

CHAPTER 413

FORMATION; CHANGE IN TERRITORIAL LIMITS OR NAME

Sec.		Sec.	
413.02	Change of name	413.211	Annexing state lands
413.03	Incorporation of villages within villages	413.22	Territory annexed to city of second class
413.12	Annexation of territory	413.23	New territory attached to city of first class
413.13	Territory annexed to boroughs or cities of fourth class; ordinance filed	413.24	Annexation of lands to city of first class
413.14	Territory annexed to cities of 10,000 and less	413.25	Territory of city of fourth class annexed to city of first class
413.143	Territory annexed to cities of fourth class	413.26	Annexation of city of fourth class to city of first class
413.15	Lands in adjoining counties annexed to cities of fourth class	413.30	Detachment of lands from cities of fourth class
413.16	Incorporation within city limits of land of state institutions	413.31	Detachment of agricultural lands from cities
413.17	Annexation of cities of fourth class to cities of third class	413.32	Unplatted agricultural lands detached from cities of fourth class and their school districts
413.18	Annexation of territory to city of third class	413.33	Certain lands excluded from cities of third class
413.19	Annexation of territory to cities of third class	413.34	Unplatted land detached from cities of second class
413.20	Villages annexed to cities of third class		
413.21	Lands of state institutions annexed		

413.01 [Repealed, 1949 c 119 s 110]

413.02 CHANGE OF NAME. Subdivision 1. **City of fourth class; procedure.** When 20 per cent of the legal voters of any city of the fourth class of this state shall petition the governing body thereof for a change of its name, the question of such change of name may be submitted to the voters of the city at any general or special election; and, if a majority of all the votes cast upon the question are in favor of such change, the governing body of the city may by ordinance, by a four-fifths vote of all members thereof, change the name of the city.

Subd. 2. **Filing; effect.** Upon the filing of a certified copy of the ordinance with the auditor of the county in which the city is located and with the state auditor and the secretary of state, the name of such city shall be changed as in such ordinance provided. Such change in name shall in no way affect any liability, obligation, power, duty, law or ordinance, or other matter or thing in any way relating to such city, excepting that the new name of such city shall thereafter be substituted for and used in the place of its old name.

[1913 c 431 s 1, 2; 1913 c 493 s 1, 2; 1949 c 119 s 111] (1193, 1194, 1850, 1851)

413.03 INCORPORATION OF VILLAGES WITHIN VILLAGES. Subdivision 1. **Requisites.** When any village shall include 9,000 acres or more of land according to the United States government survey and a portion of the land within such village has been or shall be improved by the construction of sidewalks, pavements, street curbs, street gutters, and sewers, such portion so improved and land in such village adjacent or contiguous thereto, in all not exceeding 700 acres, so conditioned as properly to be subjected to village government, if such area has a population of 500 or more, may become incorporated as a village separate and distinct from the existing village; provided the population of the remaining area shall not thereby be reduced below the limit fixed by law for the incorporation of a village.

Subd. 2. **Petition to county board.** One hundred or more of the voters residing within the territory authorized to become incorporated as a village under this section may petition the county board of the county in which the whole, or the larger part, of these lands are situated to call an election for the determination of such proposed incorporation. They shall first cause to be taken a census of the resident population; and, if such resident population be found to be 500 or more, the petition shall be presented within eight weeks thereafter. It shall set forth the boundaries of the territory proposed to be incorporated under this section, the quantity of land embraced therein, the number of actual residents thereon, and the name of the proposed village. It shall be verified by the oaths of at least three of the petitioners declaring that such census was accurately taken within the dates specified and that the statements made in the petition are true.

Subd. 3. **Election; notice.** Upon the filing of the petition, the county board shall cause a copy thereof, with a notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries described and also in three public places within the existing village outside of the territory proposed to be incorporated under this section. The time shall be not less than 20 nor more than 30 days after such posting and the place shall be the usual and customary place for holding elections within the already existing village. If there be a qualified newspaper published within these limits, there shall also be two weeks' published notice of the election.

Subd. 4. **Election judges; ballots.** The county board shall appoint three inspectors, residents of the existing village, who shall act as judges of the election and conduct the same so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the existing village shall be entitled to vote. The ballot shall bear the words, "For incorporation Yes—No," with a square after each of the last two words, in one of which the voter shall make a cross to express his choice. The inspectors shall at once make and file with the county auditor a certificate declaring the time and place of holding the election, that they have canvassed the ballots cast thereat, and the number cast both for and against the proposition. The certificate shall be signed and verified by at least two of the inspectors to the effect that the statements thereof are true.

Subd. 5. **Filing document; with county auditor; with secretary of state.** The county auditor shall attach the certificate of the inspectors to the original petition, with a copy of the resolution appointing the inspectors, and the original proof of the posting and the publication, if any, of the election notice, and file the whole as one document in his office. If the certificate shows that the majority of the votes cast were in the affirmative, he shall forthwith make a certified copy of the document and transmit same to the secretary of state to be filed as a public record and thereupon the incorporation shall be deemed complete. If territory in more than one county is embraced within such corporate limits, he shall forthwith make and transmit to the auditor of each county in which such incorporated territory is situated a certified copy of such document to be filed as a public record and thereupon the incorporation shall be deemed complete. If the vote be adverse, no subsequent petition shall be entertained within one year next after that election.

Subd. 6. **Officers, how elected.** Upon the filing of the certified copy of the document with the secretary of state, the county board shall appoint three inspectors residing within the newly incorporated village and these inspectors of election shall give notice of a meeting of the resident voters for the organization of such village and the election of its officers, fixing therein the date and hour of the meeting, which shall be at least ten and not more than 20 days thereafter. Such notice shall be posted and published as in case of the original election. The voters present at the appointed hour and place, by a majority vote taken viva voce, shall appoint two judges and one clerk of the election, who shall take the oath, and be governed in the conduct of the election, so far as practicable, by the laws regulating the choice of town officers. They shall open the polls by proclamation, and receive all lawful votes offered by resident voters during a period of at least six hours, and until seven o'clock p.m. They shall give to each officer chosen a certificate of his election and such officers, having qualified according to law, shall forthwith assume their official duties. All proper expenses of the incorporation, organization, and election shall be a charge upon the village.

Subd. 7. **Rights, privileges, powers, duties.** Villages incorporated under this section shall be vested with the rights, privileges, and powers and subjected to the duties, as set forth under the general village law of this state. The administration of the affairs of villages incorporated under this section shall be governed and controlled thereby so far as applicable. When the context so requires the word "town," wherever used therein, shall mean previously existing village.

Subd. 8. **Existing village not affected.** The territory of an existing village remaining after the incorporation of a village under this section shall continue to be and remain a village with its rights, privileges, powers, and duties unchanged by the incorporation of a village under this section.

Subd. 9. **Vacancies in offices, when created.** In the event that an officer of an existing village resides within the territory incorporated under this section,

MINNESOTA STATUTES 1949

3083

FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME 413.13

the completion of the incorporation forthwith creates a vacancy in the office held by the person who is a resident of the territory incorporated under this section.

[1929 c. 184 ss. 1, 2, 2A, 2B, 2C, 2D, 3, 4, 5] (1117-1, 1117-2, 1117-3, 1117-4, 1117-5, 1117-6, 1117-7, 1117-8, 1117-9)

413.04 to 413.11 [Repealed, 1949 c 119 s 110]

413.12 ANNEXATION OF TERRITORY. Subdivision 1. **Requisites.** Any territory containing a population of not less than 75 persons, and not included in any incorporated city, but adjoining any city now or hereafter existing under the laws of the state, and no part of which territory is more than one and one-half miles from the present limits of the city which it adjoins, may be annexed to such city and become a part thereof, as follows.

Subd. 2. **Petition for election.** Five or more of the legal voters residing within such territory may petition the governing body of such city to call an election for the determination of such proposed annexation. The petitioners shall first cause to be taken a census of the resident population of the territory and, if found to be 75 or more, the petition shall be presented to the governing body within four weeks thereafter. It shall set forth the boundaries of such territory, the quantity of land embraced therein, and the number of actual residents thereon. It shall be verified by the oaths of at least three of the petitioners declaring that such census was accurately taken within four weeks and that the statements within the petition are true.

