

**CITY OF WEST RICHLAND  
ORDINANCE NO. 15-20**

**AN ORDINANCE OF THE CITY OF WEST RICHLAND, WASHINGTON,  
AMENDING WEST RICHLAND MUNICIPAL CODE CHAPTER 12.40,  
VACATION OF STREETS AND ALLEYS, AND RENAMING THE CHAPTER  
"VACATION OF STREETS, ALLEYS, ROAD RIGHTS-OF-WAY, AND ACCESS  
EASEMENTS."**

**WHEREAS**, the City Council finds it in the public interest to review and revise the city's procedures for reviewing and processing the vacations of streets, alleys, road rights-of-way, and access easements; and

**WHEREAS**, the City Council finds it in the public interest to promulgate procedures for reviewing and processing the vacation of streets, alleys, road rights-of-way and access easements; and

**WHEREAS**, the City Council considered this ordinance by a "first reading" in a regular meeting on May 5, 2020; and

**WHEREAS**, the City Council has determined that the proposed code amendments are consistent with the goals and policies of the City's Comprehensive Plan; and

**WHEREAS**, the City Council has determined that amending Chapter 12.40 of the West Richland Municipal Code is in the public interest;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST RICHLAND,  
WASHINGTON, does hereby ordain as follows:**

**Section 1. Adoption:** West Richland Municipal Code Chapter 12.40 is hereby amended as set forth in **Attachment A**, attached hereto.

**Section 2. Severability / Validity.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance.

**Section 3. Effective Date.** This ordinance shall take effect and be in force five (5) days after passage and publication of a summary thereof consisting of the title.

**PASSED BY THE CITY COUNCIL OF THE CITY OF WEST RICHLAND,  
WASHINGTON, at a regular meeting thereof this 19<sup>th</sup> day of May, 2020.**

  
Brent Gerry, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie Richardson, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
WSBA# 33673  
Bronson Brown, City Attorney

**CITY OF WEST RICHLAND  
ORDINANCE NO. 15-20  
ATTACHMENT A**

**Chapter 12.40  
VACATION OF STREETS, ~~AND ALLEYS,~~ ROAD RIGHTS-OF-WAY, AND ACCESS  
EASEMENTS**

Sections:

**12.40.001 Purpose.**

**12.40.005 Applicability.**

12.40.010 Petition for vacation.

12.40.015 ~~Petition~~ Fees.

12.40.020 Appraisals.

12.40.025 Notice of public hearing.

12.40.030 Protest.

12.40.035 Public hearing **and criteria.**

12.40.040 Easements for utilities and services.

12.40.045 Vacation of waterfront streets.

12.40.050 Compensation for vacation.

12.40.055 Payment of compensation or conveyance.

12.40.060 Posting and mailing notices – Recording ordinance.

**12.40.001 Purpose.**

**This chapter establishes the procedure and criteria that the city will use to decide upon vacation of streets, alleys, and other types of access easements and / or rights of way relating to street, pedestrian, or travel purposes.**

**12.40.005 Applicability.**

**A. This chapter applies to requests for vacation of streets, alleys, road rights-of-way, and to the relinquishments of access easements relating to street, pedestrian or travel purposes. This chapter shall not apply to vacation, relinquishment, or termination of other types of easements, such as utility easements.**

**B. These procedures do not apply to the vacation of entire subdivisions or short plats, which is addressed in RCW 58.17.212.**

**C. Vacation of city street rights-of-way is governed by Ch. 35.79 RCW, and vacation of rights-of-way abutting bodies of water is governed by RCW 36.87.130.**

**12.40.010 Petition for vacation.**

A. Petitions Authorized. The **property** owners of an interest in any real estate abutting upon any street, ~~or alley,~~ **road right-of-way or access easement** desiring to vacate the street, ~~or alley,~~ **road right-of-way or access easement** or any part thereof, may petition the City Council to

make such vacation. **A vacation may also be initiated by the City Council, upon the adoption of a resolution imitating procedures which shall contain a legal description and vicinity map exhibit of the subject street, alley, road right-of-way or access easement sought to be vacated, prepared by a Washington state-licensed surveyor.**

