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CHAPTER 6000 MINNESOTA MUNICIPAL BOARD PETITIONS AND HEARINGS

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6000.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 6000.0100 to 6000.3500 the terms defined in this part have the meanings given them.

Subp. 2. **Parties.** "Parties" includes petitioners specifically named in the pleadings. The term also includes other persons who file at the hearing an appearance form provided by the board and enter an appearance at the hearing. To be considered parties, persons who fill out the appearance form must establish that they are residents or taxpayers in the incorporation, annexation, consolidation, or detachment area; or that by the outcome of the proceedings they will be bound and affected either favorably or adversely by an interest particular to these persons as distinguished from an interest common to the public or other taxpayers in general.

Subp. 3. **Petition.** "Petition" includes: petition, resolution, ordinance, or notice of intent.

Subp. 4. **Property owner.** "Property owner" is as defined in Minnesota Statutes, section 414.011, subdivision 5.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

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 that chapter. Where the petition is filed by residents or property owners, the number of petitioners required by statute to commence a proceeding must be stated in the petition. The petition must also state on its face the number of petitioners who have signed the petition. Where the petition is commenced by a municipality or town, the petition must include 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*

History: *9 SR 2442*

6000.0200 FORM OF PETITION.

Subpart 1. **Title.** The petition must be titled as follows:

In the matter of the Petition of (Certain Persons, or the City or Town

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of ____) for (incorporation, consolidation, annexation, or detachment pursuant to Minnesota Statutes, section ____).

Subp. 2. **Body.** The title must 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 incorrectly designated. Opportunity shall be given in these cases to correct the error by amendment, giving due consideration to any person who may have been misled by the error.

Sample petition forms will be provided by the board upon request.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.0300 [Repealed, 9 SR 2442]**6000.0400 REPRESENTATION.**

A party may appear in person or may be represented by an attorney. Where a petition is by property owners, one of the petitioners may represent the group. A government official may appear on behalf of a party that is a county, municipality, or town or government agency.

When any party has appeared by an attorney, or a person representing a group service upon such attorney or chosen representative shall be deemed service upon the party and all members of the group.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.0500 PLEADINGS.

The pleadings before the board shall be the petition. Objections filed pursuant to Minnesota Statutes, chapter 414, are jurisdictional documents and not responsive pleadings. No responsive pleading is necessary.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.0600 PETITION AS EVIDENCE.

The petition shall be prima facie evidence of the facts contained in the petition if not controverted by opposing parties at the hearing. The board may independently verify the accuracy of the facts.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.0700 AMENDMENTS.

A petition may be amended at the discretion of the board at any time before the board has rendered a final decision on the petition. Notice is required to all parties entitled to original notice. Amendments may be proposed and granted at public hearings. 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 the property owners unless the amendment or a waiver is signed by all the property owners who signed the original petition.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.0800 FILING OF PETITION.

Any petition pursuant to Minnesota Statutes, 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

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B. A certification showing that the petition was served upon the proper parties when the statute indicates such necessity and the date filed or a waiver authorized by Minnesota Statutes, section 414.033

C. A map showing the property proposed for consideration and its relationship to any surrounding municipality. All distance references should be given by length. Beginning points should be land survey monuments and the description must close the boundaries. 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 clearly stated.

Statutory Authority: *MS s 414 01 subd 10*

History: *9 SR 2442*

6000.0900 CONTINUANCES.

Continuances will be granted or denied by the board in its discretion for cause shown, or upon the board's own initiative.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.1000 STIPULATIONS.

Parties may stipulate to any facts involved in the proceedings. Parties who do not enter into the stipulation and who do not present controverting evidence concerning facts contained in the stipulation are bound by the facts stipulated

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.1100 [Repealed, 9 SR 2442]

6000.1150 PREHEARING CONFERENCE.

The board may, in its discretion, hold an informal prehearing conference conducted by a designated representative of the board. The purpose of the prehearing conference is to simplify the issues, to stipulate facts for testimony or exhibits, to consider the proposed witnesses, to consider such other matters as may be necessary or advisable, and, if possible, to reach a settlement without the necessity for a hearing. Agreements on issues may be put in the form of stipulations and entered on the record. Any final settlement may be set forth in a settlement agreement and made a part of the record.

