

CHAPTER 414

INCORPORATION, DETACHMENT, ANNEXATION

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414.01 CREATION OF A COMMISSION. Subdivision 1. A commission to be known as the Minnesota municipal commission is hereby created to conduct proceedings and issue orders for the incorporation of property into statutory cities, the detachment of property from municipalities; and the annexation of property to municipalities; the consolidation of municipalities; and the consolidation of towns with municipalities.

The legislature finds that: (1) sound urban development is essential to the continued economic growth of this state; (2) municipal government is necessary to provide the governmental services essential to sound urban development and for the protection of health, safety, and welfare in areas being used intensively for residential, commercial, industrial, institutional, and governmental purposes or in areas undergoing such development; (3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation; (4) annexation to or consolidation with existing municipalities or unincorporated areas unable to supply municipal services should be facilitated; and, (5) the consolidation of municipalities should be encouraged. It is the purpose of this chapter to empower the Minnesota municipal commission to promote and regulate development of municipalities so that the public interest in efficient local government will be properly recognized and served.

Subd. 2. The commission shall be composed of three members appointed by the governor, with the advice and consent of the senate, at least one of whom shall be learned in the law. One of the members shall be a resident of a city of the first class, one shall be a resident of the metropolitan area as defined in Minnesota Statutes, Section 473.02, Subdivision 5 excluding therefrom any resident of any city of the first class and one shall be a resident from the area outside of such metropolitan area as heretofore defined. The commission shall select from its members a chairman who shall have the powers and duties prescribed by the general law applicable to the heads of departments and agencies of the state. In proceedings before the commission for the incorporation of a statutory city, consolidation of a municipality and town or of two or more municipalities, or annexation of unincorporated land to a municipality, two county commissioners of the board of the county in which all or a majority of the affected land is located shall serve on the commission during such time as the commission shall have under consideration said matter. The secretary of the commission shall upon initiation of a proceeding for such incorporation, consolidation, or annexation notify the county auditor of the county in which the majority of the affected property is situated of the need for the appointment of the two county commissioners to the commission. At the next succeeding meeting of the county board the commissioners shall designate the two appointed and shall thereupon immediately notify the Minnesota municipal commission secretary of their action.

Subd. 3. All those appointed shall have been residents of the state for at least five years prior to the appointment. The terms of office of all appointed members of the commission in office on May 28, 1965 expire on June 30, 1965. Before June 30, 1965, the governor shall appoint their successors to take office on July

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1, 1965, and to serve the following terms and until their successors are appointed and qualify: One member for a term of two years; one member for a term of four years; and one member for a term of six years. Thereafter each appointed member shall serve for six 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. The commission shall transact business and conduct hearings by a majority of its members except as otherwise provided for by subdivision 12 but a smaller number may adjourn from time to time. 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.

Subd. 6. [Repealed, 1969 c 1139 s 87 subd 2]

Subd. 6a. Each member of the municipal commission shall receive \$50 per day when in attendance at commission meetings or hearings, or when otherwise engaged in the performance of his duties, and the county commissioners shall be paid \$25 per day for each hearing or meeting attended. The county auditors and commissioners shall be deemed to be performing duties for the county without additional compensation when serving as ex officio members of the commission. Each member of the commission shall be reimbursed for actual expenses incurred in accordance with regulations relative to travel and expenses of state officers and employees.

Subd. 7. [Repealed, 1969 c 1139 s 88 subd 2]

Subd. 7a. The municipal commission shall appoint a secretary, not a member of the commission, who shall be learned in the law and receive a salary in an amount fixed by law. He shall devote full time to the duties of his office. 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 hearings as to time and place, giving proper notice in the areas affected as hereinafter provided, keeping records and minutes, and providing secretarial service.

Subd. 8. The commission shall have authority to contract with regional, state, county, or local planning commissions or to hire expert consultants to provide specialized information and assistance, and any member of the commission conducting or participating in the conduct of any hearings, or its secretary, 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. [Repealed, 1969 c 1146 s 20]

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 reasonably 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, resolutions or ordinances 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.

Subd. 12. The commission in proceedings pursuant to this chapter may designate by resolution its secretary or any of its members to receive and report evidence. Anyone so designated shall have power to administer oaths to witnesses, examine witnesses, and receive evidence. In any proceeding in which the evidence is received by one commissioner or by the secretary so designated, such commissioner or secretary shall make a full report to the commission. Thereupon, the commission shall proceed to make its decision based on all the evidence presented to the commissioner or secretary so designated and upon the report submitted. The commission's order shall be stayed for a period of 30 days, during

which time any party of record may demand an oral review thereof by the full commission.

Subd. 13. [Repealed, 1969 c 1146 s 20]

Subd. 14. When a commission order enlarges or diminishes the area of an existing municipality or town, or creates a new municipality, the population of such municipality or town for all purposes shall be as found by the commission at its hearing, until the next federal census.

Subd. 15. When a commission order enlarges an existing municipality or creates a new municipality, the commission shall indicate in its order the estimated increased costs to such municipality as the result of such annexation or consolidation, and the time period that such municipality would be allowed a special levy for these increased costs pursuant to section 275.50, subdivision 5, clause (s). This subdivision shall apply to annexations or consolidations of municipalities in levy year 1971 or a subsequent levy year.