Subd. 3. **Duty of governing body.** The governing body shall receive the petition and may in its discretion cause a copy thereof, with a notice attached thereto fixing a time and place for holding an election, to be posted in three public places within such territory. The time for holding the election may not be less than ten nor more than 30 days after such posting, and the place, within the limits of such territory.

Subd. 4. **Election; ballots.** The governing body may appoint three inspectors, residents of the territory, who shall act as judges of the election and conduct the same so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory shall be entitled to vote. The ballot shall bear the words, "For annexation, Yes....., No.....," with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the inspectors shall canvass the ballots and forthwith make and file with the city clerk or recorder of such city a certificate stating the time and place of holding the election, that they have canvassed the ballots cast thereat, and the numbers cast for and against the proposition. The certificate shall be signed and verified by all of the inspectors to the effect that the statements therein are true.

Subd. 5. **Duty of city clerk.** Such city clerk or recorder shall attach this certificate to the original petition with a copy of the resolution appointing the inspectors and the original proofs of posting of the election notices, and file the whole as one document in his office. If the certificate shows that the majority of votes cast were in the affirmative, he shall forthwith make and transmit to the secretary of state a certified copy of the document to be filed as a public record and transmit to the auditor of the county in which the city is situated a certified copy of the document to be filed as a public record and thereupon the annexation of the territory to the city shall be deemed complete. If the certificate shows that the majority of votes cast were in the negative, no subsequent petition shall be entertained within two years next after that election.

[1909 c 113 s 1, 2, 3, 4, 6; 1949 c 119 s 111] (1845, 1846, 1847, 1848, 1849)

413.13 TERRITORY ANNEXED TO BOROUGH OR CITIES OF FOURTH CLASS; ORDINANCE FILED. The council of any city of the fourth class or borough owning property situated outside of, but contiguous to or abutting on, the corporate limits of such city or borough may by ordinance declare such property to be a part of the city or borough and such territory shall thereupon become a part of such city or borough as effectually as if it had been originally a part thereof.

It shall be the duty of the council of any city or borough adding territory under this section to cause a certified copy of the ordinance to be recorded and filed in the office of the register of deeds of the county in which the city or borough is located in the same manner as city charters are filed and recorded under the general laws of this state.

[1915 c. 240 ss. 1, 2] (1849-1, 1849-2)

413.14 TERRITORY ANNEXED TO CITIES OF 10,000 AND LESS. When the majority of the owners of any property which has been platted into lots and blocks or outlots, or the owner of any tract, piece, or parcel of land abutting upon any incorporated city having 10,000 inhabitants or less, whether such city is incorporated under general or special laws, shall petition the city council to have such property annexed to the city, the city council may by ordinance declare the same to be an addition to such city and thereupon such territory shall become a part of such city as effectually as if it had been originally a part thereof.

It shall be the duty of the council of any city adding territory under this section to cause a certified copy of the ordinance to be recorded and filed in the office of the register of deeds of the county in which such city is located in the same manner as city charters are filed and recorded under the general laws of this state. This section shall be construed to be supplementary to any other law providing for the annexation of territory to cities of less than 10,000 population and not as repealing such law.

[1905 c 220 s 1, 2; 1909 c 383 s 1, 2; 1949 c 119 s 111] (1843, 1844)

413.143 TERRITORY ANNEXED TO CITIES OF FOURTH CLASS. Subdivision 1. **By ordinance.** When platted or unplatted tracts, or a group of tracts or parcels of land, not used for agricultural purposes, and not within the corporate limits of any city and so conditioned as properly to be subjected to city government, and being contiguous to and surrounded on all sides by the corporate limits of a city of the fourth class, the city council may, by ordinance, annex such tract, or tracts, to the city upon notice to the owners thereof as hereinafter provided.

Subd. 2. **Owners to receive notice.** When the city council desires to annex any such tract, or tracts, it shall adopt a resolution stating its intention to so annex said tract or tracts and fixing a time and place for a hearing upon said proposed annexation, a copy of which resolution shall be served upon all owners of such tract, or tracts, at least ten days before the date of hearing. Service of such resolution shall be made in the same manner as provided for the service of a summons in a civil action. If, after such hearing, the council shall determine that the annexation of such tract, or tracts, to said city will be to its interests and will cause no manifest injury to the persons owning such tract, or tracts, the city council may, by ordinance, declare said tract, or tracts, to be annexed to such city or village, and thereupon such tract, or tracts, shall become a part of such city as effectually as if it had been originally a part thereof.

Subd. 3. **Ordinance filed with register of deeds.** It shall be the duty of the council of any city adding territory under this section to cause a certified copy of the ordinance aforesaid to be recorded and filed in the office of the register of deeds of the county in which such city is located in the same manner as city charters are filed and recorded under the general laws of this state. This section shall be construed to be supplementary to any other law providing for the annexation of territory to cities of less than 10,000 population, and not as repealing such law.

[1941 c. 265; 1943 c. 83]

413.15 LANDS IN ADJOINING COUNTIES ANNEXED TO CITIES OF FOURTH CLASS. Subdivision 1. **Location of lands.** Any city containing a population of 10,000 or less, whether incorporated by a general or special act, may include within its corporate limits lands which are not already incorporated lying within an adjoining county and contiguous to the corporate limits of such city. Such lands shall not be within ten miles of any other incorporated city or village within the state. For the purposes of this section lands separated from such city by an intervening river shall be considered contiguous to the corporate limits thereof.

Subd. 2. **Procedure; jurisdiction.** The council of such city desiring to include within its corporate limits lands lying within an adjoining county shall pass a resolution describing the lands desired to be included within such corporate limits, which resolution shall be submitted to the supervisors of the town in which the lands are included and to the board of county commissioners of the county in which the lands are situate. If the supervisors of such town and the board of county commissioners of such county shall approve the proposed annexation, by resolution duly made and entered on the minutes of the town and by resolution duly made and entered on the minutes of the board of county commissioners, a duly certified copy of the resolution, together with duly certified copies of the resolution of the board of supervisors and of the board of county commissioners, shall be filed in the office of the secretary of state and recorded in the office of the register of deeds

of the county within which the city is situate and of the county within which the lands are situate, and a copy of such record duly certified by the register of deeds shall be filed in the office of the secretary of state and thereupon the lands in the adjoining county shall become part of the city for all purposes and be subject to the laws, ordinances, and jurisdiction of the city for all purposes, except as provided in this section.

Subd. 3. **Taxation; school districts.** No territory so acquired shall at any time be subject to taxation for any indebtedness of the city incurred at any time prior to the date of such annexation. If the boundaries of the special or independent school district existing in the city shall, by the law under which the school district is organized, be coextensive with the limits of the city, then and in that case, the territory so included within the corporate limits under this section shall be construed to be a part of the school district, but shall not be subject to taxation for any indebtedness incurred by the school district before the date of such annexation.

No such territory shall be annexed unless the majority of the owners thereof shall consent thereto in writing.

[1905 c. 191 ss. 1, 2, 3, 4] (1717, 1717½, 1718, 1719)

413.16 INCORPORATION WITHIN CITY LIMITS OF LAND OF STATE INSTITUTIONS. When the director of public institutions shall petition the council of any city, the limits of which shall be the dividing line between such city and the lands surrounding any state institution, describing the lands, for leave to have such lands come into and be a part of such city, the council thereof may adopt a resolution which shall describe such lands and provide for their incorporation within the limits of the city, and upon the recording of an authenticated copy thereof with the register of deeds of each county within which such city, or any part thereof, is situated, and, in case such city and the lands are in different counties, upon the recording of such authenticated copy of such resolution in the office of the register of deeds of the county in which such lands are situated, such lands shall become a part, and be included within the limits, of such city for all purposes.

