



**HANDBOOK FOR MINNESOTA CITIES**

**Chapter 2  
Change of Boundaries, Status, and  
Name**

**TABLE OF CONTENTS**

I. The Municipal Boundary Adjustment Unit of the state Office of Administrative Hearings.....2

II. Incorporation .....3

    A. Petition or resolution .....3

    B. Basic procedure .....4

    C. Items that must be considered .....4

    D. Organizing the city government .....5

III. Consolidation.....6

    A. Consolidation commission .....6

    B. The role of the Municipal Boundary Adjustment Unit.....7

    C. Consolidation by petition .....9

    D. Council resolution .....9

    E. Motion of the Municipal Boundary Adjustment Unit .....9

    F. Referenda.....10

    G. Effective date for consolidation.....10

    H. Alternative procedure for consolidation.....10

IV. Dissolution.....10

V. Separation from town .....11

VI. Detachment.....12

VII. Concurrent detachment and annexation .....14

VIII. Annexation .....14

    A. Statutory requirements for annexation .....17

    B. Annexation procedures.....18

    C. Apportionment of assets, liabilities, and population .....29

    D. Appeals.....30

IX. Change of name.....30

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.



## HANDBOOK FOR MINNESOTA CITIES

# Chapter 2 Change of Boundaries, Status, and Name

*Learn the procedures for incorporating, consolidating, and dissolving cities and the related procedures of annexation and concurrently detaching from one city and annexing into another. Understand the role of the state's Municipal Boundary Adjustment Unit in these processes.*

### RELEVANT LINKS:

[Minn. Const. art. XII, § 3.](#)

See Handbook, [Local Government in Minnesota](#).

See Handbook, [Local Government in Minnesota](#).

See Handbook, [Local Government in Minnesota](#).

[Minn. Stat. § 414.02](#).  
Office of Administrative Hearings, [Municipal Boundary Adjustment Unit \(MBAU\)](#), P.O. Box 64620, St. Paul, MN 55164; 651.361.7900.

## I. The Municipal Boundary Adjustment Unit of the state Office of Administrative Hearings

The Minnesota Constitution gives the Legislature the responsibility of establishing and regulating a system of local government. The Constitution specifies that the Legislature may provide for the creation, organization, administration, consolidation, division, and dissolution of local government units and their functions and may change the boundaries of cities.

The local government system in Minnesota has three basic units: towns, cities, and counties. The town form of government is used in rural areas. Towns have very limited taxing and regulatory powers. Emphasis is placed on giving the electors maximum participation in governmental decision making at an annual meeting.

In contrast, the city form of government applies to urban and suburban areas. Cities have broad taxing and regulatory powers. An elected city council makes nearly all city governmental decisions.

The county form of government is the administrative arm of the state. They carry out certain functions, such as providing welfare services and a corrections system. They have five or seven-member boards and all citizens regardless of where they live (city, town or unorganized territory) are represented by a county commissioner. Counties do not have broad powers like cities.

The Municipal Boundary Adjustment Unit of the state Office of Administrative Hearings has authority over all proposed annexations, consolidations, detachments, and incorporations of new cities, with certain exceptions discussed in the section of this chapter on annexation by ordinance and orderly annexation.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

## RELEVANT LINKS:

[Minn. Stat. § 414.09.](#)  
[Minn. Stat. § 414.01, subd. 8a.](#)

[Minn. R. 6000.0100-.3400.](#)

[Minn. Stat. § 414.02, subd. 1.](#)  
[Minn. Stat. § 414.011, subd. 5.](#)

[Minn. Stat. § 414.02, subd. 1\(a\).](#)

The Municipal Boundary Adjustment Unit follows uniform procedures established by state law. To accomplish its tasks, a person conducting a proceeding on behalf of the Municipal Boundary Adjustment Unit may administer oaths and affirmations; receive testimony of witnesses, and the production of books, papers, and documents; examine witnesses; and receive and report evidence.

Upon the written request of a presiding administrative law judge or a party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents. The Municipal Boundary Adjustment Unit has also adopted rules of practice to follow in all of its proceedings.

## II. Incorporation

Organizing as a city has certain advantages. Areas wishing to become cities can initiate incorporation by petition or by resolution. The League maintains a list of all incorporated places and their dates of incorporation.

### A. Petition or resolution

To initiate an incorporation proceeding by petition, 100 or more property owners residing within an area can file a petition. “Property owner” means the owner of any fee interest of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes, but is not limited to, vendees under a contract for deed and mortgagor.

If the incorporation proceeding is initiated by property owners, the notice of intent to incorporate must be served by the property owner or owners or designee by certified mail on:

- The town board of the township containing the area proposed for incorporation; and
- The clerk of each municipality and each township that is contiguous to the area proposed for incorporation.

In the alternative, the town board with jurisdiction over the land in question can pass a resolution to initiate incorporation. The land cannot be within the limits of an incorporated city, and some of the land must be platted into lots and blocks according to law.

The law does not require any specific amount of land to be platted. The Administrative law judge must receive a copy of the petition or resolution for incorporation, and it must contain the following information:

## RELEVANT LINKS:

[Minn. Stat. § 414.02, subd. 4.](#)

[Minn. Stat. § 414.02, subd. 3.](#)

- The proposed name of the city.
- The names of all parties entitled to mailed notice under the law.
- The reason for incorporation.
- A map showing the proposed boundaries of the area to be incorporated.

## **B. Basic procedure**

The basic procedure for incorporation includes the following steps:

- Serving a notice of intent to incorporate.
- The filing of the incorporation petition or resolution.
- Notice of hearing.
- A public hearing by the Administrative law judge.
- Issuance of an order to authorize the incorporation.
- The incorporation is effective upon the election and qualification of city officers or on a later date specified by the Administrative law judge.

## **C. Items that must be considered**

As a guide in determining whether to approve a petition for incorporation, the Municipal Boundary Adjustment Unit must consider the following items:

- Present population, number of households, past population, and projected population growth for the subject area.
- Quantity of land within the subject area and the natural terrain, including recognizable physical features, general topography, major watersheds, soil conditions, and natural features like rivers, lakes, and major bluffs.
- Present pattern of physical development, planning, and intended land uses in the subject area, including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on these uses.
- The present transportation network and potential transportation issues, including proposed highway development.
- Land-use controls and planning presently in use in the area, including comprehensive plans and policies of the Metropolitan Council where applicable, and whether there are inconsistencies between the proposed development and existing land-use controls.

## RELEVANT LINKS:

- Existing levels of governmental services provided to the area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, recreational facilities, and the impact of the proposed action on the delivery of services.
- Existing or potential environmental problems and whether the incorporation is likely to improve or to resolve these problems.
- Fiscal impact on the subject area and adjacent units of local government; the present bonded indebtedness; the local tax rates of the county, school district, and township; and other tax and government-aid issues.
- Relationship and effect of the proposed incorporation on adjacent and affected school districts within and adjacent to the area.
- Whether delivery of services to the subject area can be adequately and economically delivered by the existing government.
- Whether necessary governmental services can best be provided through incorporation or through annexation to an adjacent city.
- The degree of contiguity of the boundaries of the subject area and adjacent units of local government.
- The applicability of the state building code.

[Minn. Stat. § 414.02, subd. 3.](#)

Even though an area meets the legal test for incorporation, the Administrative law judge may deny the petition if annexation to an adjoining city would better serve the area.

