

Chapter 12.60
VACATING STREETS, ALLEYS AND EASEMENTS

Sections:

- 12.60.010 Petition.
- 12.60.020 Vacating by ordinance.
- 12.60.030 Vacating by platting.

Cross References: Planning, Chapters 2.65 and 18.05 TMC.

12.60.010 Petition.

(a) Petition Requirements. A petition to vacate any street, alley or public reservation, including but not limited to public easements, dedicated building setback lines, access control, and additions or parts thereof, shall contain, in addition to other information, the following:

(1) For street and alley vacations, letters of response and comment in respect to the proposal from all of the below listed utility companies and public agencies, including but not limited to assurance of compliance with any necessary conditions as may be specified by the affected utility company or public agencies.

For public reservation vacations, letters of response and comment, including but not limited to assurance of compliance with any necessary conditions as may be specified by the affected utility company or public agencies from any or all of the below listed utility companies and public agencies as determined by the director of the metropolitan planning department.

- (i) Electric company.
- (ii) Gas company.
- (iii) Telephone company.
- (iv) Cable television company.
- (v) Department of public works.
- (vi) Fire department.
- (vii) Police department.
- (viii) Water department.

(ix) County refuse department.

(2) A certificate of ownership from an abstract and/or title company or a listing of all property owners of record within the area affected by the proposed vacation. The “area affected” shall be determined at the sole discretion of the director of the metropolitan planning department.

(3) A completed application form as furnished by the metropolitan planning department. Such application shall include the acknowledgment of the owners of the lands adjoining on both sides of the proposed street, alley or public reservation vacation.

(4) The appropriate filing fee.

(b) Filing of Petition – Review – Notice. The petition and all required information, including the appropriate filing fee, shall be filed with the city clerk. The clerk shall forward the petition and information to the metropolitan planning department for review and recommendation. The metropolitan planning department shall review the petition and information and upon finding the petition to be in compliance with the petition requirements shall give public notice of the same by a publication for two consecutive weeks in the official city newspaper. The notice shall describe the property fully, specifying the certain date and naming the day on which the petition will be presented to the city council for a hearing thereon, and that at such time and place all persons interested can appear and be heard under the petition. Furthermore, the metropolitan planning department shall notify by mail all property owners affected by the proposed vacation of the certain date of the hearing thereon, and that at such time and place all persons interested can appear and be heard under the petition. Upon conclusion of the public notices as provided above, the metropolitan planning department shall transmit a report and recommendation, including the comments of applicable utilities and agencies, to the city clerk for presentation to the governing body.

(c) Administrative Filing Fees. Filing fees for the vacation of street, alley, and public reservations by ordinance are hereby established as follows and which includes the recording fee of the register of deeds.

(1) Street, alley vacations	\$250.00
(2) Easements	\$200.00
(3) Other public reservations	\$250.00

(Code 1981 § 40-222. Code 1995 § 130-476.)

Cross References: City council – mayor, Chapter 2.15 TMC; city clerk, TMC 2.25.110; department of public works, TMC 2.25.170; planning department, TMC 2.25.210; police department, TMC 2.25.230; fire department, TMC 2.25.240.

12.60.020 Vacating by ordinance.

(a) As provided by K.S.A. 12-505, if the city council determines that the petition should be granted, the city council shall order by appropriate ordinance that such vacation be made. Said order may include the reservation to the city and the owners of any lesser property rights for public utilities, rights-of-way and easements for public service facilities.

(b) The petition shall not be granted if a written objection thereto is filed with the city clerk at the time of or before the hearing by any owner or adjoining owner who would be a proper party to the petition but has not joined therein.

(c) Upon adoption and publication of any vacation order by ordinance, the city clerk shall certify a copy of such order to the register of deeds for recording.

(d) When any street or alley is vacated it shall revert to the owners of land adjoining on each side in the proportion in which it was originally dedicated or taken, except in cases where such street or alley may have been dedicated or taken for public use in a different proportion, in which case it shall revert to the adjoining land in the same proportion as it was dedicated or taken. (Code 1981 § 40-223. Code 1995 § 130-477.)

Cross References: City council – mayor, Chapter 2.15 TMC; city clerk, TMC 2.25.110.

12.60.030 Vacating by platting.

Any street, alley or easement may be vacated without further proceedings upon the filing with the register of deeds of any plat or replat which has been approved in the manner prescribed by TMC Title 18, Division 3, on subdivision regulations. (Code 1981 § 40-225. Code 1995 § 130-478.)

This page of the Topeka Municipal Code is current through Ordinance 19678, passed December 13, 2011.

Disclaimer: The City Clerk's Office has the official version of the Topeka Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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