Learn How To

Vacate A Street

"Making a difference through excellence of service"

CITY OF WARRENTON

For additional questions call:

Warrenton City Recorder
Linda Engbretson
503/ 861-0823
TDD Users: 800/735-2900

"Vacating"

A Street

City of Warrenton
225 S. Main St.
P.O. Box 250
Warrenton, OR 97146
503/861-2233

Vacating a Street Takes

Time.

This is not an "overnight" solution. If the problem is complex or controversial, vacating a street can be a lengthy process. And, it can take a lot of your time; 3-6 months is an average timeline.

Money.

You will be charged for the City's time and expenses to process the vacation. A Six Hundred Dollar ($600.00) application fee is required. If multiple properties are involved, a land use review by the Planning Department and Planning Commission is required; that petition fee will be Eight Hundred Dollars ($800.00).

There may be additional costs to you to meet conditions of the vacation, such as moving utilities or reconstructing an intersection.

Work.

In addition to leg work, getting a street vacated takes coordination and cooperation – with the City, other public agencies, and the affected property owners.

Here's how it works...

1

Preliminary Investigation

The first move is yours.

You can save yourself time and money if you do some investigating on your own.

Call the County Cartographer's Office. Who will own the right-of-way once the street is vacated?

Check with your neighbors. Will the affected property owners agree to the vacation and sign the petition?

Check with other public agencies. Are there any obvious obstacles – like a water main in the right-of-way that could make vacating the street more difficult, costly, or even impossible?

If everything checks out, call us and request a street vacation petition.

The petition request must include the signed street vacation checklist (enclosed) and the fee for preparing the petition.

2

Filing the Petition

You must:

Collect the signatures of:

* 100% of the property owners abutting the right-of-way you wish to vacate

and

* The owner (s) of 2/3 of the square footage of the property in the affected area as required by ORS 271.080(2)

Submit the completed petition to the City Recorder, 225 S. Main St. Warrenton, OR 97146, along with a check for the deposit.

3

Formal Investigation

Is there a public need for the right-of-way?

When we get the completed petition:

We ask city departments if there are any reasons – now or in the future – why the street should not be vacated. There may or may not be objections to all or a part of the proposed street vacation.

The City Recorder summarizes the responses in a report and makes a recommendation to the City Commission.

Prior to making the recommendation to the City Commission, we review the recommendation with you. If you decide to go ahead, the report will be placed on the next available Commission Agenda.

Remember: There may be more costs if you have conditions to meet.

If the Commission agrees to proceed with the vacation, a public hearing will be scheduled as soon as feasible, based on Public Notice Requirements.

4

Public Hearing

Public opinion can affect the outcome.

Streets are not vacated on our recommendation alone. The City Commission holds a public hearing. Anyone can attend and comment on the proposed street vacation. After considering the testimony and our recommendation, the City Commission makes a decision.

If the street vacation is approved, we prepare an ordinance to vacate the street right-of-way and send it back to the City Commission for action.

The ordinance is read in two separate meetings.

5

Recording the Ordinance

After the ordinance passes, there is a 30-day waiting period.

When:

The 30 days are up, all the conditions are met, and all the costs are paid, the City sends the ordinance to be recorded in the County Deed Records.

When the ordinance is recorded, the street vacation is complete and the property is added to the County Tax Assessment roll.

The City Recorder will send you a copy of the recorded ordinance once it is received back from the County Clerk.

RIGHT OF WAY VACATION

Street Vacation Check List

DISCLAIMER: Completion of this application does not constitute approval of the street vacation. The ultimate decision will be made by the Warrenton City Commission.

To help facilitate the street vacation process, you must complete the steps below in the order presented.

☐ I have read the "Vacating A Street" brochure.

☐ I have called and spoken to _____ at Clatsop County's Cartography Department (503/ 325-8522) to see who will own the right-of-way area after the vacation is completed. (In most cases the vacated area is split down the middle and reverts back to the adjacent property owner.) **Please list who receives property:**_____

_____

_____

_____

☐ I have talked with all owners of the properties that abut all sides and corners of the portion of right-of-way to be vacated and they will support the vacation request **(objecting property owners will complicate or stop the process).**

☐ I have contacted private utilities to determine if the companies will support the vacation, with or without special conditions. To ensure that you have a complete understanding of affected utilities, a utility locate should be requested by calling: 800/ 332-2344.