[Minn. Stat. § 414.02, subd. 3.](#)

At the hearing, the Administrative law judge has authority to alter the boundaries of the proposed incorporation by increasing the area to be incorporated to include land that is, or is about to become, urban or suburban in character. The Administrative law judge may exclude property that may be better served by another unit of government. It may also alter the boundaries to follow clearly recognizable physical features.

[Minn. Stat. § 414.09, subd. 3.](#)  
[Minn. Stat. § 414.02, subd. 3.](#)

## D. Organizing the city government

If the incorporation is successful, the citizens must elect city officers who will organize the new city's affairs and carry on its government. The Administrative law judge may provide for a ward system with not less than three or more than seven wards if it finds that wards will provide proper representation in the incorporated area. A ward system may be preferable if there is uneven population density in different parts of the area or if agricultural lands are in the path of development. The city may abolish the ward system after four years by a four-fifths vote of the council.

## RELEVANT LINKS:

See Handbook, *The Statutory City*.

See Handbook, *The Home Rule Charter City*.

Minn. Stat. § 414.041.  
*Village of Lakeville v. Village of Farmington*, 297 Minn. 524, 211 N.W.2d 897 (Minn. 1973).

Minn. Stat. § 414.041, subd. 1.  
Minn. Stat. § 414.011, subd. 6.

Minn. Stat. § 414.09.

Min. Stat. § 414.041, subds. 2, 3.

If the Administrative law judge does not determine that a ward system is necessary, the new city will be a statutory Plan A city. The city could, however, adopt another optional plan at any time or the city could adopt a charter.

### III. Consolidation

Proceedings for the consolidation of two or more cities in Minnesota are under the jurisdiction of the Municipal Boundary Adjustment Unit. The courts will not interfere with a decision of the Municipal Boundary Adjustment Unit unless it appears it has not kept within its jurisdiction, has proceeded upon an erroneous theory of law, or has acted arbitrarily and unreasonably without the support of substantial evidence.

There are three ways to initiate proceedings for consolidation:

- The governing body of each included city must pass a resolution that is submitted to the Municipal Boundary Adjustment Unit.
- A number of residents eligible to vote that is equivalent to at least five percent of the resident voters who voted for governor at the last general election must sign a petition.
- The Municipal Boundary Adjustment Unit makes a motion.

The cities must be abutting. The statute defines “abutting” to include areas whose boundaries at least touch one another at a single point, including areas where boundaries would touch except for an intervening roadway, railway, waterway, or parcel of publicly owned land. Two or more cities can consolidate if they have common boundaries, so long as each city shares a common boundary with at least one of the other cities.

The petition or resolution must include the following information about each city: name, description of boundaries, the reasons for requesting the consolidation, and the names of all parties entitled to mailed notice. The party initiating the proceeding must also serve copies of the petition or resolution on all of the included cities.

#### A. Consolidation commission

When the Municipal Boundary Adjustment Unit receives a petition or a resolution requesting consolidation or when it makes its own motion for consolidation, it must appoint a consolidation commission from a list of candidates. Each city council must submit ten names. The commission will include at least five members from each city. The council in each city will submit three names from which the Municipal Boundary Adjustment Unit will choose a chair for the commission. The chairperson cannot be a resident of one of the cities but must reside in one of the affected counties.

## RELEVANT LINKS:

[Minn. Stat. § 414.041, subd. 3, 5.](#) [Minn. Stat. § 414.02, subds. 3.](#)

[Minn. Stat. § 414.041, subds. 4, 5.](#)

[Minn. Stat. § 414.02, subd. 3.](#) [Minn. Stat. § 414.09, subd. 3.](#) [Minn. Stat. § 414.01, subd. 15.](#)

People holding other elected or appointed offices may serve on the consolidation commission. Commission members hold office until the commission issues a consolidation report. The Municipal Boundary Adjustment Unit fills vacancies in the commission by appointment.

The commission makes rules with reference to its operation, including quorum requirements.

The consolidation commission conducts hearings regarding the proposed consolidation. The hearings must include, but are not limited to:

- A review of the content of any city charter for the proposed consolidated city or the form of government of the proposed consolidated city.
- An analysis of whether a ward system would best serve the proposed consolidated city.
- A consideration of the same factors specified for incorporation of a municipality.

Based on these and other factors, the commission must issue a report with findings and recommendations to the Municipal Boundary Adjustment Unit. The report is due within two years from the date the Municipal Boundary Adjustment Unit appoints the commission.

## **B. The role of the Municipal Boundary Adjustment Unit**

After receiving the consolidation commission's report, the Municipal Boundary Adjustment Unit must designate a time and a place for a hearing.

The Municipal Boundary Adjustment Unit must consider the subjects and factors reviewed by the commission. It may accept, amend, return to the commission for amendment or further study, or reject the commission's recommendations.

The Municipal Boundary Adjustment Unit must order the consolidation if it finds that it is in the best interest of the cities. The Municipal Boundary Adjustment Unit must consider the same factors specified for incorporation of a municipality. If it orders consolidation, it must provide for election of new city officers in accordance with Minn. Stat. § 414.09. The order must indicate the estimated increased costs to the newly enlarged city resulting from the consolidation and the time period that such cities shall be allowed special levies for those increased costs.

**RELEVANT LINKS:**

[Minn. Stat. § 414.041.](#)

If the most populous of the consolidating cities is a statutory city, the new city will be a statutory city with an Optional Plan A government. However, the new city may adopt an alternate plan or a city charter at any time. If the most populous of the consolidating cities is a home rule charter city, that city's home rule charter will govern the new city.

[Minn. Stat. § 414.041, subd. 5.](#)

If the commission proposes a home rule charter for the new city, the Municipal Boundary Adjustment Unit may combine the issue of the adoption of the charter and the vote on approval of the order for consolidation into one question on the ballot and submit it at a special or general election. The Municipal Boundary Adjustment Unit may recommend not less than three or more than seven wards. The city may abandon the ward system by a four-fifths vote of the council any time after two years. The provisions for approval of the consolidation vary depending on how the consolidation was initiated.

[Minn. Stat. § 414.041, subd. 5.](#)

The ordinances of all the cities remain in effect within their former boundaries until repealed by the governing body of the new city.

[Minn. Stat. § 414.041, subd. 5.](#)

The new city assumes the name of the most populous city, unless a majority of the cities or the consolidation commission passes a resolution selecting another name.

[Minn. Stat. § 414.041, subd. 5.](#)

The consolidation will not reduce the number of license privileges in the included cities.

Upon consolidation, all money, claims, or properties, including real estate the former cities owned, held, or possessed, and any proceeds or taxes the cities levied (collected and uncollected) become the property of the new city to use or dispose of as the council deems best.

[Minn. Stat. § 414.041, subd. 7.](#)

Where one city is receiving substantially fewer services before consolidation, the Municipal Boundary Adjustment Unit may require a gradual increase in the levy in that city, over a period not to exceed five years, so it is equal to the tax rate in the new city.

[Minn. Stat. § 414.067, subd. 2.](#)

Any bonded indebtedness of a town or former city, which was consolidated into a new city, must be paid for by the persons living within the boundaries of the old community unless the councils of the affected communities agree, by resolution, that the new community will assume the bonded indebtedness of the old units of government.

[Minn. Stat. § 272.67, subds. 1, 2.](#)

The Municipal Boundary Adjustment Unit may order the consolidated city divided into urban-service districts and rural-service districts. These districts are separate taxing districts for the purpose of all municipal property taxes except those levied for the payment of bonds and judgments.