[1959 c 686 s 1; 1961 c 645 s 1; 1963 c 807 s 1-5; 1965 c 45 s 58; 1965 c 899 s 1-5; 1965 c 901 s 22; 1969 c 1139 s 87 subd 1; 1969 c 1139 s 88 subd 1; 1969 c 1146 s 1-6; 1973 c 123 art 5 s 7; 1973 c 621 s 1; 1973 c 650 art 4 s 18]

414.011 DEFINITIONS. Subdivision 1. For the purposes of chapter 414, the terms defined in this section have the meanings given them.

Subd. 2. "Municipality" means any city, however organized.

Subd. 3. "Incorporated land" means land within a municipality; "unincorporated land" means land outside a municipality.

Subd. 4. The terms "property," "area," and "land" mean geographical units of land within or outside a municipality, depending upon the context in which the term is used.

Subd. 5. "Property owner" means the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes, but is not limited to, vendees under a contract for deed, and mortgagors.

Subd. 6. The terms "abut," "abuts," and "abutting" refer to areas whose boundaries at least touch one another at a single point, including areas whose boundaries would touch but for an intervening roadway, railroad, waterway or parcel of publicly owned land.

[1969 c 1146 s 7; 1973 c 123 art 5 s 7]

414.02 MUNICIPAL INCORPORATION. Subdivision 1. **Initiating the incorporation proceedings.** This section provides the exclusive method of incorporating a municipality in any county containing a city of the first or second class, in any county within any metropolitan areas as defined in section 473.02, subdivision 5, or in any other area of Minnesota if the proposed new municipality is within four miles of the boundary of an existing municipality. In any other area in Minnesota the petition or resolution for incorporation 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. Hearings before the board of county commissioners shall be conducted by the secretary. Proceedings for incorporation of a municipality may be initiated by petition of 100 or more property owners or by resolution of the town board having jurisdiction 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. The petition or resolution shall be submitted to the secretary and shall state the quantity of land embraced in it, platted and unplatted, the assessed valuation of the property, both platted and unplatted, the estimated number of actual residents, the proposed name of the municipality, a brief description of the existing facilities as to water, sewage disposal, and fire and police protection, the names of all parties entitled to mailed notice under section 414.09, the reason for requesting incorporation, and shall include a map setting forth the boundaries of the territory.

Subd. 2. **Commission's hearing and notice.** Upon receipt of a petition or resolution made pursuant to subdivision 1, the secretary of the commission shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. **Commission's order.** Upon completion of the hearing the commission

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may order the incorporation if it finds that the property to be incorporated is now, or is about to become, urban or suburban in character, or that the existing township form of government is not adequate to protect the public health, safety, and welfare. The commission may deny the incorporation if the area, or a part thereof, would be better served by annexation to or consolidated with an adjacent municipality. As a guide in arriving at a determination, the commission shall consider the following factors:

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

(b) Quantity of land within the area proposed for incorporation;

(c) Present pattern of physical development in the area including residential, industrial, commercial and institutional land uses;

(d) Comprehensive plans for development of the area including development as projected by the metropolitan council or the state planning agency;

(e) Type and degree of control presently being exercised over development in the area including zoning ordinances, subdivision regulations and housing and building codes;

(f) Natural terrain of the area including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

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

(h) Existing or potential problems of environmental pollution and the need for additional services to avoid or minimize these problems;

(i) Fiscal data of the area including assessed valuation trends, mill rate trends (state, county, school district and town) and present bonded indebtedness;

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

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

(l) Adequacy of town government to deal with problems of the area.

The commission may alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character, or may exclude property that may be better served by another unit of government. Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the commission may provide for election of councilmen 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, but after four years from the effective date of an incorporation the council of the municipality may by resolution adopted by a $\frac{2}{3}$ ths vote abolish the ward system and provide for the election of all councilmen at large as in other municipalities.

The commission's order for incorporation shall provide for the election of municipality officers in accordance with section 414.09. The plan of government shall be "Optional Plan A", provided that an alternate plan may be adopted pursuant to Minnesota Statutes 1967, Section 412.551, at any time.

Subd. 3a. [Repealed, 1969 c 1146 s 20]

Subd. 4. **Effective date of incorporation.** The incorporation shall be effective upon the election and qualification of new municipality officers or on such later date as is fixed by the commission in its order.

Subd. 5. [Repealed, 1969 c 1146 s 20]

[1959 c 686 s 2; 1961 c 645 s 2; 1963 c 807 s 6, 7; 1965 c 899 s 6-11; 1969 c 1146 s 8; 1973 c 123 art 4 s 5]

414.021 CONSOLIDATION PROCEEDINGS; MUNICIPALITY AND TOWN.
Subdivision 1. **Initiating the proceeding.** This section provides the exclusive method of consolidating an existing municipality and an abutting township into a single new municipality. A proceeding may be initiated by submitting to the secretary a resolution of the municipal council together with a resolution of the

township board or a petition of 100 property owner residents of the township stating their desire to consolidate into a single new municipality.

Subd. 2. Commission's hearing and notice. Upon receipt of the resolutions, or resolution and petition, the secretary shall designate a time and place for hearing in accordance with section 414.09.

