

PETITION TO VACATE STREET(S) AND/OR ALLEY(S)

The undersigned hereby petition the Steilacoom Town Council to vacate the following street(s) and/or alley(s) or the following portions thereof:

EACH PERSON SIGNING THIS PETITION REPRESENTS:

- A. That he or she owns an interest in real estate abutting one or more of the street(s) or alley(s) proposed for vacation;
- B. That he or she believes the street(s) and/or alley(s) proposed to be vacated are not and expectably will not be needed or useful as part of the public street system of the town of Steilacoom; and
- C. That he or she acknowledges the filing fee paid to process this petition is not refundable.

Petitioner 1

Name (print)

Mailing Address

Signature

Assessor's Parcel Number of
Property Adjoining Right-of-Way

Telephone Number

Petitioner 2

Name (print)

Mailing Address

Signature

Assessor's Parcel Number of
Property Adjoining Right-of-Way

Telephone Number

Petitioner 3

Name (print)

Mailing Address

Signature

Assessor's Parcel Number of
Property Adjoining Right-of-Way

Telephone Number

Provide a written statement to support each of the following required findings:

A. That the vacation will provide a public benefit and/or will be for a public purpose;

B. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area of the community as a whole;

C. That the public needs shall not be adversely affected;

D. That the right-of-way is not contemplated or needed for public use;

E. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e. there must be an alternative mode of ingress and egress, even if less convenient;

F. That the vacation of right-of-way shall comply and be in accordance with all of the standards of RCW 35.79; as it now exists or is hereafter amended;

G. That the vacation of right-of-way shall not be in violation of RCW 35.79.035.

Chapter 12.08

VACATION PROCEDURE

Sections:

- 12.08.010** Petition.
- 12.08.020** Compliance with state law required.
- 12.08.030** Filing fee.
- 12.08.040** Designation of rights-of-way.
- 12.08.050** Compensation for vacation of right-of-way to be based on designation of right-of-way.
- 12.08.070** Notice of public hearing.
- 12.08.080** Compensation precedent to vacation.
- 12.08.085** Council findings.
- 12.08.090** Fees and costs.

12.08.010 Petition. The owner or owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley or any part thereof may petition the Town Council to make vacation. The form for such petition shall be prescribed by the Town Clerk-Treasurer and shall contain in addition to any other required information a description of the property to be vacated. (Ord. 341 §1, 1965).

12.08.020 Compliance with state law required. All street vacations shall be processed in accordance with the procedures and requirements set out in RCW 35.79. (Ord. 341 §2, 1965).

12.08.030 Filing fee. At the time of filing any petition hereunder, the petitioner shall pay to the Town Clerk-Treasurer a filing fee as set by resolution of the Town Council for the purpose of defraying the normal administrative, engineering and legal expenses in processing the petition for vacation. Such filing fee shall not be subject to refund. (Ord. 1293 §1, 2000; Ord. 1271 §1, 1999; Ord. 341 §3, 1965).

12.08.040 Designation of rights-of-way. All Town rights-of-way are designated as follows:

(1) TYPE E (expenditures): unimproved or improved where credible evidence exists which supports the conclusion that Town expenditures have been made in the acquisition, improvement or maintenance of the right-of-way and the Town or public has any type of property interest for use as a Town street or for use of the traveling public.

(2) TYPE NE (non-expenditure): unimproved or improved where no credible evidence exists which supports the conclusion that Town expenditures were made in the acquisition, improvement, or maintenance of the right-of way, and the Town or public has any type of property interest for use as a Town street or for the use of the traveling public. (Ord. 1351 §1, 2003).

12.08.050 Compensation for vacation of right-of-way to be based upon designation of right-of-way. Compensation to the Town for vacation of a right-of way shall be determined as follows:

(1) TYPE E: Appraised value of the right-of-way to be vacated, defined as the fair market value for right-of-way or other greater or lesser property interest held by the Town, as determined by a comparison of sales of right-of-way or other property interest of similar type, quantity and quality in the Town or other relevant market at the time of the vacation.

