

1.1 **Office of Administrative Hearings**

1.2 **Proposed Permanent Rules Relating to Municipal Boundary Adjustments**

1.3 **6000.0100 DEFINITIONS.**

1.4 Subpart 1. **Scope Statement of purpose.** For the purposes of parts 6000.0100 to
1.5 6000.3500, the terms defined in this part have the meanings given them.

1.6 Subp. 2. **Parties.** "Parties" includes petitioners specifically named in the pleadings.
1.7 The term also includes other persons who file ~~at the hearing~~ an appearance form ~~provided~~
1.8 ~~by the board and enter an appearance at the hearing.~~ To be considered parties, persons
1.9 who fill out the appearance form must establish that they are residents or taxpayers in
1.10 the ~~incorporation, annexation, consolidation, or detachment~~ subject area; or that by the
1.11 outcome of the proceedings they will be bound and affected either favorably or adversely
1.12 by an interest particular to these persons as distinguished from an interest common to
1.13 the public or other taxpayers in general. No person becomes, or is considered to be, a
1.14 party to the proceeding solely by reason of presenting facts or evidence or entering an
1.15 appearance at the hearing.

1.16 Subp. 2a. **Person.** "Person" means any individual, business, nonprofit association or
1.17 society, or governmental entity.

1.18 [For text of subps 3 and 4, see M.R.]

1.19 **6000.0110 COMMENCEMENT OF PETITION.**

1.20 A "petition," as the term is used in parts 6000.0100 to 6000.3500, may be initiated in
1.21 accordance with Minnesota Statutes, chapter 414 ~~by the required number of persons or by~~
1.22 ~~the municipality, town, or by the board,~~ as provided in that chapter. Where the petition
1.23 is filed by residents or property owners, the number of petitioners required by statute to
1.24 commence a proceeding must be stated in the petition. The petition must also state on
1.25 its face the number of petitioners who have signed the petition. Where the petition is

2.1 commenced by a municipality or town, the petition must include the appropriate action by
2.2 the governing body, including the citation to the resolution, ordinance, or notice of intent.

2.3 The municipality, town, or the persons commencing a petition shall be designated as
2.4 the "petitioner" or "petitioners."

2.5 **6000.0200 FORM OF PETITION.**

2.6 [For text of subp 1, see M.R.]

2.7 Subp. 2. **Body.** The title must be followed by a brief description of the subject matter
2.8 to which the petition relates. No petition shall be dismissed, impaired, or prejudiced
2.9 because incorrectly entitled, or the parties incorrectly designated. Opportunity shall be
2.10 given in these cases to correct the error by amendment, giving due consideration to any
2.11 person who may have been misled by the error.

2.12 Sample petition forms will be provided by the ~~board~~ chief administrative law judge or
2.13 the delegate of the chief administrative law judge upon request.

2.14 **6000.0400 REPRESENTATION.**

2.15 A party may appear in person or ~~may~~ be represented by an attorney. Where a petition
2.16 is by property owners, one of the petitioners may represent the group. A government
2.17 official may appear on behalf of a party that is a county, municipality, ~~or~~ town₂, or
2.18 government agency.

2.19 When ~~any~~ a party has appeared appears by an attorney_; or a person representing a
2.20 group_, service upon ~~such~~ the attorney or chosen representative shall be deemed service
2.21 upon the party ~~and all members of the~~ or group.

2.22 **6000.0500 PLEADINGS.**

2.23 The pleadings before the ~~board~~ chief administrative law judge or the delegate of the
2.24 chief administrative law judge shall be the petition. Objections filed pursuant to Minnesota
2.25 Statutes, chapter 414, are jurisdictional documents and not responsive pleadings. No
2.26 responsive pleading is necessary.

