

HOUSE BILL No. 2178

AN ACT concerning cities; relating to the vacation of territory, easements or certain blocks; providing procedures to challenge certain decisions of a city; amending K.S.A. 12-504 and 12-505 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. Lots dedicated in the northeast section of the original town plat for the city of Americus, Kansas, for a college and for a park are hereby vacated from such dedication, and fee simple title to such lots are vested in the city of Americus, Kansas, to dispose of at the discretion of the city's governing body.

New Sec. 2. Any owner of land aggrieved by the decision of the city governing body under the provisions of K.S.A. 12-505, 13-443, 14-423 and 15-427, and amendments thereto, within 30 days following the publication of the vacation ordinance, may bring an action in district court challenging the reasonableness of such decision.

Sec. 3. K.S.A. 12-504 is hereby amended to read as follows: 12-504. ~~Whenever the governing body of the city in which any of the following are located or whenever (a) The owner or owners of: (1) Any townsite or part of a townsite, or of; (2) any addition or part of an addition to any city; or the governing body in which the following are located, or the owner or owners of (3) the lands adjoining on both sides of any street, alley or public reservation such as, but not limited to public easements, dedicated building setback lines, access control, or a part thereof, in any city or any addition thereto, that desires to have the same any townsite or part thereof, any addition or part thereof, or public easements, building setback lines, access control or part thereof vacated, or that desires to exclude any farming lands or unplatted tracts, or any addition or part of an addition to be vacated hereunder, from the boundaries of the city wherein situated, shall petition the governing body of such city or the city planning commission shall and request a public hearing on the issues. The governing body shall give public notice of the same of such request by a publication in a newspaper of general circulation in the vicinity of such place sought to be vacated or excluded or in the official city newspaper in which is situated the place, tract or tracts, street, alley, or public reservation sought to be vacated or excluded, if there is any such newspaper published therein and shall designate whether the hearing will be conducted by the governing body or the planning commission. Such The notice shall be published at least one time at least 20 days prior to the date of the hearing. Such The notice shall state that a petition has been filed in the office of the city clerk praying for requesting such vacation or exclusion, or both, describing the property fully, and that on a certain date after the completion of such publication notice, naming the day on which the petition will be presented to the governing body of the city or the city planning commission for a hearing thereon, and that at such time and place. The notice shall specify whether the hearing is to be held before the governing body or the planning commission. All interested persons interested can appear and shall be given an opportunity to be heard under on the petition.~~

(b) Any city may initiate the deannexation of land from the city by following the notice and public hearing process established in subsection (a). The hearing shall be held before the city governing body.

(c) A city may initiate the vacation of any public reservation by following the notice and public hearing process established in subsection (a). The hearing shall be held before the city governing body.

Sec. 4. K.S.A. 12-505 is hereby amended to read as follows: 12-505. (a) (1) Upon the presentation of such the 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 petition, 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 as provided

in the notice. 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~~ *on* the propriety of granting the ~~same petition~~. 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);~~

(2) 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 request~~ of the petitioner ought to be granted, the governing body shall *enact an ordinance containing the 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.

(3) 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~~ *that* 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. 12-520e, 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.~~

~~(e)~~—Any lands ~~so~~ excluded *pursuant to this section* shall be listed for future taxation ~~the same~~ as though ~~it~~ *the lands* 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 *ordinance containing the* 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~~ *the ordinance containing the* order is recorded in the register's office.

Sec. 5. K.S.A. 12-504 and 12-505 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the House, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.