## RELEVANT LINKS:

[Minn. Stat. § 414.041, subd. 6.](#)

[Minn. Stat. § 414.041, subd. 6.](#) See III-C, *Consolidation by petition* (above).

[Minn. Stat. § 414.041, subd. 6.](#)

In other words, the rural district would be taxed at a lower rate than the urban district because it would receive less service from the city. These districts may be changed by the city council in the same way an ordinance is changed.

### **C. Consolidation by petition**

If the resident voters of a city initiated the consolidation by petition, the Municipal Boundary Adjustment Unit's consolidation order is final when the city council in each of the cities approves the resolution, unless voters of an affected city petition their city council for a referendum on the consolidation. At least ten percent of the number of resident voters who voted for governor at the last general election must sign the referendum petition.

The residents must submit the petition within 90 days of the final date of the Municipal Boundary Adjustment Unit's order or the date of the city council's final approval of the order, whichever is later. After the Municipal Boundary Adjustment Unit receives and verifies the petition, it must order the cities to conduct separate referenda at a general or special election in each city on the same day. The cities must hold the referenda within six months of the Municipal Boundary Adjustment Unit's receipt of the petition.

The cities must cover the costs of the referenda. A majority of those voting in each city must approve the proposed consolidation. The chief election judge must certify the results to the Municipal Boundary Adjustment Unit within ten days after the referenda, and then Municipal Boundary Adjustment Unit must notify all parties of the election results.

### **D. Council resolution**

If resolutions of the city councils initiated the consolidation, the order of the Municipal Boundary Adjustment Unit for consolidation is final unless ten percent or more of the resident voters' petition for a referendum.

### **E. Motion of the Municipal Boundary Adjustment Unit**

If the motion of the Municipal Boundary Adjustment Unit initiated the consolidation, the order will take effect only after the council of each city approves it by a majority vote, or after the qualified voters vote on the order at a general or special election. If a majority of those voting on the question in each city are in favor of its adoption, the director's order will become effective.

## RELEVANT LINKS:

[Minn. Stat. § 414.041, subd. 6.](#)

[Minn. Stat. § 414.041, subd. 5.](#)

[Minn. Stat. § 414.041, subd. 8.](#)

[Minn. Stat. § 465.81.](#)

[Minn. Stat. § 465.82.](#)

[Minn. Stat. § 465.84.](#)

## F. Referenda

Even if the city council in one of the cities does not approve the consolidation order, ten percent or more of the resident voters of that city who voted for governor at the last general election can petition the city council for a referendum on the consolidation. (See requirements under consolidation by petition). If a majority of those voting in that city approve the order, the consolidation will occur.

If the consolidation is denied or defeated in a referendum, no proceeding for consolidation of the same cities can be initiated for at least two years from the date of the order unless authorized by the Administrative law judge.

## G. Effective date for consolidation

The consolidation is effective upon the election and qualification of new municipal officers, or at such later date as set by the order of the Administrative law judge.

## H. Alternative procedure for consolidation

An alternative procedure provides for the consolidation of two or more cities with each other, cities with towns, towns with other towns, or counties with other counties. The process does not require either application to or approval from the Municipal Boundary Adjustment Unit.

This procedure for consolidation begins when two or more contiguous local units of government jointly develop a plan for cooperation and consolidation. The statute is very specific about the information the plan must contain. For instance, it must describe cooperative activities and combining of services that would lead to an eventual merger of the local governments. Each governing body must approve the plan by resolution. Local governments in the metropolitan area must also submit their plan to the Metropolitan Council for review and comment.

The local governments must hold a consolidation election during the first or second year of implementation. If voters reject the consolidation, the local governments may submit the same or similar question to a vote one more time, the following year.

## IV. Dissolution

Two processes are available to dissolve, or “unincorporate” a statutory city.

## RELEVANT LINKS:

[Minn. Stat. § 412.091.](#)

First, a number of voters equal to one third of those voting at the last city election may petition the Municipal Boundary Adjustment Unit for a special election on the question of dissolving the city. The Municipal Boundary Adjustment Unit must hold hearings prior to the election and determine what town(s) the land will belong to if the dissolution occurs. A favorable majority vote of those voting on the question at the special election will dissolve the city. Six months after the date of such election, the city shall cease to exist.

[Minn. Stat. § 412.093.](#)

Second, whenever a city fails to hold city elections for two consecutive years, and if one or more bonds or claims against the city remain unpaid, any bondholder or claimant may secure the dissolution of the city and payment of the city's bonds and claims.

In either of these events, the net result is the same. All city assets will go toward repayment of outstanding bonds or claims after which all remaining assets become the properties of the town or the towns in which the city was located.

[Minn. Stat. § 410.30.](#)

These provisions apply only to dissolution of statutory cities. For a home rule charter city to dissolve, it must return to statutory city status by abandoning its charter and then dissolve in the above manner.

## V. Separation from town

[Minn. Stat. § 412.081.](#)

Some Minnesota cities that incorporated prior to July 1, 1949, have never been separated from the town or towns where they are located.

The city is still part of the town for purposes of general town government, town elections, town assessments, and ownership of the town hall and other property. All statutory cities incorporated after July 1, 1949, were automatically separated from the town when they incorporated. All cities in the seven-county metropolitan area, regardless of the date of their incorporation, are separate from the town for election purposes.

For most purposes, cities not separated from the town have four distinct characteristics:

- The town assessor is also responsible for assessing all property in the city. The city has no assessor of its own.
- The town levies taxes for general town purposes against property in the city.
- The city does not constitute a separate election district in state and national elections. Town officials still administer these elections.
- While town voters living outside city limits can't vote on city matters or hold city offices, city residents may vote at town meetings, in town bond elections, and hold town offices.

## RELEVANT LINKS:

None of these characteristics exist in cities that have been separated from the town for governmental purposes.

There are two methods of separating cities from towns for election and assessment purposes. One is by action of the city, with or without notice to the town. The other is by petition of town or city voters, or both, to the town board for a vote on the proposal at the next annual town meeting. Either of these methods may be used, but they may not be used concurrently.

[Minn. Stat. § 412.081 subd.2.](#)

Cities may separate from their respective towns for election and assessment purposes by getting the approval of their voters with a ballot question at a general or special election. The question of separation can be brought to the voters either by the council's own motion, or by a petition signed by a number of voters equal to 25 percent of those voting in the last preceding city election. If the voters favor separation, the city clerk must notify the county auditor and the secretary of state. The separation then takes effect 30 days after the date of the election.

[Minn. Stat. § 365.44.](#)

Some towns may take the initiative in separating from the city. At least 50 voters of the town must sign a petition requesting an election on the question and file it with the town clerk. The clerk must insert a statement in the notice calling the next annual town meeting indicating the separation proposal will be before the voters at the meeting.

If a majority of the votes cast at that meeting favor separation, the town is separated from the city for all purposes. Although both town and city residents may sign the original petition, only town voters may participate in the election. The town clerk should notify the county auditor, secretary of state, and state auditor of the change in status of the city.

This procedure is the only method a town may use to separate itself from a city. The county board has no power to separate governmental units.

## VI. Detachment

The only way to detach land that is already part of a city (remove it from the city boundaries) is with the approval of the Municipal Boundary Adjustment Unit. To qualify, the land must be adjacent to the city's boundaries, rural in character, and not developed for urban-residential, commercial or industrial purposes.

