

VACATIONS AND CORRECTIONS

SECTION 12-1 REVIEW AND RECOMMENDATION BY PLANNING COMMISSION

12-101. a. Before any application for the vacation of any public right-of-way, street, alley, easement, plat, setback or access control shall be approved or recommended for approval by the Governing Body, the application shall be submitted to the Planning Commission for review and recommendation. Said recommendation shall include conditions which are appropriate to protect the best interests of the public, Governing Body and utilities. All vacation applications shall be submitted to the Utility Advisory Committee for review and comments prior to the Planning Commission taking action.

b. The recommendation of the Planning Commission shall be submitted to the Governing Body exercising jurisdiction. No vacation shall be recommended for approval unless it is established that no private rights will be injured or endangered by such vacation and that the public will suffer no loss or inconvenience by such vacation.

12-102. a. An application for vacation shall be submitted to the Zoning Administrator and shall be accompanied by in the amounts established by the Governing Body.

b. A written receipt shall be issued to the person(s) making such a payment and records thereof shall be kept in such a manner as prescribed by law. No fee shall be required when said application is submitted by any agency. No fee shall be refunded in the event of disapproval by the Planning Commission or Governing Body.

c. All requests for vacations shall be accompanied by the name and mailing address of all record owners of property touching upon the property proposed to be vacated.

SECTION 12-2 VACATION OF UNRECORDED PLAT

12-201. a. Upon written request of the subdivider to the Planning Commission, a preliminary or final plat may be withdrawn from consideration either before or after approval by the Planning Commission.

b. Upon written request of the subdivider to the Zoning Administrator, a final plat for which dedications, if any, have been accepted by the Governing Body having jurisdiction may be vacated by motion of such Governing Body; provided, that (1) the plat has not been recorded; (2) no lots have been sold or transferred; and (3) no improvements have been installed. After the plat is vacated, the Zoning Administrator shall see that all fiscal sureties are returned to the subdivider except for those expenditures which have been incurred by the City or County in administrative, legal or engineering costs prior to the date of the request for vacation.

c. Upon determining from the Lyon County Register of Deeds that a final plat has not been recorded within 60 days from its final acceptance by the Governing Body having jurisdiction, the Zoning Administrator shall notify the subdivider that the plat is null and void.

SECTION 12-3 CORRECTION OF PLATTING ERRORS

12-301. If, after recording a final plat, an error is found in distances, angles, bearings, subdivision or street names, block or lot numbers, the computation of dimension or elevation or other details of the plat, except in connection with the outer boundaries of the plat, and if the property described in that part of the plat containing the error is under the ownership of the same person who caused the plat to be prepared, the Engineer having jurisdiction, after substantiation of the existence of the error, may file an affidavit with the Lyon County Register of Deeds that the error was made. The affidavit shall describe the nature and extent of the error and the appropriate correction. The Lyon County Register of Deeds shall record the affidavit and shall place in the margin of the recorded plat a notation that the affidavit has been filed, the date of filing and the book and page where it is recorded. The filing of the affidavit shall correct any errors, but shall have no effect on the validity of the plat or any property interest recorded by reference thereto. A copy of the recorded affidavit shall be filed with the Zoning Administrator.

SECTION 12-4 VACATION OF STREETS, ALLEYS, EASEMENTS AND PLATS

12-401. a. The following procedures are provided to vacate streets, alleys or other public reservations such as, but not limited to public easements, dedicated building setback lines, access control, or a part thereof, and including all or parts of recorded plats within the corporate limits of the City:

1. Petitions for vacations received from the Governing Body, the owner of platted land or the owner of land adjoining on both sides of any street, alley, easement or other public reservation may be filed with the Zoning Administrator.

2. The petition shall be reviewed by and comments submitted to the Planning Commission by the Utility Advisory Committee.

3. Following its receipt of the comments of the Utility Advisory Committee, the Planning Commission shall make a recommendation to the Governing Body as to whether the vacation should be approved or disapproved and with or without conditions attached. If the Planning Commission determines that:

- (a) due and legal notice has been given;
- (b) no private rights will be injured or endangered; and
- (c) the public will suffer no loss or inconvenience;

then the Planning Commission shall recommend that such vacation be approved and entered at length in the minutes. Such recommendation may provide for the reservation to the City and/or the owners of any lesser property rights for public utilities, rights-of-way and easements for public service facilities originally located in such vacated land or planned for the future. The petition shall not be recommended by the Planning Commission nor granted by the Governing Body if a written objection is filed with the Clerk by any owner who would be a proper party to the petition, but has not joined therein. Furthermore, when only a portion of a

street, alley or public reservation is proposed to be vacated, the petition shall not be recommended by the Planning Commission nor granted by the Governing Body if a written objection is filed with the Clerk by any owner of lands which adjoin the portion to be vacated. The recommendation of the Planning Commission to the Governing Body shall be made as provided by K.S.A. 12-752 for the submission and approval of a final plat, and the Governing Body may approve or disapprove the vacation or approve it with or without reservation of lesser easements than as recommended by the Planning Condition.

4. Following the approval of the vacation by the Governing Body, the City Clerk shall certify a copy of the order to the Lyon County Register of Deeds.

b. The following procedures are provided for the vacation of streets, alleys, public easements or public reservations, e.g., building setback lines and access control and including all or parts of the recorded plats within that portion of the unincorporated area of the County subject to these regulations. These procedures are intended to supplement the requirements for vacation set forth at K.S.A. 68-102 *et seq.*

1. The owners of any platted land proposed for vacation or the adjoining owners on both sides of any street, alley, public easement or public reservation, or part thereof, may file a petition to vacate with the Board of County Commissioners. Upon such filing, the County Commissioners shall fix a date, time and place for a hearing and publish a notice in the official county newspaper. At least 20 days shall elapse between the date of such publication and the date set for the hearing.

If the Commissioners are satisfied at the hearing that:

- (a) due and legal notice has been given;
- (b) the public will suffer no loss or inconvenience; and
- (c) no private rights will be injured or endangered;

then the Commissioners shall order such vacation be made and entered into the minutes of the proceedings. Such order shall protect and provide for the property rights of public utilities, rights-of-way and easements for public service facilities in existence and use. No such vacation shall be granted; however, if the City Governing Body protests against such vacation. Furthermore, when only a portion of a street, alley or public reservation is proposed to be vacated, the petition shall not be granted if a written objection is filed with the County Clerk by any owner of land which adjoins the portion to be vacated. The County Clerk shall record a certified copy of the order with the Lyon County Register of Deeds.

2. Prior to the hearing by the Board of County Commissioners, the Planning Commission shall make a recommendation to the Board of County Commissioner as to whether the vacation should be recommended for approval by the County Commissioners with or without conditions attached.