[1905 c. 110 s. 1] (1333)

413.17 ANNEXATION OF CITIES OF FOURTH CLASS TO CITIES OF THIRD CLASS. Subdivision 1. **For city purposes.** Any incorporated city of the fourth class whose territory adjoins the territory of any incorporated city of the third class operating under a home rule charter, whether such city of the fourth class is in the same county as the city of the third class or not, may be annexed to the city of the third class and become a part thereof for city purposes in the manner provided for in this section.

Subd. 2. **Petition.** Thirty-five per cent or more of the legal voters of such city of the fourth class, according to the number of votes cast at the last city election in the city of the fourth class, may petition the governing body of such city of the fourth class to call an election for the determination of such proposed annexation, which petition shall be filed with the recorder of the city of the fourth class.

Subd. 3. **Election required.** The governing body shall, within ten days after the filing of the petition, fix a time and place for the holding of an election for the determination of the matter, which time shall not be later than 30 days after the filing of the petition, and which place shall be within the limits of the city of the fourth class.

Subd. 4. **Notice of petition and election.** It shall be the duty of the recorder of the city of the fourth class to cause a copy of the petition, with a notice attached thereto stating the time and place for holding the election, to be posted in three places within such city of the fourth class at least ten days before the date of the election.

Subd. 5. **Judges of election; ballots; canvass of votes.** The governing body shall appoint three residents of the city of the fourth class as judges of election, and the election shall be conducted, as far as practicable, in accordance with the laws governing elections in cities of the fourth class. The ballots shall bear the words, "For annexation, Yes....., No.....," with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the judges shall canvass the ballots and

forthwith make and file with the recorder of the city of the fourth class a certificate that they have canvassed the ballots cast at such election, and the number of votes cast for and against the proposition.

Subd. 6. **Canvass; certificate.** Within five days after such election, the governing body of the city of the fourth class shall meet and canvass the returns of the election and upon the completion thereof, shall make and file with the city recorder a certificate signed by each member of such governing body present and acting showing the number of votes for annexation and the number of votes against annexation. If a majority of the votes cast were in favor of annexation, as evidenced by the certificates, the recorder of the city shall attach to such certificate the original petition, together with a copy of the resolution fixing the time and place of such election, and proof of the posting of the notices of election herein provided for, and forthwith file the same with the clerk of the city to which the city of the fourth class is to be annexed.

Subd. 7. **Resolution and effect of annexation.** At any time within 20 days after the filing of this certificate, the governing body of the city of the third class may, by resolution duly passed, declare the city of the fourth class to be annexed to the city of the third class and to be a part thereof, a certified copy of which resolution shall be duly filed with the secretary of state and the register of deeds of each county in which the city of the fourth class and the city of the third class are situated, and thereafter the city of the fourth class shall be annexed to and form part of the city of the third class, and all property and assets belonging to the annexed city shall belong to and be delivered to the annexing city, and the whole city, as thus enlarged, shall be responsible for all liabilities, obligations, and indebtedness of the annexed and annexing city.

Subd. 8. **Wards in annexed city.** After such annexation the city of the fourth class shall be part of such ward, or form such new and separate ward, as the resolution annexing it shall specify.

Subd. 9. **Laws of annexing city govern; courts.** Such annexed city shall in all respects be governed by the laws governing the annexing city at the time of such annexation. Upon such annexation, the territorial jurisdiction of the established municipal court, whether a municipal court, as such, or a justice court, whether established under general or special law, of the annexing city shall thereby be extended to the boundaries of the city as thus enlarged; and summons issued by or out of the court may be served at any place within the boundaries of the city as thus enlarged, as well as within the other territorial jurisdiction, created by law, of the court.

Subd. 10. **Liquor licenses.** No license for the sale of intoxicating liquor in the city so annexed to any such city of the third class shall ever be granted unless the question of issuing the same shall be first submitted to the electors residing within the territory of such annexed city, and unless it shall be authorized by a majority vote of the electors voting at such election on such question. Such question shall be submitted to the voters of such annexed city by the governing body of such enlarged city only upon a petition therefor signed by at least 40 per cent of the legal voters of such annexed city. Any such license granted without complying with the terms of this subdivision shall be void.

Subd. 11. **Taxes and assessments.** In all cases where the territory so annexed is situated in a county other than the county in which such annexing city is situated, all city taxes and assessments levied by such enlarged city upon the property situated in such other county, shall be certified to the auditor of the county in which such territory is situated, and the treasurer of such county, to whom the city taxes are payable, shall pay to the treasurer of such enlarged city all of such city taxes and assessments.

[1925 c. 279 ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11] (1695-1, 1695-2, 1695-3, 1695-4, 1695-5, 1695-6, 1695-7, 1695-8, 1695-9, 1695-10, 1695-11)

413.18 ANNEXATION OF TERRITORY TO CITY OF THIRD CLASS. Subdivision 1. **Territory.** Any territory so conditioned as properly to be subjected to city government which has been wholly or partly platted into lots and which has a resident population of not less than 500 to the square mile, taken as a whole, and not being within the limits of any city or village and lying adjacent to any city in the same county now or hereafter having a population of not more than 20,000 or less than 10,000 may be annexed to and become a part of any such city upon the terms herein prescribed.

Subd. 2. Petition; census; duty of county auditor. Ten per cent or more of the voters residing within any city and in such territory proposed to be annexed thereto may petition the county board of the county in which such city and territory are situate to call an election for the determination of such proposed annexation. A census of the resident population of such territory shall first be taken by one or more of such petitioners, and if found to be within the number specified in this section, the petition shall be presented within eight weeks thereafter. It shall set forth the boundaries of such territory, that a census has been taken of the number of actual residents therein and the number thereof, and the name of the city to which the same is prayed to be annexed. It shall be verified by the oaths of at least three of the petitioners, declaring that such census was accurately taken within the dates specified therein, and that the statements made in the petition are true. The number of voters shall be ascertained from the number of votes cast for governor at the last preceding general election at any such city prior to the making of such petition. Such petition shall be filed with the auditor of the county in which such territory is located, and it shall be the duty of the auditor to cause a copy thereof to be served upon the clerk of the city to which annexation of such territory is prayed within five days after the same is filed in the office of the auditor.

Subd. 3. Duty of council and clerk. At the next meeting of the council of the city to which annexation of such territory is prayed, after the service of a copy of any such petition, the city clerk shall lay the same before the council, and at such meeting or a meeting subsequent thereto the council shall determine, by resolution, whether the city desires to consent to the annexation of such territory, and the city clerk shall forward to the county auditor, immediately after the adoption of any resolution upon such question, a certified copy of the resolution of the council accepting or rejecting such annexation, and thereupon the county auditor shall attach such certified copy of such resolution to the original petition for annexation.

Subd. 4. Duty of county board. In case the resolution of such city council shall be in favor of annexation the county board shall proceed as specified in subdivision 5 and in case the city council shall vote to reject such annexation no further proceedings shall be had by the county board.

Subd. 5. Election; notice. If the council shall vote in favor of such annexation, the county board at its regular meeting shall determine whether the facts stated in such petition are true and, if they so find, shall order an election to be held by the voters of such city and of the territory described in such petition and cause a copy of the petition, with a notice attached fixing a time and place for holding such election; to be posted in three public places within the boundaries of the territory described in such petition. The time of holding such election shall be not less than 20 nor more than 30 days after such posting and it shall be held within such city and the territory proposed to be annexed thereto. A copy of such petition and notice of election shall be published in a legal newspaper published within the city and, if there be a newspaper published within the limits of the territory proposed to be annexed, a copy thereof shall be published in such newspaper and such publications shall be made once in each week for two successive weeks prior to such election.