3.1 **6000.0600 PETITION AS EVIDENCE.**

3.2 The petition shall be prima facie evidence of the facts contained in the petition if
3.3 not controverted by opposing parties at the hearing. The ~~board~~ chief administrative law
3.4 judge or the delegate of the chief administrative law judge may independently verify
3.5 the accuracy of the facts.

3.6 **6000.0700 AMENDMENTS.**

3.7 A petition may be amended at the discretion of the ~~board~~ chief administrative law
3.8 judge or the delegate of the chief administrative law judge at any time before ~~the board has~~
3.9 ~~rendered~~ a final decision on the petition is rendered. Notice is required to all parties entitled
3.10 to original notice. Amendments may be proposed and granted at public hearings. Where the
3.11 petition is by property owners, the petition cannot be amended to include an area different
3.12 than the one described in the petition signed by the property owners unless the amendment
3.13 or a waiver is signed by all the property owners who signed the original petition.

3.14 **6000.0800 FILING OF PETITION.**

3.15 Any petition pursuant to Minnesota Statutes, chapter 414, must be filed with the
3.16 ~~board~~ chief administrative law judge or the delegate of the chief administrative law judge
3.17 together with the following:

3.18 A. Filing fee (see part 6000.3400). No petition will be accepted or acted upon
3.19 unless the filing fee is received.

3.20 B. Certification. A certification showing that the petition was served upon the
3.21 proper parties when the statute indicates such necessity and the date filed or a waiver
3.22 authorized by Minnesota Statutes, section 414.033.

3.23 C. Map. A map showing the ~~property proposed for consideration~~ subject area
3.24 and its relationship to any ~~surrounding adjacent~~ municipality or town. All distance
3.25 references should be given by length. Beginning points should be land survey monuments
3.26 and the description must close the boundaries. References to roads or railroads should

4.1 be to survey lines such as centerline or known right-of-way line. The intent to include
4.2 or exclude highway, railroad, and street rights-of-way surrounding platted blocks or lots
4.3 should be clearly stated.

4.4 D. Description. The geographical description of the subject area.

4.5 **6000.0900 CONTINUANCES.**

4.6 Continuances will be granted or denied by the ~~board in its~~ presiding administrative
4.7 law judge at the judge's discretion for cause shown, or upon the ~~board's~~ presiding
4.8 administrative law judge's own initiative.

4.9 **6000.1150 PREHEARING CONFERENCE.**

4.10 ~~The board may, in its discretion, hold an informal prehearing conference conducted~~
4.11 ~~by a designated representative of the board. The purpose of the prehearing conference is~~
4.12 ~~to simplify the issues, to stipulate facts for testimony or exhibits, to consider the proposed~~
4.13 ~~witnesses, to consider such other matters as may be necessary or advisable, and, if~~
4.14 ~~possible, to reach a settlement without the necessity for a hearing. Agreements on issues~~
4.15 ~~may be put in the form of stipulations and entered on the record. Any final settlement may~~
4.16 ~~be set forth in a settlement agreement and made a part of the record.~~

4.17 The presiding administrative law judge may, at the judge's discretion, hold a
4.18 prehearing conference according to the procedures of part 1400.6500.

4.19 **6000.1200 PUBLIC HEARINGS.**

4.20 The petitioner shall notify the ~~board~~ presiding administrative law judge at least
4.21 seven days prior to the hearing of any personal knowledge of controversy regarding the
4.22 hearing. Public hearings shall be held by the ~~board~~ presiding administrative law judge in
4.23 accordance with Minnesota Statutes, section 414.09.

4.24 The ~~board~~ presiding administrative law judge may hear the facts or evidence of any
4.25 person or organization. Any person may note an appearance for the record. No person

5.1 becomes, or is considered to be, a party to the proceeding solely by reason of presenting
5.2 facts or evidence or entering an appearance at the hearing.

5.3 The petitioner must pay for the publication of notices of hearings required by
5.4 Minnesota Statutes, section 414.09.

