E

APPENDIX E

Annexation- KS Statute

12-520

Chapter 12.--CITIES AND MUNICIPALITIES
Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-520. Conditions which permit annexation; ordinance; severability of ordinance where annexation invalid. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.

(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The

invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

History: L. 1967, ch. 98, § 2; L. 1974, ch. 56, § 4; L. 1980, ch. 62, § 1; L. 1986, ch. 70, § 2; L. 1987, ch. 66, § 2; L. 1993, ch. 147, § 1; L. 2005, ch. 166, § 11; L. 2005, ch. 186, § 6; L. 2007, ch. 142, § 1; April 26.

12-520a

Chapter 12.--CITIES AND MUNICIPALITIES
Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-520a. Resolution; hearing; notice; publication; sketch of area; criteria considered at hearing; consent, effect. (a) The governing body of any city desiring to annex land under the authority of K.S.A. 12-520, and amendments thereto, shall adopt a resolution stating that the city is considering the annexation of the land. The resolution shall:

(1) Give notice that a public hearing will be held to consider the annexation of the land and fix the date, hour and place of the public hearing. Unless the governing body of the city determines adequate facilities are not available, the public hearing shall be held at a site located in or as near as possible to the area proposed to be annexed. The hearing shall be held at the time determined by the governing body to be the most convenient for the greatest number of interested persons;

(2) describe the boundaries of the land proposed to be annexed; and

(3) state that the plan of the city for the extension of services to the area proposed to be annexed, which is required under the provisions of K.S.A. 12-520b, and amendments thereto, is available for inspection during regular office hours in the office of the city clerk.

(b) The date fixed for the public hearing shall be not less than 60 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(c) A copy of the resolution providing for the public hearing shall be mailed by certified mail to each owner of land proposed to be annexed not more than 10 days following the date of the adoption of the resolution. The resolution shall be published in the official newspaper of the city not less than one week and not more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in such detail as may be necessary to advise the reader of the particular land proposed to be annexed shall be published with the resolution. A copy of such sketch also shall be mailed to the owner of the property with the resolution.

(d) A copy of the resolution providing for the public hearing shall be sent by certified mail not more than 10 days following the date of the adoption of the resolution to:

(1) The board of county commissioners;

(2) the governing body of the township where the land to be annexed is located;

(3) any special assessment district or governmental unit providing municipal services to the area proposed to be annexed including, but not limited to, sewer districts, rural water districts, fire districts or improvement districts;

(4) any utilities having facilities within the area proposed to be annexed;

(5) the governing body of any school district in the area proposed to be annexed;

(6) any city, county, township or joint planning commission having jurisdiction over the area proposed to be annexed; and

(7) any other political or taxing subdivision located within the area proposed to be annexed.

(e) At the public hearing, a representative of the city shall present the city's proposal for annexation, including the plan of the city for the extension of services to the area proposed to be annexed. Following the explanation, all interested persons shall be given an opportunity to be heard. The governing body may recess, for good cause shown, the hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

At such hearing or at any continuation of such hearing, the city shall determine the advisability of the annexation. As a guide in determining the advisability of such annexation, the city shall consider the:

(1) Extent to which any of the area is land devoted to agricultural use;

(2) area of platted land relative to unplatted land;

(3) topography, natural boundaries, storm and sanitary sewers, drainage basins, transportation links or any other physical characteristics which may be an indication of the existence or absence of common interest of the city and the area proposed to be annexed;

(4) extent and age of residential development in the area to be annexed and adjacent land within the city's boundaries;

(5) present population in the area to be annexed and the projected population growth during the next five years in the area proposed to be annexed;

(6) extent of business, commercial and industrial development in the area;

(7) present cost, methods and adequacy of governmental services and regulatory controls in the area;

(8) proposed cost, extent and the necessity of governmental services to be provided by the city proposing annexation and the plan and schedule to extend such services;

(9) tax impact upon property in the city and the area;

(10) extent to which the residents of the area are directly or indirectly dependent upon the city for governmental services and for social, economic, employment, cultural and recreational opportunities and resources;

(11) effect of the proposed annexation on the city and other adjacent areas, including, but not limited to, other cities, sewer and water districts, improvement districts, townships or industrial districts and, subject to the provisions of K.S.A. 12-521a, and amendments thereto, fire districts;

(12) existing petitions for incorporation of the area as a new city or for the creation of a special district;

(13) likelihood of significant growth in the area and in adjacent areas during the next five years;

(14) effect of annexation upon the utilities providing services to the area and the ability of those utilities to provide those services shown in the detailed plan;

(15) economic impact on the area; and

(16) wasteful duplication of services.

(f) No resolution, notice and public hearing required under the provisions of this section shall be required as a prerequisite to the annexation of land owned by or held in trust for the city or any agency thereof or land all of the owners of which petition for or consent thereto in writing.

(g) Any resolution, adopted pursuant to this section, which includes territory subsequently incorporated pursuant to K.S.A. 15-115 et seq., and amendments thereto, shall be invalid.