The following procedures govern the process of detaching land:

[Minn. Stat. § 414.06, subd. 1.](#)

The Municipal Boundary Adjustments Unit must receive a petition requesting the detachment. The petition may be initiated by council resolution or by the owners of the land to be detached.

## RELEVANT LINKS:

[Minn. Stat. § 414.06, subd. 1.](#)

If the land constitutes less than 40 acres, all property owners must sign the petition. If the land is more than 40 acres, the signatures of 75 percent of the owners are sufficient. The petition must describe the boundaries of the land, the resident population, the number and character of any buildings on the land, and any city improvements to the land. The petition must include a statement of the reasons for seeking detachment and a summary of what, if any, efforts were undertaken before filing the resolution or petition to resolve the issues forming the basis for the resolution or petition.

[Minn. Stat. § 414.06, subd. 1a.](#)

If a petition is submitted without a resolution from the city, the petitioners shall also provide a copy of the petition to the city from which the land may be detached, and if the petition includes land for which a property owner has not signed the petition, to each property owner subject to the petition who has not signed it. A copy of the petition must also be mailed or otherwise delivered to: (1) the clerk of the town to which the property would be attached if the detachment is granted; (2) the clerk of any other abutting town or city; and (3) the county recorder in the county where the land is located.

After receiving a detachment notice, the town board for the town to which the land is proposed to be attached may submit a resolution stating that the town board supports, opposes, or is neutral to the petition. The failure to submit a resolution before any required hearing must be deemed a position of neutrality.

[Minn. Stat. § 414.06, subd. 2.](#)

If the town submits a resolution of support for a petition opposed by the city from which the land is proposed to be detached, or a resolution in opposition to a petition supported by a resolution of the municipality, the town becomes a party to the required hearing.

[Minn. Stat. § 414.06, subd. 7.](#)

If both a resolution of support from the city and a petition by all the property owners are submitted, and no resolution of opposition has been received from a town, no hearing is necessary, and the chief administrative law judge shall grant the petition. If both the city and town submit a resolution opposing the petition, a hearing must not be held, and the chief administrative law judge shall deny the petition. In any other case, a hearing shall be held. The chief administrative law judge shall order the parties to participate in a mediation session.

The chief administrative law judge shall divide the costs of the mediation and hearing in an equitable manner, but unless the chief administrative law judge makes specific findings as to why a party shall be responsible for a greater share, the petitioning landowners are responsible for at least 50 percent of the total costs.

## RELEVANT LINKS:

[Minn. Stat. § 414.06 subd. 3.](#)

After the hearing, the administrative law judge must issue its order. No popular vote is necessary in any detachment proceedings. The Administrative law judge may grant the petition if it finds:

- The conditions set forth in the petition exist.
- The detachment would not affect the symmetry of the detaching city.
- The land is not needed for reasonably anticipated future development of the detaching city.

The Administrative law judge may decrease the size of the detachment area. It may also relieve the detached area of any city from indebtedness and require the assumption of town indebtedness in such proportions as it deems equitable. The detached land then becomes a part of the town in which it is located.

The Administrative law judge may deny the detachment if it finds the remainder of the city cannot continue to carry on the functions of government without undue hardship.

## VII. Concurrent detachment and annexation

Property in one city that is contiguous or bordering upon another city may be concurrently detached and annexed by the adjoining city. There are three ways to initiate the procedure:

- By the concurrent resolutions of the cities.
- By the initiative of the Administrative law judge (if a neighboring city completely surrounds the area).
- By a petition of all property owners in the affected area and the resolution of at least one city.

The Administrative law judge must conduct a hearing and issue an order either approving the concurrent action with or without modifications or denying the detachment and annexation of the property. The alternative-dispute-resolution process authorized by law may also be applied. The order of the Administrative law judge is final, and no subsequent elections are necessary.

## VIII. Annexation

Annexation questions pose some of the most difficult and technical policy problems facing municipal officials. Annexations present difficulties because sound, realistic facts and estimates regarding the financial and service implications of a proposed annexation are necessary. Annexation involves important policy questions relating to the welfare of the entire urban community, including both the city and surrounding land.

[Minn. Stat. § 414.061, subds. 1, 3.](#)

[Minn. Stat. § 414.12, subd. 1.](#)

[Minn. Stat. § 414.061, subds. 4, 5.](#)

## RELEVANT LINKS:

The council must determine if the city, as a corporate entity, will grow with the surrounding economic community. The council must also decide whether the city can extend services to the surrounding developing areas and annex those areas without incurring a heavy financial responsibility that results in increased taxes or other fees and charges.

Annexation allows cities to grow in an orderly, planned manner. Cities need to evaluate and study five questions before deciding to pursue an annexation.

- How will annexation affect the residents, landowners, and property in the area to be annexed?
- What additional costs will the city incur when providing city services to the annexed area?
- How much revenue can, and will the city obtain through taxes and other charges levied against the annexed area?
- What is the present status of land available in the area and the outlook for future development?
- What impact, if any, will annexation have on development in the area?

The most important considerations should be the annexation's impact on the area, and whether annexation to the city will provide residents and taxpayers in the area with benefits commensurate with any additional taxes they may have to pay. For example, will police and fire protection improve?

Will zoning laws and subdivision regulations apply, and will the city enforce them? Will more city utilities be available or be available at lower rates? Benefits such as these should be roughly proportional to any added costs to taxpayers in the annexed area. Annexation's value is questionable if its major consequence is to increase tax revenues of the annexing community.

A second consideration is the cost the annexing city will incur. Newly annexed areas might cause three different kinds of cost burdens.

The first cost burden is the daily operating cost. This includes the additional cost of providing the area with police protection, fire protection, street maintenance, park maintenance, street lighting, and recreational programs.

The second cost burden is capital cost. Unless it is already fully developed, the new area will need certain capital improvements as it develops, including streets; park land and improvements; and sewer, water, and other utility facilities. In many cases, the city may partially recover these costs through special assessments, but usually some cash outlay is necessary.

## RELEVANT LINKS:

Furthermore, public-improvement bonds that are repayable through special-assessment levies still add to the city's gross debt and, thus, place a greater burden on its ultimate borrowing capacities.

Finally, the third cost burden relates to an increase in demand on existing public facilities. After the annexation, the residents in the new part of the city will be eligible to use all the services provided by the city. The council should determine what impact, if any, this will have on the operation of the library, hospital, nursing home, swimming pool, golf course, and similar facilities that charge more for non-residents.

Only when the council thoroughly evaluates these, and similar factors will a true picture of added city expenditures emerge.

The council must also consider the taxes and other revenues the city might obtain from the annexed area. This involves more than just a determination of receipts from the area during the next tax and budget year. The council should also consider the long-term revenue liabilities of the area in terms of its ability to support municipal services as it either develops or declines.

In addition to knowing how much revenue annexed land will produce, it is also important to know whether property in the annexed area can bear the burden of added charges for governmental services. The council must determine if the property owners in the annexed area will be able to pay the additional taxes and special assessments the city will levy once the area becomes part of the city. The council should look at this issue in terms of the present and future paying capacity of the property owners.

The solutions to these issues depend on the answers to the questions dealing with present development and estimates for probable future development in the area. Such estimates must be both reasonable and conservative. It is better to underestimate than to overestimate when evaluating the taxpaying potential of a given geographic area.

Finally, the council should also attempt to determine what impact, if any, the proposed annexation would have on future development in the area.

