

CHAPTER 6000
MINNESOTA MUNICIPAL BOARD
PETITIONS AND HEARINGS

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6000.0100 PETITION DEFINED.

For the purposes of parts 6000.0100 to 6000.3500 the term "petition" shall include: petition, resolution, ordinance, and notice of intent.

Statutory Authority: *MS s 414.01 subd 10*

6000.0110 COMMENCEMENT OF PETITION.

A "petition," as the term is used in parts 6000.0100 to 6000.3500, may be initiated in accordance with Minnesota Statutes, chapter 414 by the required number of persons or by the municipality, town, or by the board as provided in such chapter. Where the petition is filed by residents or property owners, the signatures of the required number of petitioners must be attached to the petition, and the petition must clearly show on its face the number of petitioners required to sign such petition to commence proceedings for incorporation, consolidation, annexation, or detachment, as the case may be, and the method of computing the number of petitioning signatures required. Where the petition is commenced by a municipality or town, such petition must show the appropriate action by the governing body, including the citation to the resolution, ordinance, or notice of intent.

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

Statutory Authority: *MS s 414.01 subd 10*

6000.0200 TITLE OF PETITION.

The petition shall be designated as follows:

In the matter of the Petition of Certain Persons (or the City or Town of blank) for (incorporation, consolidation, annexation, or detachment as the case may be)

followed by a brief description of the subject matter to which the petition relates. No petition shall be dismissed, impaired, or prejudiced because incorrectly entitled, or the parties thereto incorrectly designated, but opportunity

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shall be given in such cases to correct the error by amendment, giving due consideration to any person who may have been misled by the error.

Statutory Authority: *MS s 414.01 subd 10*

6000.0300 PARTIES.

Petitioners specifically named as such in any pleading are parties to the proceeding. No other person shall become a party to the proceeding except by appearing at the hearing on such petition and entering an appearance of record, and in writing on a form to be provided by the board, and a showing that he is a resident or taxpayer of the affected area or that he is specifically deemed by statute to be interested in the particular type of matter involved or that he is specifically deemed by statute to be an interested party to the particular type of proceeding involved or that by the outcome of the proceeding he will be bound and affected either favorably or adversely with respect to an asserted interest peculiar to him as distinguished from an interest common to the public or other taxpayers in general. The board may hear the facts or evidence of any person or organization as to the subject matter, but no person shall become or shall be deemed to have become a party to the proceeding by reason of such participation in the hearing. Any person may enter an appearance in any proceeding, but no person shall become or shall be deemed to have become a party to the proceeding by reason of having entered an appearance therein.

Statutory Authority: *MS s 414.01 subd 10*

6000.0400 REPRESENTATION.

The parties may appear either in person or by attorney. A corporation cannot appear in person.

Statutory Authority: *MS s 414.01 subd 10*

6000.0500 PLEADINGS.

The pleadings before the board shall be the petition. No answer, reply, protest, or petition to intervene is necessary to become a party of record to the proceeding. A petition may be amended upon motion to the board. A party may in writing notify the board of an interest in the petition for the purpose of obtaining a copy of any proposed findings of fact or other documents or any final order required to be served by statute or by the board rules of procedure.

Statutory Authority: *MS s 414.01 subd 10*

6000.0600 PETITION.

The petition shall contain a statement of all the facts which must be found by the board before the board can enter an order pursuant to Minnesota Statutes, chapter 414. If these facts are not controverted by opposing parties at the hearing on the petition, the petition shall be prima facie evidence of such facts, except that the board may from appropriate public records or documents determine whether or not such are the facts. The petitioners shall prove such facts by competent evidence. Public records are admissible without foundation except proof that they are public records in establishing the facts required in Minnesota Statutes, chapter 414.

Statutory Authority: *MS s 414.01 subd 10*

6000.0700 AMENDMENTS.

Formal petitions may be amended at any time before the record has been closed after public hearings required by law upon motion and upon notice to all parties to the proceeding (which may be done at public hearings) except that where the petition is by property owners the petition cannot be amended to include an area different than the one described in the petition signed by such property owners, subject to the statutory authority of the board to alter the

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boundaries proposed in the petition.

