

INCORPORATION, DETACHMENT, ANNEXATION 414.02

affect any liability, obligation, power, duty, law, or ordinance, or other matter or thing in any way relating to the city, excepting that the new name of the city shall thereafter be substituted for and used in place of its old name.

**Subd. 5. Use of term village; procedure.** Any statutory city which was a village or a borough on December 31, 1973, may continue to employ the term "village" or "borough" for any purpose including, but not limited to, internal administration, public communications, and published and posted notices; provided, however, that in all proceedings governed by statute or rule or regulation of a state agency and in all legal proceedings to which the city is a party, the term "city" shall be employed. The validity of any proceeding commenced or action taken by a village or borough prior to January 1, 1974 in which the term "village" or "borough" was employed shall not be affected by the provisions of this subdivision.

[1973 c 123 art IV s 3]

CHAPTER 414. INCORPORATION, DETACHMENT, ANNEXATION

Sec.		Sec.	
414.01	Creation of a commission.	414.041	Consolidation of two or more municipalities.
414.02	Municipal incorporation.	414.061	Concurrent detachment and annexation of incorporated land.
414.031	Annexation of unincorporated property to a municipality by commission order.	414.067	Apportionment of assets and obligations.
414.032	Orderly annexations within a designated area.	414.068	Zoning and subdivision regulation within orderly annexation areas [New].
414.034	Commission designation of orderly annexation area [New].		

414.01 Creation of a commission

[For text of subds. 1 to 13, see M.S.1971]

Subd. 14. When a commission order enlarges or diminishes the area of an existing municipality or town, or creates a new municipality, the population of such municipality or town for all purposes shall be as found by the commission at its hearing, until the next federal census.

[1973 c 621 s 1]

Subd. 15. When a commission order enlarges an existing municipality or creates a new municipality, the commission shall indicate in its order the estimated increased costs to such municipality as the result of such annexation or consolidation, and the time period that such municipality would be allowed a special levy for these increased costs pursuant to section 275.50, subdivision 5, clause (s). This subdivision shall apply to annexations or consolidations of municipalities in levy year 1971 or a subsequent levy year.

[1973 c 650 Art IV s 18]

414.02 Municipal Incorporation

**Subdivision 1. Initiating the incorporation proceedings.** This section provides the exclusive method of incorporating a municipality in any county containing a city of the first or second class, in any county within any metropolitan areas as defined in section 473.02, subdivision 5, or in any other area of Minnesota if the proposed new municipality is within four miles of the boundary of an existing municipality. In any other area in Minnesota the petition or resolution for incorporation shall be filed with the board of county commissioners which shall apply the standards and procedures of this section in determining whether or not to order an incorporation. Hearings before the board of county commissioners shall be conducted by the secretary. Proceedings for incorporation of a municipality may be initiated by petition of 100 or more property owners or by resolution of the town board having jurisdiction within an area containing a resident population of not less than 500 persons, and which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law. The petition or resolu-

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tion shall be submitted to the secretary and shall state the quantity of land embraced in it, platted and unplatted, the assessed valuation of the property, both platted and unplatted, the estimated number of actual residents, the proposed name of the municipality, a brief description of the existing facilities as to water, sewage disposal, and fire and police protection, the names of all parties entitled to mailed notice under section 414.09, the reason for requesting incorporation, and shall include a map setting forth the boundaries of the territory.

**Subd. 2. Commission's hearing and notice.** Upon receipt of a petition or resolution made pursuant to subdivision 1, the secretary of the commission shall designate a time and place for a hearing in accordance with section 414.09.