This involves more than determining whether development will be faster or slower due to the change in governmental status. The council should also look at which governmental form will most effectively stimulate and control future development and keep it in harmony with the interests of the urban community and with the social and economic area. In addition, the council should decide whether city control would best enforce regulations governing building standards, population density, land use, and other factors instrumental in the proper, healthy urbanization of the area.

## RELEVANT LINKS:

[Minn. Stat. §§ 414.031-414.033.](#)

[Minn. Stat. § 414.031, subd. 4.](#)  
[Minn. Stat. § 414.011, subd. 6.](#) See *State v. Village of Mound*, 234 Minn. 531, 48 N.W.2d 855 (Minn. 1951).  
*Village of Orono v. Village of Long Lake*, 247 Minn. 264, 77 N.W.2d 46 (Minn. 1956).

[Minn. Stat. § 414.031, subd. 4.](#)

*Village of Orono v. Village of Long Lake*, 247 Minn. 264, 77 N.W.2d 46 (Minn. 1956).

[Minn. Stat. § 414.061.](#)  
See Section VII, *Concurrent detachment and annexation.*

Often, an area being considered for annexation has been developed in a less dense manner than the adjoining city; thus, the property tax revenues from that area in relation to the amount of services it will receive as part of the city will not be in the same proportion as the adjoining city. The council may wish to weigh this factor against the long-term implications of not bringing the area into the city.

All this information will let the city council make policy decisions regarding the merits and demerits of an annexation proposal. Having obtained this information, the council should seek a final decision that will protect and promote the best interests of the city, the area to be annexed, the county and town in which the area is located, and the entire social and economic community surrounding the city.

### A. Statutory requirements for annexation

Annexation of land cannot occur unless it meets the following three requirements:

First, the land must adjoin the corporate limits of the annexing city. The statute speaks of annexation of unincorporated territory abutting a city. Land abuts a city when its boundaries and those of the city coincide or touch one another so that after annexation, the annexed territory will be united with the city in forming a homogeneous community that can provide all of its parts with the benefits of local government.

The statute defines “abuts” to include areas with boundaries that at least touch one another at a single point, or with boundaries that would touch but for an intervening road, railroad, waterway, or parcel of publicly owned land. In those cases where an annexation needs the approval of the Administrative law judge, it may alter the boundaries of the area to preserve or improve the symmetry of the area.

Second, the Administrative law judge may approve an annexation if it finds city governance of the area is necessary to protect the public health, safety, and welfare; if annexation is found to be in the best interests of the city and the territory to be annexed; or, if land is, or is about to become, suburban or urban in character. This generally refers to land in close proximity to the city, of limited size, suburban in character, and with a community of interest so it will adapt to city government.

Third, the land may not already be part of another city. A concurrent detachment from one city and annexation to another city could occur through a different procedure.

## RELEVANT LINKS:

Office of Administrative Hearings, [Municipal Boundary Adjustment Unit](#), P.O. Box 64620, St. Paul, MN 55164; 651.361.7900.

[Minn. Stat. § 414.033.](#)

## B. Annexation procedures

Although the statutes set out three different annexation procedures, only one procedure may apply in any given situation. The appropriate procedure depends on the ownership, size, and other characteristics of the land under consideration. For annexation purposes, the jurisdiction and authority of the Municipal Boundary Adjustment Unit is uniform for all communities throughout the state. The Municipal Boundary Adjustment Unit has information to assist units of government in presenting evidence in boundary-adjustment proceedings.

The three annexation procedures are applicable in different situations and require completing certain steps.

### 1. Annexation by ordinance

In some circumstances, a city may annex unincorporated property simply by passing an ordinance declaring the land as annexed to the city. Cities may annex by ordinance when any of the following conditions exist:

- The city owns the land to be annexed.
- The land is completely surrounded by land already within city limits.
- The land abuts the city and the area to be annexed is 120 acres or less, not presently served or capable of being served by available public wastewater facilities, and all the landowners petition the city for annexation (except as provided for by an orderly annexation agreement, this clause may not be used to annex any property contiguous to any property either simultaneously proposed to be or previously annexed under this clause within the preceding 12 months if the property is or has been owned at any point during that period by the same owners and annexation would cumulatively exceed 120 acres).
- The land is within two miles of the city and has been approved for platting after Aug. 1, 1995, and the platted lots average 21,780 square feet or less.

The law considers land described above to be urban in character. The city can annex it merely by passing an ordinance in all these situations. The city must file copies of the ordinance with the Administrative law judge, the town clerk, the county auditor, and the secretary of state. Annexation does not become effective until the Administrative law judge approves the filing. Unless the city owns the land to be annexed, it must serve notice of intent to annex upon the town board and all landowners within and contiguous to the area to be annexed and hold a public hearing.

## RELEVANT LINKS:

[Minn. Stat. § 115.49, subd. 2a.](#) [Minn. Stat. § 414.0335.](#)

[Minn. Stat. § 414.033, subd. 3.](#)  
See discussion of hearings under Section VIII-B-3, *Petition, hearing and order of the Municipal Boundary Adjustment Unit.*

[Minn. Stat. § 414.033, subd. 13.](#)

[Minn. Stat. § 414.033, subd. 5.](#)

[Minn. Stat. § 414.033, subd. 5.](#)

[Minn. Stat. § 414.033, subd. 5.](#)

[Minn. Stat. § 414.033, subd. 7.](#)

Land may also be annexed by ordinance if the Minnesota Pollution Control Agency (MPCA) has required the city to extend a government service outside its jurisdiction into an unincorporated area.

If 60 percent or more of the perimeter of the area to be annexed borders the city and the area is 40 acres or less, the city may annex it by ordinance. However, the city must serve notice of its intent upon the town board and wait 90 days for the town's objection. If the town board raises objections, the city may abandon the proceedings, or the Administrative law judge will hold hearings and order or deny the annexation.

At least 30 days before a municipality may adopt an ordinance under Minn. Stat. § 414.033, subdivision 2, clause (2), (3), or (4), the petitioner must be notified by the municipality that the cost of electric utility service to the petitioner may change if the land is annexed to the municipality. The notice must include an estimate of the cost impact of any change in electric utility services, including rate changes and assessments, resulting from the annexation. Within ten days, copies of the petition must go to the Administrative law judge, the town board, and the county board of the town and county in which all or any part of the land is located, and to the governing body of all cities abutting the land to be annexed.

Another type of annexation by ordinance can occur if land is platted, or if unplatted, does not exceed 200 acres, and a majority of the owners petition the council for annexation.

The town board or the governing body of another city can submit written objections to the annexation to the Administrative law judge and to the city within 90 days of the filing of the petition. If either the town or a city files objections, the annexing city can take no further action on the petition. The petition automatically goes to the Administrative law judge, which will hold a hearing and issue its order.

If no one files objections, and the council determines the property proposed for annexation is currently or is about to become urban or suburban in character, the council may pass an ordinance annexing the land. However, if all property owners involved do not sign the petition, a public hearing before the city council is necessary before the city can adopt the ordinance. All property owners in the affected area must receive a mailed notice at least 30 days before the hearing.

Except when a town or city objects to an annexation, no action by the Administrative law judge is necessary to annex land in this manner. However, the city must file copies of the annexing ordinance with the Administrative law judge, the county auditor, the town clerk, and the secretary of state. The annexation does not become effective until the Administrative law judge approves the ordinance.