5.5 **6000.1310 EXAMINATION OF WITNESSES.**

5.6 ~~Witnesses shall testify before the board. The party calling the witness shall examine~~
5.7 ~~the witness first. Every witness is subject to direct examination by nonadverse parties and~~
5.8 ~~cross-examination by adverse parties. The board may question a witness. All parties shall~~
5.9 ~~have the opportunity to submit rebuttal evidence. Cross-examination of a witness by a~~
5.10 ~~party not an attorney shall be submitted to the presiding officer, and the presiding officer~~
5.11 ~~shall ask the question of the witness if it is considered admissible.~~

5.12 Witnesses shall be examined according to the procedures of part 1400.7800.

5.13 **6000.1400 EXHIBITS.**

5.14 Unless the presiding officer of the hearing shall direct administrative law judge
5.15 directs otherwise, persons offering exhibits to the board shall submit a single copy. Where
5.16 possible, parties should offer an exhibit in 8-1/2 by 11-inch size.

5.17 **6000.1510 ORDER OF PROCEDURE.**

5.18 ~~Unless the presiding officer of the hearing directs otherwise, the order of procedure~~
5.19 ~~at a hearing shall be as follows:~~

5.20 A. ~~the petitioner shall begin the presentation of evidence;~~

5.21 B. ~~adverse parties shall present testimony; and~~

5.22 C. ~~nonadverse parties shall present testimony.~~

5.23 The order of procedure at a hearing shall be according to the procedures of part
5.24 1400.7800.

5.25 **6000.1600 FAILURE TO APPEAR.**

6.1 If the initiating party fails to appear at a proceeding, the hearing may be dismissed with
6.2 or without prejudice at the discretion of the ~~board~~ presiding administrative law judge. The
6.3 ~~board~~ presiding administrative law judge may allow the record to remain open for receipt
6.4 of stipulated facts which ~~the board~~ may ~~use~~ be used in reaching ~~its~~ the judge's decision.

6.5 **6000.1700 ADMISSION OF EVIDENCE.**

6.6 ~~The board may admit and give probative effect to evidence which possesses probative~~
6.7 ~~value commonly accepted by reasonable, prudent persons in the conduct of their affairs.~~
6.8 ~~It shall give effect to rules of privilege recognized by law. It may exclude incompetent,~~
6.9 ~~irrelevant, immaterial, and repetitious evidence. Public records are admissible without~~
6.10 ~~foundation except proof that they are public records in establishing the facts required in~~
6.11 ~~Minnesota Statutes, chapter 414.~~

6.12 The admission of evidence shall be according to the procedures of part 1400.7300.

6.13 **6000.1900 EVIDENCE IN A PROCEEDING.**

6.14 Subpart 1. **Notice of certain facts.** All evidence shall be made a part of the record in
6.15 the proceeding, ~~and no other factual information or evidence shall be considered in the~~
6.16 ~~proceeding, except the board may take notice of appropriate facts, public documents, or~~
6.17 ~~records of a general, scientific, or technical nature by appropriate notice to all parties. The~~
6.18 ~~time within which the parties may object to the accuracy of the facts sought to be proved~~
6.19 ~~from the documents or records shall be limited by the board~~ according to the procedures
6.20 of part 1400.7300.

6.21 Subp. 2. **Record of proceedings.** The ~~board~~ chief administrative law judge, delegate
6.22 of the chief administrative law judge, or presiding administrative law judge shall record
6.23 all proceedings. ~~Testimony before the board shall be taken by electrical recording device~~
6.24 ~~or by~~ use an official court reporters. A transcript shall be furnished upon request at the
6.25 ~~expense of the requester~~ reporter.