**Subd. 3. Commission's order.** Upon completion of the hearing the commission may order the incorporation if it finds that the property to be incorporated is now, or is about to become, urban or suburban in character, or that the existing township form of government is not adequate to protect the public health, safety, and welfare. The commission may deny the incorporation if the area, or a part thereof, would be better served by annexation to or consolidated with an adjacent municipality. As a guide in arriving at a determination, the commission shall consider the following factors:

(a) Present population, past population growth and projected population for the area ;

(b) Quantity of land within the area proposed for incorporation ;

(c) Present pattern of physical development in the area including residential, industrial, commercial and institutional land uses ;

(d) Comprehensive plans for development of the area including development as projected by the metropolitan council or the state planning agency ;

(e) Type and degree of control presently being exercised over development in the area including zoning ordinances, subdivision regulations and housing and building codes ;

(f) Natural terrain of the area including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs ;

(g) Present governmental services being provided to the area including water and sewer service, fire and police protection, street improvements and maintenance, and recreational facilities ;

(h) Existing or potential problems of environmental pollution and the need for additional services to avoid or minimize these problems ;

(i) Fiscal data of the area including assessed valuation trends, mill rate trends (state, county, school district and town) and present bonded indebtedness ;

(j) Relationship and effect of the proposed incorporation on communities adjacent to the area and school districts within and adjacent to the area ;

(k) Analysis of whether the needed governmental services can best be provided through incorporation or annexation to an adjacent municipality ; and

(l) Adequacy of town government to deal with problems of the area.

The commission may alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character, or may exclude property that may be better served by another unit of government. Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the commission may provide for election of councilmen by wards, not less than three nor more than seven in number, whose limits are prescribed in the commission order upon a finding that area representation is required to accord proper representation in the proposed incorporated area because of uneven population density in different parts thereof or the existence of agricultural lands therein which

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are in the path of suburban development, but after four years from the effective date of an incorporation the council of the municipality may by resolution adopted by a  $\frac{2}{3}$ ths vote abolish the ward system and provide for the election of all councilmen at large as in other municipalities.

The commission's order for incorporation shall provide for the election of municipality officers in accordance with section 414.09. The plan of government shall be "Optional Plan A", provided that an alternate plan may be adopted pursuant to Minnesota Statutes 1967, Section 412.551, at any time.

[For text of subd. 3a, see M.S.1971]

**Subd. 4. Effective date of incorporation.** The incorporation shall be effective upon the election and qualification of new municipality officers or on such later date as is fixed by the commission in its order.

[1973 c 123 Art IV s 5]

[For text of subd. 5, see M.S.1971]

**414.031 Annexation of unincorporated property to a municipality by commission order**

[For text of subd. 1, see M.S.1971]

**Subd. 2.** [Repealed, 1973 c 621 s 9]

[For text of subds. 3 and 4, see M.S.1971]

**Subd. 5. Annexation election.** Where the proceeding for annexation has not been initiated by petition of a majority of the property owners within the area to be annexed, the order of the commission for annexation shall fix a day, not less than twenty days nor more than ninety days, after the entry of such an order, when an election shall be held at a place designated by the commission within the area determined by the commission to be primarily and substantially interested in or affected by the commission order. The secretary shall cause a copy of the order affirming the petition, including the notice of the election, to be posted not less than 20 days before the election in three public places in the area, and shall cause notice of the election to be published two successive weeks in a newspaper qualified as medium of official and legal publication, of general circulation, in the area. The commission shall appoint the necessary election judges from voters resident in the area and shall supervise them in their duties. The commission shall designate the polling place or places, using so far as possible the usual polling place or places. The polls shall be open at least 13 hours and until at least 8 p. m. The judges shall conduct the election so far as practicable in accordance with the laws regulating special elections. Only voters residing within the area primarily and substantially interested in or affected by the commission's order shall be entitled to vote. The ballot shall bear the words "For Annexation" and "Against Annexation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided and the election judges shall be paid by the petitioners or annexing municipality. Immediately upon completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition, and they shall then file the certificate with the secretary of the commission. If the certificate shows the majority of the votes cast were "For Annexation" the commission's order shall be effective in accordance with subdivision 6. The secretary shall attach the certificate to the original petition or resolution, the original order affirming the petition or resolution as submitted or as amended in the order, and the original proofs of the posting of the election notice, and the annexation order.