## RELEVANT LINKS:

[Minn. Stat. § 414.033, subd. 6.](#)

[Gilbert v. Minnesota State Office of Strategic and Long-Range Planning](#), No. CX-01-1221 (Minn. Ct. App. Jan. 29, 2002 (unpublished decision)).

[Minn. Stat. § 414.0325.](#)

[Minn. Stat. § 414.0325, Subd. 1\(b\).](#)

[Minn. Stat. § 414.0325.](#)

[Minn. Stat. § 414.033.](#)

If a city receives a petition for annexation of land, and all or part of the land is already included in a petition pending before the Administrative law judge for incorporation or annexation, the city cannot act on the petition until the Administrative law judge makes a final order on the pending petition.

The Municipal Boundary Adjustment Unit stresses that most annexations by ordinance are exceptions to the requirement for a hearing. Cities must clearly show that the facts making the exception operative are present. The Municipal Boundary Adjustment Unit will not approve an annexation ordinance without this information. The Minnesota Court of Appeals has held, however, that once the criteria in the statute authorizing annexation by ordinance have been satisfied, the Municipal Boundary Adjustment Unit does not have authority to conduct a further review of the proceeding, and it must approve the annexation.

## 2. Orderly annexation

One or more townships and one or more cities can initiate an orderly annexation process by passing a joint resolution designating an unincorporated area in need of orderly annexation. One or more cities, by joint resolution with the county, may also designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed.

The Municipal Boundary Adjustment Unit promotes orderly annexation because it emphasizes negotiation and agreement. At least ten days before the city or township adopts an orderly annexation agreement, a notice of the intent to include property in an orderly annexation area must be published in a newspaper of general circulation in both the township and city.

The notice must clearly identify the boundaries of the area proposed to be included in the orderly annexation agreement. The cost of providing notice must be equally divided between the city and the township, unless otherwise agreed upon by the city and township.

## RELEVANT LINKS:

[Minn. Stat. § 414.0325, subd. 1.](#)  
*City of Waite Park v. Minn. Office of Admin. Hearings*, No. A05-1888 (Minn. Ct. App. July 18, 2006) (unpublished decision).

[Minn. Stat. § 414.0325, subd. 6.](#)

[Minn. Stat. § 115.03.](#) [Minn. Stat. § 115.071.](#) [Minn. Stat. § 115.49.](#) [Minn. Stat. § 414.0335.](#)

[Minn. Stat. § 462.3535, subd. 5.](#)  
See Handbook, *Community Development and Redevelopment*.

[Minn. Stat. § 414.09.](#)

[Minn. R. 6000.0100-.3400.](#)

[Minn. Stat. § 414.0325, subds. 1, 3.](#)

These requirements apply only to the initial designation to include property in an orderly annexation area subject to the orderly annexation agreement, or to any expansion of the orderly annexation area subject to the agreement, and not to any subsequent annexation of any property from within the designated orderly annexation area. These requirements do not apply when the orderly annexation agreement only designates for immediate annexation property for which all of the property owners have petitioned to be annexed.

Once the Administrative law judge has received the joint resolution, an initiation of an annexation of any part of the designated area can occur by either the submission of a resolution from any party to the original joint resolution or by the Administrative law judge on its own motion.

If the orderly annexation agreement states that no alteration of the area is appropriate, the Administrative law judge may review and comment on the resolution, but it may not alter the boundaries. Likewise, if the joint resolution sets conditions for the annexation and states the consideration of the Administrative law judge is not necessary, the Administrative law judge may only review and comment on the resolution and must order, within 30 days, the annexation under the terms of the resolution.

An orderly annexation agreement is a binding contract upon all parties to the agreement and is enforceable in the district court in the county in which the unincorporated property in question is located. The provisions of an orderly annexation agreement are not pre-empted by any other provision of annexation law unless specifically provided for by the agreement.

If an orderly annexation agreement provides the exclusive procedures by which the unincorporated property identified in the agreement may be annexed to the city, the city shall not annex that property by any other procedure.

Whenever the MPCA or another state agency orders a city to extend municipal services to a certain unincorporated area, the Administrative law judge may consider designating the area for orderly annexation.

If a city designates an urban-growth area based on a community-based comprehensive plan, an orderly annexation agreement must then be negotiated.

When the Administrative law judge receives a joint resolution for annexation of part of the designated orderly annexation area, it must schedule a hearing following the requirements for hearings in other annexation actions.

## RELEVANT LINKS:

*City of Waite Park v. Minn. Office of Admin. Hearings*, No. A05-1888 (Minn. Ct. App. July 18, 2006) (unpublished decision).

If the joint resolution provides for the conditions for annexation of an area and states that board consideration is not necessary, the Administrative law judge may review and comment on the resolution, but it shall, within 30 days, order the annexation under the terms of the resolution.

If the resolution allows for consideration by the Administrative law judge, it may order the annexation if it makes any of the following findings:

- The area proposed for annexation is currently, or is about to become, urban or suburban in character, and the annexing city is capable of providing the needed services within a reasonable time.
- The existing town form of government is not adequate to protect public health, safety, and welfare.
- Annexation would be in the best interest of the proposed area.

The Administrative law judge may deny the annexation if it conflicts with any provision of the joint resolution. The Administrative law judge may increase or decrease the boundaries of the proposed annexation to include property that is in need of, or will be in need of, city services, unless the joint resolution states no alteration of boundaries is appropriate.

If the Administrative law judge denies annexation, the law prohibits any other proceedings for the annexation of substantially the same area within two years of its order, unless a majority of the area's property owners initiate the new proceeding and affected parties to the resolution support the resolution. In all cases, the Administrative law judge will set out the factors that are the basis for its decision.

The order of the Administrative law judge is effective when it is issued or at some later date, if specified in the order. No annexation election is necessary.

In the area designated for orderly annexation, an orderly annexation agreement may provide for the establishment of a planning and land use control board under the Joint Powers Act.

This board would have all of the powers contained in the Municipal Planning Act. It also would have the authority to adopt and enforce the uniform fire code. The orderly annexation agreement may provide that joint planning and land-use controls apply to any or all parts of the area designated for orderly annexation, as well as to any adjacent unincorporated or incorporated area described by the joint resolution.

If the joint resolution does not provide for joint planning and land-use control, delegate planning and land-use control to the municipalities or towns or establish some other process for planning and land-use authority, the following procedures take effect.

[Minn. Stat. § 471.59.](#)

[Minn. Stat. §§ 462.35-462.364.](#)

[Minn. Stat. § 462.357, subd. 1.](#)  
[Minn. Stat. § 462.358, subd. 1.](#)

## RELEVANT LINKS:

[Minn. Stat. § 414.031](#).  
Office of Administrative  
Hearings, [Municipal  
Boundary Adjustment Unit](#),  
P.O. Box 64620, St. Paul,  
MN 55164; 651.361.7900.

[Minn. Stat. § 414.031, subd.  
1a.](#)

[Minn. Stat. § 414.065](#).

If the county and townships agree to exclude the area from their zoning and subdivision ordinances, the city may extend its zoning and subdivision regulations to include the orderly annexation area. If the county and township do not agree to such extraterritorial zoning and subdivision regulation, zoning and subdivision regulation within the orderly annexation area will be under the control of a three-member committee. The governing bodies of the city, town, and county will each appoint one member to the committee. The committee serves as the governing body and the board of appeals and adjustments within the orderly annexation area. The committee has all the powers provided by the Municipal Planning Act, plus the authority to adopt and enforce the uniform fire code.

