

(Published in the Topeka Metro News December 8, 2014)

ORDINANCE NO. 19930

AN ORDINANCE introduced by City Manager Jim Colson, relating to the vacation of public street and alley rights-of-way lying between SE Rice Road and SE Cottage Avenue and approximately 250 feet north of SE 6th Avenue, in the City of Topeka, Shawnee County, Kansas. (V14S/1) (Council District No. 3)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by Gerald H. Graves and Kevin and Sarah Guesby of Kansas as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described public street and alley rights-of-way located within the City of Topeka, Shawnee County, Kansas:

A part of platted 5th Street in Freeman Heights and a part of platted Fifth Street Terrace in Heim Subdivision, all in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as:
Beginning at the Northeast corner of Lot 33 on East 5th Street Terrace, formerly 5th Street in Freeman Heights Subdivision; thence westerly on the South line of East 5th Street Terrace and its extension, to the Northwest corner of Lot 76 on Cottage Avenue; thence northerly on an extension of the East line of Cottage Avenue to the North line of East Fifth Street Terrace as platted in Freeman Heights Subdivision; thence easterly on the North line of East Fifth Street Terrace to the Southwest corner of Heim Subdivision; thence northerly on the West line of Heim Subdivision to the Southwest corner of Lot 11 in the last said subdivision; thence easterly on the North line of East Fifth Street Terrace, formerly Fifth Street Terrace in Heim Subdivision, to an intersection with a northerly extension of the East line of Lot 33 in Freeman Heights Subdivision; thence southerly to the point of beginning.

AND:

A part of a platted alley in Freeman Heights Subdivision in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northeast corner of Lot 76 on Cottage Avenue in Freeman Heights Subdivision; thence southerly on the West line of a 20 feet wide platted alley, to a point on the East line of Lot 96 on Cottage Avenue which is 33 feet north of the South line of said Southwest Quarter; thence easterly parallel with the South line of said Southwest Quarter to a point on the West line of Lot 62 on 6th Avenue; thence northerly to the Northwest corner of said Lot 62; thence northerly to the Southwest corner of Lot 61 on East 5th Street Terrace, formerly 5th Street; thence northerly to the Northwest corner of said Lot 61; thence westerly on an extension of the South line of East 5th Street Terrace to the point of beginning.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on **November 25, 2014**, the petition is ready for determination by the Council of the City of

Topeka, Kansas.

Section 3. That the Council of the City of Topeka, after being duly informed and hearing the evidence presented finds that:

- a. Legal notice was given as required by K.S.A. 12-504 as amended.
- b. No private rights will be injured or endangered by such vacation.
- c. The public will suffer no loss or inconvenience by such vacation.

Section 4. That the Council of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the vacation of the below described public street and alley rights-of-way located within the City of Topeka, Kansas:

A part of platted 5th Street in Freeman Heights and a part of platted Fifth Street Terrace in Heim Subdivision, all in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as:
Beginning at the Northeast corner of Lot 33 on East 5th Street Terrace, formerly 5th Street in Freeman Heights Subdivision; thence westerly on the South line of East 5th Street Terrace and its extension, to the Northwest corner of Lot 76 on Cottage Avenue; thence northerly on an extension of the East line of Cottage Avenue to the North line of East Fifth Street Terrace as platted in Freeman Heights Subdivision; thence easterly on the North line of East Fifth Street Terrace to the Southwest corner of Heim Subdivision; thence northerly on the West line of Heim Subdivision to the Southwest corner of Lot 11 in the last said subdivision; thence easterly on the North line of East Fifth Street Terrace, formerly Fifth Street Terrace in Heim Subdivision, to an intersection with a northerly extension of the East line of Lot 33 in Freeman Heights Subdivision; thence southerly to the point of beginning.