Statutory Authority: *MS s 414.01 subd 10*

6000.0800 SERVICE.

Any petition pursuant to Minnesota Statutes 1971, chapter 414 must be filed with the board together with the following:

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

B. A certification showing that the petition was served upon the proper parties when the statute indicates such necessity and the date filed. Under the section for annexation by ordinance, the board will accept a waiver from the township stating it has no objections to a proposed annexation and waiving the 60 days before an ordinance can be adopted.

C. A map showing the property proposed for consideration and its relationship to any surrounding municipality. All distance references should be given by both length and points of beginning should be definite land survey monuments with care to close the boundaries of the description. References to roads or railroads should be to survey lines such as centerline or known right-of-way line. The intent to include or exclude highway, railroad, and street right-of-ways surrounding platted blocks or lots should be carefully considered and clearly stated.

D. The petitioner is required to provide and pay for any necessary publication of notices of hearing pursuant to the appropriate section of the statute.

E. Any proposed amendments to the petition must be served upon all attorneys and parties of record. When any party has appeared by an attorney, service upon such attorney shall be deemed service upon the party.

Statutory Authority: *MS s 414.01 subd 10*

6000.0900 CONTINUANCES AND EXTENSIONS OF TIME.

For cause shown, continuances and extensions of time will be granted or denied by the board in its discretion. Where a motion for continuance or extension of time is made other than at a public hearing, if such motion is granted, the public hearing shall nevertheless convene for the purpose of announcing the date to which such hearing is continued.

Statutory Authority: *MS s 414.01 subd 10*

6000.1000 STIPULATIONS.

Parties may, by stipulation in writing filed with the board or presented at the hearing, agree upon any facts involved in the proceedings. It is desired that the facts be thus agreed upon so far as and whenever practicable. Where facts are stipulated, any party entering an appearance of record subsequent to the stipulation may controvert such facts by evidence, but it shall be the obligation of such party to determine what facts have been stipulated, but where any person or municipality becomes a party of record subsequent to any stipulation of facts does not appear from the record that such facts have been stipulated or does not controvert them by evidence, the board may find such to be the facts in entering its final order.

Statutory Authority: *MS s 414.01 subd 10*

6000.1100 DOCKETS.

Subpart 1. **Public inspection.** The board shall establish and maintain in the office of the secretary the dockets which shall be open to public inspection. Any person wishing to inspect any record of the board must first make application to the executive director of the board.

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Subp. 2. **Filing of papers.** Copies of all petitions and all papers in any manner relating to or affecting any petition or jurisdiction of the board or which are intended for the information of or action by the board must be first filed in the office of the secretary thereof, and thereafter the same shall be preserved therein as public records.

Subp. 3. **Docket number.** The executive director, upon the filing with the board of any matter within the jurisdiction of the board, will enter such matter on the docket, giving it then a consecutive number therein.

Statutory Authority: *MS s 414.01 subd 10*

6000.1200 PUBLIC HEARINGS.

Public hearings shall be held by the board as to any petition filed pursuant to Minnesota Statutes, chapter 414 in accordance with the provisions as to hearings of such chapter.

Statutory Authority: *MS s 414.01 subd 10*

6000.1300 EXAMINATION OF WITNESSES.

Witnesses will be examined orally before the board. Such examination shall be conducted in the first instance by the attorney appearing for the party calling such witness. Any witness may be examined by the board. Every party to a contested case shall have the right of cross-examination of a witness who testified, and shall have the right to submit rebuttal evidence. Where such cross-examination is sought by a party not an attorney, such party shall submit his questions on cross-examination to the chairman of the board or the presiding officer who will then propound the question to the witness if it is deemed admissible.

Statutory Authority: *MS s 414.01 subd 10*

6000.1400 EXHIBITS.

Unless the chairman or presiding officer shall otherwise direct, exhibits offered to the board at any hearing or conference in a contested case shall be one copy only, and a reasonable number of copies shall be furnished to parties in attendance.