Subd. 3. Commission's order. Upon completion of the hearing the commission may order the consolidation if it finds that it will be in the best interest of the area. The consolidation may be denied if it appears that annexation of all or a part of the township territory to an adjacent municipality, would better serve the interests of the area. As a guide in arriving at its determination, the commission shall consider the following factors:

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

(b) Quantity of land within the municipality and township;

(c) Present pattern of physical development in the municipality and township including residential, industrial, commercial and institutional land uses;

(d) Comprehensive plans for development of the area including development as projected by the metropolitan council or the state planning agency;

(e) Type and degree of control presently being exercised over development in the area including zoning ordinances, subdivision regulations and housing and building codes;

(f) Natural terrain of the area including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

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

(h) Existing or potential problems of environmental pollution and the need for additional services to avoid or minimize these problems;

(i) Fiscal data of the municipality and township including assessed valuation trends, mill rate trends (state, county, school district and town) and present bonded indebtedness;

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

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

(l) Adequacy of town government to deal with problems of the town area;

(m) Availability of space within the consolidating municipality to provide for projected future growth;

(n) Plans and programs by the consolidating municipality for providing needed government services to the consolidating town;

(o) Degree of contiguity of the boundaries between the consolidating municipality and town; and

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

The commission may alter the boundaries of the proposed municipality by increasing or decreasing the area to be incorporated so as to include only that property which is now or is about to become urban or suburban in character, or may exclude property that may be better served by another unit of government.

The order shall provide for the election of new municipal officers in accordance with section 414.09. If the consolidating municipality is a statutory city, the plan of government of the new statutory city shall be Optional Plan A, provided that an alternate plan may be adopted pursuant to Minnesota Statutes 1967, Section 412.551, at any time. If the consolidating municipality is a city, the new municipality shall be governed by the home rule charter or statutory form which governs the consolidating municipality, except that any ward system for the election of councilmen shall be inoperable. The ordinances of both the consolidating municipality and the township shall continue in effect within the former boundaries until repealed by the governing body of the new municipality.

Notwithstanding any other provision of law to the contrary the commission may provide for election of councilmen 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

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new municipality because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development; but after four years from the effective date of a consolidation the council of the municipality may by resolution adopted by a four-fifths vote abolish the ward system and provide for the election of all councilmen at large.

Subd. 4. Effective date. The consolidation shall be effective upon the election and qualification of new municipal officers or on such later date as is fixed by the commission in its order. Until such effective date the town board and other officers of the consolidating town shall continue to exercise their powers and duties under the town laws in that portion of the new municipality that was formerly the town, and the council and other officers of the consolidating municipality shall continue to exercise their powers and duties in that portion of the new municipality that was formerly the municipality. Thereafter the town board and the council of the consolidating municipality shall have no jurisdiction within the new municipality, and the new municipal council and other new officers shall act in respect to any matters previously undertaken by the town board of supervisors or municipal council within the limits of the new municipality, including the making of any improvement and the levying of any special assessments therefor, in the same manner and to the same effect as if such improvement had been undertaken by the new municipality.

The new municipal council may continue or discontinue any commissions that may have previously existed in the town or former municipality.

Subd. 5. Expenses of proceeding. The new municipality shall be liable for payment of all expenses of incorporation, consolidation and annexation proceedings incurred during the last three previous years by the consolidating town and municipality.

[1969 c 1146 s 9; 1973 c 123 art 5 s 7]

414.03 [Repealed, 1969 c 1146 s 20]

414.031 ANNEXATION OF UNINCORPORATED PROPERTY TO A MUNICIPALITY BY COMMISSION ORDER. Subdivision 1. **Initiating the proceeding.** A proceeding for the annexation of unincorporated property abutting a municipality may be initiated by submitting to the secretary and the affected township one of the following:

(a) A resolution of the annexing municipality;

(b) A resolution of the township containing the area proposed for annexation;

(c) A petition of 20 percent of the property owners or 100 property owners, whichever is less, in the area to be annexed.

The petition, or resolution shall set forth the boundaries of the territory, the quantity of land within the boundaries, the number of residents, the existing public facilities and services, the names of all parties entitled to notice under section 414.09, and the reasons for requesting annexation. If the proceeding is initiated by a petition of property owners, the petition shall be accompanied by a resolution of the annexing municipality approving the annexation.

Subd. 2. [Repealed, 1973 c 621 s 9]

Subd. 3. Commission's hearing and notice. Upon receipt of a petition or resolution initiating an annexation the secretary shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 4. Commission's order. Upon completion of the hearing the commission may order the annexation if it finds that the property proposed for annexation is now, or is about to become, urban or suburban in character. The commission may in any case order the annexation if it finds that municipal government of the property proposed for annexation 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 in the best interest of the annexing municipality and of the property proposed for annexation and, if only a part of a township is to be annexed, that the remainder of the township can continue to carry on the functions of government without undue hardship. The petition shall be denied if the commission finds that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area. The annexation may be denied if it appears that

annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property. In arriving at its decision the commission shall consider the following factors:

