

Private Petition for the Vacation of Public Right-of-way



RETURN COMPLETED FORM TO:

City of Salem, Public Works Department
555 Liberty Street SE Room 325
Salem OR 97301-3513
503-588-6211 • Fax: 503-588-6025

Minimum Fee	\$4,790.00
Automation Fee	\$5.00
Total	\$4,795.00
Public Works Project No.	_____

Location of Area Proposed for Vacation _____

Name of Petitioner _____

Mailing Address of Petitioner _____

City

State

Zip

Telephone Number _____

Vacation of streets, alleys, plats, and easements in the City of Salem are governed by state law (Oregon Revised Statute Chapter 271) and City ordinance (Salem Revised Code 255.065). Prior to filing a vacation petition, it is recommended you first confer with the Public Works Department.

This document provides detailed instructions for filing a vacation petition. Required attachments include:

- 1. Legal Description**
- 2. Tax Map Showing the Required Information**
- 3. Title Report**
- 4. Signed Consent of Abutting and Affected Property Owners**
- 5. Description of the Proposed Use of the Area to be Vacated**
- 6. Reasons for the Vacation**

The completed petition is to be filed with Public Works, at the Permit Application Center, Room 320. All documents submitted must be typed or printed legibly in blue or black ink. Because of the complex nature of vacation proceedings, it is suggested you work with a private attorney to prepare the vacation petition.

The City performs the processing of a Private Petition for the Vacation of Public Right-of-Way on a full cost recovery basis. The applicant is required to post a minimum application fee pursuant to the current Public Works Fee Schedule, to begin the process of their petition. The petitioner will be billed costs incurred beyond the amount of the minimum fee.

Signature of Petitioner

Date

VACATION OF PUBLIC RIGHT-OF-WAY INSTRUCTIONS

Vacation of streets, alleys, plats, and easements in the City of Salem are governed by state law, Oregon Revised Statutes (ORS) 271.080-271.230, and Salem Revised Code (SRC) 255.065. Prior to filing a vacation petition it is recommended you first confer with the Public Works Department Transportation Planning staff at 503-588-6211 for requirements of the proposed vacation.

Because of the complex nature of vacation proceedings, it is recommended that you work with a title company and a private surveying company to prepare the vacation documents. Depending on the complexity of the vacation, it is recommended that you work with a private attorney or a land use consultant as well.

It is the City of Salem's policy to assure that no person shall be discriminated against on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, and source of income, as provided by Salem Revised Code Chapter 97. The City of Salem also fully complies with Title VI of the Civil Rights Act of 1964, and Americans with Disabilities Act of 1990, and related statutes and regulations, in all programs and activities. Special accommodations are available, upon request, for persons with disabilities or those needing sign language interpretations, or languages other than English. To request accommodations or services, please call 503-588-6211 at least three business days in advance.

Es la política de la Ciudad de Salem asegurar que ninguna persona sera discriminada por motivos de raza, religión, color, sexo, estado civil, situación familiar, origen nacional, edad, discapacidad mental o física, orientación sexual, identidad de género ni fuente de ingresos, de acuerdo con el Capítulo 97 del Código Revisado de Salem. La Ciudad de Salem también cumple plenamente con el Título VI del Acta de Derechos Civiles de 1964, y el Acto de 1990 para Americanos con discapacidades, y estatutos relacionados y reglamentos, en todas programas y actividades. Alojamiento especiales están disponible sobre petición para personas con discapacidades o aquellos que necesitan interpretación de lenguaje de señas o lenguajes aparte de inglés. Para solicitar alojamientos o servicios, por favor llame 503-588-6211 a lo menos dos días hábiles de anticipo.

PETITION AND SIGNATURE REQUIREMENTS

- 1. Legal Description of the proposed area to be vacated.**
- 2. Tax map showing the following:**
 - a. The area proposed to be vacated, clearly shown and labeled.
 - b. The area surrounding the proposed vacation, known as the "Affected Area," clearly shown and labeled. The affected area is the land lying on either side of the right-of-way 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 extending 400 feet beyond each terminus of the area proposed for vacation.
 - c. Those owners consenting to the vacation should be shown by placing a "C" on each consenting property.
- 3. Title Report**
 - a. Accompanying the petition should be a title report verifying ownership of all of the properties abutting the area proposed to be vacated. In addition, the title company should provide a list of the names and parcel numbers of the property owners within the Affected Area. If the petition is for a public easement vacation, the title report should also describe the name of the property owner where the easement is located, that owner's address, tax lot number, and any liens pertaining to the property where the easement is located.
- 4. Signed Consent of Abutting and Affected Property Owners.**
 - a. Abutting Property Owners. The consent of 100 percent of abutting property owners is required. (Public right-of-way is not considered abutting property.)