Statutory Authority: *MS s 414.01 subd 10*

6000.1500 ORDER OF PROCEDURE.

Unless otherwise directed, the following order or procedure shall apply at all hearings before the board. The chairman or presiding officer shall determine the subsequent order of procedure including the order in which opposing parties shall present proof. Neutral parties or parties appearing as their interests may appear shall generally be heard after opposing parties. Where a person, firm, corporation, or municipality seeks to intervene although he is not a resident or taxpayer of the affected area or where the municipality or subdivision of government is not included in the affected area, the chairman or presiding officer may determine whether such intervention shall be permitted and in what order such party may introduce proof.

Statutory Authority: *MS s 414.01 subd 10*

6000.1600 FAILURE TO APPEAR.

If a petitioner fails to appear at a proceeding, the hearing may be dismissed with or without prejudice at the discretion of the board; or the board may, in its discretion, approve the petition requested upon the basis of a verified statement of proof and affidavits, if any, filed in the case, which in all cases shall be considered as having been offered in evidence at the hearing by the petitioner, but the board shall not approve the petition upon such a showing if any person appearing at the hearing who qualifies as a party to the proceeding shall object

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thereto.

Statutory Authority: *MS s 414.01 subd 10*

6000.1700 ADMISSION OF EVIDENCE.

In a contested case, the board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable, prudent men in the conduct of their affairs. It shall give effect to rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and repetitious evidence.

Statutory Authority: *MS s 414.01 subd 10*

6000.1800 DOCUMENTARY EVIDENCE.

In a contested case, documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

Statutory Authority: *MS s 414.01 subd 10*

6000.1900 EVIDENCE IN A CONTESTED CASE.

All evidence in a contested case, including records and documents in the possession of the board of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case, except that the board may take notice of appropriate public documents or records of a general scientific or technical nature by appropriate notice to all parties of record limiting the time within which such parties may object to the accuracy of the facts sought to be proved from such documents or records.

Statutory Authority: *MS s 414.01 subd 10*

6000.2000 OFFICIAL NOTICE.

In a contested case, the board may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within its specialized knowledge. Parties shall be notified in writing either before or during hearing, or by reference in preliminary reports or otherwise, or by oral statement in the record, of the material so noticed, and they shall be afforded opportunity to contest the facts so noticed.

Statutory Authority: *MS s 414.01 subd 10*

6000.2100 RECORD OF PROCEEDING.

The board shall prepare an official record of all contested proceedings, including testimony and exhibits. Testimony before the board shall be taken in shorthand by official reporters designated by the board or by mechanical recording device. A transcript shall be furnished upon application at the expense of the applicant. Otherwise the preparation of a transcript shall be at the discretion of the board.

Statutory Authority: *MS s 414.01 subd 10*

6000.2200 SUBPOENA FOR WITNESSES AND DOCUMENTARY EVIDENCE.

Subpoenas requiring the attendance of witnesses at any designated place of hearing within the state of Minnesota may be issued by the board pursuant to Minnesota Statutes, chapter 414, but subpoenas for the production of books, papers, or documents, unless directed by the board upon its own motion, will issue only upon application to the board in writing. Application to require parties to produce documentary evidence must be verified and must specify as nearly as may be possible the books, papers, or documents desired and the facts to be proven by them.

Statutory Authority: *MS s 414.01 subd 10*

6000.2300 FEES OF WITNESSES.

Witnesses who are subpoenaed are entitled to the same fees as are paid for like service in the district courts of the state of Minnesota, such fees to be paid by the party at whose instance the testimony is to be taken.

Statutory Authority: *MS s 414.01 subd 10*

6000.2400 SERVICE OF SUBPOENAS.

Service of subpoenas shall be made in like manner as provided by law for service of subpoenas in the district courts of this state.

Statutory Authority: *MS s 414.01 subd 10*

6000.2500 REQUESTS FOR BRIEFS OR ORAL ARGUMENTS.

If briefs or oral arguments are desired by any of the parties to the proceeding, they shall notify the chairman or presiding officer before or at the hearing. If such request is made, the presiding officer shall allow all parties to file briefs or make oral arguments, or he may permit both. He shall also prescribe the time for service and filing of briefs or making of oral argument.