- (a) Present population, past population growth and projected population of the property proposed for annexation and the annexing municipality;
- (b) Area of the property proposed for annexation and the annexing municipality;
- (c) Present pattern of physical development of the property proposed for annexation and the annexing municipality including residential, industrial, commercial and institutional land uses;
- (d) Comprehensive plans for development of the property proposed for annexation and the annexing municipality including projected development for the area as developed by the metropolitan council or the state planning agency;
- (e) Type and degree of control presently being exercised over development of the property proposed for annexation and the annexing municipality including zoning ordinances, subdivision regulations and housing and building codes;
- (f) Natural terrain including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;
- (g) Present governmental services being provided in the annexing municipality and the property proposed for annexation, including water and sewer service, fire and police protection, street improvements and maintenance, and recreational facilities;
- (h) Existing or potential problems of environmental pollution and the need for additional services to avoid or minimize these problems;
- (i) Fiscal data of the annexing municipality and the property proposed for annexation including assessed valuation trends, mill rate trends (state, county, school district and town) and present bonded indebtedness;
- (j) Relationship and effect of the proposed annexation on communities adjacent to the area and school districts within and adjacent to the area;
- (k) Analysis of whether the needed governmental services can best be provided through incorporation, or consolidation with or annexation to an adjacent municipality;
- (l) Adequacy of town government to adequately deal with problems of the property proposed for annexation;
- (m) Availability of space within the annexing municipality to provide for projected future growth;
- (n) Plans and programs by the annexing municipality for providing needed government services to the proposed annexed property;
- (o) Degree of contiguity of the boundaries between the annexing municipality and the proposed annexed property; and
- (p) If only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.

The commission may alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now or is about to become urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area, or to exclude property that may better be served by another unit of government.

Subd. 5. Annexation election. Where the proceeding for annexation has not been initiated by petition of a majority of the property owners within the area to be annexed, the order of the commission for annexation shall fix a day, not less than twenty days nor more than ninety days, after the entry of such an order, when an election shall be held at a place designated by the commission within the area determined by the commission to be primarily and substantially interested in or affected by the commission order. 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, 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. The commission shall appoint the necessary election judges from voters resident in the area and shall supervise them in their duties. The commission shall designate the polling place or places, using so far as possible the usual polling place or places. The

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polls shall be open at least 13 hours and until at least 8 p. m. The judges shall conduct the election so far as practicable in accordance with the laws regulating special elections. Only voters residing within the area primarily and substantially interested in or affected by 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 voter 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 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's order shall be effective in accordance with subdivision 6. The secretary shall attach the certificate to the original petition or resolution, the original order affirming the petition or resolution 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, a certified copy shall be sent to the council of the annexing 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.

[1969 c 1146 s 10; 1973 c 123 art 5 s 7; 1973 c 621 s 11]

414.032 ORDERLY ANNEXATIONS WITHIN A DESIGNATED AREA. Subdivision 1. **Initiating the proceeding.** One or more townships and one or more municipalities may designate an unincorporated area as in need of orderly annexation, and may confer jurisdiction over annexations in this area to the commission by submission of a joint resolution to the secretary. The resolution shall describe the area designated to be in need of orderly annexation. Thereafter an annexation of any part of the designated area may be initiated by submitting to the secretary a resolution of any signatory to the joint resolution, or by the commission of its own motion. Whenever the pollution control agency or other state agency pursuant to Minnesota Statutes 1971, Sections 115.03, 115.47, 115.49, or any law giving a state agency similar powers, orders a municipality to extend a municipal service to a designated unincorporated area, such an order will confer jurisdiction on the Minnesota municipal commission to consider orderly annexations within that area. Thereafter an annexation of any part of the designated area may be initiated by submitting to the secretary a resolution of the municipality or of the governing town board or by the commission of its own motion.

Subd. 2. Commission's hearing and notice. Upon receipt of a resolution for annexation of a part of the designated area the secretary shall set a time and place for a hearing in accordance with section 414.09.

Subd. 3. Upon completion of the hearing the commission may order the annexation if it finds that the area proposed for annexation is now or is about to become, urban or suburban in nature and that the annexing municipality is capable of providing the services required by the area within a reasonable time. The commission may alter the boundaries of the proposed annexation by increasing or decreasing the area so as to include that property within the designated area which is in need of municipal services or will be in need of municipal services within a reasonable time.

Subd. 4. Differential taxation. The commission shall provide that the mill levy of the annexing municipality on the area annexed shall be increased in substantially equal proportions over a period of years, not less than one nor more than one and two-thirds, to equality with the mill levy on the property already within the municipality, such period to be determined by the commission on the basis of the period reasonably required effectively to provide full municipal services to the annexed area.

Subd. 5. Effective date of annexation. The commission's order shall be effec-

tive upon the issuance of the order or at such later time as is provided by the commission in its order.

[1969 c 1146 s 11; 1973 c 621 s 2, 3; 1973 c 773 s 1]

414.033 ANNEXATION BY ORDINANCE. Subdivision 1. Except as herein after provided, unincorporated land abutting on any municipality and not included in any other municipality may be annexed to the municipality by ordinance in the manner provided in this section.

Subd. 2. If the land is owned by the municipality, the municipal council may by ordinance declare the land annexed to the municipality, and any such land is deemed to be urban in character.

