

CHAPTER 414

INCORPORATION, DETACHMENT, ANNEXATION

Sec.		Sec.	
414.01	Creation of a commission	414.05	Incorporating or annexing townships according to population
414.02	Incorporation of a village	414.06	Detachment of property from a municipality
414.03	Annexation of unincorporated property to a municipality	414.07	Appeals
414.04	Annexation of incorporated property to a municipality		

414.01 CREATION OF A COMMISSION. Subdivision 1. A commission is hereby created to hear petitions for the incorporation of property into villages; the detachment of property from municipalities; and the annexation of property to municipalities. The term "municipalities" as used herein includes villages and cities of all classes.

A63
C807
A-1 Subd. 2. The commission shall be composed of a chairman, vice-chairman, and secretary appointed by the governor. The chairman shall be learned in the law and shall have the powers and duties prescribed by the general law applicable to the heads of departments and agencies of the state. In proceedings for the incorporation of a village pursuant to petition and the annexation of a municipality or municipalities to a contiguous municipality, the chairman of the board of county commissioners and the county auditor of the county in which all or a majority of the property to be annexed or incorporated is located, shall serve as additional and ex officio members of the commission for the purpose of such proceedings.

Subd. 3. All those appointed shall have been residents of the state for at least five years prior to the appointment. All appointments shall be made within thirty days after the effective date of this law. Each appointed member shall serve for four years and until his successor is appointed and has qualified, or until he is removed by the governor for cause after notice and hearing. In case any of the positions shall become vacant, the governor shall appoint a member for the unexpired term who shall thereupon immediately take office and carry on all the duties of the office.

Subd. 4. The commission shall meet once each month at a regular time to be established by the chairman.

Subd. 5. It is authorized to transact business and conduct hearings by a majority of its members. The chairman, in his discretion, may order the consolidation of separate hearings in the interest of economy and expedience. In those proceedings in which the commission is composed of five members, no order of the commission shall be final unless approved by three of the five members, and in all other proceedings unless approved by two of the three members.

A63
C807
A-2 Subd. 6. Each member of the commission shall receive \$50 per day for performance of their duties, except the secretary who shall receive a salary of \$7,200 per year payable semimonthly and shall devote full time to the duties of his office. Each member of the commission shall be reimbursed for actual expenses incurred in accordance with regulations relative to travel of state officers and employees.

A63
C809
A-3 Subd. 7. All correspondence and petitions shall be addressed to the secretary who shall be charged with conducting the administrative affairs of the commission, notifying the members of hearings, and making arrangements for the hearings as to time and place, giving proper notice in the areas affected as hereinafter provided, keeping records and minutes, and providing secretarial service.

A63
C807
A-4 Subd. 8. The commission shall have authority to hire expert consultants to provide specialized information and assistance, and any member of the commission, except those who are ex officio, conducting or participating in the conduct of any hearings, shall have the power to administer oaths and affirmations, to issue subpoenas, and to compel the attendance and testimony of witnesses, and the production of papers, books, and documents.

Subd. 9. Subpoenas shall be issued to any of the parties upon request upon a showing of general relevance and reasonable scope of the evidence sought.

Subd. 10. In order to carry out the duties and powers imposed upon the commission, it shall have the power to make such rules and regulations, as are rea-

MINNESOTA STATUTES 1961

3729

INCORPORATION, DETACHMENT, ANNEXATION 414.02

sonably necessary, in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state.

Subd. 11. The commission may prescribe a schedule of filing fees for any petitions filed pursuant to this chapter by an appropriate rule promulgated in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state for the issuance of administrative rules and regulations.

[1959 c 686 s 1; 1961 c 645 s.1]