Subd. 6. Election; ballots. Such election shall be conducted in the city in the same manner and the judges and clerks of election therefor shall be appointed in the same manner as at municipal elections therein and the same shall be conducted in all respects as municipal elections, except as hereinafter provided. The county board shall appoint three inspectors, residents of the territory proposed to be annexed, who shall act as judges of election, who shall appoint two persons clerks of election, and such judges and clerks shall conduct the same in the same manner as general elections, except as herein provided. Polls shall open at nine o'clock in the morning and close at six o'clock p.m. Only voters residing within the territory and within the city shall be entitled to vote at such election. All ballots at such election shall bear the words, "For annexation, Yes, No," with a square after each word, in one of which the voter shall make a cross to express his choice. The judges of election in the city and the inspectors of such election in such territory shall, at once upon the close of such election, make and file with the county auditor certificates of the results of such election in such territory and in each election district of such city, declaring therein the time and place of holding

such election, that they have canvassed the ballots cast thereat and stating the number of ballots cast both for and against such proposition. The certificates shall be signed and verified by at least two of the inspectors in such territory and two judges in each election district of the city to the effect that the statements thereof are true.

Subd. 7. Duties of auditor. The auditor shall attach these certificates to the original petition with a copy of the resolution appointing the inspectors and the original proofs of the posting and publication of the election notice and file the whole as one document in his office. If the certificates show that the majority of all votes cast at such election were in the affirmative, the county auditor shall forthwith make and transmit to the secretary of state a certified copy of the document to be there filed as a public record and thereupon the annexation of such territory shall be deemed complete. He shall file a certified copy of the document in the office of the register of deeds of the county and the same shall be recorded, and file a certified copy thereof with the clerk of the city in which such territory is annexed. If the vote be adverse, no subsequent petition shall be entertained within one year next after the election.

Subd. 8. Expenses of annexation. All proper expenses of the annexation shall be borne by such city in case the council of any such city shall vote to accept annexation of such territory, including fees for copies, recording, publication, and expenses of election.

Subd. 9. Existing indebtedness. No such territory annexed to any such city shall be in any manner taxed to pay any part of any indebtedness existing on the part of any such city prior to or at the time of such annexation, nor shall any such territory be in any manner released of or from liability to taxation for any debt existing against any municipality of which such territory formed a part prior to such annexation.

Subd. 10. Property and indebtedness, how apportioned; appeal. It shall be the duty of the county board to make an equitable division of the public property of the several towns and school districts of which such territory annexed formed a part prior to such annexation, and to apportion the property and indebtedness, if any of each thereof between the respective towns, school districts, and city in such manner as shall be just and equitable, having in view the location and value of public buildings and real and personal property where the same remains after annexation, the amount of taxes due and delinquent and the indebtedness of each such town, school district, and city, if any, and for what purpose the same was incurred, all in proper relation to the last assessed valuation of all of the taxable property of such town, school district, and city, and shall make such apportionment and division thereof by resolution and other appropriate proceedings, first giving at least 20 days' notice to each town or school district and to the city to be affected thereby. Any city, town, school district, or territory affected by any resolution, order, or proceeding of any county board, as herein authorized to be taken, may appeal to the district court from any such resolution, order, or proceeding within 20 days after the making thereof, and in case of appeal by the residents of such territory annexed the same may be taken by 40 per cent of the voters thereof; and, in case of such appeal, all appeals shall be tried and disposed of in one proceeding by the district court in the same manner in all respects as appeals from the decision of the county board on claims against the county, except that the trial thereof shall be by the court without a jury, and an appeal from the determination of the district court shall lie with the supreme court in the same manner as in civil actions.

Subd. 11. Readjustment of wards. The council of any such city to which any such territory shall be annexed shall have authority, by ordinance, to provide for a readjustment of the boundaries of the several wards existing in such city in such a manner that the population of each such ward, as the same shall exist at the time of such annexation, shall be made as nearly equal as practicable after the addition of any such territory, provided the several wards shall be composed of contiguous territory.

Subd. 12. Annexed territory, how governed. Such annexed territory shall in all respects be governed by laws governing the city at the time of such annexation and the annexed territory shall be governed by all of the laws relating to schools and school districts in the city and the school property awarded to such annexed territory by the county board shall be under the control and management

of the officers and proper authorities of such city controlling and governing the school property of such city, subject to the provisions herein with respect to the indebtedness of any such territory, and in case the detaching of any such territory shall divide any school districts outside of the limits of the city, the county board shall have authority to make a proper readjustment of the boundaries thereof as provided by law. No license for the sale of intoxicating liquors in such territory so annexed to any such city shall ever be granted unless the question of issuing the same shall be first submitted to the electors residing therein and be authorized by a majority vote of the electors voting at such election on such question. The council of any such city is hereby authorized to submit such question to the voters of any such territory so annexed at a special election to be called and held therein and to appoint the necessary judges and clerks for the purpose of conducting the same in the same manner that other municipal elections are held and conducted, and any such license so granted, without complying with the terms of this subdivision, shall be void.

[1909 c. 137 ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12] (1678, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691)

413.19 ANNEXATION OF TERRITORY TO CITIES OF THIRD CLASS.

Subdivision 1. What property annexed. When the majority of the owners of any property which has been platted into lots and blocks or outlots, or the owner of any tract, piece, or parcel of land abutting upon any incorporated city having a population of not less than 10,000, nor more than 20,000, according to the last federal census, whether such city is incorporated under general or special laws, or is operating under the terms and provisions of a home rule charter, shall petition the city council, city commission, or other governing body of the city, to have such property annexed to the city, the city council or other governing body may, by ordinance, and the city commission, acting under a home rule charter, may by resolution declare the same to be an addition to such city and thereupon such territory shall become a part of such city as effectually as if it had been originally a part thereof.

Subd. 2. Duties of city council. It shall be the duty of the city council, city commissioner, or other governing body of any such city to which such territory shall be annexed and added under this section to cause a certified copy of the ordinance or resolution to be duly filed and recorded in the office of the register of deeds of the county in which the city is located or, in the event that the city is located in more than one county, in the office of the register of deeds of the county in which the territory thus annexed to the city is situated, and in like manner to cause a certified copy of the ordinance or resolution to be filed in the office of the auditor of the county. This section shall be construed to be supplementary to any other law providing for the annexation of territory to cities having a population of not less than 10,000 nor more than 20,000 and not as repealing such law.

[1919 c. 159 ss. 1, 2] (1679, 1680)

413.20 VILLAGES ANNEXED TO CITIES OF THIRD CLASS. Subdivision 1.

City and school purposes. Any village whose territory adjoins the territory of a city of the third class operating under a home rule charter, whether such village is in the same county as the city or not, may be annexed to the city and become a part thereof for city and school purposes in the manner herein provided for.

Subd. 2. Election called on petition of voters. Ten per cent or more of the legal voters of the village, according to the number of votes cast at the last village election, may petition the governing body of the village to call an election for the determination of the proposed annexation which petition shall be filed with the clerk of the village.

Subd. 3. Time and place of election. The governing body shall, within ten days after the filing of the petition, fix a time and place for the holding of an election for the determination of the matter, which time shall not be later than 30 days after the filing of the petition, and which place shall be within the limits of the village.

Subd. 4. Notices of election, posting. It shall be the duty of the village clerk to cause a copy of the petition, with a notice attached thereto stating the time and place for holding the election, to be posted in three public places within such village at least ten days before the date of the election.

Subd. 5. Judges of election appointed. The governing body shall appoint three residents of the village as judges of election, and the election shall be conducted, as far as practicable, in accordance with the laws governing village elections.

The ballots shall bear the words, "For annexation Yes....., No.....," with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after the election the judges shall canvass the ballots, and forthwith make and file with the village clerk a certificate that they have canvassed the ballots cast at such election, and the number of votes cast for and against the proposition.

Subd. 6. **Canvass of returns.** Within five days after the election the governing body shall meet and canvass the returns of the election. If the canvass shows that the majority of the votes cast were in the affirmative, the village clerk shall make a certificate to that effect and attach the same to the original petition together with a copy of the resolution fixing the time and place of the election and proof of the posting of the notices of election and forthwith file the same with the clerk or recorder of the city to which the village is to be annexed.

Subd. 7. **Declaration of annexation.** At any time within 20 days after the filing of this certificate the governing body of the city may, by resolution duly passed, declare the village to be annexed to the city and to be a part thereof, one certified copy of which resolution shall be duly filed with the secretary of state and one with the register of deeds of each county in which the city and village are situated and thereafter the village shall be annexed to and form part of the city and all the property and assets belonging to the village shall belong and be delivered to the city and the city shall assume and be responsible for all the liabilities, obligations, and indebtedness of the village.