B. Elements of Petition. The **A** vacation petition **initiated by property owners** shall include the following:

**1. A vacation petition with supporting affidavits on forms provided by the Community Development Department.**

2. A legal description **and vicinity map exhibit of the street, alley, road right-of-way or access easement to be vacated,** as prepared by a Washington State-licensed surveyor. **Said legal description and exhibit shall be formatted to meet Benton County Auditor's recording standards and requirements.**

**3. 2. For each petitioner a** title insurance company certificate, issued not more than 30 days prior to the petition, showing ownership of the property, all lien holders, and the names and addresses of all property owners abutting upon the part of such street, ~~or~~ alley, **or road right-of-way or access easement** sought to be vacated.

~~3. Vicinity map of the street or alley sought to be vacated.~~

**4. The applicable fee as established by the master fee schedule.**

C. Filing of Petition. The petition or resolution shall be filed with the City Clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon **or included within** the part of such street, ~~or~~ alley, **road right-of-way or access easement** sought to be vacated.

D. Council Resolution for Vacation – City Council Action on Resolution or Petition. Upon receipt of a petition for vacation or after the City Council's own motion on its own resolution for vacation, the City Council shall adopt a resolution fixing a time when the petition will be heard and determined, which time shall not be more than 60 days nor less than 20 days after the passage of the resolution.

#### **12.40.015 Petition Fees.**

A. Prehearing Fee. Every **A** petition **initiated by property owners** for the vacation of any street, alley, **road right-of-way** or **access easement** ~~public place,~~ or any part thereof, shall be accompanied by an initial nonrefundable payment to the city of a prehearing fee as set by City Council in the master fee schedule, to defray the administrative costs incurred in processing such vacation petitions.

B. Appraisal **Deposit Fees Fee** to Be Paid after **City Council issues a recommendation for vacation with compensation consistent with WRMC 12.040.050.** ~~Recommends Vacation.~~ At the time the City Council recommends granting a vacation **with compensation** ~~petition,~~ the petitioner(s) shall deposit a sum as set by City Council in the master fee schedule with the Public Works Director, which shall be the city's estimated cost of the full appraisal. In the event that the appraisal cost is less than the amount deposited, the ~~vacation~~ compensation payable to the city shall be reduced by the difference between the deposit and the actual cost of the appraisal, or, in the alternative, such difference shall be refunded. In the event the cost of the appraisal is more

than the amount deposited, the vacation compensation payable to the city shall be increased by the difference between the deposit and the actual cost and paid by the petitioner(s) prior to the approval of the vacation.

**12.40.020 Appraisals.**

**The Public Works Director is authorized to obtain appraisals from qualified, independent appraisers of such streets, alleys, road right-of-way or access easements as are recommended for vacation, after the public hearing by the City Council, and is further authorized to obtain appraisals from qualified, independent real estate appraisers of the fair market value of the alternate right-of-way land proposed to be granted or dedicated to the city for street or alley purposes in lieu of a cash payment in the manner contemplated by WRMC 12.40.045. In such instance, an additional appraisal deposit fee shall be paid for the appraisal of such parcel(s), according to the fee and time schedule provided in WRMC 12.40.015.**

**12.40.025 Notice of public hearing.**

**A. Notice to Be Provided. Upon the passage of the resolution, the city clerk shall give 20 days' notice of the pendency of the petition by a written notice posted in three of the most public places in the city, and like notice in a conspicuous place on the street, alley, road right-of-way or access easement sought to be vacated.**

**B. Elements of Notice. The said notice shall contain a statement that a petition has been filed to vacate the street, or alley, road right-of-way or access easement described in the notice, together with a statement of the time and place fixed for the public hearing of the petition. The notice will state that the City Council shall hold a public hearing on the proposed vacation in the manner required in this chapter. In addition, the notice posted on the street, alley, road right-of-way or access easement proposed to be vacated shall indicate that the area is a street, alley, road right-of-way or access easement, it is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to the City Clerk indicating his or her objection prior to the public hearing date.**