- b. Affected Property Owners. Signed consent of Affected Area property owners. The consent of the owners of 2/3 of the affected area (not including dedicated right-of-way) is required. See ORS 271.080(2).
- c. Where the Property Owner is the City of Salem. Where the City of Salem is an abutting or affected property owner, a consent form should be presented to Public Works Department Planning Services Section for the appropriate signature. Consent by the City at this stage does not bind the City Council to approve the petition. If the City refuses to consent to the vacation, the refusal shall be in writing setting forth the reasons for the decision.
- d. Where the Property Owner is the Petitioner. The petitioner (the person filing the petition) in addition to signing the petition must also sign the abutting and affected property owner consent form.
- e. Contract Purchaser. The consent of the contract purchaser, if any, is required in addition to the consent of the owner of record, on property abutting the affected right-of-way. The consent of the contract purchaser of record is sufficient on other property within the affected area.
- f. Signature Requirements. Consent Forms must be signed by all owners of record, and usually include both husband and wife. Corporations and limited partnerships must submit documentation naming the individual(s) authorized to sign. All signatures must be in ink, blue preferred.

5. Description of the Proposed Use of the Area to be Vacated.

- a. A description of the proposed use of the area to be vacated must be included in the petition.

6. Reasons for the Vacation.

- a. A petition must include an explanation of the reasons for the vacation.

SUMMARY OF THE VACATION APPROVAL PROCESS

- 1. **Verification.** Upon filing of the petition, the petition is reviewed by the City Recorder in consultation with Public Works staff to verify the petition requirements have been met. If the petition is inaccurate or incomplete, Public Works staff will contact the petitioner. Once the petition is deemed to be in proper form, Public Works staff will notify all potentially affected public utilities.
- 2. **Public Hearing before City Council.** Petitions presented to Council for consideration will be scheduled for public hearing. Notice of the Public Hearing is given by publication in a local newspaper once a week for two successive weeks and by posting at each end of the property to be vacated. Copy of the legal notice will be mailed to the petitioners and to all abutting property owners. Petitioners should be prepared to appear at the hearing in person or through their representative. At the hearing, Council will receive a staff report from the Public Works Director setting forth findings regarding the proposed vacation. The findings include a review of the petition in relation to SRC 255.065 (6) Criteria. See below. The petitioner will be provided a copy of the staff report prior to the hearing. The staff report will be available on the City of Salem website the Friday before the Monday Council meeting.

Criteria for Evaluating Proposed Vacation of Rights-of-Way

Vacation of public rights-of-way in the City of Salem are governed by State law (ORS Chapter 271) and SRC 255.065. The vacation shall be approved only if the vacation meets the following requirements:

- a. The area proposed to be vacated is not presently, or will not in the future be, needed for public services, facilities, or utilities;
- b. The vacation does not prevent the extension of, or the retention of, public services, facilities, or utilities;
- c. Public services, facilities, or utilities can be extended in an orderly and efficient manner in an alternate location;
- d. The vacation does not impede the future best use, development of, or access to abutting property;

SUMMARY OF THE VACATION APPROVAL PROCESS CONTINUED

- e. The vacation does not conflict with provisions of the UDC including the street connectivity standards and block lengths;
- f. All required consents have been obtained;
- g. Notices required by ORS 271.080-270.130 have been duly given; and
- h. The public interest would not be prejudiced by the vacation.

3. Assessments and Conditions.

- a. It is the policy of the City Council to assess special benefits to the abutting property as a result of the vacation. The recommended amount of the assessment is determined by the Urban Development Department Real Estate Division based on comparable values in the vicinity of the proposed vacation.
- b. Conditions may also be attached to the vacation. If there are existing utilities (electric, telephone, sewer, water, etc.) within the right-of-way proposed for vacation, approval of the vacation will be made subject to the reservation of a public utility easement for maintenance of these facilities.
- c. Other prerequisites may be required as a condition of the vacation and may require a written agreement to be entered into with the City.

4. Vacation Ordinance.

The City Council grants vacations by adopting an ordinance. The ordinance will not be forwarded to City Council for second reading and approval until all conditions are satisfied and assessments are paid. The applicant may be allowed to pay the assessment in installments. Recording of the vacation takes place 30 days after the second ordinance reading.