Subd. 8. **Ward.** After such annexation the village shall be part of a ward of the city or form a new and separate ward, as the resolution annexing it shall specify.

Subd. 9. **What laws govern.** The annexed village shall in all respects be governed by the laws governing the city at the time of such annexation and by all of the laws relating to schools and school districts in the city; and the schools and school property of the annexed village shall be under the control and management of the officers and proper authorities of the city controlling and governing the schools and school property of the city.

Subd. 10. **Assessment and payment of taxes.** In all cases where the territory so annexed is situate in a county other than the county in which such city is situate, all city taxes and assessments levied by such city upon the property situate in such other county shall be certified to the auditor of the county in which such territory is situate and the treasurer of such county shall pay to the city and to the school officers thereof all city taxes and assessments and the proper city officers shall pay all school taxes to the proper school officers of the city authorized to receive the same.

[1915 c. 32 ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 11] (1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162)

413.21 LANDS OF STATE INSTITUTIONS ANNEXED. Subdivision 1. **To cities of third class.** Any lands adjacent to any city now or hereafter having a population of not less than 10,000 and not more than 20,000 in this state which are wholly owned by the State of Minnesota and used as a part of any state institution under the jurisdiction and control of the director of public institutions, may be annexed to any such city by resolution of the council or other governing body thereof, when such council may be requested to annex such state lands by the director of public institutions, which request shall in all cases describe the lands to be annexed.

Subd. 2. **Completion.** Such annexation shall be deemed complete upon the adoption of any such resolution by the council or other governing body of such city in the manner above specified, when a duly certified copy of such resolution shall be filed in the office of the secretary of state. A certified copy of such resolution shall be recorded in the office of the register of deeds of the county in which such city is situate.

Subd. 3. **What lands may be annexed.** Any lands owned by the state, as provided in subdivision 1, and adjacent to any city, as herein provided, may be annexed as provided herein, save and except lands situate outside of the limits of the county in which such city is situate.

[1907 c. 349 ss. 1, 2, 3] (1693, 1694, 1695)

413.211 ANNEXING STATE LANDS. When any state lands which were acquired and held for state institutions are not included in any city or village but which are immediately adjoining any city and it is deemed desirable by a majority

MINNESOTA STATUTES 1949

3091

FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME 413.23

of the resident electors thereof that the city limits should be extended so as to include this territory, or some part thereof, a petition signed by a majority of such resident electors, as appears by the votes cast at the last preceding general election, may be presented to the council of the city asking for the annexing of this territory, or some designated part thereof, and the council may by ordinance thereupon annex such territory to the city and therein designate to what wards the territory shall be annexed.

[1895 c. 247]

413.22 TERRITORY ANNEXED TO CITY OF SECOND CLASS. Subdivision 1. **Petition; ordinance.** When the majority of the owners in number and area of any property which has been platted into lots and blocks or outlots, or the owner of any tract, piece, or parcel of land, abutting upon any city of the second class, whether such city is incorporated under general or special laws, or is operating under the terms and provisions of a home rule charter, shall petition the city council, city commission, or other governing body of the city, to have such property annexed to the city the city council or other governing body may by ordinance and the city commission, acting under a home rule charter, may by resolution declare the same to be an addition to such city and thereupon such territory shall become a part of such city as effectually as if it had been originally a part thereof.

Subd. 2. **Recording and filing of ordinance.** It shall be the duty of the city council, city commission, or other governing body of any such city to which such territory shall be annexed and added under this section to cause a certified copy of the ordinance or resolution to be duly filed and recorded in the office of the register of deeds of the county in which the city is located, or, in the event that the city is located in more than one county, in the office of the register of deeds of the county in which the territory thus annexed to the city is situated, and in like manner to cause a certified copy of the ordinance or resolution to be filed in the office of the auditor of the county. This section shall be construed to be distinct from and independent of any other law providing for the annexation of territory to cities of the second class and not as repealing such law.

[Ex. 1937 c. 57 ss. 1, 2] (1664-101, 1664-102)

413.23 NEW TERRITORY ATTACHED TO CITY OF FIRST CLASS. Subdivision 1. **Area to be annexed.** Lands not exceeding 50 acres in area, adjoining and contiguous to any city of over 50,000 inhabitants may, upon the approval of the mayor of the city and the board of supervisors of the town in which such lands are located, be attached to and become part of such city upon the petition of 500 legal voters thereof requesting that this territory be so attached. The petition shall, before its presentation to the mayor, be first approved by the board of supervisors, which approval shall be endorsed thereon, signed by a majority of the board, and attested by the town clerk. After presentation of the petition to the mayor for approval or rejection, a notice specifying the substance thereof and that an application will be made to him to approve the same at a time and place therein named not less than 20 days from the date thereof shall be served upon the owner of the premises so proposed to be attached by the delivery of a copy thereof, or if he cannot be found, of which fact the return of the sheriff that he cannot be found in the county shall be prima facie evidence, then upon the person or persons in actual possession of these premises at least 20 days prior to the date fixed in the notice. If the lands are vacant and unoccupied and the owner of the record title cannot be found in the county, the notice shall be published in some newspaper of general circulation published in the city, in one issue thereof, at least 20 days prior to that date. If approved by the mayor, the same shall be endorsed upon the petition and further evidenced by proclamation to be issued by him reciting the prayer of the petition, the number of signatures attached thereto, the approval thereof by the board of supervisors, and certifying that such territory, describing it, is a part of such city, which proclamation shall be deemed to be prima facie evidence of the matters therein stated and of the legality and regularity of all proceedings involving the annexation of such territory. The petition shall be addressed to the mayor and upon presentation shall be filed and recorded in his office.

Subd. 2. **Proclamation recorded.** The proclamation shall be recorded in the office of the register of deeds of the county in which the territory is situated and in the office of the secretary of state, whereupon these lands shall be deemed to be attached to and form a part of the city.

Subd. 3. **Expenses.** The expenses incident to such proceedings shall be audited and paid by the city, provided the lands are annexed thereto.

[1905 c. 219 ss. 1, 2, 3] (1410, 1411, 1412)

413.24 ANNEXATION OF LANDS TO CITY OF FIRST CLASS. Subdivision 1. **What lands attached.** Lands outside any incorporated municipality and adjoining and contiguous to any city of the first class now or hereafter having 350,000 inhabitants within the same county in which the city of the first class is situated and which have been platted into subdivisions approved by the council or chief governing body of such city and by the county board of such county and in which streets and alleys have been dedicated for public use, may be annexed to such city of the first class upon petition of the owner or owners thereof, which petition shall be in writing and presented to and filed with the governing body of such city of the first class. The word "owner," as herein used, means any and all persons or parties having any right, title, estate, lien, or interest in the lands proposed to be so attached, other than the tax or assessment liens held by the state or any of its subdivisions.

Subd. 2. **Proceedings.** Upon the presentation of such petition to the governing body of such city, the same shall be referred to the planning commission of such city, if one exists therein. If such planning commission by a four-fifths vote shall recommend the annexation of such land and if such governing body finds that the territory described in such petition is so conditioned and so located as properly to be made a part of such city of the first class, it shall have power by resolution duly adopted by a four-fifths vote of such governing body to annex such territory and, immediately upon the adoption of such resolution, the territory annexed shall become a part of such city for all purposes. Thereafter the clerk of such city of the first class shall file with the register of deeds of the county wherein the city of the first class is situated and in the office of the secretary of state a certified copy of the resolution adopted by such governing body so annexing the territory to such city of the first class.

Subd. 3. **Placed in adjacent wards.** Such annexed territory shall become parts of adjacent wards of such city of the first class and the portions of such territory to be added to wards adjacent thereto shall be determined by the extension in straight lines of the ward lines of such adjacent wards.