### **3. Petition, hearing, and order by Municipal Boundary Adjustments**

If a city cannot annex land by ordinance or by orderly annexation, the annexing procedure is as outlined in this section.

#### **a. Initiating the proceeding**

Before initiating any boundary-adjustment request, the city, township, county, or property owner should meet to discuss planning issues. Any affected party may call a meeting at which the public should be allowed to participate. The party requesting the boundary adjustment should notify the Municipal Boundary Adjustment Unit of the outcome of any meetings.

Holding these meetings is optional, but it is strongly encouraged by the Municipal Boundary Adjustment Unit.

#### **b. Notice of intent to annex**

At least 30 days before submitting a petition or resolution to the Administrative law judge, the petitioning city or petitioning property owner or supporting city must serve the township clerk of the affected township by certified mail a notice of the intent to annex property. The notice must clearly identify the boundaries of the area proposed to be annexed.

#### **c. The petition**

A petition for a public hearing before the Municipal Boundary Adjustment Unit may come from any of the following:

## RELEVANT LINKS:

- A resolution of the annexing city.
- A resolution of the town containing the area to be annexed.
- A petition of 20 percent of the property owners or 100 property owners, whichever is less, residing in the area to be annexed.
- A resolution of the city council, together with a resolution of the town board, stating a desire to annex the entire township to the city.

In addition, in the case of state-owned property, the executive council of the state may petition for a hearing.

The petition must go to the Municipal Boundary Adjustment Unit. If property owners initiate the proceeding, they must also include a copy of a resolution of the annexing city supporting the proposed annexation. The petition must set forth:

- The boundaries of the area proposed for annexation.
- Names of all parties entitled to notice, and reasons for requesting annexation.
- For jurisdictional purposes, the petition should also show the area meets the three minimum statutory requirements for annexation.

All petitions for boundary adjustment must include a fact-finding form. The form must detail the results of the planning meeting outlined above if one was held. If the boundary adjustment is contested, the Administrative law judge may require the parties to meet at least three times over a 60-day period. The parties may be granted additional time at the discretion of the Administrative law judge. At least one of the meetings must be open to the public and allow public comment.

In addition, a contested boundary adjustment will trigger the preparation of a fact-finding report by the Administrative law judge.

Any proposed resolution or settlement of contested issues that results in a municipal-boundary change, places conditions on any future municipal-boundary change, or results in the withdrawal of an objection to a pending proceeding or the withdrawal of a pending proceeding must be filed with the Municipal Boundary Adjustment Unit.

### **d. Mediation and arbitration**

If efforts to resolve boundary issues fail, and the issues have not previously been mediated, the parties may be required to participate in an alternative dispute resolution process. The Administrative law judge may require parties to: choose a mediator of their own; accept a mediator assigned by the Office of Dispute Resolution; or accept the mediation services provided by the Office of Administrative Hearings.

[Minn. Stat. § 414.01, subd. 16.](#)

[Minn. Stat. § 414.12.](#)

## RELEVANT LINKS:

[Minn. Stat. § 414.12, subd. 5.](#)  
[Minn. Stat. § 414.0325, subd. 1.](#)

[Minn. Stat. § 414.0333.](#)

[Minn. Stat. § 414.031, subd. 3a.](#)

Fees for mediation may be split as agreed to by all the parties. If the parties do not agree to a division of the costs, they must be allocated on an equitable basis by the mediator, arbitrator, or chief administrative law judge.

Matters resolved or agreed to by the parties as a result of an alternative dispute resolution process, or otherwise, may be incorporated into a joint resolution or into one or more stipulations for purposes of further proceedings.

### **e. Joint informational meeting**

There must be a joint informational meeting of the city council of the annexing city and the town board of supervisors of the township containing the land proposed to be annexed or included in annexation proceedings by the Administrative law judge's order.

The joint information meeting must be held after the final mediation meeting or the final meeting held pursuant to Minn. Stat. § 414.01, subd. 16, if any, and before the hearing on the matter is held.

If no mediation meetings are held, the joint information meeting must be held after the initiating documents have been filed and before the hearing on the matter. The time, date, and place of the public informational meeting must be determined jointly by the chair of the town board of supervisors and the mayor of the annexing city.

At least ten days before the date for the meeting, both the city and the town must publish at their own expense, notice of the meeting in their respective official newspapers. If the city and town use the same official newspaper, a joint notice may be published, and the costs evenly divided.

The clerk of the township must record minutes of the proceedings of the informational meeting and the city clerk must make an audio recording of the informational meeting.

### **f. Hearing**

During the evidentiary hearing process, the presiding administrative law judge must tour the proposed annexation area along with at least one representative of each of the affected towns and municipalities. Prior to the tour of the proposed annexation area, the affected towns and municipalities shall agree on the route or the administrative law judge shall determine the route for the affected towns and cities and resolve all disputes regarding the tour.

## RELEVANT LINKS:

[Minn. Stat. § 414.031, subd. 4.](#)

[Town of Burnsville v. City of Bloomington](#), 268 Minn. 84, 128 N.W.2d 97 (Minn. 1964).

[Minn. Stat. § 414.031, subd. 4.](#)

[Minn. Stat. § 414.0333.](#)  
[Minn. Stat. § 414.031 subd. 4.](#)

### **g. Powers and duties of the Municipal Boundary Adjustment Unit**

After mediation and arbitration, the Municipal Boundary Adjustment Unit or its designated decision maker (mediator or arbitrator) may order the annexation if it makes any of the following findings:

- City government of the property will protect the public health, welfare, and safety.
- The property is, or is about to become, urban or suburban in character.
- Annexation would be in the best interest of the subject area.

The Municipal Boundary Adjustment Unit or its designated decision maker may deny the annexation if it makes any of the following findings:

- The increase in revenues for the annexing city bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.
- Annexation of all or a part of the property to an adjacent city would better serve the interest of the residents of the property.
- The remainder of the town would suffer undue hardship.

The Municipal Boundary Adjustment Unit or its designated decision-maker may alter the boundaries of the area to be annexed:

- By increasing or decreasing the area to include only property that is, or is about to become, urban or suburban in character.
- To add property abutting the area proposed for annexation in order to follow visible, clearly recognizable features.
- To exclude property that may be better served by another unit of government.

If the Municipal Boundary Adjustment Unit or its designated decision maker determines another city or town could better serve part of the area, the Municipal Boundary Adjustment Unit may initiate and approve annexation on its own motion by conducting further hearings and issuing orders. In all cases, the Municipal Boundary Adjustment Unit must indicate the basis for the decision.

In arriving at its decision, the Municipal Boundary Adjustment Unit or its designated decision-maker must consider the following factors:

- Recordings and public documents from joint informational meetings.
- Present population and number of households, past population, and projected population growth of the annexing city, subject area, and adjacent units of local government.

