

ORDINANCE NO. 97

AN ORDINANCE relating to the vacation of streets or alleys or portions thereof, providing for procedure and setting filing fees.

THE CITY COUNCIL OF THE CITY OF BELLEVUE DO ORDAIN AS FOLLOWS:

Section 1. DEFINITIONS.

(a) The term "owner of an interest in real estate" shall mean and include the owners of fee title, mortgagees and contract vendees.

(b) For the purpose of determining the sufficiency of signatures of "owners of private property" on the petition, or consent to vacate, the following rules shall govern:

1. The signature of an owner, as determined by the records of the County Auditor, shall be sufficient without the signature of his or her spouse.
2. In the case of mortgaged property, the signature of the mortgagor shall be sufficient.
3. In the case of property subject to a contract of purchase, the signatures of the contractor vendor and vendee shall be required.
4. In the case of ownership by a corporation, the signature of any officer authorized by the By Laws or resolution of the Board of Directors shall be sufficient when evidenced by an excerpt of the said By Laws or said resolution, certified by the Secretary of said corporation, granting such authority.
5. In the case of property owned by the estate of a decedent or incompetent, the signature of the duly qualified administrator or executor or guardian shall be equivalent to the signature of the owner of the property.

Section 2. The owners of an interest in any real estate abutting upon any street or alley may petition the City Council to vacate the street or alley or any portion thereof.

Section 3. Said petition shall describe the street or alley or portion thereof desired to be vacated and shall be signed by owners of more than two-thirds (2/3rds) of the private property abutting upon the part of said street or alley sought to be vacated.

Section 4. Said petition, properly signed, shall be filed with the City Clerk upon payment of a filing fee, which shall be paid in to the general fund of the City to aid in defraying of expenses incurred by the City in checking the sufficiency of such petition and investigating or reporting the facts and shall not be returned to the petitioners regardless of the Council's action on such petition. The amount of such fee shall be determined as follows:

One (1) to five (5) separate ownerships abutting the proposed vacation, a minimum filing fee of \$ 25.00 and an additional sum of \$1.00 for each additional ownership over five (5). In the event that the filing fee, computed on petitioners' estimate, proves to be insufficient as evidenced by the engineer's report, the balance of said fee shall be paid before notices of hearing are posted. *mailed.*

Section 5. At the first regular council meeting following the filing of such petition the Council, by resolution, shall fix a time when the petition will be heard and determined, which time shall not be more than sixty (60) days nor less than twenty (20) days after the date of passage of such resolution.

Section 6. No petitioner may withdraw his petition or consent after the Council has set a time for hearing, although said petitioners may be heard at the public hearing, to present any information which bears upon the public advantage to be served or harmed by the proposed vacation.

Section 7. Upon passage of the resolution fixing time, the City Clerk shall cause a written notice of the pendency of the petition to be posted, at least twenty (20) days prior to the date set for hearing, in three (3) of the most public places in the City as determined in Ordinance No. 10 and a like notice to be posted in a conspicuous place on that portion of the street or alley sought to be vacated, and copies of such notice shall be mailed, at least three (3) days prior to date of hearing, to all owners of abutting property, including the petitioners, at his local address if <sup>or</sup> resident of the City of Bellevue, otherwise to the last address showing on the records of the County Auditor. Said notices shall contain a statement that a petition has been filed to vacate the portion described in the notice together with a statement of the time and place fixed for the hearing of the petition and inviting interested persons to appear and be heard for or against the granting thereof.

Section 8. At the time appointed for the hearing of the petition, or at such time as the same may be adjourned to by the City Council, the petition shall be considered and persons desiring to speak for or against the granting thereof shall be heard. Following such hearing, the Council shall determine:

- (a) Whether a change of use or vacation of the described portion will better serve the public good, or
- (b) Whether the street, alley or portion thereof is longer required for public use, or
- (c) Whether the use thereof as a public way is of such public benefit as not to justify the cost of maintenance, or
- (d) Whether the substitution of a new and different way would be more useful to the public, or
- (e) Whether conditions may so change in the future as to provide a greater public use or need than presently exists, and
- (f) Whether objections to the proposed vacation are made by owners of private property (exclusive of petitioners) abutting the same.

Section 9. In the event that the owners of any real estate abutting upon the portion of any street or alley sought to be vacated shall object to such vacation (exclusive of petitioners), the City Council shall not vacate such street or alley or portion thereof without (1) determining the extent of the damage or injury to any objecting abutting owner whose vested rights shall be affected by such vacation and (2) making provision for the compensation therefor.

Section 10. If there be no objections by owners of real estate abutting on the portion of the street or alley to be vacated and if the Council deems that to grant said petition shall be to the public's interest and advantage, the Council may, by ordinance, vacate such street, alley or part thereof reserving to the City an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair and maintenance of public utilities and services and may impose such other conditions or limitations as it deems necessary and proper to preserve any desired public use or benefit. If the Council finds that future development of undeveloped land abutting such street or alley may alter or increase need or public use in such strip, such vacation may be granted only upon execution of a covenant running with such abutting land to re-dedicate such portion upon a declaration of public use and necessity by the City Council.

Section 11. Objections of abutting owners receiving notice, must be in writing and filed with the Clerk or Council before conclusion of said hearing.

Section 12. Supplemental petitions, or objections, containing signatures of additional persons or owners to abutting property petitioning for and consenting to such vacation may be filed as a part of, and considered with, the initial petition, provided that such supplemental petitions shall not extend the description of the area sought to be vacated or such new or different condition to such vacation.

Section 13. If, after a hearing, the Council determines that the petition cannot be granted in whole, but that a vacation of a portion of the area described in the original petition may be vacated, the owners of all private property abutting the modified area may file an amended petition seeking and consenting to the vacation of the portion on the conditions prescribed by the Council. The fee for filing such amended petition shall be in a sum determined as follows:

A minimum fee of \$5.00 and 50¢ for each ownership, over five (5) in number, abutting the land proposed to be vacated. Notices and hearing shall be provided as in the case of an original petition, provided the engineer need check only to determine the sufficiency of signatures and report only such new material as he thinks necessary or is requested by the Council.

Section 14. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and legal publication.

PASSED by the City Council on this 29th day of March, 1955, and signed in authentication thereof this 29th day of March, 1955.

APPROVED AS TO FORM:

[Signature]  
City Attorney  
(SEAL)

Attest:

[Signature]  
City Clerk

Date of Publication: April 7, 1955.

[Signature]  
Mayor

[Signature]  
Councilman

[Signature]  
Councilman

FILED  
CITY OF BELLEVUE  
DATE April 6, 1955  
CITY CLERK [Signature]