6.26 **6000.2210 SUBPOENAS.**

7.1 Subpart 1. **Generally.** ~~A request for a subpoena, whether for an individual or for the~~
7.2 ~~production of books, papers, or documents, shall be in writing to the executive director of~~
7.3 ~~the board. The party requesting the subpoena shall prepare the subpoena for the board's~~
7.4 ~~signature. A request for the production of documentary evidence must be verified and~~
7.5 ~~must specify as nearly as possible the books, papers, or documents desired. Requests for~~
7.6 ~~subpoenas shall be made according to the procedures of part 1400.7000.~~

7.7 [For text of subp 2, see M.R.]

7.8 Subp. 3. **Service.** ~~Service of subpoenas shall be the same as service of subpoenas~~
7.9 ~~for the district courts of Minnesota. A subpoena shall be served in the manner provided~~
7.10 ~~by the Rules of Civil Procedure for the district courts of Minnesota unless otherwise~~
7.11 ~~provided by law.~~

7.12 **6000.2500 REQUESTS FOR WRITTEN OR ORAL ARGUMENTS.**

7.13 ~~Requests for written or oral arguments must be made at the hearing or the parties~~
7.14 ~~waive their rights to submit written or oral arguments. If a request is made, the presiding~~
7.15 ~~officer shall allow all parties to submit written or oral arguments, or both. The presiding~~
7.16 ~~officer shall also prescribe the time for service and filing of written arguments or making~~
7.17 ~~of oral arguments.~~

7.18 Requests for written or oral arguments shall be made according to the procedures
7.19 of part 1400.7800.

7.20 **6000.2600 FILING AND SERVICE OF WRITTEN ARGUMENTS.**

7.21 ~~All written arguments presented to the board must be filed with the executive director~~
7.22 ~~presiding administrative law judge accompanied by certification showing service upon~~
7.23 ~~all parties.~~

7.24 **6000.3000 REQUEST FOR ADDITIONAL HEARING.**

7.25 A party may submit a written request for an additional hearing at any time prior to the
7.26 ~~board's~~ presiding administrative law judge's final decision. The request shall clearly set
8.1 forth the reasons for the additional hearing; and include a brief summary of additional
8.2 evidence proposed to be submitted. No additional hearing will be granted where it appears
8.3 that the evidence to be submitted will be incompetent, irrelevant, immaterial, cumulative,
8.4 or repetitious. The request shall be served upon all parties to the proceeding. A party shall
8.5 have seven days from the date of service of the request to make a written response. No
8.6 reply to the response will be permitted. The ~~board~~ presiding administrative law judge
8.7 may grant or deny the request without hearing or, ~~in its~~ at the judge's discretion, hold
8.8 a hearing on the request.

8.9 **6000.3100 REQUEST FOR AMENDMENT.**

8.10 Within seven days from the date of ~~the mailing~~ service of the ~~board's~~ presiding
8.11 administrative law judge's order, any party may submit a written request for an amendment
8.12 of the findings of fact, conclusions of law, and order. The request shall specifically set
8.13 forth the reasons for the amendment, any claimed errors, and any proposed amendments
8.14 to the findings of fact, conclusions of law, and order. The request shall be served upon
8.15 all parties to the proceeding. A party has seven days from the date of the service of the
8.16 request to respond. No reply will be permitted. The ~~board~~ presiding administrative law
8.17 judge may grant or deny the request without a hearing or, ~~in its~~ at the judge's discretion,
8.18 hold a hearing ~~on it~~. No request shall extend the time of appeal from the findings of fact,
8.19 conclusions of law, and order. ~~If a request is for amendment to only change the date in~~
8.20 ~~the findings of fact, conclusions of law, and order, the relief may be sought informally by~~
8.21 ~~telegram or otherwise upon notice to all parties.~~

8.22 **6000.3400 SCHEDULE OF FILING FEES.**

8.23 Subpart 1. **Incorporation of municipality.** A petition for incorporation of a
 8.24 municipality pursuant to Minnesota Statutes, section 414.02, must be accompanied by a
 8.25 filing fee of \$600 ~~when filed with the board.~~

9.1 Subp. 2. **Annexation ~~proceedings for~~ of an entire town to a municipality and**
 9.2 **~~an entire town.~~** A petition for annexation of a an entire town to a municipality and an
 9.3 entire town pursuant to Minnesota Statutes, section 414.031, subdivision 1, paragraph (a),
 9.4 clause (4), must be accompanied by a filing fee of \$200.

