issue Date: January 2023

In early 2018, the City of West Richland embarked on a public process to formally accept portions of the 33' right of way reservations contained in the federal land patents for lots located in Sections 6 & 8, Township 9 North, Range 28 East, Willamette Meridian, within West Richland's city limits, commonly referred to as Willamette Heights Sections 6 & 8. This culminated with passage of Ord. No. 10-20 by the City on March 17, 2020. As a result of litigation challenging the City's actions, the City delayed adopting a formal policy regarding the matter. The litigation has now been resolved by a decision of the United States Federal Court for the Eastern District of Washington in a ruling issued January 26, 2022, which sustained the City's actions. The trial court's decision was affirmed by the Ninth Circuit Court of Appeals on September 22, 2022.

Pursuant to Ord. No. 10-20, the City accepted the portions of the right of way reservations for which there was an identifiable public use. Once accepted, these portions became completed dedications or easements. Portions of the right of way reservations for which there was no identifiable public use were declined as dedications and the City thereby officially disclaimed any interest in large parts of the right of way reservations. The City's staff drafted exhibits attached to Ord. No. 10-20 for each lot in Willamette Heights Sections 6 & 8 within West Richland's city limits showing the portions of the right of way reservations the City formally accepted for the City's existing and planned roadways and infrastructure.

The City now establishes this policy statement to help provide clarity to its residents and other interested persons regarding practical effects of the City's actions.

1. The portions of right of way reservations accepted by Ord. No. 10-20 are completed dedications and will be considered easements.
2. As easements, landowners may pursue vacation of these areas pursuant to established law and regulations governing the City's vacation process. See Ch. 12.60 West Richland Municipal Code, Vacation of Public Utility Easements, and Ch. 12.40 West Richland Municipal Code, Vacation of Streets, Alleys, Road Right-of-Ways. The City will examine vacation applications on a case-by-case basis in the same manner as under existing law and regulations.
3. The effect of Ord. No. 10-20 is limited solely to the consideration of the City's interests on behalf of the public in the affected areas. The City's action is not intended to alter in any way the terms of the patents themselves. The patents were the result of federal law, including the Small Tract Act of 1938, and the City claims no authority to remove, release, or alter the status of the patents.

4. However, notwithstanding paragraph 3 above, the City will not object to any landowner asserting that areas of the 33' right of way reservations not accepted by Ord. No. 10-20 may now be considered available for use and development, including issuance of City building permits. The City has disclaimed any interest in said areas and the federal government has issued guidance stating that it has lost all jurisdiction over the lands. See Memorandum, United States Department of the Interior, Office of the Solicitor, to Director, Bureau of Land Management, dated August 5, 1957.
5. To document the effect of Ord. No. 10-20, the City will cause the same to be recorded in the title records of the Benton County Auditor for lands located within Sections 6 & 8 within West Richland's city limits.
6. Because the accepted right of way dedications are easements, the City will require future land division applications, surveys, and other similar official drawings of record to depict the easements accordingly.
7. Section 6 of Willamette Heights was accepted as a plat by Benton County in 1955. The plat of Section 6 of Willamette Heights contains or may contain dedications, which are independent of the federal patents' right of way reservations. Nothing contained in Ord. No. 10-20 is intended to disturb or alter in any way the status of any such dedications or any other dedications previously made and accepted anywhere in Sections 6 & 8 within the West Richland city limits.

Please visit the City's website (www.westrichland.org) for more information. Additionally, if you have further questions or concerns, please contact:

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