

LEGISLATIVE BILL 97

Approved by the Governor April 30, 2003

Introduced by Hartnett, 45

AN ACT relating to cities of the metropolitan class; to amend section 14-3,127, Reissue Revised Statutes of Nebraska, and section 14-3,107, Revised Statutes Supplement, 2002; to authorize the vacation of minimal secondary rights-of-way as prescribed; to define a term; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 14-3,107, Revised Statutes Supplement, 2002, is amended to read:

14-3,107. (1) Except as provided in subsection (2) of this section, the city is authorized to may vacate or narrow any street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley upon petition of the owners of seventy-five percent of the taxable frontage feet abutting upon such street or alley proposed to be vacated and asking for such vacation, or the city, for purposes of construction of a controlled-access highway, or to conform to a master plan of the city, may, without petition having been filed therefor, vacate any street or alley or any part thereof in the city. Whenever a street is vacated or narrowed, the part so vacated shall revert to the abutting owners on the respective sides thereof, except that if part or all of the vacated street lies within the State of Nebraska but one side or any part of the street is adjacent to the boundary of the State of Nebraska, all of the street lying within the State of Nebraska, or that part lying within the State of Nebraska, shall revert to the owner of the abutting property lying wholly within the State of Nebraska. The city is authorized to may open, to improve, and to make passable any street, highway, boulevard, main thoroughfare, controlled-access facility, connecting link, major traffic street, or alley. The term open as used in this section For purposes of this subsection, open refers to the adaptation of the surface of the street to the needs of ordinary travel, but does not necessarily require the grading to an established grade. The costs of any of the improvements mentioned in this section subsection, except as otherwise provided in sections 14-384 to 14-3,127, to the extent of special benefits thereby conferred, may be assessed against the property specially benefited thereby in the usual manner for assessing special benefits. When the city vacates all or any portion of a street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley pursuant to this section subsection, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(2) The city may vacate any minimal secondary right-of-way in the manner described in this subsection. The city may vacate any segment of such right-of-way by ordinance without petition and without convening any committee for the purpose of determining any damages if all affected abutting properties have primary access to an otherwise open and passable public street right-of-way. An abutting property shall not be determined to have primary access if such abutting property has an existing garage and such garage is not accessible without altering or relocating such garage. Title to such vacated rights-of-way shall vest in the owners of abutting property and become a part of such property, each owner taking title to the center line of such vacated street or alley adjacent to such owner's property subject to the following: (a) There is reserved to the city the right to maintain, operate, repair, and renew sewers now existing there and (b) there is reserved to the public utilities and cable television systems the right to maintain, repair, renew, and operate installed water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances above, on, and below the surface of the ground for the purpose of serving the general public or abutting properties, including such lateral connection or branch lines as may be ordered or permitted by the city or such other utility or cable television system and to enter upon the premises to accomplish such purposes at any and all reasonable times. The city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or

resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots. For purposes of this subsection, minimal secondary right-of-way means any street or alley which either is unpaved, has substandard paving, or has pavement narrower than sixteen feet and which is a secondary means of access to or from any property abutting the portion to be vacated.

Sec. 2. Section 14-3,127, Reissue Revised Statutes of Nebraska, is amended to read:

14-3,127. In any of the improvements or alterations authorized by sections 14-363, 14-364, 14-384 to 14-3,102, and ~~14-3,107~~ 14-3,108 to 14-3,127 and subsection (1) of section 14-3,107 in which any of the cost of the improvements or alterations is to be assessed in whole or in part to the abutting property owners, the record owners of a majority of the frontage of the taxable abutting property may, by petition filed with the city within thirty days after notice of the improvements or alterations, protest against the improvements or alterations, and when such petition is filed, the improvements or ~~alteration~~ alterations shall not be done.

Sec. 3. Original section 14-3,127, Reissue Revised Statutes of Nebraska, and section 14-3,107, Revised Statutes Supplement, 2002, are repealed.