Subd. 3. If the perimeter of the area to be annexed by a municipality is 60 percent or more bordered by the municipality, the municipality shall serve notice of intent to annex upon the town board. The town board shall have 60 days to serve objections with the commission. If no objections are forthcoming within the said 60-day period, such land may be annexed by ordinance. If objections are filed with the commission, the commission shall conduct hearings and issue its order as in the case of annexations under section 414.031, subdivisions 3 and 4.

Subd. 4. If the land is completely surrounded by land within the municipal limits, the municipal council may by ordinance declare the land annexed to the municipality, and any such land is deemed to be urban in character.

Subd. 5. If the land is platted, or, if unplatted, does not exceed 200 acres, the property owner or a majority of the property owners in number may petition the municipal council to have such land included within the abutting municipality and shall file copies of the petition with the commission, the town board, the county board and the municipal council of any other municipality which borders the land to be annexed. Within 60 days thereafter, the town board or the municipal council of such municipality may submit written objections to the annexation to the commission and the annexing municipality. Upon receipt of such objections, the commission shall proceed to hold a hearing and issue its order in accordance with section 414.031. If written objections are not submitted within the time specified hereunder and if the municipal council 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. If the petition is not signed by all the property owners of the land proposed to be annexed, the ordinance shall not be enacted until the municipal council has held a hearing on the proposed annexation after at least 30 days mailed notice to all property owners within the area to be annexed.

Subd. 6. Whenever a proceeding for annexation is initiated under this section and all or any part of the land is included in a proceeding for incorporation, consolidation or annexation which is pending before the commission, no action thereon shall be taken by the municipality, unless otherwise provided by an order of the commission, until final disposition has been made of the petition pending before the commission.

Subd. 7. Any annexation provided for in this section is final upon filing a copy of the ordinance with the commission, the town clerk, the county auditor, and the secretary of state.

[1969 c 1146 s 12]

414.034 COMMISSION DESIGNATION OF ORDERLY ANNEXATION AREA. Subdivision 1. **Petition of property owners.** Twenty percent of the property owners or 100 property owners, whichever is less, of an area abutting a municipality may petition the commission to have the area designated as in need of orderly annexation and shall file copies of the petition with the town board, the county board, the municipal council and the municipal council of any other municipality which borders the land proposed for annexation. The petition shall set forth the boundaries of the territory proposed for designation. Upon receipt of the petition, the secretary shall designate a time and a place for a hearing in accordance with section 414.09 except that the proceeding shall come on for hearing within 120 to 180 days from receipt by the commission of the petition. Prior to the date of hearing the municipal council designated in the petition and the affected towns may initiate a proceeding for orderly annexation within a designated area under section 414.032 including the petitioned area and the proceeding shall be dropped. Otherwise the commission shall conduct its hearing and may by order designate an area as in

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need of orderly annexation. In determining the area of need in orderly annexation, the commission shall consider the factors set forth in section 414.031, subdivision 4, insofar as applicable without regard to the boundaries or property ownership contained in the original petition. Thereafter, annexations within the designated area may be initiated by submitting to the secretary a resolution of the annexing municipality or the affected township, or by the commission of its own motion, and the proceeding shall be conducted in accordance with section 414.032, subdivisions 2 to 6.

Where the annexation proceeding is initiated by a petition of less than a majority of the property owners in the area designated for orderly annexation, the designation shall not be effective until approved in an election conducted pursuant to section 414.031, subdivision 5.

Subd. 2. Townships option. In the case of an annexation initiated under section 414.031, subdivision 1, clause (a) or (c) or under section 414.033, subdivision 3 or 5, an affected township may request discussions with the annexing municipality to designate an area as in need of orderly annexation. Such request shall be made by mail to the annexing municipality at least ten days before the initial hearing on the proceeding, and a copy shall be submitted to the secretary. Upon receipt of such request the secretary shall designate a time and a place for a hearing in accordance with section 414.09, except that the proceeding shall come on for hearing within 120 to 180 days from receipt by the commission of the document initiating the proceeding. Prior to the date of hearing the annexing municipality and the affected township may initiate a proceeding for orderly annexations within a designated area under section 414.032, and the original annexation proceeding shall be terminated. Otherwise the commission shall conduct its hearing and may by order designate an area as in need of orderly annexation. In determining the area in need of orderly annexation, the commission shall consider the factors set forth in section 414.031, subdivision 4 insofar as applicable. Thereafter, annexations within the designated area may be initiated by submitting to the secretary a resolution of the annexing municipality or the affected township, or by the commission of its own motion, and the proceeding shall be conducted in accordance with section 414.032, subdivisions 2 to 6.

[1973 c 621 s 4]

414.04 [Repealed, 1969 c 1146 s 20]

414.041 CONSOLIDATION OF TWO OR MORE MUNICIPALITIES. Subdivision 1. **Initiating the proceeding.** This section provides the exclusive procedure for consolidating abutting municipalities in the state of Minnesota. Two or more municipalities may be the subject of a single proceeding provided that each municipality shares a common boundary with at least one of the included municipalities. The proceeding shall be initiated by submitting to the secretary a resolution of a municipality, a petition signed by ten percent or more of the resident voters of a municipality, according to the number of votes cast for mayor at the last municipal election, or, where no mayor is elected at such election, five percent or more of the resident voters of the municipality who voted for governor at the last general election or the proceeding may be initiated by the commission of its own motion.