Subd. 4. **Tax levies.** Taxes levied and due and payable at the time of the passage of such resolution shall be collected and received by the proper officers of the county in which such city of the first class is located and when so collected shall be transmitted by such officers to the state or governmental subdivision to which the taxes were originally due and payable. Taxes levied, but not due and payable at the time of the passage of such resolution, shall be collected and received by the proper officers of the county in which such city of the first class is located and distributed as if at the date of the levy thereof the lands were a part of such city of the first class. All special assessments levied at the time of the passage of such resolution for the making of any public improvement and all assessments made to meet any bonded indebtedness in and of the governmental subdivision in which the lands were prior to the passage of the resolution located and for the payment of which the lands have become obligated, shall, when collected by the proper officers of the county in which such city of the first class is located, be transmitted to the governmental subdivision making such public improvement and the levy of assessment therefor.

Subd. 5. **Limitation on public improvements.** For the period of ten years after the annexation of any lands under this section, no works of improvement shall be done within such annexed territory under any law of this state or any provisions of charter of such city of the first class under which any portion of the cost thereof shall be paid for out of the general funds except the cost of such improvements at and in street intersections where no private property abuts against which the cost can be assessed or shall be assessed against any property outside the boundaries of the lands so annexed but during such term such land shall be subject to assessments for any improvements either inside or outside the boundaries thereof permitted by such law or charter.

Subd. 6. **Application.** This section shall apply to all cities now or hereafter having over 350,000 inhabitants, including all such cities organized and operat-

ing under a home rule charter adopted under the provisions of the Constitution of the State of Minnesota, Article 4, Section 34, and the laws of the state relating thereto.

[1929 c 414 s 1, 2, 3, 4, 5, 6] (1415-14, 1415-15, 1415-16, 1415-17, 1415-18, 1415-19)

413.25 TERRITORY OF VILLAGE OR CITY OF FOURTH CLASS ANNEXED TO CITY OF FIRST CLASS. Subdivision 1. **Procedure.** All or any portion of the territory of any incorporated village or city of the fourth class may be annexed to an adjoining city of the first class as follows. The council of any village or city of the fourth class and situated within the same county shall, on the petition of 100 freeholders, submit the proposition of annexing all or any portion of the territory of such village or city of the fourth class to an adjoining city of the first class to the voters of such village or city of the fourth class for their approval or rejection at the next regular village or city election or at a special election called for the purpose. Ten days' notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three of the most public places within the village or city, and shall state the time and place, when and where within the village or city of the fourth class such election will be held, and the proposition on which the electors will vote. Notice of such election shall be published for one full week prior to the date of the election in a newspaper printed or published in the village or city of the fourth class, and, if there be no newspaper printed or published in the village or city of the fourth class, then in a newspaper printed and published at the county-seat of the county in which the village or city is located. The ballots shall have upon them the proposition to be voted upon, together with the words "for detaching" and "against detaching," and the special election shall be held, conducted, and the results thereof counted and canvassed in the same manner as in special elections held for other purposes in villages and cities of the fourth class. If the proposition to be voted upon is for the annexation of the entire territory of the village or city to such city of the first class, the ballots shall have upon them the proposition to be voted upon, together with the words "for annexation to the city of....." and "against annexation to the city of....."

Subd. 2. **What majority required.** If it appears that five-eighths of the electors of such village or city of the fourth class casting their ballots upon the question of such election are in favor of the proposition, then and in such case the council of such village or city of the fourth class shall adopt a resolution reciting the results of such election and stating that such village or city of the fourth class consents to the detachment from it of the territory described and to the annexation of such territory to an adjoining city of the first class, or consents to the annexation of all the territory of such city or village of the fourth class to such adjoining city of the first class, as the case may be, and a certified copy of such resolution shall thereafter be filed with the clerk of such city of the first class, who shall present the same to the council of such city of the first class at its next regular meeting.

Subd. 3. **Council of city of first class to adopt resolution of annexation.** Thereupon, if the council of such city of the first class finds that the territory described in such resolution is so conditioned as to properly be made a part of such city of the first class, it shall have power by resolution duly adopted to annex such territory and immediately upon the adoption of such resolution the territory annexed shall become a part of such city of the first class for all purposes. Thereafter the city clerk of such city of the first class shall file with the register of deeds of the county wherein such city of the first class is situated and in the office of the secretary of state a certified copy of the resolutions adopted by the council of such city of the first class annexing the territory described to such city of the first class.

Subd. 4. **Assumption of obligations and receipt of property by annexing city.** In case such annexed territory includes any entire village or city of the fourth class, or any school district or school districts, the city of the first class to which such territory is annexed shall assume and be charged with all the outstanding bonds and obligations of such village or city of the fourth class and of such school districts, as the case may be; and all moneys, claims, and properties, including real estate, school sites, school buildings, and the proceeds of all taxes levied and collected and to be collected belonging to, owned, held, or possessed by such village or city of the fourth class or school district shall become and be the properties of such city of the first class with full power and authority to use and dispose of the

same for public purposes as the council of such city may deem best. In case such annexed territory shall include fractional portions of any such village or city of the fourth class or fractional portions of any school district or school districts, the governing body of such city of the first class shall have power and authority, by the resolution provided for in subdivision 3, to provide and determine that all or a part of the outstanding bonds and obligations of such village or city of the fourth class, and of all such school districts in such annexed territory, which have been issued or incurred for the acquisition of school sites and school buildings or other school property located within such annexed territory, shall become and be the obligations of such city of the first class upon the conveyance and transfer to such city of the first class of such school sites, school buildings, and other school property. If such city council shall fail to provide for the disposition of the school property and school obligations of such village or city of the fourth class and of such school districts as herein provided, it shall be the duty of the county board to make an equitable division of the same as provided herein.

Subd. 5. **Equitable division and apportionment of properties and obligations of villages, cities, or school districts in annexed territory.** It shall be the duty of the county board to make an equitable division and apportionment of the public properties and obligations of such village or city of the fourth class and of the school districts affected by such annexation of territory, between such city of the first class and such village or city of the fourth class, and such school districts; provided, that such division and apportionment of school bonds and obligations and school properties shall not be made by the county board in any case where such division and apportionment is made by the council of such city of the first class as provided in subdivision 4.

Subd. 6. **Division and apportionment, how made; appeals.** In making such division and apportionment of properties and obligations of such village or city of the fourth class and of such school districts it shall be the duty of the county board to make an equitable division of the public properties of such village or city of the fourth class, and of the school districts, of which such annexed territory formed a part prior to such annexation of territory, and to apportion the properties and indebtedness if any of each thereof between such village or city of the fourth class, and such school districts and such city of the first class, in such manner as shall be just and equitable, having in view the location and value of the public buildings and real and personal property of such village or city of the fourth class and of such school districts, the amount of taxes due and taxes delinquent and the indebtedness of each such village, city of the fourth class and school districts, if any, and for what purpose the same was incurred, all in proper relation to and in view of the last assessed valuation of all the taxable property of such village or city of the fourth class and such school districts severally, and shall make such apportionment and division thereof by resolution and other appropriate proceedings, after first giving at least 20 days' notice to each such village, city of the fourth class, school districts, and city of the first class, to be affected thereby. Any such village, city of the fourth class, school district, and such city of the first class, affected by any resolution, order, or proceeding of any county board, as herein provided, may appeal to the district court from any such resolution, order or proceeding within 20 days after the making or completion thereof. All appeals in any such proceeding for the annexation of territory shall be tried and disposed of at the same time in one proceeding by the district court in the same manner and in all respects as in the case of appeals from the decision of the county board on claims against the county, except that the trial thereof shall be by the court without a jury, and an appeal from the determination of the district court shall lie to the supreme court in the same manner as in civil actions.

Subd. 7. **Made part of adjacent wards.** Such annexed territory shall become parts of adjacent wards of such city of the first class, and the portions of such territory to be added to wards adjacent thereto shall be determined by the extension in straight lines of the ward lines of such adjacent wards.