414.02 INCORPORATION OF A VILLAGE. Subdivision 1. **Initiating the petition.** This section provides the exclusive method of incorporating a village in any county containing a city of the first or second class, in any county within any metropolitan areas as defined in Minnesota Statutes, Section 473.02, Subdivision 5, or in any other area of Minnesota if a petition is filed to incorporate a new municipality within four miles of the boundary of an existing municipality. In any other area in Minnesota the petition to incorporate shall be filed with the board of county commissioners which shall apply the standards and procedures of this section in determining whether or not to order an incorporation election as herein provided. Three or more freeholders residing within an area containing a resident population of not less than 500 persons, and which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law, may initiate proceedings for incorporation as a village. They shall take a census of the resident population in the area and make a census list showing the buildings in the area used for residence and the number of people living in each. If the population of the proposed area is found to be 500 or more, a petition may be prepared and submitted to the secretary of the commission requesting the commission to hold a hearing on the proposed incorporation. The petition shall be attached to the census list and shall state the quantity of land embraced in it, platted and unplatted land, the assessed valuation of the property, both platted and unplatted, the number of actual residents, the proposed name of the village, a brief description of the existing facilities as to water, sewage disposal, and fire and police protection, and shall include a map setting forth the boundaries of the territory. It shall be signed by at least 100 freeholders who are residents of the area to be incorporated, and it shall be verified by the oaths of the census takers declaring that the census was accurately taken, specifying the dates when it was begun and completed, and that the statements in the petition are true.

Subd. 2. **Commission's hearing and notice.** Upon receipt of a petition, made pursuant to subdivision 1 of this section, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 45 days from the date the petition was received. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, to the chairman of the county board and the town board in which all or a part of the property to be incorporated is located, and any duly constituted municipal or regional planning commission exercising authority over all or part of the area. They may submit briefs, prior to the hearing, for or against the proposed incorporation, stating clearly and succinctly the reasons therefor. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the secretary shall cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be incorporated. The hearing may be adjourned from time to time.

Subd. 3. **Commission's order.** Pursuant to a hearing on a petition for the incorporation of a village under subdivision 1, the commission shall approve the petition for incorporation if it finds that the property to be incorporated is now, or is about to become, urban or suburban in character. The commission may, in any case, approve the petition if it finds that the existing township form of government is not adequate to protect the public health, safety and welfare in reference to plat control or land development and construction which may be reasonably expected to occur within a reasonable time thereafter. As a guide in arriving at a determination, the commission shall make findings as to the following factors: (1) The population of the area within the boundaries of the proposed incorporation. (2) The area of the proposed incorporation. (3) The area of platted land rela-

A 63
C 807
D-5

A 63
C 807
D-6

A 63
C 807
D-7

tive to unplatted land. (4) The character of the buildings on the platted and unplatted lands. (5) Past expansion in terms of population and construction. (6) Prospective future expansion. (7) The assessed value of platted land relative to the assessed value of the unplatted areas. (8) The present and expected necessity and feasibility of providing governmental services such as sewage disposal, water system, zoning, street planning, police, and fire protection. (9) The adequacy of the township form of government to cope with problems of urban or suburban growth in the area proposed for incorporation. The commission shall have authority to alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character. In the event the boundaries are to be increased, notice shall be given to the property owners encompassed within the area to be added, by mail within five days, and the hearing shall reconvene within 30 days after the transmittal of such notice, unless within the 30 days those entitled to notice give their written consent to such action. The commission may provide for election of trustees by wards, not less than three nor more than seven in number, whose limits are prescribed in the commission order upon a finding that area representation is required to accord proper representation in the proposed incorporated area because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development. The petition shall be denied if it appears that annexation to an adjoining municipality would better serve the interests of the area. If the proposed incorporation includes a part of an organized township, the commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be incorporated, the assessed value of all the taxable property in the township, both within and without the area to be incorporated, the indebtedness, the taxes due and delinquent and other revenue accrued but not paid to the township. The commission order shall apportion taxes due between the township and annexing municipality on an equitable basis giving due regard to the liability of the annexing municipality to furnish services, or extend utilities to the annexed area. The order shall be issued by the commission within a reasonable time after the termination of the hearing.

An order approving a petition made pursuant to subdivision 1 shall fix a day not less than 20 days nor more than 40 days after the entry of such order when an election shall be held at a place designated by the commission within the area to be incorporated. The secretary shall cause a copy of the order affirming the petition, as submitted or as amended by the commission, including notice of the election, to be posted not less than 20 days before the election in three public places in the area described in the petition, and shall cause notice of the election to be published two successive weeks in a newspaper qualified as a medium of official and legal publication, of general circulation in the area to be incorporated. The commission shall also appoint three electors resident in the area to act as judges of election, who shall be supervised in their duties by the commission, and shall fix a time, not less than six hours and until at least 7 o'clock p. m., when the polls shall be open at the election. The judges shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory described in the commission's order shall be entitled to vote. The ballot shall bear the words "For Incorporation" and "Against Incorporation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided and the judges shall be paid by the petitioners.

