

ORDINANCE NO. 723

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO STREETS, ALLEYS AND PUBLIC PLACES, ESTABLISHING THE PROCEDURES, NOTICE REQUIREMENTS AND FEES FOR THE VACATION OF STREETS AND ALLEYS WITHIN THE CITY, IMPLEMENTING THE AUTHORITY GRANTED TO THE CITY IN CHAPTER 35.79 RCW, ADDING A NEW CHAPTER 12.14 TO THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the City does not currently have procedures for the vacation of streets and alleys; and

WHEREAS, the City has the authority, pursuant to chapter 35.79 RCW, to adopt an ordinance for the implementation of street and alley vacations; now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. A new chapter 12.14 is hereby added to the Gig Harbor Municipal Code, to read as follows:

CHAPTER 12.14

Vacation of Streets and Alleys

Sections:

12.14.002	Petition for Vacation
12.14.004	Petition Fees
12.14.006	Appraisals
12.14.008	Notice of Hearing
12.14.010	Protest
12.14.012	Hearing
12.14.014	Easements for Utilities and Services
12.14.016	Vacation of Waterfront Streets
12.14.018	Compensation for Vacation
12.14.020	Payment of Compensation or Conveyance

Section 12.14.002. Petition for Vacation.

A. **Petitions authorized.** The owners of an interest in any real estate abutting upon any street or alley desiring to vacate the street or alley or any part thereof, may petition the City Council to make such vacation.

B. **Elements of Petition.** The vacation petition shall include a legal description of the property to be vacated, as prepared by a licensed surveyor.

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 the part of such street or alley to sought to be vacated.

D. **Council Resolution for Vacation/Council Action on Resolution or Petition.** Upon receipt of 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 sixty days nor less than twenty days after the date of the passage of the resolution.

Section 12.14.004. Petition Fees.

A. **Pre-hearing Fee.** Every petition for the vacation of any street, alley or public place, or any part thereof, shall be accompanied by an initial nonrefundable payment to the City of a pre-hearing fee of one hundred fifty dollars (\$150.00), to defray the administrative costs incurred in processing such vacation petitions.

B. **Appraisal Fees to be Paid After Council Recommends Vacation.** At the time the City Council recommends granting a vacation petition, the petitioner shall deposit five hundred (\$500) 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, or, in the alternative, such difference shall be refunded. In the event the cost of the appraisal cost 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, or in the alternative, such difference shall be separately billed and paid by the petitioners prior to the approval of the vacation.

Section 12.14.006. Appraisals. The Public Works Director is authorized to obtain appraisals from qualified, independent appraisers of such streets, alleys or public places, as are recommended for vacation, after the hearing by the City Council or a committee thereof, 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 Section 12.14.016. In such instance, an additional appraisal deposit fee shall be paid for the appraisal of such parcel(s), and according to the fee and time schedule provided in Section 12.14.004.

Section 12.14.008. Notice of Hearing.

A. **Notice to be Provided.** Upon the passage of the resolution, the City Clerk shall give twenty (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 a like notice in a conspicuous place on the street, alley or public place 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 described in the notice, together with a statement of the time and place fixed for the hearing of the petition. The notice will state that the Council shall hold a public hearing on the proposed vacation in the manner required in this chapter. In addition, the notice posted on the alley or street proposed to be vacated shall indicate that the area is public access, 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 Council indicating his or her objection.

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 or public place sought to be vacated, in addition to the notice hereinabove required, there shall be given by mail at least fifteen days before the date fixed for the 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, public place or portion thereof sought to be vacated, as shown on the rolls of the County treasurer.

Section 12.14.010. Protest. If fifty percent (50%) of the abutting property owners file written objections to a Council-initiated vacation with the City Clerk prior to the time of the hearing, the City shall be prohibited from proceeding with the resolution.

Section 12.14.012. Hearing. The hearing on such petition may be held before the City Council or before a committee thereof upon the date fixed by resolution or at the time said hearing may be adjourned to. The City Council may grant the petition to vacate the street, alley, or any part thereof by ordinance, with or without conditions, or the City Council may deny the petition.