[1973 c 621 s 11]

[For text of subd. 6, see M.S.1971]

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**414.032 Orderly annexations within a designated area**

**Subdivision 1. Initiating the proceeding.** One or more townships and one or more municipalities may designate an unincorporated area as in need of orderly annexation, and may confer jurisdiction over annexations in this area to the commission by submission of a joint resolution to the secretary. The resolution shall describe the area designated to be in need of orderly annexation. Thereafter an annexation of any part of the designated area may be initiated by submitting to the secretary a resolution of any signatory to the joint resolution, or by the commission of its own motion. Whenever the pollution control agency or other state agency pursuant to Minnesota Statutes 1971, Sections 115.03, 115.47, 115.49, or any law giving a state agency similar powers, orders a municipality to extend a municipal service to a designated unincorporated area, such an order will confer jurisdiction on the Minnesota municipal commission to consider orderly annexations within that area. Thereafter an annexation of any part of the designated area may be initiated by submitting to the secretary a resolution of the municipality or of the governing town board or by the commission of its own motion.

[1973 c 621 s 2]

[For text of subd. 2, see M.S.1971]

Subd. 3. Upon completion of the hearing the commission may order the annexation if it finds that the area proposed for annexation is now or is about to become, urban or suburban in nature and that the annexing municipality is capable of providing the services required by the area within a reasonable time. The commission may alter the boundaries of the proposed annexation by increasing or decreasing the area so as to include that property within the designated area which is in need of municipal services or will be in need of municipal services within a reasonable time.

[1973 c 621 s 3]

[For text of subds. 4 and 5, see M.S.1971]

**414.034 Commission designation of orderly annexation area**

**Subdivision 1. Petition of property owners.** Twenty percent of the property owners or 100 property owners, whichever is less, of an area abutting a municipality may petition the commission to have the area designated as in need of orderly annexation and shall file copies of the petition with the town board, the county board, the municipal council and the municipal council of any other municipality which borders the land proposed for annexation. The petition shall set forth the boundaries of the territory proposed for designation. Upon receipt of the petition, the secretary shall designate a time and a place for a hearing in accordance with section 414.09 except that the proceeding shall come on for hearing within 120 to 180 days from receipt by the commission of the petition. Prior to the date of hearing the municipal council designated in the petition and the affected towns may initiate a proceeding for orderly annexation within a designated area under section 414.032 including the petitioned area and the proceeding shall be dropped. Otherwise the commission shall conduct its hearing and may by order designate an area as in need of orderly annexation. In determining the area in need of orderly annexation, the commission shall consider the factors set forth in section 414.031, subdivision 4, insofar as applicable without regard to the boundaries or property ownership contained in the original petition. Thereafter, annexations within the designated area may be initiated by submitting to the secretary a resolution of the annexing municipality or the affected township, or by the commission of its own motion, and the proceeding shall be conducted in accordance with section 414.032, subdivisions 2 to 6.

Where the annexation proceeding is initiated by a petition of less than a majority of the property owners in the area designated for orderly annexation, the designation shall not be effective until approved in an election conducted pursuant to section 414.031, subdivision 5.

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**Subd. 2. Townships option.** In the case of an annexation initiated under section 414.031, subdivision 1, clause (a) or (c) or under section 414.033, subdivision 3 or 5, an affected township may request discussions with the annexing municipality to designate an area as in need of orderly annexation. Such request shall be made by mail to the annexing municipality at least ten days before the initial hearing on the proceeding, and a copy shall be submitted to the secretary. Upon receipt of such request the secretary shall designate a time and a place for a hearing in accordance with section 414.09, except that the proceeding shall come on for hearing within 120 to 180 days from receipt by the commission of the document initiating the proceeding. Prior to the date of hearing the annexing municipality and the affected township may initiate a proceeding for orderly annexations within a designated area under section 414.032, and the original annexation proceeding shall be terminated. Otherwise the commission shall conduct its hearing and may by order designate an area as in need of orderly annexation. In determining the area in need of orderly annexation, the commission shall consider the factors set forth in section 414.031, subdivision 4 insofar as applicable. Thereafter, annexations within the designated area may be initiated by submitting to the secretary a resolution of the annexing municipality or the affected township, or by the commission of its own motion, and the proceeding shall be conducted in accordance with section 414.032, subdivisions 2 to 6.

[1973 c 621 s 4]

**414.041 Consolidation of two or more municipalities**

[For text of subds. 1 to 4, see M.S.1971]

**Subd. 4a. Differential taxation.** Where one municipality is receiving substantially fewer municipal services, the commission may provide that the mill levy of such a municipality shall be increased in substantially equal proportions over a period of not more than five years to equality with the mill levy in the remainder of the new municipality, such period to be determined by the commission on the basis of the period reasonably required effectively to provide substantially equal municipal services.

[1973 c 621 s 5]

[For text of subd. 5, see M.S.1971]

**414.061 Concurrent detachment and annexation of incorporated land**

[For text of subds. 1 to 3, see M.S.1971]

**Subd. 4.** The commission may initiate proceedings for the concurrent detachment and annexation of portions of one municipality completely surrounded by another municipality, or upon application of all of the property owners, provided, however, that in such cases the commission shall conduct hearings and issue its order as in the case of annexations of unincorporated property under section 414.031.

[1973 c 621 s 6]

**414.067 Apportionment of assets and obligations**

[For text of subds. 1 and 2, see M.S.1971]

**Subd. 3. Revision of tax records; redistribution of levies.** In an apportionment made under this section the commission may order the county auditor to revise tax records and respread levies at any time prior to December 15 or order the county treasurer to redistribute taxes levied and receivable.

[1973 c 621 s 7]

**414.068 Zoning and subdivision regulation within orderly annexation areas**

**Subdivision 1. Area affected.** Whenever an area has been designated as in need of orderly annexation pursuant to sections 414.032 or 414.034 and

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until such time as it is actually annexed to the municipality, zoning and subdivision regulation shall be governed by this section.

**Subd. 2. Zoning.** If the county and townships agree to exclude the area from their zoning ordinances, the municipality may extend its zoning regulations to include the entire orderly annexation area as provided in section 462.357, subdivision 1.

If the county and township do not agree to such extraterritorial zoning by the municipality, zoning within the orderly annexation area shall be controlled by a three member committee with one member appointed from each of the municipal, town and county governing bodies. This committee shall serve as the "governing body" and "board of appeals and adjustments" for purposes of section 462.357, within the orderly annexation area.

**Subd. 3. Subdivision regulations.** Unless otherwise provided by joint resolution of the township and municipality, the municipality may extend its subdivision regulations to the entire orderly annexation area, pursuant to section 462.358, notwithstanding any township subdivision ordinances.

[1973 c 621 s 8]

**GENERAL GOVERNMENT**

**CHAPTER 415. GOVERNING BODIES**

Sec.  
415.10 Certain cities and villages; per diem payments.

**415.10 Certain cities and villages; per diem payments**

The governing body of any city or village in which the assessed valuation consists in part of iron ore, taconite or semi-taconite may pay the members of such governing body a per diem in an amount not to exceed \$25 per day nor \$250 per year for members of such governing body who are absent from the municipality in the performance of their duty as municipal officials.

[1973 c 57 s 1]

**CHAPTER 416. PUBLIC BUILDINGS**

Sec.  
416.10 Condemnation proceedings.

**416.10 Condemnation proceedings**

The city council shall have the power and authority to acquire the land and buildings necessary for such public auditorium building, or any improvement, addition thereto or enlargement thereof, by purchase or by lease or by gift or by condemnation proceedings under the power of eminent domain. When such land and buildings are acquired by the city under the right of eminent domain, the condemnation proceedings for that purpose shall be commenced and conducted by the city council under and pursuant to the provisions of chapter 117.

The city, upon giving the notice required by section 117.042, or upon the filing of the report of the commission as provided in section 117.115 may enter upon and appropriate the lands so condemned without the giving of any bonds, but in case of such entry and appropriation the city shall be bound absolutely to pay all damages awarded, whether by commissioners acting under such laws or by the court upon appeal from their award, together with all costs and expenses adjudged against it in the proceedings, and the court shall issue a writ to the sheriff of the county to put the city in possession. In case the city shall take an appeal in any such proceedings it shall not be required to give or file any appeal bond.

[1973 c 35 s 70]