

November 29, 2021

MEMORANDUM

To: Transportation and Utilities Committee and
Finance and Housing Committee

From: Lish Whitson, Analyst

Subject: Council Bill 120227: Exempting affordable housing projects from street vacation fees

On December 1, the Transportation and Utilities Committee will receive a briefing on [Council Bill \(CB\) 120227](#), which would exempt some affordable housing projects from compensating the City for street and alley vacations. On December 7, the Finance and Housing Committee will discuss and may vote on CB 120227. The CB would have the effect of reducing affordable housing permitting costs. It would at the same time reduce income to the Seattle Department of Transportation when a vacation is required to facilitate an affordable housing project. This memorandum provides a brief background on street vacations and compensation and the bill.

Background

Streets, alleys, and other rights-of-way are distinct from other public property. They typically consist of easements across abutting private property. By providing space for circulation, access, and utilities, they provide benefits to both the public and the abutting property owners. Because of their unique nature, Washington State law ([Revised Code of Washington \(RCW\) Chapter 35.79](#)) requires a separate process for disposing of rights-of-way. State law dictates many aspects of the vacation process. For example, only abutting property owners may petition the City for a vacation.

If the Council approves a vacation, [RCW 35.79.050](#) provides that:

...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.

[SMC 15.06.092](#) repeats this idea that the City can require compensation for right-of-way to be vacated prior to final approval, but is not required to receive compensation. The Council has the authority to choose whether to require compensation for the appraised value of the right-of-way. The SMC exempts City, State and Federal governments from paying this compensation.

The Council updated its [Street Vacation Policies](#) in 2018. Since then, it has received petitions for vacations from approximately one affordable housing project a year. For the two most recent affordable housing projects to petition the City for a street or alley vacation, the [Willow Crossing](#) and [Grand Street Commons](#) projects, the value of the right-of-way that was vacated is over \$450,000. However, this value is much less than the millions of dollars typically provided by downtown alley vacations.

Under RCW 35.79.050, at least half of the vacation compensation must be “dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city or town.” It is the City’s practice to allocate most of the funding received from vacations to transportation or open space purposes. In 2022, under the 2022-2027 Capital Improvement Program, street vacation funds are allocated to the Central Waterfront project, bridge load rating and seismic improvements, non-arterial street resurfacing and restoration, and the SR-520 project.

Council Bill 120227

CB 120227 would remove the requirement to compensate the City for the appraised value of the vacated right-of-way for affordable housing projects funded through City, County, State or Federal funding, provided that the projects will have rent and income levels consistent with the City’s [Housing Funding Policies](#). Those policies require rents to be [affordable](#) to households earning less than 60 percent of Area Median Income.

CB 120227 would reduce the costs to develop affordable housing projects that require a street or alley vacation but would also reduce the funding available for transportation and open space capital projects. Affordable housing projects would still be required to pay the costs of reviewing the vacations. In 2022, that cost will be \$10,130.

Next Steps

The Transportation and Utilities Committee is scheduled to discuss the bill at its December 1 meeting. The Finance and Housing Committee is scheduled to consider and vote on the bill on December 7. If the Finance and Housing Committee votes on December 7, the City Council could take up the bill as early as December 13.

cc: Esther Handy, Director
Dan Eder, Deputy Director
Aly Pennucci, Policy and Budget Manager