5. Questions.

Should you have further questions, contact the Public Works Department Transportation Planning staff at 505-588-6211.

EXAMPLE VACATION PETITION

(DATE)

City Recorder
City of Salem
555 Liberty St SE - Room 205
Salem, OR 97301

Re: Private Petition for Vacation of Public Right-of-Way
(Short description)

I(we) request that the Council of the City of Salem enact an ordinance vacating a portion of (*description of the proposed area of vacation*) in the City of Salem, County of (Marion or Polk), Oregon. This petition is filed pursuant to the authority of Oregon Revised Statute 271 and Salem Revised Code 255.065.

I(we) have attached the Private Petition for the Vacation of Public Right-Of-Way form and filing fee to initiate processing the vacation request. Also attached please find:

Attachment 1: A metes and bounds legal description of the property to be vacated.

Attachment 2: A Tax Map showing the required information.

Attachment 3: A Title Report verifying ownership of all of the properties abutting the area proposed to be vacated; prepared by (*name of Title Company*) and including a list of all of the abutting property owners and property owners within the "Affected Area".

Attachment 4: The signed consent of all of the abutting property owners.

Attachment 5: The signed consent of at least 2/3 of the owners of the properties within the "affected area".

(*Petitioners' name*) plan to (*description of the proposed use of the area to be vacated*).

The vacation is needed to (provide an explanation of the reasons behind the vacation request.

EXAMPLE: " A development plan for the proposed (type of project) will require the additional right-of-way for (reasons); (A) Vacation would eliminate the public's duty and liability to maintain this street that services only the abutting property owners. This portion of (name of street/alley) cannot be accessed from any other street; (B) Vacation leads to feasibility and development of the subject property, upgrading the area and adding to the tax base for increased revenue, etc."

Please contact me at (phone number and email address) with notifications, questions, and the dates of the City Council meetings.

