
Subject: STREET VACATION POLICY

No. 40.6

Date: July 6, 1992

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POLICY:

To establish a uniform policy/procedure for vacating streets.

SCOPE:

The policy applies to all streets within the City of Kalamazoo.

POLICY:

1. Petitioner will obtain a copy of an application (Attachment "A"), a blank petition (Attachment "B"), and an affidavit of verification of property owners (Attachment "C") from the Office of Economic Development & Planning or City Clerk's' office.
 - A. The application will require the following information:
 - 1) Name of person(s) requesting the vacation.
 - 2) Name and location of the public right-of-way which is requested to be vacated.
 - 3) Purpose of the vacation
 - B. Additional items to be submitted to the Office of Economic Development & Planning on order to process the application will include:
 - 1) A map showing the street/alley requested to be vacated, including all abutting lots and parcels.
 - 2) A legal description of the property to be vacated.
 - 3) If available, letters(s) from those property owners abutting the proposed vacation explaining why they are opposed to the request.
 - 4) Affidavit of Verification of Property Owners.
 - 5) Non-refundable application fee of \$200.00
2. Petitioner shall complete the application form. The application and blank petition shall then be turned in to the Assessor's Office. Within one week, the Assessor shall:

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- A. Determine if the property requested to be vacated is public or private. (If the property is private, no City Commission action is required; it will be necessary for the petitioner to contact the private party.)
 - B. Place the legal description on the application. (Public Works will assist with this task if requested).
 - C. Provide the petition circulator with a list of all owners of record for each lot or parcel abutting the property requested for vacation, including the names of any land contract purchasers of record.
 - D. Provide the petition circulator with a plat map showing the property requested for vacation and the abutting properties.
3. When the work as listed in #2 A-D is completed, the Assessor shall return the forms and information to the petitioner.
 4. It will be the responsibility of the petition circulator to review the records of the Kalamazoo County Register of Deeds to confirm that the names of the persons with interest in the affected parcels as supplied by the Assessor's Office are complete and accurate. In lieu of searching the records, the petition circulator may request a search by a title company. **If a title company is used, they will charge for the title search.** (Failure to list all persons with interest in the affected properties may invalidate the petition.)
 5. The petition circulator will obtain signatures of the title owners of record for each lot or parcel abutting the right-of-way requested to be vacated (this should be the people as described above).
 - A. Signatures must be in name of **each** individual with an interest; i.e., not Mr. and Mrs. Doe.
 - B. The Chief Executive Officer or authorized person must sign on behalf of a corporation.
 - C. If an abutting property owner cannot/will not sign the petition, the petition circulator shall ask the person to submit a letter why she/he opposed the proposed vacation.
 6. Petitioner will then return to the Office of Economic Development & Planning:

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- A. The completed application.
 - B. The signed petition.
 - C. An Affidavit concerning the verification of the property owners of title
 - D. A map showing the street/alley requested to be vacated, including all abutting lots and parcels.
 - E. A legal description of the property to be vacated.
 - F. If available, letter(s) from those property owners abutting the proposed vacation explaining why they are opposed to the request.
 - G. Non-refundable application fee of \$200.00
7. If there is a question concerning the legality of the petition or application, the Office of Economic Development will distribute copies of the application, petition, and affidavit to the City Attorney for verification of their legality.
 - A. The Attorney's Office will notify the Office of Economic Development & Planning of its findings and provide instructions.
 8. The office of Economic Development and Planning will review the request to vacate a street/alley to determine if there are any zoning implications related to the request.
 9. If the petition is in order, the Office of Economic Development & Planning will then distribute copies of the application, petition, and affidavit as follows:
 - A. To City Clerk: to place the petition on the City Commission agenda for receipt and referral to staff.
 - B. To Public Works: for review and recommendation within two (2) weeks. If the department is unable to respond within that time, the Office of Economic Development & Planning will be notified **IMMEDIATELY**.
 - C. To Public Safety: for review and recommendation within two (2) weeks. If the department is unable to respond within that time, the Office of Economic Development & Planning will be notified **IMMEDIATELY**.