Subd. 4. Filing of incorporation document. Upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition, and they shall then file the certificate with the secretary of the commission. If the certificate shows that a majority of the votes cast were "For Incorporation," the commission shall execute an incorporation order. The secretary shall attach the certificate to the original petition, the original order affirming the petition as submitted or as amended in the order, and the original proofs of the posting of the election notice and incorporation order. The secretary shall transmit to the secretary of state and to the county auditor or auditors of the county or counties in which the property is located a certified copy of these documents to be then filed

MINNESOTA STATUTES 1961

3731

INCORPORATION, DETACHMENT, ANNEXATION 414.03

as a public record. The incorporation shall be effective as of the date of such filing or on later date as is fixed in the incorporation order. If the vote is adverse, no subsequent petition to incorporate the same territory shall be entertained by the commission within two years after the election and the expense of the attempted incorporation shall be borne by the petitioners. If the vote is favorable, all proper expenses incurred in the incorporation shall be a charge upon the village.

[1959 c 686 s 2; 1961 c 645 s 2]

414.03 ANNEXATION OF UNINCORPORATED PROPERTY TO A MUNICIPALITY. Subdivision 1. **Initiating the petition.** A petition for the annexation of adjoining unincorporated property may be initiated by resolution of the annexing municipality, the township containing the area proposed for annexation, or by twenty percent of the freeholders or 100 freeholders, whichever is less, residing in the area to be annexed. If initiated by resolution, the village or city council or town board shall cause a census to be taken of the area showing the buildings in the area used for residences and the number of people living in each, or, if initiated by twenty percent of the freeholders or 100 freeholders, whichever is less, residing in the area, they shall take a census containing the same information, and shall include with the petition a copy of a resolution of the governing body of the annexing municipality approving the proposed annexation. The census list shall be attached to the petition which requests the commission to hold a hearing on the proposed annexation. The petition shall set forth the boundaries of the territory, the quantity of land embraced in it, the number of actual residents, the number and character of the existing buildings in the area and the existing facilities such as water system, zoning, street planning, sewage disposal, fire and police protection. Under both methods of initiating the petition it shall be verified by the oaths of the census takers declaring that the census was accurately taken, specifying the dates when it was begun and completed, and that the statements in the petition are true.

Subd. 2. **Annexation by ordinance.** Territory abutting on any municipality and not included in any other municipality may be annexed to the municipality without an order of the commission in the manner provided in this subdivision:

If the land is owned by the municipality, the governing body may by ordinance declare the land annexed to the municipality, and any such land is deemed to be urban in character.

If the land is completely surrounded by land within the municipal limits, the governing body may by ordinance declare the land annexed to the municipality, and any such land is deemed to be urban in character.

If the land is platted or, if unplatted, does not exceed 200 acres, the owner or a majority of the owners in number may petition the governing body of the municipality to have such land included within the municipality. If the governing body determines that the annexation will be to the best interests of the municipality and of the territory affected, it may by ordinance declare such land annexed to the municipality, but if the petition is not signed by all the owners of the land proposed to be annexed, the ordinance shall not be passed until the governing body has held a hearing on the proposed annexation after at least 30 days posted notice.

Any annexation provided for in this subdivision shall be deemed final upon filing a copy of the ordinance with the commission, the county auditor, and the secretary of state.

Any territory which has been annexed to a municipality prior to the enactment of this law pursuant to Laws 1959, Chapter 686, Section 3, Subdivision 7, shall be deemed to be suitably conditioned for municipal government and said annexation shall be deemed final upon filing a copy of the annexation ordinance with the commission, the county auditor, and the secretary of state.

Subd. 3. **Hearing and notice.** Where the property to be annexed is owned by or completely within the boundaries of the annexing municipality no hearing is necessary and the annexation shall be deemed complete upon issuance of an order approving the petition and resolution by the annexing municipality approving the annexation.

If the petition has been initiated by all or a majority of the land owners, in area and number, no hearing or election as hereinafter provided for other annexations is necessary and the commission may proceed to a decision, unless the commission exercises its authority pursuant to this section by increasing the area to be an-

A63
C 807
A-8

MINNESOTA STATUTES 1961

nexed by including additional owners which inclusion eliminates the required majority, in which event the newly included owners shall be notified within five days and a hearing shall be conducted as hereinafter provided unless within 10 days after transmittal of such notice written assent is received from the new owners in sufficient number to provide the required majority.