Subd. 8. **Application.** This section shall apply to all cities of the first class, including cities of the first class organized and operating under a home rule charter adopted under the provisions of the Constitution of the State of Minnesota, Article 4, Section 36, and the laws of the state relating thereto.

[1923 c 352 s 1, 2, 3, 3a, 3b, 3c, 3d, 3e; 1927 c 73 s 1, 2; 1929 c 352 s 1, 2; 1931 c 403 s 1, 2] (1413, 1414, 1415, 1415-1, 1415-2, 1415-3, 1415-4, 1415-5)

413.26 ANNEXATION OF CITY OF FOURTH CLASS TO CITY OF FIRST CLASS. Subdivision 1. **Proceedings.** The governing body of any city of the fourth class now or hereafter organized, where the territory embraced in the city of the fourth class shall join and be contiguous to a part of the territory of any city of the first class, when such city of the fourth class, or part thereof, by proceedings duly had, has voted to become annexed to the city of the first class, shall, on the petition of 100 freeholders of the city of the fourth class, or any part thereof, submit the proposition of making all or any such part of the city of the fourth class annexed, or proposed to be annexed, to the city of the first class a part of the county wherein the city of the first class is located, to the voters of such city of the fourth class, or such part thereof, for their approval or rejection at an election to be held for that purpose not more than 60 days after the filing of such petition.

Subd. 2. **Vote on annexation.** Notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three public places within the city of the fourth class or such part thereof, at least ten days prior to such election, which notice shall state the time and place such election will be held, and shall also state the proposition on which the electors will vote.

Notice of such election will be published for at least one week prior to such election in a newspaper published in the city of the fourth class, or, if there be no newspaper published in the city of the fourth class, then in a newspaper published at the county-seat of the county in which the city is located.

The ballots shall briefly and concisely state the proposition to be voted upon, together with the words, "For annexation" and "Against annexation" and such election shall be held, conducted, and the results thereof counted and canvassed in the same manner as any other special or general election held for other purposes in cities of the fourth class.

Subd. 3. **What majority required to annex.** If it appears by such canvass that five-eighths of the electors of such city of the fourth class, casting their ballots upon the question of such election, are in favor of the annexation, then and in such case the governing body of such city of the fourth class shall adopt a resolution reciting the result of such election and stating that such city of the fourth class consents to the annexation of the territory embraced in the resolution to the county in which such city of the first class is located, and a certified copy of such resolution shall forthwith be filed with the auditor of the county in which the city of the fourth class is located and with the auditor of the county in which the city of the first class is located.

The auditor of the county in which the city of the fourth class is located hereby is required to present the same to the board of county commissioners of the county in which the city of the fourth class is located at its next regular or adjourned regular meeting and, if no such meeting has been set, then at a special meeting to be called by the county auditor at a time not more than 20 days after the filing of such resolution in his office.

Subd. 4. **Duties of county board.** If the board of county commissioners of the county in which such city of the fourth class is located finds that the territory described in such resolution is so conditioned as to properly be made a part of the county in which the city of the first class is located; it shall have the power by resolution duly adopted to consent to the annexation of such territory and to consent that it be made a part of the county in which the city of the first class is located.

Upon the adoption of such resolution it is hereby made the duty of the auditor of such county to forthwith file a certified copy thereof with the auditor of the county in which such city of the first class is located.

Subd. 5. **Auditor to file certificates.** Upon the filing of such certified copy of such resolution with him, the auditor of the county in which the city of the first class is located is hereby required to present the certified copy of the resolution filed in his office by such city of the fourth class and the certified copy of the resolution so filed in his office from the board of county commissioners of the county in which such city of the fourth class is located at its next regular or adjourned regular meeting.

Subd. 6. **Territory to become part of city.** When the certified copy of resolution duly filed by such city of the fourth class with the clerk of such city of the first class, pursuant to section 413.24 and the certified copy of resolution duly filed by the auditor of the county in which the city of the fourth class is located

with the auditor of the county in which the city of the first class is located would allow the annexation of the same territory to the city of the first class and the county in which such city of the first class is situated and the council of such city of the first class shall have determined by resolution duly adopted and filed with the register of deeds of the county in which such city of the first class is situated to annex such territory, the board of county commissioners of such county in which such city of the first class is located shall have the power, by resolution duly adopted, to annex such territory and make it a part of the county in which the city of the first class is located; provided, that, notwithstanding any existing law to the contrary, such city of the fourth class or any part thereof shall not become a part of such city of the first class until the filing of the certified copy of such resolution by the auditor of the county from which the territory is to be detached with the auditor of the county to which such territory is to be attached; and such territory shall not become detached from one county and attached to the other until the due adoption and filing of certified copies of resolutions providing for such city annexation by both the city of the fourth class and the city of the first class; and, provided, that such annexation shall not release the property annexed from liability on account of any outstanding indebtedness of such city of the fourth class or of the county in which it is situated existing at the time of the annexation and taxes therefor shall be levied on the property annually until paid at the same rate as on other property in the county of which the city of the fourth class was a part, which levy shall be made by the auditor of the county of the city of the first class on a certificate therefor from the auditor of the county of which the city of the fourth class was a part and the proceeds of such levy shall be remitted by the county auditor as collected at the times provided by law for tax settlements; and, provided, further, that the property so annexed shall thereafter be additionally subject, in the county to which it is annexed, to the same tax levy as the property in the county to which it is annexed whether for outstanding bonded indebtedness at the time of annexation of the county to which it is annexed or otherwise.

The auditor of such county in which the city of the first class is located, after the adoption of any such resolution, shall file for record with the register of deeds of such county and in the office of the secretary of state and in the office of the register of deeds of the county where such city of the fourth class is located, a certified copy of such resolution so adopted.

Subd. 7. Collection of taxes not affected. No transfer of territory under the provisions of this section shall affect the collection of taxes levied at the date of the filing and recording of the resolution provided for in subdivision 6, but all such taxes shall be collected by the officers of the original county and all moneys then remaining in or afterwards coming into the treasury of such original county, or into the possession of any officer of such county and belonging to such city of the fourth class or any school district or any part thereof in the territory transferred. All special assessments belonging to such city of the fourth class in the territory transferred, shall be apportioned and paid over to the city of which the city of the fourth class has become a part and to such school district in the same manner as it would have been paid to such city of the fourth class if such city of the fourth class or such school district had remained a part of such original county.

Subd. 8. Becomes part of school districts. The territory embraced in the resolutions referred to in subdivision 6 shall, after the adoption of the final resolution and its recording, become and be thereafter a part of the school district of the city of the first class.

[1929 c 343 s 1, 2, 3, 4, 5, 6, 7, 8] (1415-6, 1415-7, 1415-8, 1415-9, 1415-10, 1415-11, 1415-12, 1415-13)

413.27 to 413.293 [Repealed, 1949 c 119 s 110]

413.30 DETACHMENT OF LANDS FROM CITIES OF FOURTH CLASS. Subdivision 1. **Area; petition; notice.** The owner of any unplatted tract of land containing not less than 40 acres included within the corporate limits of any city of this state containing 10,000 inhabitants or less and used and occupied exclusively for agricultural purposes may petition the district court of the county in which such tract of land is situated for a decree detaching such tract of land from such city. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall be not less than 30 days from the date of the filing of such

petition; and the petitioner shall serve, or cause to be served, a notice of such hearing upon the mayor or city recorder of such city at least 20 days before the time fixed for such hearing, and shall cause a copy of such notice to be published in a newspaper published in the city at least two weeks before the time so fixed for such hearing.

Subd. 2. **Hearing and decree.** If, upon the hearing, the court shall find that such tract of land is of the nature and quantity as hereinbefore set forth and that it may be detached from such city without unreasonably affecting the symmetry of the settled portions of such city, it may grant such decree, and the tract of land shall thereon become detached from such city and shall thereafter form a part of the town in which it was originally situated, and shall in all things be subject to the government of such town.