The petition or resolution shall set forth the following information about each included municipality: name, population, description of boundaries, quantity of land within the boundaries, and existing public facilities and services. The petition or resolution shall also contain a statement explaining the reasons for requesting the consolidation and the names of all parties entitled to mailed notice under section 414.09. The party initiating the proceeding shall serve copies of the petition or resolution on all of the included municipalities.

Subd. 2. Commission's hearing and notice. Upon receipt of a petition or resolution for consolidation or upon motion of the commission made pursuant to subdivision 1, the secretary shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 3. Commission's order. If the commission finds that consolidation will be for the best interests of the municipalities, it shall order the consolidation but no consolidation ordered shall be effective without resolutions of the governing bodies of the affecting municipalities approving such consolidation orders. As a guide in arriving at a determination, the commission shall consider the following factors:

(a) Present population, past population growth and projected population of the included municipalities;

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- (b) Quantity of land within the included municipalities;
- (c) Present pattern of physical development in the included municipalities including residential, industrial, commercial and institutional land uses;
- (d) Comprehensive plans for development of the area including development as projected by the metropolitan council or state planning agency;
- (e) Type and degree of control presently being exercised over development in the included municipalities including zoning ordinances, subdivision regulations, and housing and building codes;
- (f) Natural terrain of the area including general topography, major watersheds, soil conditions, and such natural features as rivers, lakes, and major bluffs;
- (g) Present governmental services being provided to the area including water and sewer service, fire and police protection, street improvements and maintenance, and recreational facilities;
- (h) Existing and potential problems of environmental pollution and the need for additional services to avoid or minimize these problems;
- (i) Fiscal data of the included municipalities including assessed valuation trends, mill rate trends (state, county, and school district) and present bonded indebtedness;
- (j) Relationship and effect of the proposed consolidation on adjacent communities and school districts within and adjacent to the municipalities proposed for consolidation;
- (k) Analysis of whether services needed by each included municipality could better be provided by an adjacent but not included municipality;
- (l) Availability of space within the included municipalities to accommodate growth;
- (m) Plans and programs under consideration for providing needed governmental services to the proposed new municipality; and
- (n) Degree of contiguity of the boundaries of the included municipalities.

The order shall provide for election of new municipal officers in accordance with section 414.09. If the most populous of the included municipalities is a statutory city, the new municipality shall be a statutory city and the plan of government shall be Optional Plan A, provided that an alternate plan may be adopted pursuant to Minnesota Statutes 1967, Section 412.551, at any time. If the most populous of the included municipalities is a city, the new municipality shall be governed by its home rule charter or the statutory form under which it is governed except that any ward system for the election of councilmen shall be inoperable. The ordinances of all of the included municipalities shall continue in effect within their former boundaries until repealed by the governing body of the new municipality.

Notwithstanding any other provision of law to the contrary, the commission may in its order establish a ward system in the new municipality, in which event it shall establish not less than three nor more than seven wards, each of which shall elect one councilman. When more than two years have elapsed after consolidation, the governing body may, by a four-fifths vote, abolish the ward system.

The new municipality shall assume the name of the most populous municipality unless previous to the election another name is chosen by joint resolution of a majority of the included municipalities.

The number of license privileges existing in the included municipalities prior to consolidation and pursuant to state law shall not be diminished as a result of the consolidation.

If the consolidation is denied, no proceeding for the consolidation of the same municipalities may be initiated within two years from the date of the commission's order unless authorized by the commission.

Subd. 4. Adoption by councils of municipalities. Notwithstanding any other provision of law to the contrary, no consolidation order of the commission involving existing municipalities shall become effective unless adopted by the council of each affected municipality by a majority vote and unless the consolidation order of the commission is approved by the qualified voters of the affected municipalities at a general or special election set according to law. The form of the ballot shall be fixed by the commission; and, if a majority of the votes cast on the question in each municipality are in favor of its adoption, the order of the commission shall become effective as provided herein.

Subd. 4a. Differential taxation. Where one municipality is receiving substan-

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tially fewer municipal services, the commission may provide that the mill levy of such a municipality shall be increased in substantially equal proportions over a period of not more than five years to equality with the mill levy in the remainder of the new municipality, such period to be determined by the commission on the basis of the period reasonably required effectively to provide substantially equal municipal services.

Subd. 5. Effective date. The consolidation shall be effective upon the election and qualification of new municipal officers, or at such later date as set by the commission in its order.

[1969 c 1146 s 13; 1973 c 123 art 5 s 7; 1973 c 621 s 5]

414.05 [Repealed, 1969 c 1146 s 20]

414.051 COMMISSION'S REVIEW OF TOWNSHIPS ACCORDING TO POPULATION. After each federal census the commission shall determine the townships which have a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township and make recommendations which it deems necessary and reasonable to the board of any such township.