SIGN TO CONFIRM:

I have completed all of the above_____ _____

Signature Date

<u>After you have done all of the above and it appears that a right-of-way vacation may be feasible,</u> a written right-of-way vacation petition (attached) and a Six Hundred Dollar ($600.00) application fee is required. If multiple streets are involved, or it affects multiple lots, a land use review by the Planning Department and Planning Commission is required. The petition fee is Eight Hundred Dollars ($800) when it's required to go before the Planning Commission.

Upon receipt of this checklist, the petition, the required fee and all necessary signatures, (see ORS 271.080 – attached), the City Recorder shall review the petition. If petition is deemed incomplete, it will be returned to the petitioner for additional signatures or other required information. If required percentages of consent is confirmed, the matter will be placed on the City Commission's Agenda to consider setting a public hearing or referred to the Planning Commission, if required. Please allow four weeks for the review of the petition.

Send the petition along with the petition fee in the form of a check made out to the City of Warrenton and a signed copy of this checklist to:

Mail Form To:	**or**	**Deliver Form in Person To:**
City Recorder		City Recorder
City of Warrenton		City of Warrenton
P.O. Box 250		225 S. Main Street
Warrenton, OR 97146		Warrenton, OR 97146

If you have additional questions about the street vacation process, please contact Linda Engbretson, at 503/ 861-0823 or at cityrecorder@ci.warrenton.or.us.

STREET VACATION PETITION
City of Warrenton

Fee: $600.00

Petitioner	**Petitioner's Representative**
Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
Email Address:	Email Address:

1. A description of the right-of-way area to be vacated. ***(Don't forget to include a map highlighting the area. A survey or professionally developed legal description is required).***

2. Reason for the Vacation Request. ***(Advise if any buildings/structures will be in the area to be vacated).***

Note: If additional room is necessary, please attach extra pages.

3. Required affidavits.

   a. 100% of abutting property owners.

   b. Two-thirds in area of real property affected by proposal. Refer to *ORS Chapter 271* (attached).

   c. List of all abutting and affected property owners, mailing addresses, and corresponding square footage of property owned.

Petitioner

Date

Return To:	City of Warrenton P.O. Box 250 225 S. Main Street Warrenton, OR 97146
For Questions – Contact:	Linda Engbretson, City Recorder Phone: 503/ 861-0823 Email: cityrecorder@ci.warrenton.or.us

AFFIDAVIT

STATE OF OREGON)
COUNTY OF CLATSOP)

_____

being the owners of the following real property: _____

_____

_____

as a basis of the petition from _____

_____

do hereby consent to the vacation of a portion of _____

_____

as described:

Signature:_____ Date:_____

Signature:_____ Date:_____

On this _____ day of _____, 20___, personally appeared before me, a notary public in and for the State of Oregon, the within named _____ _____ acknowledged the following instrument to be ___ voluntary act and deed.

_____
Notary Public for Oregon

My commission expires:_____

271.080 Vacation in incorporated cities; petition; consent of property owners. (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefore setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.
(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street 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 street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing. [Amended by 1999 c.866 s.2]

271.090 Filing of petition; notice. The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

271.100 Action by council. The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.

271.110 Notice of hearing. (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.
(2) Within five days after the first day of publication of the notice the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be; the notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be not less than 14 days before the hearing.
(3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city

recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor. [Amended by 1991 c.629 s.1]

271.120 Hearing; determination. At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

271.130 Vacation on council's own motion; appeal. (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.
(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.
(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.
(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases. [Amended by 1995 c.658 s.101]

271.140 Title to vacated areas. The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city. [Amended by 1981 c.153 s.58]

271.150 Vacation records to be filed; costs. A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

271.160 Vacations for purposes of rededication. No street shall be vacated upon the petition of any person when it is proposed to replat or rededicate all or part of any street in lieu of the original unless such petition is accompanied by a plat showing the proposed manner of replatting or rededicating. If the proposed manner of replatting or rededicating or any modification thereof which may subsequently be made meets with the approval of the city governing body, it shall require a suitable guarantee to be given for the carrying out of such replatting or rededication or may make any vacation conditional or to take effect only upon the consummation of such replatting or rededication.