In all other proceedings, upon receipt of a petition for annexation, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 45 days from the date the petition was received or, when not initiated by the annexing municipality, from the date of receipt of approval of the governing board of the annexing municipality. The place of the hearing shall be within the annexing village or city or the area to be annexed. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, and to the chairman of the county board and the town board in which all or a part of the property to be annexed is located, and any duly constituted municipal or regional planning commission exercising authority over all or a part of the area. They may submit briefs prior to the hearing, for or against the proposed annexation, stating clearly and succinctly the reasons therefor. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition and in three public places in the annexing village or city, and the commission secretary shall also cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be annexed.

Subd. 4. **Commission's order.** Pursuant to a hearing on a petition for the annexation of unincorporated property to a village or city, or if no hearing was required under the foregoing provisions, the commission shall approve if it finds that the property to be annexed is now, or is about to become, urban or suburban in character. The commission may, in any case, approve the annexation if it finds that municipal government of the area is required to protect the public health, safety and welfare in reference to plat control or land development and construction which may be reasonably expected to occur within a reasonable time thereafter and if it finds that the annexation would be to the best interest of the village or city and of the territory affected. As a guide in arriving at a determination, the commission shall make findings as to the following factors: (1) The relative population of the annexing area to the annexed territory. (2) The relative area of the two territories. (3) The relative assessed valuation. (4) The past and future probable expansion of the annexing area with respect to population increase and construction. (5) The availability of space to accommodate that expansion. (6) Whether the taxes can be reasonably expected to increase in the annexed territory, and whether the expected increase will be proportional to the expected benefit inuring to the annexed territory as a result of the annexation. (7) The presence of an existing or reasonably anticipated need for governmental services in the annexed territory such as water system, sewage disposal, zoning, street planning, police and fire protection. (8) The feasibility and practicability of the annexing territory to provide these governmental services presently or when they become necessary. (9) The existence of all or a part of an organized township within the area to be annexed and its ability and necessity of continuing after the annexation. (10) The adequacy of the township form of government to cope with problems of urban or suburban growth in the area proposed for annexation. If a complete organized township is included within the area to be annexed, its residents shall remain liable for any existing indebtedness of the township existing prior to the annexation. In the event only a portion of an organized township is ultimately included in the area to be annexed, the commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be annexed, the assessed value of all the taxable property in the township, both within and without the area to be annexed, the indebtedness, and the taxes due and delinquent. The commission shall have authority to alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now, or is about to become, suburban in character or to add property of such character contiguous to the area proposed for annexation or to preserve or improve the symmetry of the area. The petition shall be denied if it appears that the primary motive for the annexation is to increase revenues for the annexing municipality and such increase bears no reasonable relation to the value of benefits conferred upon the annexed

A 63
C 681
A-1
A 63
C 807
A-9

MINNESOTA STATUTES 1961

3733

INCORPORATION, DETACHMENT, ANNEXATION 414.04

area. The order of the commission shall be issued within a reasonable time after the termination of the hearing. If the order approves annexation it shall be final if the area proposed for annexation is located within the metropolitan area as defined in Minnesota Statutes, Section 473.02, Subdivision 5. If the order denies annexation it shall be final. If the order approves annexation in any other area in Minnesota, and fixes a date for an election as provided hereafter in subdivision 6, it shall be an intermediate, non-appealable order.

Subd. 5. **Annexation election.** Where the petition for annexation has not been initiated by a majority of the land-owners in number within the area to be annexed, and the area proposed for annexation is not located within the metropolitan area as defined in Minnesota Statutes, Section 473.02, Subdivision 5, the order of the commission affirming the petition for annexation shall fix a day, not less than twenty days nor more than forty days, after the entry of such an order, when an election shall be held at a place designated by the commission within the area to be annexed. The secretary shall cause a copy of the order affirming the petition, including the notice of the election, to be posted not less than 20 days before the election in three public places in the area to be annexed, and shall cause notice of the election to be published two successive weeks in a newspaper qualified as medium of official and legal publication, of general circulation, in the area to be annexed. The commission shall also appoint three electors resident in the area to act as judges of election, who shall be supervised in their duties by the commission, and shall fix the time, not less than six hours and until at least 7 o'clock p. m., when the polls shall be open at the election. The judges shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory described in the commission's order shall be entitled to vote. The ballot shall bear the words "For Annexation" and "Against Annexation" with a square before each of the phrases in one of which the owner shall make a cross to express his choice. The ballots and election supplies shall be provided and the election judges shall be paid by the petitioners or annexing municipality. Immediately upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition, and they shall then file the certificate with the secretary of the commission. If the certificate shows the majority of the votes cast were "For Annexation" the commission shall execute an annexation order. The secretary shall attach the certificate to the original petition, the original order affirming the petition as submitted or as amended in the order, and the original proofs of the posting of the election notice, and the annexation order.

Subd. 6. **Filing of annexation order.** Upon the execution of the annexation order, pursuant to subdivision 5 or subdivision 6 of this section, a certified copy shall be sent to the council of the annexing village or city, the town board of the township in which the annexation area is located, and to the individual petitioners if initiated in that manner. A certified copy of the annexation order shall be sent to the secretary of state and the county auditor of the county or counties in which the property annexed is located. The annexation shall be effective as of the date of such filing or on such later date as is fixed in the annexation order.

[1959 c 686 s 3; 1961 c 645 s 3]

414.04 ANNEXATION OF INCORPORATED PROPERTY TO A MUNICIPALITY.

Subdivision 1. **Initiating the petition.** This section provides the exclusive method of annexing one municipality to another municipality in any county containing a city of the first or second class and in any county within any metropolitan area as defined in Minnesota Statutes, Section 473.02, Subdivision 5. It shall not apply to such annexations in any other area in Minnesota. Incorporated municipalities may be annexed to contiguous municipalities which have a greater population in accordance with the following procedure: A petition for hearing on the subject of annexation of a municipality to a contiguous municipality may be initiated by resolution, either by the proposed annexed or annexing municipality, or by notice thereof to the affected municipalities by the commission of its own motion, or by resident legal voters of the proposed annexed municipality equivalent in number to 10 percent or more of the legal voters of the municipality, according to the number of votes cast for mayor at the last municipal election, or, where no mayor is elected, five percent or more of the legal voters of the municipality who voted for governor at the last general election. The term "contiguous" for the purposes

AG
C6
J-

MINNESOTA STATUTES 1961

414.04 INCORPORATION, DETACHMENT, ANNEXATION

3734

of this section shall include municipalities sharing a common boundary. The term shall also include a situation where three or more municipalities are the subject of a single petition and are all connected by common boundaries, so that each municipality shares a common boundary with at least one of the included municipalities or the annexing municipality and the annexing municipality shares a common boundary with at least one of the municipalities to be annexed, in which case the municipalities to be annexed shall be deemed contiguous to the annexing municipality. The petition shall include maps indicating the boundaries of the proposed annexed municipality and of the annexing municipality and shall set forth the quantity of land embraced in each municipality, the number of actual residents based on the last federal decennial census and the estimate of population based on the computations contained in the county auditor's office in the county wherein the municipalities are located, the existing governmental facilities such as water system, sewage, disposal, zoning, street planning, fire and police protection, and the existing debts and assessed valuation of each municipality.

Where the petition for annexation has not been initiated by the annexing municipality, a copy shall be sent to the clerk of the annexing municipality for approval or rejection by resolution of the governing body within 30 days.

*A 63
C 801
A-10*

Subd. 2. **Hearing and notice.** Upon receipt of a petition for the annexation of an incorporated municipality or upon motion of the commission made pursuant to subdivision 1 of this section, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 45 days from the date the petition was received. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, and to the chairman of the county board in which all or a part of the municipality to be annexed is located, and any duly constituted municipal or regional planning commission exercising authority or advisory jurisdiction over all or a part of the area. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the commission secretary shall also cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be annexed.

Subd. 3. **Commission's order.** Pursuant to a hearing on a petition or motion of the commission for the annexation of a municipality to an adjoining municipality, the commission shall approve the petition if it finds that the annexed municipality is so conditioned and so located as properly to be made a part of the annexing municipality, and if it finds that the annexation will be for the best interests of the municipalities. As a guide in arriving at a determination, the commission shall make findings on the factors as enumerated in subdivision 1 of this section and in addition thereto: (1) Whether the results of the annexation will be to provide more economical and efficient governmental services such as water system, sewage disposal, road maintenance, public recreation and planning, fire, and police protection. (2) The existing indebtedness of both municipalities.