History: L. 1974, ch. 56, § 2; L. 1984, ch. 66, § 1; L. 1987, ch. 66, § 3; L. 1993, ch. 147, § 2; L. 2005, ch. 155, § 2; July 1.

12-520b

Chapter 12.--CITIES AND MUNICIPALITIES
Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-520b. Plans for extension of services; reports, contents; statement of plans for extension of municipal services to area; consent, effect. (a) The governing body of any city proposing to annex land under the provisions of K.S.A. 12-520, and amendments thereto, shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the adoption of the resolution provided for in K.S.A. 12-520a, and amendments thereto, prepare a report setting forth such plans. The report shall include:

(1) A sketch clearly delineating the land proposed to be annexed and the area of the city adjacent thereto to show the following information:

(A) The present and proposed boundaries of the city affected by such proposed annexation;

(B) the present streets, water mains, sewers and other city utility lines, and the proposed extension thereof;

(C) the general land use pattern in the areas to be annexed.

(2) A statement setting forth a plan of sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the city for extending to the area to be annexed each major municipal service provided to persons and property located within the city and the area proposed to be annexed at the time of annexation and the estimated cost of providing such services. The plan shall state the estimated cost impact of providing such services to the residents of the city and the residents of the area proposed to be annexed. The plan shall state the method by which the city plans to finance the extension of such services to such area. Such plan shall include a timetable of the plans for extending each major municipal service to the area annexed. The plan shall state the means by which the services currently provided by a township or special district in the area to be annexed shall be maintained by the city at a level which is equal to or better than the level of services provided prior to annexation. The plan shall state those services which shall be provided immediately upon annexation and those services which may be provided upon petition of the landowners to create a benefit district.

(b) The preparation of a plan for the extension of services required by subsection (a) shall not be required for or as a prerequisite to the annexation of land of which all of the owners petition for or consent to such annexation in writing.

History: L. 1974, ch. 56, § 3; L. 1987, ch. 66, § 4; April 9.

12-520c

Chapter 12.--CITIES AND MUNICIPALITIES
Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-520c. Annexation of land not adjoining city, when; resolution to county commissioners; findings by board spread upon journal; effect; appeals to district court. (a) The governing body of any city may by ordinance annex land not adjoining the city if the following conditions exist:

(1) The land is located within the same county as such city;

(2) The owner or owners of the land petition for or consent in writing to the annexation of such land; and

(3) The board of county commissioners of the county find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within such county.

(b) No land adjoining any land annexed by any city under the provisions of this section shall be deemed to be adjoining the city for the purpose of annexation under any other act or section of this act until such adjoining land or the land annexed under this section shall adjoin the remainder of the city by reason of the annexation of the intervening territory.

(c) Whenever the governing body of any city deems it advisable to annex land under the provisions of this section such governing body shall by resolution request the board of county commissioners of the county to make a finding as required under subsection (a) (3) of this section. The city clerk shall file a certified copy of such resolution with the board of county commissioners who shall, within thirty (30) days following the receipt thereof, make findings and notify the governing body of the city thereof. Such findings shall be spread at length upon the journal of proceedings of said board. The failure of such board to spread such findings upon the journal shall not invalidate the same.

Any owner or city aggrieved by the decision of the board of county commissioners may appeal from the decision of such board to the district court of the same county in the manner and method set forth in K.S.A. 19-223. Any city so appealing shall not be required to execute the bond prescribed therein.

History: L. 1974, ch. 56, § 5; March 28.

12-521

Chapter 12.--CITIES AND MUNICIPALITIES
Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-521. Petition to county commissioners for annexation of certain lands city not authorized to annex; contents; plans; reports, contents; statement of plans; hearing, time and place; publication notice; notice to landowners; sketch of area; procedure at hearing; criteria to be considered; granting of order; entry in journal, effect; appeals to district court. (a) Whenever the governing body of any city deems it advisable to annex land which such city is not permitted to annex under K.S.A. 12-520, and amendments thereto, or if the governing body of any city is permitted to annex land under K.S.A. 12-520, and amendments thereto, but deems it advisable not to annex thereunder, the governing body may annex such land as provided by this section. The governing body, in the name of the city, may present a petition to the board of county commissioners of the county in which the land sought to be annexed is located. The petition shall set forth a legal description of the land sought to be annexed and request a public hearing on the advisability of such annexation. The governing body of such city shall make plans for the extension of services to the tract of land proposed to be annexed and shall file a copy thereof with the board of county commissioners at the time of presentation of the petition. Such report shall include:

(1) A sketch clearly delineating the land proposed to be annexed and the area of the city adjacent thereto to show the following information:

(A) The present and proposed boundaries of the city affected by such proposed annexation;

(B) the present streets, water mains, sewers and other city utility lines, and the proposed extension thereto;

(C) the general land use pattern in the areas to be annexed.

(2) A statement setting forth a plan of sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the city for extending to the area to be annexed each major municipal service provided to persons and property located within the city and area proposed to be annexed at the time of annexation and the estimated cost of providing such services. The plan shall state the estimated cost impact of providing such services to the residents of the city and the residents of the area proposed to be annexed.