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- D. To Public Utilities: for review and recommendation within two (2) weeks. If the department is unable to respond within that time, the Office of Economic Development & Planning will be notified **IMMEDIATELY**.
- E. To Assessing: to prepare mailing labels for all property owners within 300 feet of the right-of-way requested for vacation.
1. This information will be returned promptly to the Office of Economic Development.
- F. To Planning Commission: to conduct a public hearing.
10. After receiving the recommendations of Public Works, Public Utilities, and Public Safety, a public hearing on the vacation request will be scheduled before the Planning Commission by the Office of Economic Development & Planning.
- A. The hearing should be scheduled to take place at the next regular meeting of the Planning Commission. However, if circumstances require additional time to review the request, it may be necessary to schedule the public hearing at a later meeting of the Planning Commission.
 - B. In all instances, the public hearing before the Planning Commission shall be scheduled so that notice of the public hearing is mailed to the parties of interest and published in the Kalamazoo Gazette at least 15 days prior to the hearing taking place.
11. Notice of the public hearing should include information about the date, time and place of the public hearing, as well as a map of the property being considered for vacation.
12. Notice of the public hearing before the Planning Commission will be prepared and mailed by the Office of Economic Development & Planning to the following:
- A. The petition circulator
 - B. Property owners within 399 feet of the right-of-way requested for vacation at least 15 days prior to the public hearing
 - C. The following utilities/agencies for their information:
 - 1) Consumers Power

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- 2) Ameritech
 - 3) Kalamazoo Post Office
 - 4) Neighborhood Association
 - 5) Kalamazoo Public Schools
 - 6) Any other agency which may be affected by the vacation
- D. Notice of the public hearing will also be published in the Kalamazoo Gazette. It will be the responsibility of the Office of Economic Development & Planning to prepare the notice. However, the City Clerk's Office will make arrangements with the newspaper for publication at least 15 days prior to the public hearing.
13. Prior to the Planning Commission's public hearing, the Office of Economic Development & Planning will prepare a staff report and recommendation for the Planning Commission. The report shall include:
- A. A copy of the application.
 - B. A copy of the petition.
 - C. A map indicating the location of the requested vacation.
 - D. Comments, if any, from the various Departments and Agencies.
 - E. A recommendation based upon:
 - 1) Whether or not the vacation is necessary or desirable for the public health, welfare, comfort or safety of the community.
 - 2) Future planning/development considerations.
 - 3) Effect on utilities.
 - 4) Effect on abutting property owners.

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- 5) Concerns of property owners near the property considered for vacation.
14. The planning Commission shall conduct the public hearing and take one of the following actions:
- A. Recommend approval of the request.
 - B. Recommend approval with conditions.
 - C. Recommend denial of the request.
 - D. Table the request for additional information.
15. After the public hearing has taken place, the Office of Economic Development & Planning will notify the petitioner of the action taken by the Planning Commission.
16. After the public hearing has taken place, the Office of Economic Development & Planning shall forward the recommendation of the Planning commission to the City Attorney's Office in order to have a resolution prepared. The appropriate resolution will promptly be returned to the office of Economic Development & Planning.
17. After receipt of the appropriate resolution, the Office of Economic Development & Planning will forward to the City Manager:
- A. A copy of the Planning Commission's recommendation
 - B. The report prepared for the Planning Commission (as described in #13).
 - C. The resolution as prepared by the City Attorney.
18. The City Manager will submit the materials listed in #17 to the City Commission for Commission consideration.
19. The Office of Economic Development & Planning will notify the Petition circulator, or representative, of the date and time when the City Commission will consider the request to vacate the street/alley.

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20. After the City Commission acts on the request to vacate property, the Office of Economic Development & Planning will formally notify the petitioner of the action taken.
 - A. If the request is denied, the petitioner will be notified that a request to vacate the same (or nearly the same) public right-of-way will not be considered by the City for one (1) year., EXCEPT:
 - 1) When the Office of Economic Development & Planning determines there have been material changes in conditions or circumstances.
 - 2) Payment of an additional \$200.00 application fee must be included with the request to reconsider a street/alley vacation.
21. If the City Commission approves the vacation, the City Clerk will certify the resolution and map, then record these documents with the Kalamazoo County Register of Deeds Office.
22. If the City Commission approves the vacation, the City Clerk will send a memo (with a map of the affected property) to the following divisions to inform them of the vacation:
 - A. Public Works
 - B. Economic Development & Planning
 - C. Public Utilities
 - D. City Attorney
 - E. City Assessor
 - F. Public Safety
23. Upon receipt of the recorded resolution from the Kalamazoo County Register of Deeds Office, the City Clerk shall send copies of the recorded documents to the State Treasurer's Office and the City Assessor.
24. The following people will serve as division contacts throughout the process for reviewing street/alley vacation requests:

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- A. Office of Economic Development & Planning – City Planner.
- B. City Attorney – Deputy City Attorney.
- C. City Clerk – City Clerk.
- D. Public Works – Traffic Engineer.
- E. Public Utilities – Utilities Engineering Manager.
- F. Public Safety – Fire Marshall.
- G. Assessing Department – City Assessor.

EFFECTIVE DATE: July 6, 1992

ALSO SEE: