

## CHAPTER 414

## INCORPORATION, DETACHMENT, ANNEXATION

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**414.02 MUNICIPAL INCORPORATION.**

*[For text of subs 1 and 2, see M.S.1988]*

Subd. 3. **Board's order.** In arriving at its decision, the board shall consider the following factors:

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

(b) Quantity of land, both platted and unplatted, within the area proposed for incorporation; the natural terrain of the area including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(c) Present pattern of physical development in the area including residential, industrial, commercial, agricultural and institutional land uses; the present transportation network and potential transportation issues, including proposed highway development;

(d) Land use controls and planning presently being utilized in the area, including comprehensive plans for development in the area and policies of the metropolitan council. If there is an inconsistency between the proposed development and the land use planning ordinance in force, the reason for the inconsistency;

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

(f) Existing or potential problems of environmental pollution and the need for additional services to resolve these problems;

(g) Fiscal data of the area, including the net tax capacity of both platted and unplatted lands and the division between homestead and nonhomestead property, and the present bonded indebtedness; and the tax capacity rates of the county, school district, and township;

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

(i) Adequacy of town government to deliver services to the area; and

(j) Analysis of whether necessary governmental services can best be provided through incorporation or annexation to an adjacent municipality.

Based upon these factors, the board may order the incorporation if it finds that (a) the property to be incorporated is now, or is about to become, urban or suburban in character, or (b) that the existing township form of government is not adequate to protect the public health, safety, and welfare, or (c) the proposed incorporation would be in the best interests of the area under consideration. The board may deny the incorporation if the area, or a part thereof, would be better served by annexation to an adjacent municipality.

The board 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. In all cases, the board shall set forth the factors which are the basis for the decision.

Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the board may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the board 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 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 four-fifths vote abolish the ward system and provide for the election of all council members at large as in other municipalities.

The board's order for incorporation shall provide for the election of municipal 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 section 412.551, at any time. The ordinances of the township in which the new municipality is located shall continue in effect until repealed by the governing body of the new municipality.

*[For text of subd 4, see M.S.1988]*

**History:** 1989 c 329 art 13 s 20

#### **414.031 ANNEXATION OF UNINCORPORATED PROPERTY TO A MUNICIPALITY BY BOARD ORDER.**

*[For text of subds 1 and 3, see M.S.1988]*

**Subd. 4. Board's order.** In arriving at its decision, the board shall consider the following factors:

(a) Present population, past population growth and projected population of the property proposed for annexation and the annexing municipality;

(b) Quantity of land within the property proposed for annexation and the annexing municipality; and natural terrain including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(c) Degree of contiguity of the boundaries between the annexing municipality and the property proposed for annexation;

(d) Present pattern of physical development of the property proposed for annexation and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses; the present transportation network and potential transportation issues, including proposed highway development;

(e) Land use controls and planning presently being utilized in the annexing municipality and the property proposed for annexation, including comprehensive plans for development in the area and plans and policies of the metropolitan council. If there is an inconsistency between the proposed development and the land use planning ordinance in force, the reason for the inconsistency;

(f) Present governmental services being provided in the annexing municipality and the property proposed for annexation, including water and sewer service, fire rating and protection, police protection, street improvements and maintenance, administrative services, and recreational facilities;

(g) Existing or potential problems of environmental pollution and the need for additional services to resolve these problems;

(h) Plans and programs by the annexing municipality for providing needed governmental services to the property proposed for annexation;

(i) Fiscal data of the annexing municipality and the property proposed for annexation, including net tax capacity and the present bonded indebtedness, and the tax capacity rates of the county, school district, and township;

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

(k) Adequacy of town government to deliver services to the property proposed for annexation;

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

(m) If only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.

Based upon these factors, the board may order the annexation (a) if it finds that the property proposed for annexation is now, or is about to become, urban or suburban in character, or (b) if it finds that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare, or (c) if it finds that the annexation would be in the best interest of the property proposed for annexation. If only a part of a township is to be annexed, the board shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship. The board shall deny the annexation if it finds that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area. The board may deny the annexation (a) if it appears that annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property or (b) if the remainder of the township would suffer undue hardship.

The board may alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now or is about to become urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area, or to exclude property that may better be served by another unit of government. If the board determines that part of the area would be better served by another municipality or township, the board may initiate and approve annexation on its own motion by conducting further hearings and issuing orders pursuant to subdivisions 3, 4, and 5. In all cases, the board shall set forth the factors which are the basis for the decision.

*[For text of subds 4a to 6, see M.S.1988]*

**History:** 1989 c 329 art 13 s 20

#### **414.0325 ORDERLY ANNEXATIONS WITHIN A DESIGNATED AREA.**

*[For text of subds 1 and 2, see M.S.1988]*

Subd. 3. **Board's order.** In arriving at its decision, the board shall consider the following factors:

(a) Present population, past population growth and projected population of the property proposed for annexation and the annexing municipality;

(b) Quantity of land within the property proposed for annexation and the annexing municipality; and natural terrain including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(c) Degree of contiguity of the boundaries between the annexing municipality and the property proposed for annexation;

(d) Present pattern of physical development of the property proposed for annexation and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses; the present transportation network and potential transportation issues, including proposed highway development;

(e) Land use controls and planning presently being utilized in the annexing municipality and the property proposed for annexation, including comprehensive plans for development in the area and plans and policies of the metropolitan council. If there is an inconsistency between the proposed development and the land use planning ordinance in force, the reason for the inconsistency;

(f) Present governmental services being provided in the annexing municipality and the property proposed for annexation, including water and sewer service, fire rating and protection, police protection, street improvements and maintenance, administrative services, and recreational facilities;

(g) Existing or potential problems of environmental pollution and the need for additional services to resolve these problems;

(h) Plans and programs by the annexing municipality for providing needed governmental services to the property proposed for annexation;

(i) Fiscal data of the annexing municipality and the property proposed for annexation, including net tax capacity and the present bonded indebtedness, and the tax capacity rates of the county, school district, and township;

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

(k) Adequacy of town government to deliver necessary services to the property proposed for annexation;

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

(m) If only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.

Based upon these factors, the board may order the annexation if it finds that the area proposed for annexation (a) is now or is about to become urban or suburban in character and that the annexing municipality is capable of providing the services required by the area within a reasonable time; or (b) if it finds that the existing township form of government is not adequate to protect the public health, safety, and welfare; or (c) if it finds that annexation would be in the best interests of the area proposed for annexation. The board may deny the annexation if it conflicts with any provision of the joint agreement. The board 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.

If the annexation is denied, no proceeding for the annexation of substantially the same area may be initiated within two years from the date of the board's order unless the new proceeding is initiated by a majority of the area's property owners and the petition is supported by affected parties to the resolution. In all cases, the board shall set forth the factors which are the basis for the decision.

*[For text of subds 4 and 5, see M.S.1988]*

**History:** 1989 c 329 art 13 s 20

#### **414.035 DIFFERENTIAL TAXATION.**

Whenever a board order, under section 414.031, 414.0325, or 414.033, annexes part or all of a township to a municipality, the board may provide that the tax rate of the annexing municipality on the area annexed shall be increased in substantially equal proportions over not more than six years to equality with the tax rate on the property already within the municipality. The appropriate period, if any, shall be based on the time reasonably required to effectively provide full municipal services to the annexed area.

**History:** 1989 c 277 art 4 s 46

#### **414.041 CONSOLIDATION OF TWO OR MORE MUNICIPALITIES.**

*[For text of subds 1 to 6, see M.S.1988]*

**Subd. 7. Differential taxation.** Where one municipality is receiving substantially fewer municipal services, the board may provide that the tax rate of the municipality

shall be increased in substantially equal proportions over a period of not more than five years to equality with the tax rate in the remainder of the new municipality. The period shall be determined by the board on the basis of the period reasonably required to provide substantially equal municipal services.

*[For text of subd 8, see M.S.1988]*

**History:** 1989 c 277 art 4 s 47

#### **414.06 DETACHMENT OF PROPERTY FROM A MUNICIPALITY.**

*[For text of subds 1 and 2, see M.S.1988]*

Subd. 3. **Board's order.** Upon completion of the hearing, the board may order the detachment if it finds that the requisite number of property owners have signed the petition if initiated by the property owners, that the property is rural in character and not developed for urban residential, commercial or industrial purposes, that the property is within the boundaries of the municipality and abuts a boundary, that the detachment would not unreasonably affect the symmetry of the detaching municipality, and that the land is not needed for reasonably anticipated future development. The board may deny the detachment if it finds that the remainder of the municipality cannot continue to carry on the functions of government without undue hardship. The board shall have authority to decrease the area of property to be detached and may include only a part of the proposed area to be detached. If the tract abuts more than one township, it shall become a part of each township, being divided by projecting through it the boundary line between the townships. The detached area may be relieved of the primary responsibility for existing indebtedness of the municipality and be required to assume the indebtedness of the township of which it becomes a part, in such proportion as the board shall deem just and equitable having in view the amount of taxes due and delinquent and the indebtedness of each township and the municipality affected, if any, and for what purpose the same was incurred, all in relation to the benefit inuring to the detached area as a result of the indebtedness and the last net tax capacity of the taxable property in each township and municipality.

*[For text of subd 4, see M.S.1988]*

**History:** 1989 c 329 art 13 s 20