

12-505. Same; proceedings on petition. (a) Upon the presentation of such petition, as hereinbefore provided for, to the governing body of the city or planning commission, the governing body or planning commission shall proceed to hear the same, or may adjourn the hearing from time to time to some day and hour certain, as deemed necessary, and which adjournment shall be noted upon the record of the proceedings thereof. On the day of the hearing of such petition, the governing body or planning commission shall hear such testimony as may be produced before it, and such other testimony as required in order to fully understand the true nature of the petition and the propriety of granting the same. If the planning commission holds the hearing, the commission shall make a recommendation regarding the vacation and submit such recommendation to the governing body in the same manner provided by K.S.A. 12-752, and amendments thereto, for the submission and approval of recommendations regarding plats. Subject to the provisions of subsection (b), if the governing body or planning commission determines from the proofs and evidence presented that due and legal notice has been given by publication as required in this act, and that no private rights will be injured or endangered by such vacation or exclusion, and that the public will suffer no loss or inconvenience thereby, and that in justice to the petitioner or petitioners the prayer of the petitioner ought to be granted, the governing body shall order that such vacation or exclusion, or both, be made. Any order approving a vacation of plat, street, alleys, easements or a public reservation shall provide for the reservation to the city and the owners of any lesser property rights for public utilities, rights-of-ways and easements for public service facilities originally held in such plat, street, alley, easement or public reservation then in existence and use. 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. 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 clerk of the governing body by any owner of lands which adjoin the portion to be vacated.

(b) If within two years following the effective date of the annexation of any tract pursuant to K.S.A. 12-520c, and amendments thereto, and upon petition of the owner of any such tract, the governing body of the city shall exclude such tract if the owner reimburses the city for all costs incurred by the city in the extension of services to such tract, together with interest on the amount of such costs at a rate provided by K.S.A. 16-201, and amendments thereto. The owner shall be required to pay only those costs which are attributable to services which exclusively benefit such tract.

The provisions of this subsection shall apply only to a tract which is under one ownership on the date the petition for exclusion is filed by the owner thereof with the city governing body, and which will not adjoin the city on the effective date of its exclusion from the city.

The terms "tract" and "owner" in this subsection shall have the same meaning ascribed thereto in K.S.A. 12-519, and amendments thereto.

The provisions of this subsection shall expire on December 31, 1997.

(c) Any lands so excluded shall be listed for future taxation the same as though it had never been a part of such city, and which order shall be entered at length on the records of the proceedings of the governing body. Thereupon the city clerk shall certify a copy of such order to the register of deeds of the county in which such property is located. The register of deeds shall record in the deed records of the county at the expense of the petitioner or petitioners, and the register of deeds shall also write on the margin of the recorded plat of such townsite or addition, the words "canceled by order" or "canceled in part by order," as the case may be, giving reference thereon to the page and book of records where such order is recorded in the register's office.

History: L. 1905, ch. 519, § 2; R.S. 1923, § 12-505; L. 1967, ch. 82, § 2; L. 1984, ch. 65, § 4; L. 1997, ch. 147, § 2; May 1.