(2) TYPE NE: appraised value of the right-of-way to be vacated, defined as the average assessed value per square foot of all affected abutting properties multiplied by the total square footage to be vacated. (Ord. 1051 §2, 2003).

12.08.070 Notice of public hearing. In addition to notices required by statute, written notice of public hearings on proposals to vacate streets, alleys or parts thereof shall be mailed by the Town Administrator or his designee at least twenty days prior to such hearings as follows:

(1) For every proposal to vacate an alley or portion thereof, notice shall be mailed to the owner of every parcel of land within the block or blocks in which the alley, or portion thereof proposed for vacation is situated.

(2) For every proposal to vacate a street or portion thereof, notice shall be mailed to the owner of every parcel abutting the portion proposed for vacation; and, if the portion touches upon any intersections of streets, to the owners of all parcels abutting the intersection.

(3) As used in this section, the term "owner" includes all persons identified as owners or reputed owners of parcels as shown on the rolls of the County Treasurer, and shall also include in instances when the Treasurer's rolls identify a lending agency as owner or reputed owner, the person or persons known or believed by the Town Administrator to be the actual owner of legal or equitable title to the parcel. (Ord. 699 §1, 1979).

12.08.080 Compensation Precedent to Vacation. The ordinance vacating such street, alley or any part thereof shall not become effective until the owners of the property abutting upon the street or alley, or part thereof so vacated, shall compensate the Town of Steilacoom in an amount which does not exceed one-half (1/2) of the appraised value, as defined in SMC 12.08.050 above, of the area so vacated. If the street or alley has been part of a dedicated right-of-way for twenty-five years or more, the owners of the property abutting the street or alley shall compensate the Town of Steilacoom in an amount that does not exceed the full appraised value, as defined in SMC 12.08.050 above, of the area vacated. One-half of the revenue received by the Town shall be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the Town. (Ord. 1351 §3, 2003; Ord. 1305 § 1, 2001; Ord. 1076 §1(part), 1991).

12.08.085 Council findings. In vacating a street or alley, the Council shall consider among other things the following standards for street and alley vacations:

- (1) That the vacation will provide a public benefit and/or will be for a public purpose;
- (2) That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area of the community as a whole;
- (3) That the public needs shall not be adversely affected;
- (4) That the right-of-way is not contemplated or needed for public use;
- (5) That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e. there must be an alternative mode of ingress and egress, even if less convenient;
- (6) That the vacation of right-of-way shall comply and be in accordance with all of the standards of RCW 35.79; as it now exists or is hereafter amended.
- (7) That the vacation of right-of-way shall not be in violation of RCW 35.79.035. (Ord. 1076 §1(part), 1991).

12.08.090 Fees and costs. The petitioners shall be responsible for all fees, costs and/or appraisal fees resulting from the vacation request. (Ord. 1076 §1 (part), 1991).

Chapter 35.79 RCW
STREETS—VACATION

Sections

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| 35.79.010 | Petition by owners—Fixing time for hearing. |
| 35.79.020 | Notice of hearing—Objections prior to hearing. |
| 35.79.030 | Hearing—Ordinance of vacation. |
| 35.79.035 | Limitations on vacations of streets abutting bodies of water—Procedure. |
| 35.79.040 | Title to vacated street or alley. |
| 35.79.050 | Vested rights not affected. |

RCW 35.79.010 Petition by owners—Fixing time for hearing. The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the legislative authority to make vacation, giving a description of the property to be vacated, or the legislative authority may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city or town clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, legislative authority by resolution shall fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution. [1965 c 7 s 35.79.010. Prior: 1957 c 156 s 2; 1901 c 84 s 1, part; RRS s 9297, part.]

