

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5407

AN ORDINANCE regarding the vacation of public right-of-way; providing for compensation to the City at full appraised value of vacated areas which have been dedicated right-of-way for twenty five years or more; deleting outdated Code references; and substituting current Code references; and amending Bellevue City Code 14.35.060, 14.35.120, 14.35.130, 14.35.140 and 14.35.150.

WHEREAS, by Chapter 202, Laws of 2001, the State Legislature amended state law to provide that if a street or alley has been part of a dedicated right-of-way for twenty-five years or more the City may, upon vacation, require the owners of the property abutting the street or alley to compensate the City in an amount that does not exceed the full appraised value of the area vacated; and

WHEREAS, the City Council desires to amend City Code governing vacations of right-of-way to conform to state law; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code 14.45.120 is amended to provide as follows:

14.35.120 Classification of public ways for purposes of compensation.

For purposes of this code, all properties within the city primarily use or reserved for use as public ways, including streets and alleys, are declared to be within one of three classes:

Class I. Real property in which the city holds fee simple title, or in which it does not hold such a fee simple interest but which has been dedicated as public right-of-way for twenty-five years or more.

Class II. Real property in which the interest of the city is limited to a public easement or right of use for particular purposes and not qualifying under Class III below.

Class III. Easements conveyed to or held by the city for which no public funds have been expended in the acquisition and which would otherwise be Classified as Class II, except for the fact that the grantor has applied for vacation of the same.

Section 2. Bellevue City Code 14.35.060 is amended to read as follows:

14.35.060 Notice where vacation initiated by council – Objections.

In all cases where the proceeding is initiated by resolution of the 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 or alley sought to be vacated, notice shall be given as provided in BCC 14.35.050; provided, that if 50 percent of the abutting property owners file written objection to the proposed vacation with the clerk, prior to the time of the hearing, the council shall be prohibited from proceeding with the resolution.

Section 3. Bellevue City Code 14.35.130 is amended to read as follows:

14.35.130 Amount of compensation.

The amount of compensation required to be paid to the city as a condition precedent to the vacation of a public way shall be determined according to the following criteria:

- A. Class I property shall be considered a sale of a capital asset and shall be compensated for at 100 percent of its fair market value;
- B. Rights-of-way over Class II property shall be compensated for in the amount of 50 percent of the fair market value of said property;
- C. Vacation of Class III rights-of-way shall not require compensation in excess of filing fees.

Section 4. Bellevue City Code 14.35.140 is amended to read as follows:

14.35.140 Appraisals.

Determinations of fair market value for purposes of this code shall be made by appraisal of the subject property prepared at the direction of the city manager or his designee. The costs of any appraisals shall be added to the amount of compensation established by BCC 14.35.130. Such appraisals shall take into account any retained right of the city for future use which would restrict the private use of the property.

Section 5. Bellevue City Code 14.35.150 is amended to read as follows:

14.35.150 Procedure where compensation required.

In the case of Class I or II properties, upon a finding, after a public hearing, the requirements for approval set forth in BCC 14.35.070 are satisfied, the city council may adopt a motion to conditionally approve the petition and direct the city manager to secure an appraisal of the subject property. The applicant shall post a \$1,000 cash deposit with the city clerk to ensure payment of the cost of the appraisal. Upon notification that the amount of required compensation has been established, the applicant shall have 90 days to deposit such amount together with appraisal costs with the city clerk. Credit shall be given for the \$1,000 deposit. In cases where required compensation plus costs exceeds \$10,000, payment may be made under contract acceptable to the city provided that 25 percent of the amount due is paid down and the contract provides for the unpaid balance plus 12 percent interest thereon to be paid in equal annual payments over a period of not more than five years. Upon notification of compliance with this section and any other conditions imposed, the city council shall, in accordance with its prior motion of approval, adopt an ordinance authorizing the city manager to execute an appropriate deed to convey Class I property or adopt an ordinance of vacation of Class II property. If the installment contract method of payment is elected and approved, an ordinance of vacation shall not become effective or be published until the entire balance plus interest has been paid in full and the subject property to be vacated shall not be considered in computing setbacks, minimum lot dimensions and similar requirements until such time. All funds received as compensation pursuant to this chapter shall be deposited in the city's land purchase revolving fund.

Section 6. This ordinance will take effect and be in force thirty days after passage by the City Council.

Passed by the City Council this 3rd day of September, 2002, and signed in authentication of its passage this 3rd day of September, 2002.

(SEAL)

Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Richard Gidley, Deputy City Attorney

Attest:

Myrna L. Basich, City Clerk

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