**C. Notice Where Council Initiates Vacation by Resolution. 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, alley, road right-of-way or access easement sought to be vacated, in addition to the notice hereinabove required, there shall be given by mail at least 15 days before the date fixed for the public hearing, a similar notice to the record owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street, alley, road right-of-way or access easement or portion thereof sought to be vacated, as shown on the rolls of the county treasurer.**

**12.40.030 Protest.**

If 50 percent of the abutting property owners file written objections to a council-initiated vacation **petition** with the City Clerk prior to the time of the hearing, the city shall be prohibited from proceeding with the resolution **vacation**.

**12.40.035 Public hearing and criteria.**

The **A public** hearing on such petition may be held before the City Council upon the date fixed by resolution or at the time said **public** hearing may be adjourned to. **Following the public hearing, the City Council shall consider the request in accordance with state and local law. To approve a vacation, the council must find that the street, alley, road right-of-way or access easement is not currently necessary for travel or other street purposes, nor likely to be in the future, no property will be denied all access as a result of the vacation, such vacation would not unduly jeopardize the health, safety, welfare, or public good, applicable legal requirements have been met, and any other fact or issue it deems relevant.** The City Council may grant the petition to vacate the street, alley, **road right-of-way or access easement** or any part thereof by ordinance, with or without conditions, or the City Council may deny the petition.

**12.40.040 Easements for utilities and services.**

Ordinances vacating streets, alleys, **road right-of-way or access easements** ~~public places, or portions thereof,~~ may contain a ~~provision~~ **provisions** retaining or requiring conveyance of easements for construction, repair, and maintenance of existing and future public utilities and services, **pedestrian access, or any other type of easement relating to the city's right to control, use and manage of streets, alleys, road right-of-way or access easements.**

**12.40.045 Vacation of waterfront streets.**

A. The city shall not vacate a street, alley, **road right-of-way, access easement** or other public place or portion thereof, if the street, alley, **road right-of-way, access easement** or public place abuts a body of freshwater, unless:

1. 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, educational purposes, or other public uses;
2. The City Council, by resolution, declares that the street, alley, **road right-of-way, access easement** or public place is not presently being used as a street, alley, **public access** or public place, and that the street, alley, **road right-of-way, access easement** or public place is not suitable for the following purposes: port, beach or water access, boat moorage, launching sites, park, public view, recreation or education; or
3. The vacation is sought by 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, alleys, **road right-of-way, access easement** or public places sought to be vacated abut, had the property included in the plan not been vacated.

B. Before adopting a resolution vacating a street, or alley, **road right-of-way, access easement** under subsection (A)(2) of this section, the city shall:

1. Compile an inventory of all streets, alleys, **road** rights-of-way **or access easements** within the city that abut the same body of water that is abutted by the street, alley, **road right-of-way, access easement** or public place sought to be vacated;
2. Conduct a study to determine if the street, or alley, **road right-of-way or access easement** to be vacated is suitable for use by the city for any of the following purposes: port,

beach or water access, boat moorage, launching sites, park, public view, recreation or education;

3. Make a finding that the street, ~~or~~ **alley, road right-of-way or access easement** sought to be vacated is not suitable for any of the purposes listed under subsection (B)(2) of this section, and that the vacation is in the public interest.

C. No vacation shall be effective until the fair market value has been paid for the street, alley, **road right-of-way, access easement** or public place that is vacated. Funds 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.

#### **12.40.050 Compensation for vacation.**

A. Payment for Vacation. Ordinances vacating any street, alley, **road right-of-way or access easement** ~~or public place~~ shall not be passed by the City Council until the owners of the property abutting upon the street, alley, **road right-of-way or access easement** ~~or public place~~ so vacated shall compensate the city in the amount required by this subsection **or WRMC 12.40.045(C)**.