RCW 35.79.020 Notice of hearing—Objections prior to hearing.
Upon the passage of the resolution the city or town clerk shall give twenty days' notice of the pendency of the petition by a written notice posted in three of the most public places in the city or town and a like notice in a conspicuous place on the street or alley sought to be vacated. 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. In all cases where the proceeding is initiated by resolution of the city or town council or similar legislative authority 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, 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 owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street or alley or any part thereof sought to be vacated, as shown on the rolls of the county treasurer, directed to the address thereon shown: PROVIDED, That if fifty percent of the abutting property owners file written objection to the proposed vacation with the clerk, prior to the time of hearing, the city shall be prohibited from proceeding with the resolution. [1965 c 7 s 35.79.020. Prior: 1957 c 156 s 3; 1901 c 84 s 1, part; RRS s 9297, part.]

RCW 35.79.030 Hearing—Ordinance of vacation. The hearing on such petition may be held before the legislative authority, before a committee thereof, or before a hearing examiner, upon the date fixed by resolution or at the time the hearing may be adjourned to. If the hearing is before a committee the same shall, following the hearing, report its recommendation on the petition to the legislative authority which may adopt or reject the recommendation. If the hearing is held before a committee it shall not be necessary to hold a hearing on the petition before the legislative authority. If the hearing is before a hearing examiner, the hearing examiner shall, following the hearing, report its recommendation on the petition to the legislative authority, which may adopt or reject the recommendation: PROVIDED, That the hearing examiner must include in its report to the legislative authority an explanation of the facts and reasoning underlying a recommendation to deny a petition. If a hearing is held before a hearing examiner, it shall not be necessary to hold a hearing on the petition before the legislative authority. If the legislative authority determines to grant the petition or any part thereof, such city or town shall be authorized and have authority by ordinance to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city or town may require the owners of the property abutting the street or alley to compensate the city or town in an amount that does not exceed the full appraised value of the area vacated. The ordinance may provide that the city retain 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. A certified copy of such ordinance shall be recorded by the clerk of the legislative authority and in the office of the auditor of the county in which the vacated land is located. One-half of the revenue received by the city or town as compensation for the area vacated must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city or town. [2011 c 130 s 1; 2002 c 55 s 1; 2001 c 202 s 1; 1987 c 228 s 1; 1985 c 254 s 1; 1969 c 28 s 4. Prior: 1967 ex.s. c 129 s 1; 1967 c 123 s 1; 1965 c 7 s 35.79.030; prior: 1957 c 156 s 4; 1949 c 14 s 1; 1901 c 84 s 2; Rem. Supp. 1949 s 9298.]

RCW 35.79.035 Limitations on vacations of streets abutting bodies of water—Procedure. (1) A city or town shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless:

(a) The vacation is sought to enable the city or town to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;

(b) The city or town, by resolution of its legislative authority, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any

of the following purposes: Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or

(c) The vacation is sought to enable a city or town 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 or alleys sought to be vacated abut, had the properties included in the plan not been vacated.

(2) Before adopting a resolution vacating a street or alley under subsection (1)(b) of this section, the city or town shall:

(a) Compile an inventory of all rights-of-way within the city or town that abut the same body of water that is abutted by the street or alley sought to be vacated;

(b) Conduct a study to determine if the street or alley to be vacated is suitable for use by the city or town for any of the following purposes: Port, boat moorage, launching sites, beach or water access, park, public view, recreation, or education;

(c) Hold a public hearing on the proposed vacation in the manner required by this chapter, where in addition to the normal requirements for publishing notice, notice of the public hearing is posted conspicuously on the street or alley sought to be vacated, which posted notice indicates 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 a particular official indicating his or her objection; and

(d) 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.

(3) No vacation shall be effective until the fair market value has been paid for the street or alley that is vacated. Moneys received from the vacation may be used by the city or town 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. [1987 c 228 s 2.]

RCW 35.79.040 Title to vacated street or alley. If any street or alley in any city or town is vacated by the city or town council, the property within the limits so vacated shall belong to the abutting property owners, one-half to each. [1965 c 7 s 35.79.040. Prior: 1901 c 84 s 3; RRS s 9299.]

RCW 35.79.050 Vested rights not affected. No vested rights shall be affected by the provisions of this chapter. [1965 c 7 s 35.79.050. Prior: 1901 c 84 s 4; RRS s 9300.]