271.170 Nature and operation of statutes. The provisions of ORS 271.080 to 271.160 are alternative to the provisions of the charter of any incorporated city and nothing contained in those statutes shall in anywise affect or impair the charter or other provisions of such cities for the preservation of public access to and from transportation terminals and navigable waters.

271.180 Vacations in municipalities included in port districts; petition; power of common council; vacating street along railroad easement. To the end that adequate facilities for terminal trackage, structures and the instrumentalities of commerce and transportation may be provided in cities and towns located within or forming a part of any port district organized as a municipal corporation in this state, the governing body of such cities and towns, upon the petition of any such port, or corporation empowered to own or operate a railroad, steamship or other transportation terminal, or railroad company entering or operating within such city or town, or owner of property abutting any such terminal, may:
(1) Authorize any port commission, dock commission, common carrier, railroad company or terminal company to occupy, by any structure, trackage or machinery facilitating or necessary to travel, transportation or distribution, any street or public property, or parts thereof, within such city or town, upon such reasonable terms and conditions as the city or town may impose.
(2) Vacate the whole or any part of any street, alley, common or public place, with such restrictions and upon such conditions as the city governing body may deem reasonable and for the public good.
(3) If any railroad company owns or has an exclusive easement upon a definite strip within or along any public street, alley, common or public place, and if the city governing body determines such action to be to the advantage of the public, vacate the street area between the strip so occupied by the railroad company and one property line opposite thereto, condition that the railroad company dedicates for street purposes such portion of such exclusive strip occupied by it as the city governing body may determine upon, and moves its tracks and facilities therefrom onto the street area so vacated. The right and title of the railroad company in the vacated area shall be of the same character as previously owned by it in the exclusive strip which it is required by the city governing body to surrender and dedicate to street purposes.

271.190 Consent of owners of adjoining property; other required approval. No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

271.200 Petition; notice. (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to

271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected thereby. The petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.
(2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

271.210 Hearing; grant of petition. Hearing upon the petition shall be had by the city governing body at its next regular meeting following the expiration of 30 days from the filing of the petition. At that time objections to the granting of the whole or any part of the petition shall be duly heard and considered by the governing body, which shall thereupon, or at any later time to which the hearing is postponed or adjourned, pass by a majority vote an ordinance setting forth the property to be vacated, or other rights, occupancy or use to be thereby granted. Upon the expiration of 30 days from the passage of the ordinance and the approval thereof by the mayor of the city or town, the ordinance shall be in full force and effect.

271.220 Filing of objections; waiver. All objections to the petition shall be filed with the clerk or auditor of the city or town within 30 days from the filing of the petition, and if not so filed shall be conclusively presumed to have been waived. The regularity, validity and correctness of the proceedings of the city governing body pursuant to ORS 271.180 to 271.210, shall be conclusive in all things on all parties, and cannot in any manner be contested in any proceeding whatsoever by any person not filing written objections within the time provided in this section.

271.230 Records of vacations; fees. (1) If any town or plat of any city or town is vacated by a county court or municipal authority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county. Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall, upon a copy of the plat that is certified by the county clerk, trace or shade with permanent ink in such manner as to denote that portion so vacated, and shall make the notation "Vacated" upon such copy of the plat, giving the book and page of the deed record in which the order or ordinance is recorded. Corrections or changes shall not be allowed on the original plat once it is recorded with the county clerk.
(2) For recording in the county deed records, the county clerk shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the original plat, the county clerk shall collect a fee as set by ordinance of the county governing body to be paid by the county clerk to the county surveyor. [Amended by 1971 c.621 s.31; 1975 c.607 s.31; 1977 c.488 s.2; 1979 c.833 s.30; 1999 c.710 s.12]