9.5 Subp. 3. **Annexation of property by ~~board~~ chief administrative law judge's**
 9.6 **~~order.~~** A filing fee of \$5 per acre must accompany a petition to annex unincorporated
 9.7 property by board order. ~~The minimum fee is \$100 and the maximum fee is \$600~~ A
 9.8 petition to annex unincorporated property by chief administrative law judge's order
 9.9 pursuant to Minnesota Statutes, section 414.031, must be accompanied by a filing fee of
 9.10 \$5 per acre, with a minimum fee of \$100 and a maximum fee of \$600.

9.11 Subp. 4. **Orderly annexations.** ~~A filing fee of \$2 per acre must accompany the~~
 9.12 ~~joint resolution. The minimum fee is \$25 and the maximum fee is \$200. Requests for~~
 9.13 ~~annexation of any part of the designated area shall be accompanied by an additional filing~~
 9.14 ~~fee of \$2 per acre with a minimum fee of \$25 and a maximum fee of \$200~~ A joint resolution
 9.15 for designation of an orderly annexation area pursuant to Minnesota Statutes, section
 9.16 414.0325, must be accompanied by a filing fee of \$2 per acre, with a minimum fee of \$25
 9.17 and a maximum fee of \$200. The annexation of any part of a designated area requires an
 9.18 additional filing fee of \$2 per acre, with a minimum fee of \$25 and a maximum fee of \$200.

9.19 Subp. 5. **Annexation by ordinance.** ~~A filing fee of \$5 per acre must accompany the~~
 9.20 ~~initial petition submitted to the board. The minimum fee is \$100 and the maximum fee~~
 9.21 ~~is \$600~~ A petition for annexation by ordinance pursuant to Minnesota Statutes, section

9.22 414.033, must be accompanied by a filing fee of \$5 per acre, with a minimum fee of
9.23 \$100 and a maximum fee of \$600.

9.24 Subp. 6. **Consolidation of two or more municipalities.** ~~A fee of \$200 must~~
9.25 ~~accompany a petition for consolidation of two or more municipalities~~ A petition for
10.1 consolidation of two or more municipalities pursuant to Minnesota Statutes, section
10.2 414.041, must be accompanied by a filing fee of \$200.

10.3 Subp. 7. **Detachment of property from municipality.** ~~A filing fee of \$5 per acre~~
10.4 ~~must accompany a petition to detach property from a municipality. The minimum fee~~
10.5 ~~is \$100 and the maximum fee is \$600~~ A petition for detachment of property from a
10.6 municipality pursuant to Minnesota Statutes, section 414.06, must be accompanied by a
10.7 filing fee of \$5 per acre, with a minimum fee of \$100 and a maximum fee of \$600.

10.8 Subp. 8. **Concurrent detachment and annexation of incorporated land.** ~~A filing~~
10.9 ~~fee of \$4 per acre must accompany the concurrent resolutions with a minimum fee of \$100~~
10.10 ~~and a maximum fee of \$600~~ A petition for concurrent detachment and annexation pursuant
10.11 to Minnesota Statutes, section 414.061, must be accompanied by a filing fee of \$5 per
10.12 acre, with a minimum fee of \$100 and a maximum fee of \$600.

10.13 Subp. 9. **Waiver of fees.** ~~Where~~ If the chief administrative law judge or the delegate
10.14 of the chief administrative law judge finds that the strict application of the filing fee
10.15 requirements would impose an unreasonable hardship on the petitioner, the board, in its
10.16 discretion, may judge shall waive the filing fee, or a portion of the filing fee.