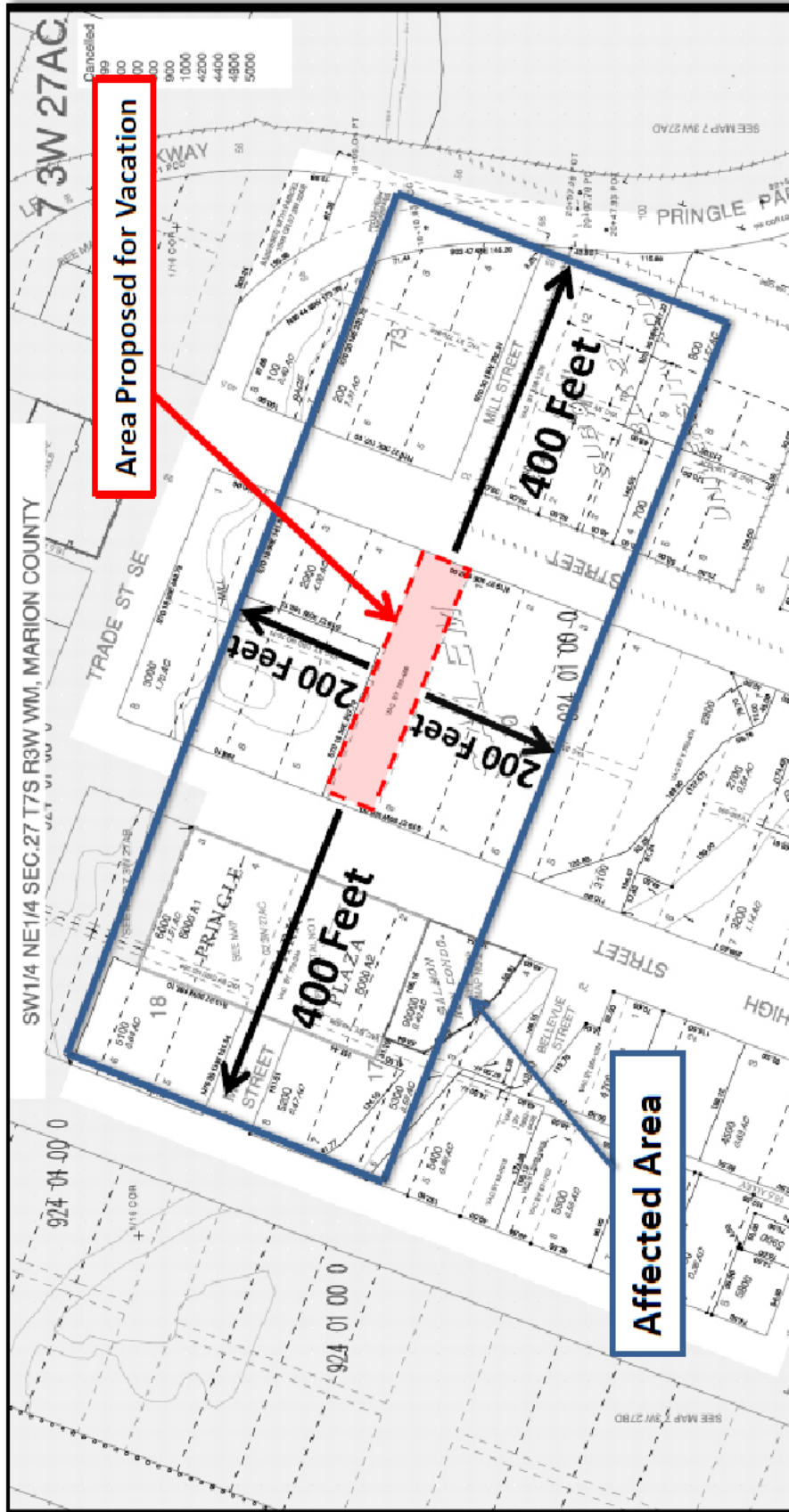
Sincerely,

(Name[s] and signature[s] of all of the petitioners)
Petitioner

**ATTACHMENT 1
METES AND BOUNDS LEGAL DESCRIPTION OF THE
PROPERTY PROPOSED FOR VACATION**

Place your legal description for the property proposed for vacation here.

**ATTACHMENT 2
EXAMPLE TAX MAP**



The "Affected Area" includes the land lying on either side of the area proposed for vacation 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 street for 400 feet along its course beyond each terminus of the part proposed to be vacated.

**ATTACHMENT 3
VERIFICATION OF OWNERSHIP**

Street Vacation on property located in Salem, Oregon, and more particularly described in Attachment.

(Name of title company) DOES CERTIFY AS FOLLOWS:

That (name of title company) is an incorporated title insurance agent, organized and existing under and by virtue of the laws of the State of Oregon. Exhibit 2-Tax Map showing the affected area was prepared by (name of title company) and accurately and clearly shows the area proposed for vacation and the affected area.

The attached list is a complete list of names and addresses of parties holding interest in the property in the affected area as evidenced by the tax and assessment roll, and said list is amended to include the names of the last grantees of record as evidenced by the deed records for (Marion or Polk) County, and said addresses are within the City of Salem, County of (Marion or Polk), unless otherwise indicated.

This certificate is made for the purpose herein specified and liability hereunder is expressly limited to the sum paid therefor.

DATED _____

NAME OF TITLE COMPANY _____

BY _____

NAME AND TITLE _____

**ATTACHMENT 3 - CONTINUED
VERIFICATION OF OWNERSHIP**

List of all abutting property owners and property owners within the affected area.

Names(s) of Abutting Owner	Mailing Address	Assessor's Tax Lot Number

Names(s) of Affected Property Owners	Mailing Address	Assessor's Tax Lot Number

ATTACHMENT 4
SIGNED CONSENT OF ABUTTING PROPERTY OWNERS

We, the undersigned abutting property owners, understand there is a petition directed to the City Council of the City of Salem, (Marion or Polk) County, Oregon, seeking a vacation of a portion of (Name of street or alley) in the City of Salem, (Marion or Polk) County, Oregon.

Attach the legal description and map when seeking signatures.

Pursuant to ORS 271.080(2), we consent to the petition.

Abutting Property Owner Signatures

Name	Tax Lot Number	Signature	Date

**ATTACHMENT 5
SIGNED CONSENTS OF TWO-THIRDS OF THE
AFFECTED PROPERTY OWNERS**

We, the undersigned affected property owners, understand there is a petition directed to the City Council of the City of Salem, **(Marion or Polk)** County, Oregon, seeking a vacation of a portion of **(Name of street or alley)** in the City of Salem, **(Marion or Polk)** County, Oregon.

Attach the legal description and map when seeking signatures. Pursuant to ORS 271.080(2), we hereby grant our consent to the petition.

Affected Property Owner Signatures

Name	Tax Lot Number	Signature	Date