1. For those streets, alleys, **road rights-of-way or access easements** ~~or public places~~ that have not been acquired at public expense, **that are not needed for public travel or access either now or in the foreseeable future, and that the city's maintenance or upkeep of the street, alley, road right-of-way or access easement is unrelated to any use for public travel,** and which have not been part of a dedicated public right-of-way for 25 years or more, **City Council may pass a vacation ordinance to vacate streets, alleys, road rights-of-way or access easements without requiring the abutting property owners make payment to the City for such vacation. City Council may require** the property owners ~~to~~ shall compensate the city in an amount **up** equal to one-half of the fair market value, as shown in the appraisal, of the area vacated **for streets, alleys, road rights-of-way and access easements that have been dedicated for less than 25 years. City Council may require the property owners to compensate the city in an amount up to the full fair market value, as shown in the appraisal, of the area vacated for streets, alleys, road rights-of-way and access easements that have been dedicated for more than 25 years.**

2. For those streets, alleys, **road rights-of-way or access easements** ~~public places~~ that have been acquired at public expense ~~or which have been part of a dedicated public right-of-way for 25 years or more,~~ the property owners shall compensate the city in an amount equal to the full fair market value of the area to be vacated, as shown in the appraisal. As contemplated by WRMC 12.40.045, the full fair market value, as shown in the appraisal, shall be paid upon vacation of streets abutting bodies of water.

B. In-Lieu Transfers of Property. Conveyance of other property acceptable to the city may be made in lieu of the payment required by subsection A of this section, whether required to mitigate adverse impacts of the vacation or otherwise. When such conveyance is made for street purposes, one-half of the fair market value, as shown in the appraisal, of the land conveyed shall be credited to the required payment. When the conveyance is made in fee for purposes other than street purposes, the full appraised value of the land conveyed shall be credited to the required payment.

When the value of the in-lieu parcel is less than the payment required by subsection A of this section, the petitioner shall pay the difference to the city. When the value of the in-lieu parcel exceeds the payment required by subsection A of this section, the city shall pay the difference to the petitioner.

~~C. Vacations Initiated by Council Resolution. The council may pass a vacation ordinance to vacate street, alley or public place without requiring that the abutting property owners make payments to the city for such vacation where:~~

- ~~1. The street, alley or public place was not acquired at city expense;~~
- ~~2. The city determines that the street, alley or public place is not needed for public travel or access either now or in the foreseeable future;~~
- ~~3. The city's maintenance or upkeep of the street, alley or public place is unrelated to any use of the street, alley or public place for public travel.~~

#### **12.40.055 Payment of compensation or conveyance.**

Upon securing the appraisal of the value of the street, alley, road right-of-way, access easement or public place to be vacated as provided in this chapter, the Public Works Director shall notify the petitioner of the amount of compensation, deducting or adding therefrom any remaining appraisal fee balance ~~deposit-not previously refunded~~ to or collected from the petitioner. The payment shall be delivered to the Public Works Director, who, upon receipt of any such payment, shall forthwith transmit the same to the Finance Director for deposit. Revenue received by the city as compensation for streets, alleys, road rights-of-way or access easements vacated shall be deposited into the city's transportation improvement program fund to be used on transportation capital projects within the city. In the event that the petitioner has received approval of delivery of an instrument granting or dedicating to the city a parcel(s) of land in lieu of a cash payment as contemplated by WRMC 12.40.050(B), the ~~director of~~ Public Works Director, at the petitioner's expense, shall obtain a policy of title insurance insuring title thereto in the city.

#### **12.40.060 Posting and mailing notices – Recording ordinance.**

Posting and mailing of the notices provided for in this chapter shall be the responsibility of the City Clerk. ~~As required by RCW 35.79.030,~~ A certified copy of the ordinance vacating a street, alley, road right-of-way or access easement public place, or any portion thereof, shall be provided to the petitioner and, as required by RCW 35.79.030, recorded by the ~~city clerk~~ petitioner (or the city clerk, if the city is the proponent) at the office of the Benton County Auditor and assessor, at the petitioner's expense.