

## CITY OF HIGHLAND

### RESOLUTION NUMBER 2020-04

#### **A RESOLUTION OF THE CITY OF HIGHLAND, KANSAS, ADOPTING AND PROVIDING FOR THE PROCEDURE TO BE UTILIZED IN CONNECTION WITH VACATION OF THE PUBLIC STREETS, ALLEYS AND RIGHTS-OF-WAY.**

WHEREAS, the City of Highland, Kansas, from time to time, is requested, or has the need to consider, vacation of its' public streets, alleys and/or rights-of-way; and

WHEREAS, said City wishes to establish a uniform policy and procedure to follow in connection with the same, to serve the public interests and to provide due process to the affected landowners.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND, KANSAS:

**1. Petition.** A request for vacation shall be by written petition of the City or an affected landowner, and shall be filed with the city clerk. The following shall apply with respect to such petition:

a. Said petition shall be on a form supplied by the City and shall be prepared by the petitioner with the assistance of the City Clerk.

b. Said petition shall contain the nature of the vacation request, including the reasons therefor, a description of the property to be vacated and the contiguous property, along with a list of the owners (including mailing addresses) of such contiguous property.

c. All costs incurred in connection with said petition by the City, including costs of notice and publication, shall be paid by the petitioner.

**2. Notice.** Upon filing of such petition, the City shall schedule a hearing, at a regular meeting of the governing body or as otherwise determined, the purpose of which is to consider the vacation request contained in the petition. Notice of such hearing shall be as follows:

a. Notice will be provided to interested parties and the general public by publication notice, in the official newspaper of the City, one time at least 10 days prior to the date of the hearing.

b. Notice shall be given, by personal delivery or placement in first-class U.S. Mail, not less than 10 days prior to said hearing, to all landowners of record owning property contiguous to the property which is requested to be vacated. If there is more than one owner of record to any particular property, notice need be provided to only one such owner.

c. Such notice shall state that a petition has been filed in the office of the City Clerk requesting such vacation, shall describe the property which is requested to be vacated, shall state the date and time on which the petition will be presented to and heard by the governing body, and shall state that all interested persons can appear and be heard at such time and place.

**3. Hearing.** The hearing on the petition, as set forth above, shall be held at the time and place set forth in the notice, including any adjournments thereof. A record of such hearing shall be kept, including any evidence or material presented for or against the petition and, following the hearing, the

governing body shall determine whether or not such petition shall be granted. If the decision is to deny the petition, the proceedings will be at an end. If the decision is to grant the petition, in whole or in part, the following shall apply:

a. Damages resulting from the granting of the petition to affected landowners, if any, shall be determined. A written consent to the vacation, by all contiguous landowners, is preferred, including a waiver of any damages resulting therefrom.


b. Ownership of the vacated property shall revert to the owners of real estate adjacent thereto on each side, in proportion to the frontage of such real estate, except as otherwise provided by law.

c. The City shall retain and reserve easements and rights-of-way for all public service utilities in existence and use, or for those which may be required in the future. Said easements shall be retained in the language of the adopting ordinance and by preparation and execution of easements granted back from the reverting landowners.

**4. Ordinance.** Any such vacation shall be accomplished by the adoption of an ordinance containing the terms recited herein and adopted pursuant to the applicable statute, which ordinance shall be published in the usual manner. Immediately following the publication, the City clerk shall file a certified copy thereof with the offices of the County Clerk and Register of Deeds of Doniphan County, Kansas.

**5. Savings Clause.** The procedures outlined herein are intended to be utilized as the preferred uniform procedure in vacation proceedings; however, failure to comply with the various terms hereof shall not cause the proceeding or the vacation to be defective as long as the minimum standards of the laws of the state of Kansas have been met. As well, technical violations of this procedure, or failure to fully follow the same, shall not give rise to any cause of action against the City.

ADOPTED this 13th day of May, 2020.

  
Charles N. Batchelder, Mayor

ATTESTED TO:

  
Joann Karn, City Clerk