The commission shall not have authority to alter the boundaries of the municipality or municipalities to be annexed. The petition shall be denied if it appears that the primary motive for the annexation is to increase the revenues of the annexing municipality and such increase bears no reasonable relation to the value of benefits conferred upon the annexed municipality. The order of the commission shall be final and if the petition is denied, no petition for the annexation of the same municipality or municipalities may be submitted within two years after the date of the commission's order, which shall be issued by the commission within a reasonable time after the termination of the hearing.

Upon completion of the annexation proceeding, the newly formed municipality shall be liable as a whole for any indebtedness thereafter incurred. The order shall provide that each municipality shall remain separately liable for its debts existing and outstanding at the time of annexation.

Where the ward system of electing councilmen exists in an annexing municipality, the commission shall establish wards in the annexed municipality consistent with the existing wards or the prescribed method of establishing wards of the annexing municipality. Where the ward system does not exist in the annexing municipality, the commission may provide for the ward system in its order in which

MINNESOTA STATUTES 1961

3735

INCORPORATION, DETACHMENT, ANNEXATION 414.04

event it shall establish not less than three nor more than seven wards in the merged municipality from which one trustee shall be elected from each ward. When more than two years have elapsed after merger, the governing body may, by a four-fifths vote, abolish the ward system.

Where the petition for annexation has not been initiated by the annexing municipality, a copy shall be sent to the clerk of the annexing municipality for approval or rejection by resolution of the governing body within 30 days. Where the petition is initiated by the annexing municipality an order approving the petition shall submit the order to the governing body or bodies of the municipality or municipalities to be annexed for approval by resolution within 30 days. If rejected by such resolution or resolutions, the proceedings are then terminated as to the municipality or municipalities rejecting. If approved, and in all other cases, the order shall then fix a day not less than 20 days nor more than 40 days, after the entry of such order, when an election shall be held at a place designated by the commission within each municipality to be annexed. The secretary shall cause a copy of the order approving the petition, including the notice of the election, to be posted not less than 20 days before the election in three public places in each municipality to be annexed, and shall cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication, of general circulation in each municipality to be annexed. The commission shall also appoint three electors resident in the area to act as judges of election and shall fix a time, not less than six hours and until at least 7 o'clock p. m., when the polls shall be open at the election. The judges from each municipality shall conduct the election in accordance with the laws or charter formerly regulating the election of municipal officers in the annexed municipality. Only voters residing within the municipality or municipalities to be annexed shall be entitled to vote. The ballot shall bear the words "For Annexation" and "Against Annexation" with a square before each of the phrases in one of which the voters shall make a cross to express his choice. The ballots and election supplies shall be provided and the judges of election shall be paid by the petitioners or the annexing municipality where the proceedings are initiated by the commission.

Subd. 4. Filing of annexation order. Upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition, and they shall then file the certificate with the secretary of the commission. If the certificate shows that a majority of all votes cast were "For Annexation" in the case of a single municipality proposed for annexation, or if the majority of the votes cast were for annexation when considering two or more municipalities proposed for annexation in the same petition, the commission shall execute an annexation order. The secretary shall attach the certificate to the original petition, the original order approving the petition as submitted or as amended in the order, and the original proofs of posting of the election notice and annexation order. The secretary shall forthwith make and transmit to the secretary of state and to the county auditor or auditors of the county or counties in which all affected municipalities are located, a certified copy of the documents to be then filed as a public record. The annexation shall be effective as of the date of such filing or on such later date as is fixed in the annexation order, and the annexing municipality shall assume and be charged with all the outstanding bonds and obligations of such annexed municipality or municipalities unless the commission has provided otherwise and in either event all moneys, claims, and properties, including real estate, and the proceeds of all taxes levied and collected and to be collected belonging to, owned, held, or possessed by such annexed municipality or municipalities shall become and be the properties of such annexing municipality with full power and authority to use and dispose of the same for public purposes as the council of such annexing municipality may deem best.

