



City of Clearfield Petition for Incorporation Process Review

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DISCLAIMER!

THIS IS AN OVERVIEW AND SUMMARY OF THE LAW
APPLICABLE TO THE INCORPORATION OF CITIES

IN CASE OF CONFLICT OR OMISSION,
KANSAS STATUTES ARE CONTROLLING

OBJECTIVE:
**Establish Process for Consideration
of Petition**

- Some elements of the incorporation process are prescribed by statute
- Others are within the discretion of the Commission
- Objective of this discussion: to plan the **process** for the Commission to consider the petition

PROCESS: **Statutory**

- Petition must meet the minimum requirements:
 - Number of inhabitants; quantity of land embraced; brief description of existing facilities and services; reasons for desiring city government and services.
 - Map of the territory showing location and more densely built-up areas, platted and unplatted areas
 - Assessed value of property
- See K.S.A. 15-116 for more complete description of petition requirements

Process: Statutory (cont'd)

- Hearing: June 15, 2022
- The **place** of the hearing shall be at a place convenient for most of the inhabitants of the territory.
- The county clerk shall cause a copy of the petition, without the signatures, and a **notice** of the time and place of the hearing to be **published** once in the official county newspaper of each county in which any of the territory lies and the publication shall be not less than fifteen (15) days before the hearing. Notice of the hearing shall also be **posted** in not less than three (3) public places in the territory not less than fifteen (15) days before the hearing.

Process: Statutory (cont'd)

- The county clerk shall, not less than 15 days before the hearing, **send notices** of the hearing with a copy of the petition, without the signatures, to:
 - the county clerk of any other county in which any part of the territory lies;
 - the clerk, secretary or chairperson of any duly constituted city, county, regional or metropolitan planning commission exercising planning authority over all or part of the territory;
 - the director of the division of community development of the department of economic development; and
 - the city clerk of any city, any portion of whose area is within five miles of the nearest boundary of the territory as described in the petition.

Process: Hearing

- Statute provides:
 - The hearing shall be conducted in such manner as the board of county commissioners deems best suited to the occasion.
 - All persons residing within the territory, owners of property within the territory whether residing there or not, all persons, agencies, and representatives of governmental units notified as provided in K.S.A. 15-119, shall be entitled to be heard and to present documentary information and briefs.
 - The hearing may be adjourned from time to time.
 - TBD: number of public hearings; location; limits on speaking time.

Factors to Be Considered, Generally

Factors to be considered in granting or denying the petition for incorporation:

- Population and population density of the area within the boundaries of the territory;
- land area, topography, natural boundaries, and drainage basin;
- area of platted land relative to unplatted and assessed value of platted land relative to assessed value of unplatted areas;
- extent of business, commercial, and industrial development;
- past expansion in terms of population and construction;
- likelihood of significant growth in the area, and in adjacent areas, during the next ten (10) years;

Factors to Be Considered, Generally (cont'd)

- the present cost and adequacy of governmental services and controls in the area and the probable effect of the proposed action and of alternative courses of action on the cost of adequacy of local governmental services and regulation in the area and in adjacent areas
- Effect of the proposed action, and of alternative actions, on adjacent areas, and on the local governmental structure of the entire urban community.
- The petition for incorporation shall be denied if it is determined that present or future annexation to an adjacent city, or the creation of an authorized special service district, or districts, would better serve the interest of the area or that the proposed incorporation would be otherwise contrary to the public interest.

Factors to Be Considered, Proximity to Other Cities

Proximity to other cities:

If the territory or any part thereof is within five (5) miles of an existing city, the board or joint board of county commissioners shall take into consideration:

- The size and population of such city;
- its growth in population, business and industry during the past ten (10) years;
- the extension of its boundaries during the past ten (10) years;
- the probability of its growth toward the territory during the ensuing ten (10) years, taking into consideration natural barriers and other reasons which might influence growth toward the territory;
- the willingness of the city to annex the territory and its ability to provide city services in case of annexation;
- the general effect upon the entire community, should there be additional cities in the area; all of these and other considerations having to do with the overall orderly and economic development of the area and to prevent an unreasonable multiplicity of independent municipal governments.

Factors to Be Considered, “Among Others”

- Commission may consider other factors
- Commission may wish to consider identifying additional factors in advance of public hearing

Consultants, Subpoenas

K.S.A. 15-122

The board or joint board of county commissioners shall have authority to hire **expert consultants** to provide information and assistance and gather information as required; to **issue subpoenas**, and **compel** the attendance and testimony of **witnesses**, and the production of papers, books and **documents**; and to cause a stenographic or other **record** made of the proceedings.

Optional: Study Sessions and Gathering of Additional Information

- Commission may consider holding study sessions to gather additional information
- Possible subject areas:
 - Planning: *e.g.*, area development plans; population levels and density; past expansion; growth projections
 - Government services: Fire and medical, others
 - Public works: roads, bridges, culverts; green space maintenance; etc.
 - GIS / mapping: *e.g.*, land area; land characteristics; proximity
 - Appraiser: property values
 - Economics: business, commercial, and industrial development
 - Legal: powers and governance; regulation of land use; other
 - Adjacent city issues: area officials?

Optional: Study Sessions and Gathering of Additional Information (cont'd)

- Other possible factors:
 - Alternative energy development?
 - Soils, prime farmland?
 - Rural character?
 - Other?

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Option 1:

- Public hearing
- Close public hearing, begin study sessions
- Topics for study sessions, number of sessions?
- Re-convene public meetings for “rebuttal”?
- Deliberate and decide

Option 2:

- Public hearing
- Request written reports from subject matter experts
- Re-open public hearing for “rebuttal”?
- Deliberate and decide

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Option 3:

- Public hearing
- Deliberate and decide

Option 4:

- Hybrid of any of the above
- And/or additional or different process



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Questions?