[1907 c 221 s 1, 2] (1720, 1721)

413.31 DETACHMENT OF AGRICULTURAL LANDS FROM CITIES. Subdivision 1. **Area; procedure.** The owners of 75 per cent, or more, of any contiguous unplatted tracts or parcels of land containing not less than 300 acres, included within the corporate limits of any city in this state, containing 10,000 inhabitants or less, and used and occupied exclusively for agricultural purposes, may petition the district court of the county in which such tracts and parcels of land are situated for a decree detaching such tracts and parcels of land from such city. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall not be less than 30 days from the date of the filing of such petition; and the petitioner shall serve or cause to be served a notice of such hearing upon the mayor or city clerk of such city at least 20 days before the time fixed for such hearing.

Subd. 2. **Court to order tracts detached.** If, upon the hearing, the court shall find that such tracts and parcels of land are of the nature and quantity as herein set forth, and that they may be detached from such city without unreasonably affecting the symmetry of the settled portions of such city, it may grant such decree, and the tracts and parcels of land shall thereupon become detached from such city for all purposes as effectively as if they had never been a part thereof.

Subd. 3. **Detached part to become part of town.** Where there is no organized town government in the township from which the lands were detached exclusive of the city government of such city, it shall be the duty of the board of county commissioners of the county in which the lands are situated to attach any part or all of the lands so detached from such city by the decree of the court made under the provisions of this section to any towns adjoining the lands and within the county and thereafter the lands shall, in all things, be subject to the government of the town to which they are so attached.

Subd. 4. **Application.** The provisions of this section shall be supplemental to and in addition to the provisions of section 413.30.

[1923 c 417 s 1, 2, 3, 4] (1723, 1724, 1725, 1726)

413.32 UNPLATTED AGRICULTURAL LANDS DETACHED FROM CITIES OF FOURTH CLASS AND THEIR SCHOOL DISTRICTS. Subdivision 1. **Area; petition; notice; hearing.** The owners of 75 per cent or more of any contiguous unplatted tracts or parcels of land containing not less than 200 acres, or the owners of any unplatted tract of land containing not less than 40 acres, included within the corporate limits of any city in this state containing 10,000 inhabitants or less and included within the limits of any special or independent school district included within the corporate limits of such cities and regardless of how the city and school district may have been organized and which the unplatted tract or tracts of land are used or occupied exclusively for agricultural or horticultural purposes, may petition the district court of the county in which such tract or tracts of land are situated for a decree detaching such tract or tracts of land from such city and school district. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall not be less than 30 days from the date of the filing of such petition and the petitioner shall serve or cause to be served a notice of such hearing upon the mayor or city clerk of such city and upon the president or clerk of such school district, from which such land is proposed to be detached at least 20 days before the time fixed for such hearing.

Subd. 2. **Decree; effect.** If upon the hearing the court shall find that such tract or tracts of land are of the nature, quality and quantity as set forth herein and that the same may be detached from such city and school district without

unreasonably affecting the symmetry of the settled portions of such city, it shall grant such decree and such lands shall thereupon become detached from such city and school district for all purposes as effectively as if it had never been a part thereof and shall thereafter form a part of the township in which it was originally situated and that on the filing of such decree with the auditor of the county, the land so detached shall be, by the board of county commissioners of the county in which the lands are situated, attached to and included in such school district or districts adjoining the lands and within the county as the board of county commissioners shall fix and determine, and thereafter the lands shall in all things be subject to the government of the town and school district to which the lands are so attached, to the same extent as if originally included therein; provided that where there is no town government in the township from which the lands were detached, exclusive of the city government of such city, it shall be the duty of the board of county commissioners of the county in which the lands are situated to attach any part or all of the lands so detached from such city and school district by the decree of the court made under the provisions of this section to any town or school district, adjoining the land and within the county and thereafter the lands shall in all things be subject to the government of the town and school district to which the lands are so attached, to the same extent as if originally included therein.

Subd. 3. **Indebtedness; tax levies.** If upon such hearing it shall be made to appear to the court that there is any outstanding bonded indebtedness of such city or school district, in the payment of which the lands sought to be detached should in good conscience and justice contribute because of actual benefits received, then in such case the court shall determine and designate in its order and decree the amount thereof which such land should bear and in order that such detached territory shall pay such designated share of such outstanding indebtedness and of any renewal of such indebtedness or extension thereof and interest thereon, unless the same is paid in full by the owner of such lands so detached, which may be made at any time, there shall be levied at the time of the levying of the various taxes for city and school purposes upon the taxable property of the city or school district an equal rate upon the taxable real estate within such detached territory each year until the amount so designated and fixed by the court shall have been paid in full, and the county auditor shall levy the same upon such detached lands and place the same upon the tax list in the taxing district where the same is then situate in the same manner as other taxes therein and such taxes shall be collected with and in like manner as county and state taxes are paid and payment thereof enforced and the county treasurer shall pay such taxes when collected over to the treasurer of such city or school district in the same manner as other taxes are paid over.

Subd. 4. **Scope.** This section shall only apply to cities the limits of which also constitute a separate school district; and which are located wholly within one county.

Subd. 5. **Supplemental.** The provisions of this section shall be supplemental to and in addition to the provisions of sections 413.30 and 413.31.

[1927 c 122 s 1, 2, 3, 3a, 5; 1931 c 318 s 1] (1726-6, 1726-7, 1726-8, 1726-9, 1726-11)

413.33 CERTAIN LANDS EXCLUDED FROM CITIES OF THIRD CLASS.

Subdivision 1. **Area; bridges thereon; resolution.** The city council, city commission, or other governing body of any city of the third class in this state, operating under a home rule charter, may, by resolution duly adopted by unanimous vote, eliminate from the municipal limits of such city any land not exceeding ten acres in area, and not within the platted portion of the city, upon which lands are located any bridge across a navigable stream constituting the boundary line between two counties together with the highway approach thereto situated upon the eliminated territory.

Subd. 2. **Resolution filed, effect.** Upon the adoption of such resolution, duly certified copies thereof shall be filed with the auditor of each county wherein any portion of the bridge and approaching highway is located, and also with the secretary of state. Upon the completion of the filing, the change and alteration in the boundary lines of the city shall be complete, and the territory restored to the township or municipality wherein the same is situated. The elimination shall not

MINNESOTA STATUTES 1949

3099

FORMATION; CHANGE IN TERRITORIAL LIMITS, NAME 413.34

relieve the territory so eliminated from its liability to pay its proportionate part of the existing bonded indebtedness of the city of the third class unpaid at the time of such exclusion.

[1927 c 124 s 1, 2] (1695-12, 1695-13)

413.34 UNPLATTED LAND DETACHED FROM CITIES OF SECOND CLASS.

Subdivision 1. **Area; petition.** The owners of 75 per cent or more of any contiguous unplatted tract or tracts or parcels of land containing not less than 40 acres included within the corporate limits of any city in this state located on navigable boundary waters having a population of not less than 20,000 or more than 50,000 and used and occupied exclusively for agricultural purposes may petition the district court of the county in which such tracts and parcels of land are situated for a decree detaching such tracts and parcels of land from such city. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall not be less than 30 days from the date of the filing of such petition; and the petitioner or petitioners shall serve or cause to be served a notice of such hearing upon the mayor or city recorder of such city at least 20 days before the time fixed for such hearing.

Subd. 2. **Order of court.** If upon the hearing the court shall find such tracts and parcels of land are of the nature and quantity as set forth and that they may be detached from such city without unreasonably affecting the symmetry of the unsettled portion of such city it may grant such decree and the tracts and parcels of land shall thereupon become detached from such city for all purposes as exclusively as if they had never been a part thereof.

Subd. 3. **Placed in original townships.** Such tracts or parcels of land which have become detached from such city under the decree of the court shall thereafter form a part of the township in which such land was originally situated and where there is no organized town in the township from which the lands were detached exclusive of the city government of such city it shall be the duty of the board of county commissioners of the county in which the lands are situated to attach any part or all of the lands so detached from such city by the decree of the court made under the provisions of this section to any town adjoining the land and within the county and thereafter the lands shall at all times be subject to the government of the town to which they are so attached.

[1937 c 199 s 1, 2, 3] (1664-95, 1664-96, 1664-97)