The new municipality shall assume the name of the annexing municipality unless previous to the election another name is chosen by joint resolution of a majority of the municipalities involved in the petition.

The number of license privileges existing in the municipalities prior to annexation and pursuant to state law shall not be diminished as a result of the single municipality created by the annexation.

All proper expenses incurred in the annexation proceedings shall be a charge upon the municipality initiating the proceeding. If the proceedings result in annexa-

tion, remaining unpaid charges shall be paid by the newly merged municipality. Where the annexation proceedings are initiated by the commission of its own motion, expenses shall be a charge upon the annexing municipality.

If the vote is adverse, no subsequent petition to annex the same municipality shall be entertained by the commission within two years after the election, and the expenses of the attempted annexation shall be borne by the petitioners, except where the petitioners are individuals, in which case the expense shall be borne by the municipality in which they reside.

Subd. 5. Consolidation. In any area not included in subdivision 1 of this section, whenever the boundary line of any municipality is coincident with the boundary line of any other municipality for any part of its length or where any two or more municipalities are separated in any part of their boundaries by any meandered body of water, such municipalities may be consolidated as one municipality under this subdivision. A resolution proposing consolidation shall be submitted to the councils of the two municipalities. If it is approved in identical form by the two councils, it shall be referred to the voters of each municipality at any general or special election for approval or rejection. If a majority of the voters in each municipality voting on the question vote in favor of the proposal, a certificate of the results of the election and a certified copy of the resolution shall be filed by the clerk of each municipality in the office of the county auditor of the county or counties in which the municipalities are located, and a similar certification shall be filed in the office of the secretary of state. The consolidation shall thereupon take effect in accordance with the terms of the resolution. Every resolution proposing consolidation shall contain: (1) the proposed name of the consolidated municipality; (2) the date when such consolidation shall be effective; (3) if the municipalities are villages, provisions for operation of the consolidated village under either the standard plan or any optional plan authorized by Minnesota Statutes, Chapter 412 for a village of similar size; (4) provisions on what happens to incumbent officers; (5) such other provisions relating to consolidation, not inconsistent with this section, as the councils deem necessary to effect consolidation. Where two villages are consolidated the resolution may also constitute each constituent village as a separate ward and provide for the election of at least one trustee from each ward; but any time after four years from the effective date of consolidation, the council of the village may, by resolution adopted by a four-fifths vote voting on the question of approval at a general or special election, abolish the ward system and provide for the election of all trustees at large as in other villages.

[1959 c 686 s 4; 1961 c 645 s 4]

414.05 INCORPORATING OR ANNEXING TOWNSHIPS ACCORDING TO POPULATION. **Subdivision 1. Townships containing population in excess of 2,000.** Within one month after the effective date of each federal or state census, the commission shall cause to be determined the townships which have a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township.

Subd. 2. Incorporation or annexation of such townships. The commission shall determine whether all or a part of the township area will best be served by incorporation, annexation, or to remain as a township. The land contained in such area shall be deemed to be urban or suburban in character for the purpose of incorporation or annexation.

Subd. 3. Incorporation order. If the commission determines that incorporation as a village will best serve the area, it shall issue its order providing for an election incorporating the town or part thereof or including contiguous unincorporated area not within the township as described in the order, as a village, under the same name, or in the event of duplication, under a name selected by the commission. If only a part of the township is to be incorporated the order shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be incorporated, the assessed value of the taxable property in the township, both within and without the area to be incorporated, the indebtedness, the taxes due and delinquent, and other revenues accrued but not paid to the township. The commission shall provide an election to be governed by the terms of section 414.02, subdivisions 3 and 4, and, if the majority of the votes cast are for incorporation, they shall appoint three electors resident in the area to act as judges of election who shall be supervised in their duties by the commission and who

MINNESOTA STATUTES 1961

3737

INCORPORATION, DETACHMENT, ANNEXATION 414.06

shall be paid by the town board and the first election of village officers shall be controlled by the law applicable to the first election of officers in villages newly incorporated pursuant to petition.

Subd. 4. **Annexation order.** If it is determined that annexation to an adjoining municipality will best serve the interest of the area, it shall initiate proceedings for annexation which shall be controlled as near as is practical by the law relative to the annexation of unincorporated areas.