Statutory Authority: *MS s 414.01 subd 10*

6000.2600 FILING AND SERVICE OF BRIEFS.

All briefs for presentation to the board must be filed with the secretary accompanied by written evidence of service upon opposing counsel, party, or parties.

Statutory Authority: *MS s 414.01 subd 10*

6000.2700 RECORDING AND TRANSCRIBING ORAL ARGUMENT.

Oral argument shall be recorded and transcribed only if the board so orders; when transcribed it shall be bound with a transcript of the testimony if the testimony has been transcribed, and will be available to the board for consideration in deciding the matter.

Statutory Authority: *MS s 414.01 subd 10*

6000.2800 DECISION AND ORDERS; FILING, CONTENT, SERVICE.

Decisions and orders of the board when made shall be filed with the secretary, who shall notify by mail all parties to the proceeding of such filing. Every decision or order adverse to a party in a contested case shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. The statement of reasons shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision. A copy of the decision or order and accompanying statement of reasons, together with a certificate of service, if requested, shall be delivered or mailed to each party, or his attorney of record.

Statutory Authority: *MS s 414.01 subd 10*

6000.2900 PROPOSAL FOR DECISION OR ORDER.

Subpart 1. **Copies of proposal.** Whenever in a contested case a majority of the commissioners has not heard or read the evidence, before making a decision or order adverse to a party, the board shall serve by mailing to each party a copy of a proposal for decision or order, including a statement of reasons therefor.

Subp. 2. **Exceptions.** Within ten days after such service of the proposal for decision or order, any party may file and serve exceptions thereto and reasons in support thereof.

Subp. 3. **Form of exceptions.** Exceptions with respect to statements of fact or matters of law must be specific and must be stated and numbered separately. When exception is taken to a statement of fact, a corrected statement must be

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incorporated. If exception is taken to conclusions in the report, the points relied upon to support the exception must be stated and numbered separately.

Subp. 4. Reply to exceptions. A reply to exceptions may be filed and served, but is not required, by any party within ten days after service of the exceptions to which reply is made.

Subp. 5. Argument. Exceptions and replies thereto shall contain written arguments in support of the position taken by the party filing such exceptions or reply. Oral argument before a majority of the commissioners may be permitted all parties, in the discretion of the board, in the event that any party at the time of filing his exceptions or reply requests oral argument.

Statutory Authority: *MS s 414.01 subd 10*

6000.3000 PETITIONS FOR FURTHER HEARING.

Before the final submission of any proceeding, any party thereto desiring a further hearing may file a petition therefor with the board, which said petition shall clearly set forth the grounds relied upon for a further hearing; and if it is proposed to produce additional testimony, the testimony so to be produced shall be briefly summarized. No further hearing will be granted where it appears that the evidence to be adduced will be merely cumulative. Such petition shall be served upon all parties to the proceeding. An adverse party shall have ten days from the date of the service of such petition within which to answer thereto. No reply to such answer will be permitted. The board may grant or deny such petition without hearing or, in its discretion, set a hearing on such petition.

Statutory Authority: *MS s 414.01 subd 10*

6000.3100 PETITION FOR REHEARING, AMENDMENT, VACATION, RECONSIDERATION, REARGUMENT.

Within ten days from the date of the mailing by the executive director of the final decision or order, any party may petition for a rehearing, or for an amendment or vacation of the findings of fact, decision or order, or for reconsideration or reargument. If such petition be for a further hearing, rehearing, vacation, reconsideration, or reargument, the grounds relied upon shall be specifically set forth and the claimed errors clearly stated. If such petition be for an amendment of the findings of fact, decision, or order, such petition shall contain the desired proposed amendments, and the reasons therefor shall be clearly stated. Such petition shall be served upon all parties to the proceeding. An adverse party shall have ten days from the date of the service of such petition to answer thereto, and no reply will be permitted. The board may grant or deny such petition without a hearing, or in its discretion set a hearing thereon. Pending the decision of the board on such petition, the board may vacate and set aside said decision or order. No such petition will extend the time of appeal from said decision or order.

