

CHAPTER 200. URBAN GROWTH MANAGEMENT

Sec. 200.050. Acquisition of property, easements and right-of-way.

- (a) The developer shall obtain all rights-of-way necessary for street improvements, easements for sewer, drainage and water lines, and fee title to property for parks, pumping stations and reservoirs needed to construct the required facilities identified in the Urban Growth Preliminary Declaration. If the developer is unable to acquire any necessary property, easements, or right-of-way after documented good faith attempts to negotiate and purchase the same, the developer shall prepare the legal descriptions thereof and transmit them to the City Attorney. The City Attorney shall refer the matter to the Council which shall, after public hearing, proceed to determine whether the developer made good faith attempts to acquire the property, easement or right-of-way, and whether to acquire the property, easement, or right-of-way through exercise of eminent domain. The hearing shall be conducted in the manner provided for quasi-judicial hearings in matters other than quasi-judicial land use matters.
- (b) The City Attorney and other city departments shall keep account of time and expenses incurred in acquiring the property, easements, and rights-of-way, including the amount of court costs and attorney fees awarded the other party by the court, and the developer shall pay all such expenses together with the amount of the judgment or settlement. In instances where the City and the developer have responsibility for acquiring abutting portions of right-of-way at the same time, the expenses delineated in this subsection shall be shared in proportion to the area acquired by each party.
- (c) Any settlement of a condemnation action must be concurred in by the developer; provided, however, the developer shall be bound by a final judgment rendered in any eminent domain action unless, within ten days of the verdict being rendered, the developer notifies the City Attorney, in writing, of the developer's intention to abandon the development. If the developer, at any time, decides to abandon the development, the developer shall pay to the City all costs incurred in preparing for and prosecuting the action, including any costs and attorney fees awarded the defendant in the action.
- (d) All property, easements, and rights-of-way acquired by the developer shall be acquired by the developer in the name of, and conveyed to, the City or public, as applicable, free of all liens and encumbrances, no later than the time of recording of the final plat. If the property acquired by the developer is subject to an easement or other interest in land held by a federal, state, or local governmental entity, the Director may accept the conveyance if the easement or interest in land does not unreasonably interfere with the City's planned uses of the encumbered area, are consistent with the terms of the easement, and the easement holder has consented in writing to allow the City's planned use in the encumbered area, in a form acceptable to the City Attorney. This section does not affect the rights or obligation of a public utility under any franchise agreement entered into with the City pursuant to SRC Chapter 35. If the City's planned uses of the encumbered area are not consistent with the terms of the easement, the applicant may request relief from the provisions of this subsection through a Class 2 adjustment, pursuant to SRC chapter 250. Notwithstanding SRC 250.005(d)(2), a Class 2 adjustment for relief pursuant to this subsection may be approved if the following criteria are met:
 - ~~(1) There are no feasible alternatives to relocate the planned City facilities that would eliminate the need to acquire the encumbered area;~~
 - ~~(2) The applicant has made good faith efforts to remove the encumbrance;~~

- ~~(3) The Director determines that the likelihood that the City facilities will need to be modified or relocated is small, and the cost of such modification or relocation can be adequately mitigated; and~~
- ~~(4) The easement holder has consented in writing to allow the City's planned use in the encumbered area, in a form acceptable to the City Attorney. At a minimum, the easement holder's consent shall provide a reasonable time for the City to relocate or modify the City's facilities to accommodate the easement.~~

CHAPTER 803. STREETS AND RIGHT-OF-WAY IMPROVEMENTS

Sec. 803.060. Conveyance by dedication.

~~All streets within subdivisions or partitions, other than private streets allowed under SRC 803.020, shall be dedicated to the City public on the plat free and clear of all liens and encumbrances, except as allowed in SRC 200.050, and without any reservation or restriction other than reversionary rights upon vacation. Public right-of-way shall be dedicated by plat pursuant to ORS Chapter 92 or by Deed of Dedication on a form approved by City Attorney.~~