[1959 c 686 s 5; 1961 c 645 s 5]

414.06 DETACHMENT OF PROPERTY FROM A MUNICIPALITY. Subdivision 1. **Petition for detachment.** Property which is situated within the corporate limits of and adjacent to the municipal boundary, unplatted, and occupied and used exclusively for agricultural purposes may be detached from the municipality according to the following procedure: The petition may be initiated by resolution of the municipality to which the land is attached or by all of the land owners of land to be detached if the area is less than 40 acres and by 75 percent of the owners if over 40 acres. The petition shall set forth the boundaries and the area of the land to be detached, the number and character of the buildings, the resident population, and the municipal improvements, if any, in the area.

Subd. 2. **Concurrent detachment and annexation.** Property in one municipality and contiguous to another may be concurrently detached and annexed by an adjoining municipality where that intention is signified by concurrent resolutions of the governing bodies of the annexing municipality and the municipality to be detached. Upon filing of each resolution with the commission, the commission may enter its order accomplishing the proposed detachment and annexation and such order shall be final.

Subd. 3. **Hearing and notice.** If identical petitions are submitted by the municipality and the owners of the land to be detached, as provided in subdivision 1 of this section, or in situations covered by subdivision 2 of this section, no hearing is necessary. In any other case, upon receipt of a petition, the secretary of the commission shall designate a time and place for a hearing on the petition such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the municipality to which the land is attached as the secretary may direct. The secretary shall cause a copy of the petition and notice of hearing to be sent to each member of the commission and to be sent to the council of the municipality to which the property is attached and to at least 75 percent of the owners of the property proposed for detachment, and shall cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication, of general circulation within the municipality.

A 63
C 804
D 11

Subd. 4. **Commission's order.** Pursuant to a hearing under this section pursuant to subdivision 1 of this section, the commission shall grant the petition for detachment if it finds that the requisite number of property owners have signed the petition if initiated by the property owners, that the property is unplatted and used and occupied exclusively for agricultural purposes, that the property is within the boundaries of the municipalities and is adjacent to a boundary, that the detachment would not unreasonably affect the symmetry of the settled municipality, and that the land is not needed for reasonably anticipated future development. The commission shall have authority to decrease the area of property to be detached and may include only a part of the proposed area in its order. If the tract adjoins more than one township, it shall become a part of each township, being divided by projecting through it the boundary line between the townships. The detached area may be relieved of the existing indebtedness of the municipality and be required to assume the indebtedness of the township of which it becomes a part, in such proportion as the commission shall deem just and equitable having in view the amount of taxes due and delinquent and the indebtedness of each township and the municipality affected, if any, and for what purpose the same was incurred, all in relation to the benefit inuring to the detached area as a result of the indebtedness and the last assessed value of the taxable property in each township and the municipality.

Subd. 5. **Filing of detachment order.** Upon completion of the order, the secretary of the commission shall transmit a copy thereof to the secretary of state, the

MINNESOTA STATUTES 1961

414.07 INCORPORATION, DETACHMENT, ANNEXATION

3738

county auditor or auditors of the county or counties, town board, school district, and municipality in which the land is situated. Thereupon the order is to be deemed final.

[1959 c 686 s 6; 1961 c 645 s 6]

414.07 APPEALS. Any person aggrieved by any incorporation, annexation, detachment, or annexation-detachment order of the commission may appeal to the district court upon the following grounds:

1. That the commission had no jurisdiction to act;
2. That the commission exceeded its jurisdiction;
3. That the order of the commission is arbitrary, fraudulent, capricious or oppressive or in unreasonable disregard of the best interests of the territory affected;
4. That the order is based upon an erroneous theory of law.

The appeal shall be taken in the district court in the county in which the majority of the area is located. The appeal shall not stay the effect of the order.

If the court shall determine that the action of the commission involved is unlawful or unreasonable or is not warranted by the evidence in case an issue of fact is involved, the court may vacate or suspend the action of the commission involved, in whole or in part, as the case may require, and thereupon the matter shall be remanded to the commission for further action in conformity with the decision of the court.

To render a review effectual, the aggrieved person shall file with the clerk of the district court of the county wherein the majority of the area is located, within 30 days of such order, an application for review together with the grounds upon which the review is sought.

An appeal lies from the district court to the supreme court in accordance with the provisions of Minnesota Statutes, Chapter 605.

[1959 c 686 s 7; 1961 c 645 s 7]