[1969 c 1146 s 14]

414.06 DETACHMENT OF PROPERTY FROM A MUNICIPALITY. Subdivision 1. **Initiating the proceeding.** Property which is situated within a municipality and abutting the municipal boundary, unplatted, and occupied and used primarily for agricultural purposes may be detached from the municipality according to the following procedure. The proceeding may be initiated by submitting to the commission a resolution of the municipality to which the land is attached or by submitting to the commission a petition of all of the property owners of the land to be detached if the area is less than 40 acres or of 75 percent of the property owners if over 40 acres. The petition or resolution 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. Commission's hearing and notice. If both a resolution of the municipality and a petition by the property owners are submitted, no hearing is necessary. In any other case, upon receipt of a petition or resolution, the secretary of the commission shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. Commission's order. Upon completion of the hearing, the commission may order the detachment if it finds that the requisite number of property owners have signed the petition if initiated by the property owners, that the property is unplatted and used and occupied primarily for agricultural purposes, that the property is within the boundaries of the municipality and abuts a boundary, that the detachment would not unreasonably affect the symmetry of the detaching municipality, and that the land is not needed for reasonably anticipated future development. The 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 abuts more than one township, it shall become a part of each township, being divided by projecting through it the boundary line between the townships. The detached area may be relieved of the primary responsibility for existing indebtedness of the municipality and be required to assume the indebtedness of the township of which it becomes a part, in such proportion as the 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 municipality.

Subd. 4. Effective date of detachment. The detachment shall be effective upon the issuance of the commission's order, or at such later date, as provided by the commission in its order.

[1959 c 686 s 6; 1961 c 645 s 6; 1963 c 807 s 11; 1965 c 899 s 15; 1969 c 1146 s 15]

414.061 CONCURRENT DETACHMENT AND ANNEXATION OF INCORPORATED LAND. Subdivision 1. **Initiating the proceeding.** Property of one municipality which abuts another may be concurrently detached and annexed by the procedure set forth in this section. The proceeding shall be initiated by submitting to the secretary resolutions of both municipalities describing the land and stating their desire to detach and annex the land.

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Subd. 2. **Commission's order.** If the resolutions are in order, the commission may order the detachment and annexation.

Subd. 3. **Effective date.** The concurrent detachment and annexation shall be effective upon the issuance of the commission's order, or at such later date as provided by the commission in its order.

Subd. 4. The commission may initiate proceedings for the concurrent detachment and annexation of portions of one municipality completely surrounded by another municipality, or upon application of all of the property owners, provided, however, that in such cases the commission shall conduct hearings and issue its order as in the case of annexations of unincorporated property under section 414.031.

[1969 c 1146 s 16; 1973 c 621 s 6]

414.065 STATE LANDS, PROCEEDINGS. In any case in which the state is the fee owner of land partly or wholly within any area proposed to be annexed, incorporated, or detached, the executive council of the state of Minnesota may petition for, or consent to, any action proceeding under Minnesota Statutes, Chapter 414, if the council deems such action to be in the best interests of the state.

[1965 c 899 s 16]

414.067 APPORTIONMENT OF ASSETS AND OBLIGATIONS. Subdivision 1. **Township or municipality divided.** Upon incorporation, consolidation, annexation, or concurrent detachment and annexation under sections 414.02, 414.021, 414.031, 414.032, 414.041 and 414.061, the commission shall apportion the property and obligations of any township or municipality divided by commission order between the governmental unit adding territory and the governmental unit from which the territory was obtained. The apportionment shall be made in a just and equitable manner having in view the value of the existing township or municipal property located in the area to be added, the assets, value, and location of all the taxable property in the existing township or municipality, the indebtedness, the taxes due and delinquent, other revenue accrued but not paid to the existing township or municipality and the ability of any remainder of the township or municipality to function as an effective governmental unit. The order shall not relieve any property from any tax liability for payment for any bonded obligation, but the taxable property in the new municipality may be made primarily liable thereon.

Subd. 2. **Entire township or municipality.** When an entire township is annexed by an existing municipality, or an entire township is incorporated into a new municipality, or an entire township or municipality is consolidated into a new municipality, all money, claims, or properties, including real estate owned, held, or possessed by the annexed, incorporated or consolidated township or municipality, and any proceeds or taxes levied by such town or municipality, collected or uncollected, shall become and be the property of the new or annexing municipality with full power and authority to use and dispose of the same for public purposes as the council or new annexing municipality may deem best, subject to the rights of creditors. Any bonded indebtedness of a town or former municipality annexed to an existing municipality or incorporated or consolidated into a new municipality shall be borne only by that property within the boundaries of the former town or municipality, provided, however, the units of government concerned may by resolution of their governing bodies agree that the new municipality shall assume the bonded indebtedness of the former units of government existing and outstanding at the time of annexation, incorporation or consolidation.

Subd. 3. **Revision of tax records; redistribution of levies.** In an apportionment made under this section the commission may order the county auditor to revise tax records and respread levies at any time prior to December 15 or order the county treasurer to redistribute taxes levied and receivable.

[1969 c 1146 s 17; 1971 c 62 s 1; 1973 c 621 s 7]

414.068 ZONING AND SUBDIVISION REGULATION WITHIN ORDERLY ANNEXATION AREAS. Subdivision 1. **Area affected.** Whenever an area has

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been designated as in need of orderly annexation pursuant to sections 414.032 or 414.034 and until such time as it is actually annexed to the municipality, zoning and subdivision regulation shall be governed by this section.