Statutory Authority: *MS s 414.01 subd 10*

6000.3200 AMENDMENT OF EFFECTIVE DATE OF ORDER OR DECISION.

Petitions for amendment of orders or decisions which seek only a change in the date when they shall take effect, or in the period of notice or other period or date thereby prescribed, must be made by petition reasonably filed and served in like manner as other petitions under parts 6000.3000 to 6000.3300, except that, in case of unforeseen emergency satisfactorily shown by the petitioner which requires relief within three days, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties to the proceeding.

Statutory Authority: *MS s 414.01 subd 10*

6000.3300 SECOND PETITION UPON SAME GROUND.

A second petition for further hearing, rehearing, amendment, or vacation of any findings of fact, decision or order, reconsideration or reargument by the same party or parties and upon the same grounds as a former petition which has been considered and denied, will not be entertained.

Statutory Authority: *MS s 414.01 subd 10*

6000.3400 SCHEDULE OF FILING FEES.

Subpart 1. Incorporation of a municipality. A petition for incorporation of a municipality must be accompanied by a filing fee of \$600 when filed with the board.

Subp. 2. Consolidation proceedings for municipality and town. A petition for consolidation of a municipality and town must be accompanied by a filing fee of \$200.

Subp. 3. Annexation of unincorporated property. A filing fee of \$4 per acre must accompany a petition to annex unincorporated property. The minimum fee is \$100 and the maximum is \$600. Where the petition is initiated by property owners, the filing fee will be reimbursed by the annexing municipality if annexation is successful.

Subp. 4. Orderly annexations within a designated area. A filing fee of \$1 per acre must accompany the joint resolution or petition for designation. The minimum fee is \$25 and the maximum is \$200. Thereafter, requests for the initiation of annexation of any part of the designated area shall be accompanied by a filing fee of \$1 per acre with a minimum of \$25 and a maximum of \$200.

Subp. 5. Annexation by ordinance. A filing fee of \$4 per acre must accompany the initial petition, resolution, or ordinance submitted to the board, with a minimum of \$100 and a maximum of \$600, before a file will be opened on the proceeding.

Subp. 6. Consolidation of two or more municipalities. A fee of \$200 must accompany a petition for consolidation of a municipality or municipalities to an adjoining municipality when filed with the board.

Subp. 7. Detachment of property from a municipality. A filing fee of \$4 per acre must accompany a petition to detach property from a municipality. The minimum fee is \$100 and the maximum is \$600.

Subp. 8. Concurrent detachment and annexation of incorporated land. A filing fee of \$4 per acre must accompany the concurrent resolutions with a minimum fee of \$100 and a maximum of \$600.

Statutory Authority: *MS s 414.01 subd 10*

6000.3500 ORDERLY ANNEXATION.

Subpart 1. Acceptance by board. An orderly annexation joint agreement shall be accepted and filed by the board if its terms are consistent with applicable state law and in the best interests of the parties and affected persons.

Subp. 2. Initiating annexation within orderly annexation area. If any provision of the orderly annexation joint resolution resolves to annex an area designated for orderly annexation upon the effective date of the joint resolution, the board shall, after accepting the joint resolution, treat this provision as a separate resolution initiating annexation.

Subp. 3. Evidentiary requirements for annexation within the designated area. The party proposing an annexation with the designated area shall demonstrate whether or not the proposed annexation is consistent with the joint agreement.

Subp. 4. Reporting requirements. One year after the joint agreement has been accepted by the board, and every year thereafter, for as long as the joint resolution is in effect, the parties shall inform the board of any changed conditions, which would mandate action by the terms of the agreement within the area designated for orderly annexation.

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Subp. 5. **Amending the joint agreement.** The joint agreement can only be amended by joint resolution submitted to the board by all of the parties to the joint agreement. The board shall accept the amendment, subject to proper notice and hearing as set forth in Minnesota Statutes, section 414.09, if it is consistent with applicable state law and the remainder of the joint agreement and in the best interests of the parties and affected persons.

Statutory Authority: *MS s 414.01 subd 10*