Statutory Authority: *MS s 414 01 subd 10*

History: *9 SR 2442*

6000.1200 PUBLIC HEARINGS.

The petitioner shall notify the board at least seven days prior to the hearing of any personal knowledge of controversy regarding the hearing. Public hearings shall be held by the board in accordance with Minnesota Statutes, section 414.09

The board may hear the facts or evidence of any person or organization. Any person may note an appearance for the record. No person becomes, or is considered to be, a party to the proceeding solely by reason of presenting facts or evidence or entering an appearance at the hearing.

The petitioner must pay for the publication of notices of hearings required by Minnesota Statutes, section 414.09.

Statutory Authority: *MS s 414 01 subd 10*

History: *9 SR 2442*

6000.1300 [Repealed, 9 SR 2442]

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6000.1310 EXAMINATION OF WITNESSES.

Witnesses shall testify before the board. The party calling the witness shall examine the witness first. Every witness is subject to direct examination by nonadverse parties and cross-examination by adverse parties. The board may question a witness. All parties shall have the opportunity to submit rebuttal evidence. Cross-examination of a witness by a party not an attorney shall be submitted to the presiding officer, and the presiding officer shall ask the question of the witness if it is considered admissible.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.1400 EXHIBITS.

Unless the presiding officer of the hearing shall direct otherwise, persons offering exhibits to the board shall submit a single copy. Where possible, parties should offer an exhibit in 8-1/2 by 11-inch size.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.1500 [Repealed, 9 SR 2442]

6000.1510 ORDER OF PROCEDURE.

Unless the presiding officer of the hearing directs otherwise, the order of procedure at a hearing shall be as follows:

- A. the petitioner shall begin the presentation of evidence;
- B. adverse parties shall present testimony; and
- C. nonadverse parties shall present testimony.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.1600 FAILURE TO APPEAR.

If the initiating party fails to appear at a proceeding, the hearing may be dismissed with or without prejudice at the discretion of the board. The board may allow the record to remain open for receipt of stipulated facts which the board may use in reaching its decision.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.1700 ADMISSION OF EVIDENCE.

The board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable, prudent persons 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. 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*

History: *9 SR 2442*

6000.1800 [Repealed, 9 SR 2442]

6000.1900 EVIDENCE IN A PROCEEDING.

Subpart 1. **Notice of certain facts.** All evidence shall be made a part of the record in the proceeding, and no other factual information or evidence shall be considered in the proceeding, except the board may take notice of appropriate facts, public documents, or records of a general, scientific, or technical nature by

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appropriate notice to all parties. The time within which the parties may object to the accuracy of the facts sought to be proved from the documents or records shall be limited by the board.

Subp. 2. **Record of proceedings.** The board shall record all proceedings. Testimony before the board shall be taken by electrical recording device or by official court reporters. A transcript shall be furnished upon request at the expense of the requester.

Statutory Authority: *MS s 414.01 subd 10*

History: 9 SR 2442

6000.2000 [Repealed, 9 SR 2442]

6000.2100 [Repealed, 9 SR 2442]

6000.2200 [Repealed, 9 SR 2442]

6000.2210 SUBPOENAS.

Subpart 1. **Generally.** A request for a subpoena, whether for an individual or for the production of books, papers, or documents, shall be in writing to the executive director of the board. The party requesting the subpoena shall prepare the subpoena for the board's signature. A request for the production of documentary evidence must be verified and must specify as nearly as possible the books, papers, or documents desired.

Subp. 2. **Fees for witnesses.** Witnesses who are subpoenaed are entitled to the same fees that are paid in district courts of Minnesota. The fees are to be paid by the party requesting the subpoena.