Subd. 2. Zoning. If the county and townships agree to exclude the area from their zoning ordinances, the municipality may extend its zoning regulations to include the entire orderly annexation area as provided in section 462.357, subdivision 1.

If the county and township do not agree to such extraterritorial zoning by the municipality, zoning within the orderly annexation area shall be controlled by a three member committee with one member appointed from each of the municipal, town and county governing bodies. This committee shall serve as the "governing body" and "board of appeals and adjustments" for purposes of section 462.357, within the orderly annexation area.

Subd. 3. Subdivision regulations. Unless otherwise provided by joint resolution of the township and municipality, the municipality may extend its subdivision regulations to the entire orderly annexation area, pursuant to section 462.358, notwithstanding any township subdivision ordinances.

[1973 c 621 s 8]

414.07 APPEALS. Subdivision 1. Orders of commission, time limitation. All orders of the commission, whether in connection with annexation, consolidation, incorporation or detachment shall be issued within two years from the date of the first hearing thereon provided that the time may be extended for a fixed additional period upon consent of all parties of record. Failure to so order shall be deemed to be an order denying the matter before the commission. An appeal may be taken from such failure to so order in the same manner as an appeal from an order as provided in subdivision 2.

Subd. 2. Grounds for appeal. 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:

- (a) That the commission had no jurisdiction to act;
- (b) That the commission exceeded its jurisdiction;
- (c) That the order of the commission is arbitrary, fraudulent, capricious or oppressive or in unreasonable disregard of the best interests of the territory affected;
- (d) 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 affected 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 of a commission order 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; 1969 c 1146 s 18]

414.08 APPEAL TO SUPREME COURT. An appeal may be taken under the provisions of Minnesota Statutes 1961, Section 605.09, as amended, to the supreme court by the municipal commission created by Minnesota Statutes 1961, Section 414.01, Subdivision 1, from a final order or judgment made or rendered by the district court upon an appeal under Minnesota Statutes 1961, Section 414.07, when the

municipal commission determines that the final order or judgment adversely affects the public interest.

[1965 c 834 s 1]

414.09 UNIFORM PROCEDURES OF COMMISSION. Subdivision 1. **Hearings.** Proceedings initiated by the submission of a petition, resolution, or official request of a public agency, shall come on for hearing within 30 to 120 days from receipt of the document by the commission. The place of the hearing shall be in the county where a majority of the affected territory is situated, and shall be established for the convenience of the parties. The secretary shall mail notice of the hearing to the following parties: the township or municipality presently governing the affected territory; any township or municipality abutting the affected territory; the county where the affected territory is situated; and each planning agency which has jurisdiction over the affected area. Proceedings initiated by the commission of its own motion shall be set for hearing on a day at least 30 days after such mailed notice. The secretary shall cause notice of the hearing to be published for two successive weeks in a legal newspaper of general circulation in the affected area. When the commission exercises its authority to change the boundaries of the affected area so as to increase the quantity of the land, the hearing shall be recessed and reconvened upon two weeks published notice in a legal newspaper of general circulation in the affected area.

Subd. 2. **Transmittal of commission's order.** The secretary shall cause copies of the commission's order to be mailed to all parties entitled to mailed notice of hearing under subdivision 1, and any other party of record. If the order changes the boundaries of an existing municipality, or creates a new municipality, the secretary shall transmit copies of the order, the document by which the proceeding was initiated, where applicable, the notice of hearing and the proof of service and publication thereof, to the secretary of state and the auditor of the county where the affected territory is situated, for filing as a public record.

Subd. 3. **Elections of municipal officers.** An order approving an incorporation or consolidation pursuant to sections 414.02, 414.021, or 414.041 shall set a date for this election of new municipal officers not less than 45 days nor more than 60 days after the issuance of such order. The commission shall appoint an acting clerk for election purposes, at least three election judges who shall be residents of the new municipality, and shall designate polling places within the new municipality.

The acting clerk shall prepare the official election ballot. Affidavits of candidacy may be filed by any person eligible to hold municipal office not more than four weeks nor less than two weeks before the date designated by the commission for the election. At least one week before the first day to file such affidavits the acting clerk shall publish a notice in a newspaper qualified as a medium of official publication and of general circulation within the new municipality stating the first and last dates on which such affidavits may be filed, the location of the clerk's office, the clerk's office hours, and the amount of the filing fee.

The acting clerk shall publish a notice of election in a newspaper qualified as a medium of official publication and of general circulation within the new municipality for two successive weeks immediately prior to the date designated by the commission for the election. The election notice shall state the purpose, date, and polling places for the election, and shall state the time the polls shall be open, which time shall be at least five hours.

If the new municipality is a statutory city, the election shall be conducted in conformity with the requirements of the laws for conducting a statutory city election in so far as applicable. If the new municipality is a city, the election shall be

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conducted in conformity with the charter and the laws for conducting city elections in so far as applicable. Any person eligible to vote at a township or municipal election within the area of the new municipality, is eligible to vote at such election.

Any excess in the expense of conducting the election over receipts from filing fees shall be a charge against the new municipality; any excess of receipts shall be deposited in the treasury of the new municipality.

[1969 c 1146 s 19; 1973 c 123 art 5 s 7]