Section 12.14.014. Easements for Utilities and Services. Ordinances vacating streets, alleys, public places or portions thereof may contain a provision retaining or requiring conveyance of easements for construction, repair and maintenance of existing and future public utilities and services.

Section 12.14.016. Vacation of Waterfront Streets.

A. The City shall not vacate a street, alley or other public place or portion thereof, if the street, alley or public place abuts a body of fresh or salt water, 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 or public place is not presently being used as a street, alley or public place, and that the street, alley 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 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 under subsection A(2) of this section, the City shall:

1. compile an inventory of all rights of way within the City that abut the same body of water that is abutted by the street, alley or public place sought to be vacated;

2. conduct a study to determine if the street or alley to be vacated is suitable for use by the City for any of the following purposes: port, boat moorage, launching sites, beach or water access, park, public view, recreation, or education;

3. make a finding that the street or alley sought to be vacated is not suitable for any of the purposes listed under (b) of this subsection, 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 or public place that is vacated. Moneys 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.

Section 12.14.018. Compensation for Vacation.

A. **Payment for Vacation.** Ordinances vacating any street, alley or public place which has not been acquired at public expense shall not be passed by the City Council until a sum equal to one-half (1/2) of the fair market value, as shown in the appraisal, of the area vacated is paid to the City. Where the area vacated was acquired at public expense, the sum to be paid to the City shall be equal to the full fair market value, as shown in the appraisal, of the area vacated. As contemplated by Section 12.14.014, the full fair market value, as shown in the appraisal shall be paid upon vacation of streets abutting upon 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, whether required to mitigate adverse impacts of the vacation or otherwise. When such conveyance is made for street purposes, one-half (1/2) 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, the petitioner shall pay the difference to the City. When the value of the in-lieu parcel exceeds the payment required by subsection A, the City shall pay the difference to petitioner.

C. **Vacations of Streets or Alleys subject to 1889-90 Laws of Washington, chapter 19, Section 32 (Non-user statute).** The City Council's adoption of a vacation ordinance for those streets and alleys subject to the 1889-90 Laws of Washington, chapter 19, Section 32 (non-user statute) shall not require compensation by the abutting owners. However, the property owners requesting such vacation shall pay the City's administrative fees described in Section 12.14.004(a) for the City's costs relating to research and processing of the vacation request.

D. **Vacations Initiated by Council Resolution.** The Council may pass a vacation ordinance to vacate a street, alley or public place without requiring that the abutting property owners make payment 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 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.

Section 12.14.020. Payment of Compensation or Conveyance. Upon securing the appraisal of the value of the street, alley 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 therefrom any remaining appraisal fee deposit not previously refunded to 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. 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 Section 12.14.016(B), the Director of Public Works, at the applicant's expense shall obtain a policy of title insurance insuring title thereto in the City.

Section 12.14.022. 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 or public place, or any portion thereof, shall be recorded by the City Clerk and the office of the Pierce County Auditor and Assessor.

Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

MAYOR, GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____

FILED WITH THE CITY CLERK: 6/6/96

PASSED BY THE CITY COUNCIL: 6/24/96
PUBLISHED: 7/3/96
EFFECTIVE DATE: 7/5/96
ORDINANCE NO. 723

SUMMARY OF ORDINANCE NO. 723

of the City of Gig Harbor, Washington

On the 24th day of June 1996, the City Council of the City of Gig Harbor, passed Ordinance No. 723. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO STREETS, ALLEYS AND PUBLIC PLACES, ESTABLISHING THE PROCEDURES, NOTICE REQUIREMENTS AND FEES FOR THE VACATION OF STREETS AND ALLEYS WITHIN THE CITY, IMPLEMENTING THE AUTHORITY GRANTED TO THE CITY IN CHAPTER 35.79 RCW, ADDING A NEW CHAPTER 12.14 TO THE GIG HARBOR MUNICIPAL CODE.

The full text of this Ordinance will be mailed upon request.

DATED this 25th day of June, 1996.

CITY ADMINISTRATOR, MARK HOPPEN