## RELEVANT LINKS:

- Quantity of land within the subject area and adjacent units of local government and natural terrain, including recognizable physical features; general topography; major watersheds; soil conditions; and such natural features such as rivers, lakes, and major bluffs.
- Degree of contiguity of the boundaries between the annexing city and the subject area.
- Present pattern of physical development, planning and intended land uses in the subject area and the annexing city including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those land uses.
- The present transportation network and potential transportation issues, including proposed highway development.
- Land-use controls and planning presently in use in the annexing city and in the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council and whether there are inconsistencies between the proposed development and the existing land-use-planning controls.
- Existing levels of governmental services in the annexing city and the subject area, including water and sewer, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities, and the impact of the proposed action on the delivery of these services.
- The implementation of previous annexation agreements and orders.
- Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems.
- The annexing city's plans and programs for providing needed and enhanced governmental services to the subject area in a cost-effective and feasible manner within a reasonable time from the date of the annexation.
- An analysis of the fiscal impact on the annexing city and the property proposed for annexation, and adjacent units of local government, including assessed valuation and the present bonded indebtedness and the mill rates of the county, school district, and town.
- Relationship and impact of the proposed action on affected and adjacent school districts and communities.
- Adequacy of town government to deliver services to the subject area.
- Analysis of whether necessary governmental services can best be provided through the proposed action or another form of boundary adjustment.
- If only part of a town is annexed, the ability of the remainder of the town to continue, or the feasibility of it being incorporated separately or annexed to another city.

## RELEVANT LINKS:

[Minn. Stat. § 414.031, subd. 4a.](#)

[Minn. Stat. § 414.031, subd. 4a.](#) [Minn. Stat. § 414.09.](#)

[Minn. Stat. § 414.031, subd. 4a.](#)

- Information received by the presiding administrative law judge from the required tour.

### **h. Annexation of an entire township**

Whenever annexation by the Municipal Boundary Adjustment Unit's order involves the annexation of an entire township, the order must include a provision for the election of new city officers. The expanded city would have a home rule charter or statutory form of government depending on what form is currently used in the annexing city. However, any existing ward system for the election of councilmembers would be inoperable. The ordinances of both the annexing city and the town would continue within the former boundaries until repealed by the governing body of the city.

### **i. Other powers of the Municipal Boundary Adjustment Unit**

The Municipal Boundary Adjustment Unit may also order the election of new city officers as part of any other annexation order under this procedure, if the Municipal Boundary Adjustment Unit or its designee determines that such an election would be equitable. The Municipal Boundary Adjustment Unit may provide for election of councilmembers by wards, not less than three or more than seven in number, if it finds that area representation is necessary for proper representation due to an uneven population density or the existence of agricultural lands in the path of suburban development. After four years from the effective date of an annexation, the council may adopt a resolution by a four-fifths vote to abolish the ward system and provide for election of councilmembers at large.

Until the effective date of the annexation order, the town board and other officers of the town continue to exercise their powers and duties under the town laws in the portion of the city that was formerly the town.

The council and other officers of the annexing city continue to exercise their powers and duties in the portion of the expanded city that was formerly the city. When the order takes effect, the town board and the council of the annexing city have no jurisdiction within the city. Then, the new city council and other new officers have jurisdiction, including jurisdiction over improvements and the levying of special assessments.

The new city council can continue or discontinue any board that may have previously existed in the town or former city.

**RELEVANT LINKS:**

[Minn. Stat. § 414.067.](#)

### **C. Apportionment of assets, liabilities, and population**

Whenever the Municipal Boundary Adjustment Unit divides an existing governmental unit, it must apportion property and obligations. It should consider the value of land in the existing town, the indebtedness, the taxes due and delinquent, other revenue accrued but not received, and the ability of the rest of the town to function effectively.

The order cannot relieve any property from any tax liability for payment of bonded indebtedness, but the taxable property in the new city may become primarily liable. When a city annexes an entire town or consolidates with an existing city, all money, claims, or properties, including real estate and any taxes that have been levied (whether collected or uncollected), become the annexing city's property. The city has full authority to use and dispose of such property.

Any bonded indebtedness of the town annexed to an existing city is borne only by the property within the boundaries of the former town. However, the governing bodies may, by resolution, agree the new city will assume the former town's bonded indebtedness that was outstanding at the time of the annexation.

[Minn. Stat. § 414.036.](#)

Unless otherwise agreed to by the annexing municipality and the affected town, when an order or other approval annexes part of a town to a city, the order or other approval must provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the order. The reimbursement shall be completed in substantially equal payments over not less than two or more than eight years from the time of annexation.

The city must reimburse the township for all special assessments assigned by the township to the annexed property, and any portion of debt incurred by the town prior to the annexation and attributable to the property to be annexed but for which no special assessments are outstanding, in substantially equal payments over a period of not less than two or more than eight years.

[Minn. Stat. § 4A.02 \(b\)\(10\).](#)

Boundary changes approved by the Municipal Boundary Adjustment Unit must be reported to the state demographer. The affected cities and towns must make a population estimate as a result of the change in boundaries and submit it to the state demographer, who must then certify a population and household estimate of the affected area.

## RELEVANT LINKS:

[Minn. Stat. § 414.07.](#)

[Rockford Township v. City of Rockford](#), 608 N.W.2d 903 (Minn. Ct. App. 2000).

[Minn. Stat. § 572B.23.](#)

[City of Waite Park v. Minn. Office of Admin. Hearings](#), No. A05-1888 (Minn. Ct. App. July 18, 2006) (unpublished decision).  
[Minn. Stat. § 414.0325.](#)

[Minn. Stat. § 413.02.](#)  
[Minn. Stat. §§ 410.07-410.12.](#)

[Minn. Stat. § 413.02, subd. 3.](#)

## D. Appeals

Any person aggrieved by an annexation order may appeal it in district court if the person contends the Municipal Boundary Adjustment Unit lacked jurisdiction or exceeded its jurisdiction; the order was arbitrary, fraudulent, capricious or oppressive; or, the order was based on an erroneous theory of law.

The appeal must be filed within 30 days of the Municipal Boundary Adjustment Unit's annexation order in the district court of the county where the majority of the area is located. An appeal does not stop the order.

Minnesota's Uniform Arbitration Act also provides a limited basis for appeals that may apply to annexations proceedings involving arbitration.

In addition, the Minnesota Court of Appeals has held that if a city has been denied its statutory right to a summary annexation under the orderly annexation statute, it can seek a writ of mandamus to compel the Municipal Boundary Adjustment Unit to perform its statutory duty of ordering the annexation without conducting further hearings.

## IX. Change of name

A statutory or home rule charter city may change its official name after successful completion of the following four-step procedure. A home rule charter city may also change its name by charter amendment.

- A number of voters equal to 20 percent of the number voting in the last city election must petition for the name change. The request must be filed with the council.
- The proposal must go to the voters for approval at either a general or special election. A majority of those voting on the question must favor the change.
- The election authorizes, but does not require, the council to change the name of the city. The council must adopt an ordinance approving the change.
- The city must file certified copies of the ordinance with the county auditor, the state auditor, and the secretary of state. It is also advisable to file a copy with the county recorder. The name change becomes effective with the completion of these filings.

The name of any statutory city may also be changed to the same name as its post office designation by ordinance. The change is effective upon the filing of a certified copy of the ordinance with the county auditor, the state auditor, and the secretary of state.

**RELEVANT LINKS:**

[Minn. Stat. § 413.02, subd. 5.](#)

A change in name does not affect any liability, obligation, power, duty, law or ordinance of the city except the city must thereafter use the new name.

Any statutory city that was a village or a borough on Dec. 31, 1973, may continue to use the term “village” or “borough” for any purpose including, but not limited to, internal administration, public communications, and published and posted notices. However, in all proceedings governed by statute or rule or regulation of a state agency, and in all legal proceedings the city is a party to, it must use the term “city.”

Should a city wish to continue to use the designation “village” on a permanent basis, it might be wise to consider an official name change. In such a case, the city would be known officially as the “City of \_\_\_\_\_ Village” or the “City of the Village of \_\_\_\_\_.”