ORDINANCE NO. 16-0472

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, VACATING A STRIP OF UNDEVELOPED PUBLIC RIGHT-OF-WAY COMPRISED OF APPROXIMATELY 1,600 SQUARE FEET LOCATED ALONG THE EASTERN PERIMETER OF 116TH AVENUE COURT EAST; REQUIRING COMPENSATION FROM THE ABUTTING LANDOWNER; IMPOSING TERMS AND CONDITIONS, INCLUDING THE RESERVATION OF EASEMENTS; SETTING FORTH LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City received a petition signed by the owners of at least two thirds of the property abutting upon a portion of public right-of-way located along the eastern perimeter of 116th Avenue Court East; and

WHEREAS, the City Council passed Resolution No. 16-0331 on April 26, 2016, setting a public hearing on the proposed vacation as required by Chapter 35.79 RCW; and

WHEREAS, the City Council held a duly-noticed public hearing regarding the proposed vacation on June 14, 2016; and

WHEREAS, after considering all testimony and information presented at the public hearing, as well as all written comments submitted, the City Council has determined that the requested vacation should be granted in part subject to the terms and conditions set forth herein; and

WHEREAS, the City Council has determined that only the portion of public right-of-way legally described and depicted in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full, should be vacated at this time;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above recitals and the content of the staff report dated June 8, 2016 as findings in support of this ordinance. The Council further enters the following findings.

A. The right-of-way area proposed for vacation is surplus to the City's needs. The area is unimproved, undeveloped, and is not being used for any public purpose. The City currently does not have, and has never had, any plans to further improve or otherwise utilize said area.

B. The proposed vacation would not impair access to any property or otherwise impinge upon the legally recognized property rights of any landowner.

C. The right-of-way area proposed for vacation is unimproved and has little value or utility, except to the owner(s) of the abutting property.
D. The proposed vacation will serve the public interest by, inter alia, eliminating City maintenance responsibility for the subject property, returning the property to the tax rolls, generating revenue for the City, and preventing and/or minimizing economic waste.

E. The owner of the property abutting the right-of-way area proposed for vacation has expressly requested the vacation and has not filed any written objection.

F. The proposed vacation does not violate applicable City regulations or Comprehensive Plan provisions.

G. The proposed vacation is categorically exempt from SEPA review pursuant to WAC 197-11-800(2)(i).

H. The area proposed for vacation has been part of a dedicated public right-of-way for over 25 years.

Section 2. Vacation. The portion of undeveloped 116th Avenue Court East public right-of-way abutting the real property located at 3715 116th Avenue Court East (Parcel No. 5730000061), as legally described and depicted in Exhibit A, is hereby vacated subject to the terms and conditions set forth in this ordinance.

Section 3. Compensation. Pursuant to RCW 35.79.030, the vacation authorized under Section 2 of this ordinance shall not take effect unless and until the petitioner has remitted payment to the City in the total amount of $5,760, which amount the City Council finds is equivalent to the full appraised value of the vacated area.

Section 4. Conditions; Easement Reservation. The vacation authorized under Section 2 of this ordinance is further conditioned upon and limited by the following requirements, which shall be fulfilled prior to or concurrently with the petitioner’s remittance of payment pursuant to Section 3:

A. Easements for surface use and access, and for above and below ground public and private utilities, including without limitation water utilities, are hereby reserved and required within the vacated area. The surface easement shall authorize the City of Edgewood, its employees and agents to enter upon and access the vacated area for purposes of maintaining and improving the adjacent roadway. The utility easement shall authorize the above and below ground installation, construction, operation, use, repair and replacement of utility facilities, including without limitation water utility facilities, in accordance with applicable City regulations, franchises, and/or right-of-way use permits and agreements. Said easements shall be in a form approved by the City Attorney and shall be recorded against the property title of the vacated area at the petitioner’s expense.

B. The petitioner shall at its sole expense record against the property title of the vacated area a permanent, binding restrictive covenant in a form approved by the City Attorney. Said covenant shall run with the land, shall require the landowner to maintain the vacated area in a safe and undeveloped condition, and shall prohibit any development, construction, fencing or other obstruction within said area except as authorized by and consistent with the easements referenced in subsection A above.

Section 5. Certified Copy of Ordinance to be Recorded. A certified copy of this ordinance shall be recorded by the petitioner with the Pierce County Auditor after its publication at the
petitioner’s expense. A copy of the recorded document shall be submitted by the petitioner to the Edgewood City Clerk.

**Section 6. 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 or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 7. Effective Date.** A summary of this ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

Presented to Council on June 14, 2016

ADOPTED BY THE CITY COUNCIL ON JUNE 14, 2016

Daryl Eidinger, Mayor

ATTEST/AUTHENTICATED:

City Clerk Rachel Pitzel

APPROVED AS TO FORM:

Zach Lell, City Attorney

*Date of Publication:* June 16, 2016  
*Effective Date:* June 21, 2016
Exhibit A
Ordinance 16-0472

Legal Description of Vacation:

East 10.00 feet of 116th Ave. Ct. E., Edgewood, WA. Adjacent to Lots 6 and 7, Meadow Vista Tracts recorded under AFN 1912178, City of Edgewood, County of Pierce, State of Washington

Map

Parcel Where Vacation to Occur:

Area of Vacation (1,602 square feet)
LEGAL NOTICE

NOTICE OF ORDINANCE PASSED BY EDGEWOOD CITY COUNCIL

The following is a summary of an Ordinance passed by the City of Edgewood City Council on the 14th day of June, 2016, and shall take effect and be in full force five (5) days from the date of publication in the City’s official newspaper.

ORDINANCE NO. 16-0472

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, VACATING A STRIP OF UNDEVELOPED PUBLIC RIGHT-OF-WAY COMPRISED OF APPROXIMATELY 1,600 SQUARE FEET LOCATED ALONG THE EASTERN PERIMETER OF 116TH AVENUE COURT EAST; REQUIRING COMPENSATION FROM THE ABUTTING LANDOWNER; IMPOSING TERMS AND CONDITIONS, INCLUDING THE RESERVATION OF EASEMENTS; SETTING FORTH LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

The full text of the Ordinance is available at the City Clerk’s office, Edgewood City Hall, 2224 104th Avenue East, Edgewood, WA 98372 (253) 952-3299.

City Clerk, Rachel Pitzel