AND:

A part of a platted alley in Freeman Heights Subdivision in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northeast corner of Lot 76 on Cottage Avenue in Freeman Heights Subdivision; thence southerly on the West line of a 20 feet wide platted alley, to a point on the East line of Lot 96 on Cottage Avenue which is 33 feet north of the South line of said Southwest Quarter; thence easterly parallel with the South line of said Southwest Quarter to a point on the West line of Lot 62 on 6th Avenue; thence northerly to the Northwest corner of said Lot 62; thence northerly to the Southwest corner of Lot 61 on East 5th Street Terrace, formerly 5th Street; thence northerly to the Northwest corner of said Lot 61; thence westerly on an extension of the South line of East 5th Street Terrace to the point of beginning.

Section 5. That the Council of the City of Topeka does hereby find that justice further requires the provision for a public utility easement to be established over the described property as set forth in Section 4 and does hereby order the retention of the below described area as a public utility easement:

A part of platted 5th Street in Freeman Heights and a part of platted Fifth Street Terrace in Heim Subdivision, all in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as:

Beginning at the Northeast corner of Lot 33 on East 5th Street Terrace, formerly 5th Street in Freeman Heights Subdivision; thence westerly on the South line of East 5th Street Terrace and its extension, to the Northwest corner of Lot 76 on Cottage Avenue; thence northerly on an extension of the East line of Cottage Avenue to the North line of East Fifth Street Terrace as platted in Freeman Heights Subdivision; thence easterly on the North line of East Fifth Street Terrace to the Southwest corner of Heim Subdivision; thence northerly on the West line of Heim Subdivision to the Southwest corner of Lot 11 in the last said subdivision; thence easterly on the North line of East Fifth Street Terrace, formerly Fifth Street Terrace in Heim Subdivision, to an intersection with a northerly extension of the East line of Lot 33 in Freeman Heights Subdivision; thence southerly to the point of beginning.

AND:

A part of a platted alley in Freeman Heights Subdivision in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northeast corner of Lot 76 on Cottage Avenue in Freeman Heights Subdivision; thence southerly on the West line of a 20 feet wide platted alley, to a point on the East line of Lot 96 on Cottage Avenue which is 33 feet north of the South line of said Southwest Quarter; thence easterly parallel with the South line of said Southwest Quarter to a point on the West line of Lot 62 on 6th Avenue; thence northerly to the Northwest corner of said Lot 62; thence northerly to the Southwest corner of Lot 61 on East 5th Street Terrace, formerly 5th Street; thence northerly to the Northwest corner of said Lot 61; thence westerly on an extension of the South line of East 5th Street Terrace to the point of beginning.

Section 6. That the Council of the City of Topeka does hereby find that justice further requires the provision for a Fire Rescue and Public Service Vehicle easement to be established over the described property as set forth in Section 6 and does hereby order the retention of the below described area as a Fire Rescue and Public Service Vehicle easement:

A part of platted 5th Street in Freeman Heights Subdivision in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 76 on Cottage Avenue in Freeman Heights Subdivision; thence northerly on an extension of the East line of Cottage Avenue to the North line of Freeman Heights Subdivision; thence easterly on the North line of Freeman Heights Subdivision to an intersection with an extension of the West line of Lot 61 on East 5th Street Terrace, formerly 5th Street; thence southerly to the Northwest corner of said Lot 61; thence westerly on the South line of East 5th Street Terrace and its extension, to the point of beginning.

AND:

A part of a platted alley in Freeman Heights Subdivision in the Southwest Quarter of Section 34, Township 11 South, Range 16 east of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northeast corner of Lot 76 on Cottage Avenue in Freeman Heights Subdivision; thence southerly on the West line of a 20 feet wide platted alley, to a point on the East line of Lot 96 on Cottage Avenue which is 33 feet north of the South line of said Southwest Quarter; thence

easterly parallel with the South line of said Southwest Quarter to a point on the West line of Lot 62 on 6th Avenue; thence northerly to the Northwest corner of said Lot 62; thence northerly to the Southwest corner of Lot 61 on East 5th Street Terrace, formerly 5th Street; thence northerly to the Northwest corner of said Lot 61; thence westerly on an extension of the South line of East 5th Street Terrace to the point of beginning.

Section 7. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

Section 8. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body on November 25, 2014.

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified ____
Not To Be Codified X