

CITY OF MEDINA, WASHINGTON
Ordinance No. 1030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, AMENDING CHAPTER 12.44 OF THE MEDINA MUNICIPAL CODE, ADDING NEW SECTIONS 12.44.015 TO ALLOW ADOPTION OF POLICIES AND 12.44.025 TO EXPRESS THE COUNCIL POLICY REGARDING STREET VACATIONS, AMENDING SECTION 12.44.040 AND 12.44.050 FOR HOUSEKEEPING PURPOSES, 12.44.090 TO CLARIFY THAT COUNCIL MAY HOLD ADDITIONAL MEETINGS REGARDING A PETITION FOR STREET VACATION, 12.44.100 ADD NEW NOTICE REQUIREMENTS, 12.44.120.A TO INCORPORATE MMC 12.44.025, 12.44.130 TO CLARIFY COUNCIL'S AUTHORITY TO DEFER ACTION, 12.44.180 TO INCORPORATE PAYMENT OF COSTS AS A PREREQUISITE TO THE EFFECTIVE DATE OF A STREET VACATION, TERMINATING MORATORIUM ADOPTED UNDER RESOLUTION NO. 438 AND EXTENDED UNDER RESOLUTION NO. 442, PROVIDING FOR SEVERABILITY AND CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City's ROW are highly visible and are extremely important to the City's current and future transportation needs; and to the City's character, identity and development; and comprise a significant and valuable public asset related to the City's long term planning goals and community vision; and

WHEREAS, the City received and processed three different ROW vacation petitions in recent years, each of which presented unique issues and concerns; consumed significant City resources, staff time and expenses to review and decide; and resulted in the subsequent preparation, review and adoption of MMC modifications to better regulate and protect the City's ROW and provide better guidance to the public, City and Council concerning the issues and processes involved in such petitions; and

WHEREAS, in the process of reviewing and acting on those ROW vacation petitions the City and Council became aware of the need for further changes in the MMC to address adequate and timely public notice requirements, cost identification, limitation and recovery; and evaluation of potential gift of public funds issues; and the establishment of long-term planning and use policies which can be timely integrated into the City's ongoing 2024 Comprehensive Plan update; and

WHEREAS, on October 23, 2023 the City Council adopted a moratorium on processing right of way vacation petitions via adoption of Resolution No. 438 and extended the moratorium for additional six-month period on April 8, 2024 via Resolution No. 442 which included adopting a work plan to study the same desire to undertake the work described above without having disruptions or interruptions that would be created by the filing of any ROW vacation petition; and

WHEREAS, having undertaken the work, the City Council supports making additional changes to Chapter 12.44 MMC in order to clarify its policy regarding unopened or partially unopened rights of way and the process for considering vacation of the same; and

WHEREAS, with the adoption of this ordinance, it is appropriate and timely to terminate the moratorium that was first adopted under Resolution No. 438 and extended by Resolution No. 442; **NOW, THEREFORE**,

THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new Section 12.44.015 is hereby added to the Medina Municipal Code to read as follows:

12.44.015. Policies.

The city manager may adopt policies regarding processing of petitions for street vacation consistent with this chapter.

Section 2. A new Section 12.44.025 is hereby added to the Medina Municipal Code to read as follows:

12.44.025 General Policy on Street Vacations.

Medina is a small sylvan community with limited public space. The residents of Medina value the ability to walk within the community and value the trees, vegetation, and open space that exist within the city. Unopened or partially unopened streets and rights of way often provide landscaping which beautifies the city as well as providing trails and other recreational opportunities. These unopened or partially unopened streets and rights of way also provide future opportunities to add more public space for transportation, including walking and bicycling, and provide opportunities for expanding recreational facilities. Given the broad public benefits provided by public rights of way, street vacations should be rarely granted and should only approved after the city council performs meticulous review and consideration of all unintended consequences of the vacation. Therefore, it is the policy of the Medina city council to only vacate unopened rights of way either as a property exchange which provides greater public benefit than existing facilities or if the council cannot foresee any possible potential future use of the property.

Section 3. Section 12.44.040 of the Medina Municipal Code is hereby amended to read as follows:

12.44.040. Initiation of proceedings.

A vacation may be initiated in two ways:

- A. A resolution of the city council.
- B. A petition of the owners of more than two-thirds of the property abutting or underlying the subject property as may be applicable accompanied by the City's application form for property vacation.

Section 4. Section 12.44.050.D of the Medina Municipal Code is hereby amended to read as follows:

12.44.050. Petition by owners.

The owners of an interest in real estate abutting upon or underlying public ROW may petition the city council for vacation thereof in accordance with requirements of this chapter.

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- D. Each petitioner shall be responsible to reimburse the city for the full expenses and costs incurred by the city to process the petitioner's requested vacation regardless of the outcome of the city's review and decision thereon or petitioner's withdrawal of the petition. In addition to any other provisions of the MMC or this chapter, the city manager or designee shall keep account of all administrative time, costs and expenses incurred by city employees, contractors, consultants, legal counsel, appraisers, appointed officers and other individuals acting on behalf of or for the benefit of the city in the course of processing the petition. The city manager or designee shall periodically compile such time, costs and expenses and invoice the petitioner for payment thereof, which shall be made by petitioner not more than fifteen (15) [days] from the date of the invoice. Upon the city's final decision to grant, deny or otherwise act on the petition, the city manager or designee shall compile a final invoice for all remaining unpaid time, costs and expenses and shall present such invoice to the petitioner for prompt payment. No vacation shall become final nor be recorded until all invoices have been paid in full by the petitioner. In the event the petitioner does not make timely payment as set forth herein, the city may suspend further review and processing of the petition.

Section 5. Section 12.44.090 of the Medina Municipal Code is hereby amended to read as follows:

12.44.090. Date of public hearing.

Upon determining the application for vacation is complete, or upon passage of a resolution by the city council seeking vacation, the council shall, by resolution, fix a time when the city will hold a public hearing on the proposed vacation. The hearing will be not more than 60 days nor less than 20 days after the date of passage of the resolution scheduling the public hearing. Nothing in this section prohibits the council from holding meetings about the petition for vacation prior to passing a resolution setting the public hearing, prior to holding the public hearing, or following the date of the public hearing.

Section 6. Section 12.44.100 of the Medina Municipal Code is hereby amended to read as follows:

12.44.100. Public Notice requirements. of public hearing.

- A. After the application and petition for vacation is determined to be complete, the city clerk shall post and distribute notice of the petition and application for vacation as follows:
1. A copy of the application and petition shall be posted in three conspicuous public places in the city.
 2. A copy shall be posted in a conspicuous place on the subject property or at a nearby location that can be viewed by the public.
 3. A copy shall be posted on the city's website.
 4. A copy shall be mailed to each owner of property within 300 feet of the subject property, including all the petitioners, at a local address if a resident of the city, or otherwise to the last address showing on the records of the King County assessor.
- B. Upon the passage of the council resolution fixing the date and time for a public hearing, the city clerk shall give 20 days' notice of the pendency of the petition as set forth in subsections C and D below.
- ~~B~~C. The hearing notice shall contain the following information: a statement that a petition has been filed to vacate the subject property; the date, time and place fixed for the hearing of the petition; that interested persons may appear at the hearing and be heard for or against the petition; and that interested persons may submit written comment to the city clerk prior to or at the hearing.
- ~~C~~D. The city clerk shall post and distribute the hearing notice as follows:
1. A copy shall be posted in three conspicuous public places in the city.
 2. A copy shall be posted in a conspicuous place on the subject property or at a nearby location that can be viewed by the public.
 3. A copy shall be posted on the city's website.
 4. A copy shall be published in the official newspaper of the city.
 5. A copy shall be mailed to each owner of property within 300 feet of the subject property, including all the petitioners, at a local address if a resident of the city, or otherwise to the last address showing on the records of the King County assessor.

Section 7. Section 12.44.120.A of the Medina Municipal Code is hereby amended to read as follows:

12.44.120. Staff report.

- A. The planning manager and/or public works director or their designee(s) shall prepare a staff report which shall identify and address the requirements of this section, the vacation criteria in MMC 12.44.140, the council policy set forth in MMC 12.44.025, and all other pertinent issues raised by or resulting from the vacation, including any land use implications that may result from the vacation and the impacts, if any, on surrounding properties. The staff report shall be

presented to the city council at the public hearing and as otherwise requested, appropriate or necessary, and may be supplemented as needed.

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Section 8. Section 12.44.130 of the Medina Municipal Code is hereby amended to read as follows:

12.44.130. Hearing.

- A. At the day and time appointed for the hearing of the petition or city council resolution, or at such other day and time as the same may be continued or adjourned to by the city council, the matter shall be considered and persons desiring to speak for or against the vacation shall be heard in accordance with the council's usual rules.
- B. The city council may deliberate on the merits of the petition in accordance with its usual rules, may adjourn from time to time and may recess to executive session as needed, may require additional information and evaluation from any petitioner or city staff, and may continue and resume the hearing as appropriate. At the conclusion of the city council's deliberations, the city council ~~shall~~may decide the petition in accordance with MMC 12.44.170, or may defer action to a later date.

Section 9. Section 12.44.140 of the Medina Municipal Code is hereby amended to read as follows:

12.44.140. Vacation criteria.

- A. In determining whether to vacate the subject property, the city council shall consider, but shall not be limited to, the following criteria as well as the policy set forth in MMC 12.44.025:
 - 1. Whether a change of use or vacation of the subject property will provide a benefit to the city as determined by the council, including but not limited to any of the following examples: reduction of unnecessary ROW; preservation of streetscape character; expanding the city's property tax roll; addressing neighborhood requests related to traffic impacts; better accommodation of pedestrians, bicyclists, motorists and/or emergency responders; reservation of an easement will accommodate the city's current or projected needs.
 - 2. Whether the subject property is no longer required for public use or public.
 - 3. Whether the substitution of a new and different public way would be more or less useful to the city and/or the public.
 - 4. Whether conditions may or could change in the future, creating or providing a greater or different public use or need than presently exists.
 - 5. Whether existing property access will be restricted or denied as a result of the vacation.

6. Whether objections to the petition or proposed vacation are made by (i) owners of private property (exclusive of petitioners) abutting or in proximity to the subject property, (ii) governmental agencies, (iii) private users of the subject property, and/or (iv) members of the general public.

Section 10. Section 12.44.180.A of the Medina Municipal Code is hereby amended to read as follows:

12.44.180. Compensation for vacation.

- A. Ordinances vacating any public ROW shall not be adopted by the city council until the owners of the property abutting the subject property shall compensate the city in the amount required by this subsection and all costs and fees have been reimbursed in accordance with MMC 12.44.050.D.

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Section 11. Termination of Moratorium. The City Council hereby terminates the moratorium imposed by Resolution No. 438 and extended by Resolution No. 442.

Section 12. Severability. 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 of any other section, sentence, clause, or phrase of this ordinance.

Section 13. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 14. Corrections. Upon the approval of the city attorney, the city clerk, and/or the code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 15. Effective Date. This ordinance shall take effect five days after publication as provided by law.

PASSED BY THE CITY COUNCIL ON THIS 23rd DAY OF SEPTEMBER 2024 BY A VOTE OF ___ FOR, ___ AGAINST, AND ___ ABSTAINING, AND IS SIGNED IN AUTHENTICATION OF ITS PASSAGE ON THE 23rd DAY OF SEPTEMBER 2024.

Jessica Rossman, Mayor

Approved as to form:
Inslee Best Doezie & Ryder, P.S.

Attest:

Jennifer S. Robertson, City Attorney

Aimee Kellerman, City Clerk

PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.: / AB