The plan shall state the method by which the city plans to finance the extension of such services to such area. The plan shall include a timetable for the extension of major municipal services to the area proposed to be annexed. The plan shall state the means by which the services currently provided by a township or special district in the area to be annexed shall be maintained by the city at a level which is equal to or better than the level of services provided prior to annexation. The plan shall state those services which shall be provided immediately upon annexation and those services which may be provided upon petition of the landowners to create a benefit district.

(b) The date fixed for the public hearing shall be not less than 60 nor more than 70 days following the date of the presentation of the petition requesting such hearing. Notice of the time and place of the hearing, together with a legal description of the land sought to be annexed and the names of the owners thereof, shall be published in a newspaper of general circulation in the city not less than one week and not more than two weeks preceding the date fixed for such hearing.

A copy of the notice providing for the public hearing shall be mailed by certified mail to each owner of the land proposed to be annexed not more than 10 days following the date of the presentation of the petition requesting such hearing.

A sketch clearly delineating the area in such detail as may be necessary to advise the reader of the particular land proposed to be annexed shall be published with such notice and a copy thereof mailed to the owner of the property with such notice.

The board for good cause shown may continue the hearing beyond the time specified in the notice without further publication.

(c) On the day set for hearing, the board of county commissioners shall hear testimony as to the advisability of such annexation, and a representative of the city shall present the city's proposal for annexation, including the plan of the city for the extension of services to the area proposed to be annexed.

The action of the board of county commissioners shall be quasi-judicial in nature. The board of county commissioners shall consider the impact of approving or disapproving the annexation on the entire community involved, including the city and the land proposed to be annexed, in order to insure the orderly growth and development of the community. The board shall make specific written findings of fact and conclusions determining whether such annexation or the annexation of a lesser amount of such area causes manifest injury to the owners of any land proposed to be annexed, or to the owners of land in areas near or adjacent to the land proposed to be annexed or to the city if the annexation is disapproved. The findings and conclusions shall be based upon the preponderance of evidence presented to the board. In determining whether manifest injury would result from the annexation, the board's considerations shall include, but not be limited to, the extent to which the following criteria may affect the city, the area to be annexed, the residents of the city and the area to be annexed, other governmental units providing services to the area to be annexed, the utilities providing services to the area to be annexed, and any other public or private person, firm or corporation which may be affected thereby:

(1) Extent to which any of the area is land devoted to agricultural use;

(2) area of platted land relative to unplatted land;

(3) topography, natural boundaries, storm and sanitary sewers, drainage basins, transportation links or any other physical characteristics which may be an indication of the existence or absence of common interest of the city and the area proposed to be annexed;

(4) extent and age of residential development in the area to be annexed and adjacent land within the city's boundaries;

(5) present population in the area to be annexed and the projected population growth during the next five years in the area proposed to be annexed;

(6) the extent of business, commercial and industrial development in the area;

(7) the present cost, methods and adequacy of governmental services and regulatory controls in the area;

(8) the proposed cost, extent and the necessity of governmental services to be provided by the city proposing annexation and the plan and schedule to extend such services;

(9) tax impact upon property in the city and the area;

(10) extent to which the residents of the area are directly or indirectly dependent upon the city for governmental services and for social, economic, employment, cultural and recreational opportunities and resources;

(11) effect of the proposed annexation on the city and other adjacent areas, including, but not limited to, other cities, sewer and water districts, improvement districts, townships or industrial districts and, subject to the provisions of K.S.A. 12-521a, fire districts;

(12) existing petitions for incorporation of the area as a new city or for the creation of a special district;

(13) likelihood of significant growth in the area and in adjacent areas during the next five years; and

(14) effect of annexation upon the utilities providing services to the area and the ability of those utilities to provide those services shown in the detailed plan.

(d) The board of county commissioners shall render a judgment within seven days after the hearing has been adjourned sine die. If a majority of the board of county commissioners concludes that the annexation or any part thereof should be allowed, the board shall so find and grant the annexation by order; and thereupon the city may annex the land by ordinance. Orders of the board of county commissioners denying the petition or a part thereof for annexation shall require a majority vote of the members of the board. When an order denying a petition or part thereof is issued, it shall be by resolution, which shall be sent by certified mail to the city proposing the annexation. All orders of the board of county commissioners granting or denying petitions for annexation shall be spread at length upon the journal of proceedings of the board. The failure of such board to spread an order granting annexation upon the journal shall not invalidate such order.

(e) Any owner of land annexed pursuant to this section or the city aggrieved by the decision of the board of county commissioners may appeal the decision of the board to the district court of the same county in the manner and method set forth in K.S.A. 19-223, and amendments thereto. Nothing in this subsection shall be construed as granting the owner of land in areas near or adjacent to land annexed pursuant to this section the right to appeal the decision of the board of county commissioners. Any city so appealing shall not be required to execute the bond prescribed therein.

History: L. 1967, ch. 98, § 3; L. 1974, ch. 56, § 6; L. 1987, ch. 66, § 5; L. 1993, ch. 147, § 3; July 1.