Ordinance No. 3634

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Amends Ords. 1934 & 2333
ORDINANCE NO. 3634

AN ORDINANCE of the city council of the city of Kent, Washington, amending sections 6.09.030 and 6.09.060 of the Kent City Code relating to street vacations. The amendments are necessary to bring the Kent City Code into alignment with recent revisions the Legislature made to the Revised Code of Washington.

WHEREAS, the Legislature recently amended Section 35.79.030 of the Revised Code of Washington relating to the allowable amount of compensation a city is authorized to charge when vacating a street, or alley, or any portion thereof, and

WHEREAS, the amendment allows the city, when vacating a street or alley that has been a part of a dedicated public right-of-way for twenty-five years or more or if the subject property (or portions thereof) was acquired at public expense, to seek compensation for the vacation of those streets or alleys, or portions thereof, in an amount that does not exceed the full appraised value of the area vacated, and

WHEREAS, in order to implement these amendments, the city must revise its existing Ch. 6.09 of the Kent City Code regarding street vacations, and

WHEREAS, it is also appropriate to eliminate the classification of streets and alleys when determining the amount of compensation due for vacations in Street Vacations – Ch. 6.09 KCC
order to allow additional flexibility when determining the amount of compensation due for a street vacation, NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. – Amendment  Section 6.09 030 of the Kent City Code, entitled “Hearing—Ordinance of vacation,” is amended as follows

Sec. 6.09.030. Hearing – Ordinance of vacation.  
A. The hearing on the such petition or resolution shall be held before the city council on the date fixed by resolution or at the time to which the such hearing may be continued or adjourned. The city planning manager or director shall report his or her findings at the hearing. If the city council determines to grant all or part of the requested street vacation, its such petition or any part thereof, they shall by ordinance vacate all or part of the such street, or alley, or any part thereof. The ordinance may provide that it shall not become effective until the petitioners owners of the property abutting upon the street or alley, or part thereof so vacated, shall have compensated the city for the area vacated in accordance with this chapter, in an amount which does not exceed one half (1/2) the appraised value of the area vacated. Such the ordinance may also provide that the city retain an easement or the right to exercise or grant easements in respect to the vacated property and for the construction, operation, repair, and maintenance of public utilities and services. The city shall not vacate such street or alley or any part thereof if any portion thereof abuts on a body of water unless such vacation be sought to enable the city, port district or state to acquire the property for port purposes, boat moorage or launching sites, park, viewpoint, recreational or education purposes, or other public use. Thus provision shall not apply to industrial zoned property. A The city clerk shall record a certified copy of such the ordinance with shall be recorded by the city clerk and in the office of the King County Recorder’s Office. The one-hundred-fifty-dollar ($150) fee shall not be refundable, whether or not the petition is granted
The city shall not vacate a street or alley or any parts thereof if any portion abuts on a body of water unless the vacation seeks to enable the city, port district, or state to acquire the property for port purposes, boat moorage, or launching sites, park, viewpoint, recreational, or education purposes, or other public use. This provision shall not apply to industrial zoned property.

**SECTION 2. – Amendment** Section 6.09.060 of the Kent City Code, entitled “Compensation criteria – Classification of streets and alleys,” is amended as follows:

Sec. 6.09.060. Compensation criteria—Classification of streets and alleys.

A. If the city council vacates all or part of any street or alley, the ordinance may provide that the vacation shall not become effective until the petitioners have compensated the city for the area vacated in an amount which does not exceed one-half (1/2) the appraised value of the area vacated. In the event, however, that the street or alley has been part of a dedicated public right-of-way, whether opened or unopened, for twenty-five (25) years or more, or if the property or portions thereof were acquired at public expense, the city may require the petitioners to compensate the city in an amount that does not exceed the full appraised value of the area vacated.

The amount of compensation required for the vacation of all city streets or alleys as of the effective date of the vacation, for the purposes of this section, shall be determined by the public works department. The city council shall have authority to accept real property of equal value in lieu of cash compensation where the value of the street or alley to be vacated is not more than the value of the real property to be acquired by such exchange.

For the purposes of this chapter, all streets or alleys within the city are hereby declared to be within one (1) of four (4) classes:

1. **A Class** – All city streets or alleys acquired at monetary cost to the city are classified as A class streets or alleys.
2—B Class. All city streets or alleys acquired at no monetary cost to the city and for which expenditures of funds have been made in the improvement or maintenance of the streets or alleys are hereby classified as B-class streets or alleys.

3—C Class. All city streets or alleys for which no public funds have been expended in the acquisition, improvement or maintenance of the streets or alleys are classified as C-class streets or alleys.

4—D Class. All city streets or alleys originally dedicated or otherwise conveyed to the city by the present petitioner for the vacation of such streets or alleys for which no public expenditures have been made in the acquisition, improvement or maintenance of the streets or alleys or any other street or alley not included within class A, B or C are classified as D-class streets or alleys.

B——The amount of compensation if required herein shall be determined by the city council according to the following criteria.

1. Vacation of all city streets or alleys included in classes A and B if granted shall require compensation at one-half (1/2) the full appraised value of the vacated street or alley as of the effective date of the vacation, which amount, for the purposes of this section, may be determined by the engineering division of the public works department. The city council shall have authority to accept real property of equal value in lieu of cash compensation where the value of the street or alley to be vacated is not more than the value of the real property to be acquired by such exchange.

2. Vacation of all city streets or alleys included in class C if granted may require compensation at one-half (1/2) the full appraised value of the vacated street or alley as of the effective date of the vacation, which amount, for the purposes of this section, may be determined by the engineering division of the public works department. The city council shall have authority to accept real property of equal value in lieu of cash compensation where the value of the street or alley to be vacated is not more than the value of the real property to be acquired by such exchange.

3. Vacation of all city streets or alleys included in class D if granted may require compensation based on the administrative costs of the vacation.
When a street or alley is vacated for a governmental agency, and compensation is required, compensation shall be based on the administrative costs of the vacation and may, in the discretion of the city council, be based on original cost of acquisition.

When determining the value of the vacated street or alley, the engineering division-public works department may require that an appraisal be performed. The petitioner shall pay the cost of the appraisal shall be paid by the petitioner and the monies for the same, therefore, shall be deposited with the city prior to the city authorizing an appraisal to be prepared.

The compensation determined to be paid shall be a condition precedent to the passage of the specific ordinance pertaining to the vacated street or alley proposed for vacation, and the petitioner will pay shall be paid to the city by the petitioner within ninety (90) days of the city council's passage of the motion directing the city attorney to prepare the specific vacation ordinance. If the petitioner fails in the event of failure of the petitioner to pay the required sum within ninety (90) days, the petition for vacation shall be denied.

In accordance with state law, the city must dedicate one-half (1/2) of the revenue received as compensation for the area vacated for the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city.

SECTION 3. – Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.
SECTION 4. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

Judy Woods
JIM WHITE, MAYOR PRO TEM

ATTEST

Brenda Jacober
BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED 4 day of February, 2003
APPROVED 4 day of February, 2003.
PUBLISHED 8 day of February, 2003

I hereby certify that this is a true copy of Ordinance No 3634 passed by the city council of the city of Kent, Washington, and approved by the mayor of the city of Kent as hereon indicated.

Brenda Jacober (SEAL)
BRENDA JACOBER, CITY CLERK