Subp. 3. **Service.** Service of subpoenas shall be the same as service of subpoenas for the district courts of Minnesota.

Statutory Authority: *MS s 414.01 subd 10*

History: 9 SR 2442

6000.2300 [Repealed, 9 SR 2442]

6000.2400 [Repealed, 9 SR 2442]

6000.2500 REQUESTS FOR WRITTEN OR ORAL ARGUMENTS.

Requests for written or oral arguments must be made at the hearing or the parties waive their rights to submit written or oral arguments. If a request is made, the presiding officer shall allow all parties to submit written or oral arguments, or both. The presiding officer shall also prescribe the time for service and filing of written arguments or making of oral arguments.

Statutory Authority: *MS s 414.01 subd 10*

History: 9 SR 2442

6000.2600 FILING AND SERVICE OF WRITTEN ARGUMENTS.

All written arguments presented to the board must be filed with the executive director accompanied by certification showing service upon all parties.

Statutory Authority: *MS s 414.01 subd 10*

History: 9 SR 2442

6000.2700 [Repealed, 9 SR 2442]

6000.2800 [Repealed, 9 SR 2442]

6000.2900 [Repealed, 9 SR 2442]

6000.3000 REQUEST FOR ADDITIONAL HEARING.

A party may submit a written request for an additional hearing at any time

prior to the board's final decision. The request shall clearly set forth the reasons for the additional hearing; and include a brief summary of additional evidence proposed to be submitted. No additional hearing will be granted where it appears that the evidence to be submitted will be incompetent, irrelevant, immaterial, cumulative, or repetitious. The request shall be served upon all parties to the proceeding. A party shall have seven days from the date of service of the request to make a written response. No reply to the response will be permitted. The board may grant or deny the request without hearing or, in its discretion, hold a hearing on the request.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.3100 REQUEST FOR AMENDMENT.

Within seven days from the date of the mailing of the board's order, any party may submit a written request for an amendment of the findings of fact, conclusions of law, and order. The request shall specifically set forth the reasons for the amendment, any claimed errors, and any proposed amendments to the findings of fact, conclusions of law, and order. The request shall be served upon all parties to the proceeding. A party has seven days from the date of the service of the request to respond. No reply will be permitted. The board may grant or deny the request without a hearing or, in its discretion, hold a hearing on it. No request shall extend the time of appeal from the findings of fact, conclusions of law, and order. If a request is for amendment to only change the date in the findings of fact, conclusions of law, and order, the relief may be sought informally by telegram or otherwise upon notice to all parties.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.3200 [Repealed, 9 SR 2442]

6000.3300 [Repealed, 9 SR 2442]

6000.3400 SCHEDULE OF FILING FEES.

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

Subp. 2. Annexation proceedings for municipality and an entire town. A petition for annexation of a municipality and an entire town must be accompanied by a filing fee of \$200.

Subp. 3. Annexation of property by board order. A filing fee of \$4 per acre must accompany a petition to annex unincorporated property by board order. The minimum fee is \$100 and the maximum fee is \$600.

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

Subp. 5. Annexation by ordinance. A filing fee of \$4 per acre must accompany the initial petition submitted to the board. The minimum fee is \$100 and the maximum fee is \$600.

Subp. 6. Consolidation of two or more municipalities. A fee of \$200 must accompany a petition for consolidation of two or more municipalities.

Subp. 7. Detachment of property from 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 fee is \$600.

Subp. 8. Concurrent detachment and annexation of incorporated land. A filing

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fee of \$4 per acre must accompany the concurrent resolutions with a minimum fee of \$100 and a maximum fee of \$600.

Subp. 9. **Waiver of fees.** Where the strict application of the filing fee requirements would impose an unreasonable hardship on the petitioner, the board, in its discretion, may waive the filing fee.

Statutory Authority: *MS s 414.01 subd 10*

History: *9 SR 2442*

6000.3500 [Repealed, 9 SR 2442]