

CHAPTER 414

INCORPORATION, DETACHMENT, ANNEXATION

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414.01 CREATION OF THE MINNESOTA MUNICIPAL BOARD.

Subdivision 1. A board to be known as the Minnesota municipal board is hereby created to conduct proceedings and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

The legislature finds that: (1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state; (2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; and township government most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes; (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 existing municipalities of 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 board to promote and regulate development of municipalities to provide for the extension of municipal government to areas which are developed or are in the process of being developed for intensive use for residential, commercial, industrial, institutional, and governmental purposes or are needed for such purposes; and to protect the stability of unincorporated areas which are used or developed for agricultural, open space, and rural residential purposes and are not presently needed for more intensive uses; and to protect the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served.

Subd. 2. The board 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, and at least one of whom shall be a resident from outside of the metropolitan area as defined in section 473.02, subdivision 5. The board 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 board for the incorporation of a statutory city, consolidation 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 board during such time as the board shall have under consideration said matter. The executive director of the board 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

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the appointment of the two county commissioners to the board. At the next succeeding meeting of the county board the commissioners shall designate the two appointed and shall thereupon immediately notify the Minnesota municipal board executive director of their action. The county commissioners shall represent districts which do not contain any of the affected territory. If commissioners from the unaffected districts are unavailable, commissioners from the affected district may serve.

Subd. 3. All those appointed shall have been residents of the state for at least five years prior to the appointment. Each appointed member shall serve for six years.

Subd. 3a. The removal of members and filling of vacancies for members other than county commissioner members on the board shall be as provided in section 15.0575.

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

Subd. 5. The board 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 proceedings in the interest of economy and expedience. In those proceedings in which the board is composed of five members, no order of the board 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 board shall receive \$50 per day when in attendance at board meetings or hearings, or when otherwise engaged in the performance of his duties. 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 board. Each member of the board and the county commission members of the board 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 Minnesota municipal board shall appoint an executive director, not a member of the board, 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 executive director who shall be charged with conducting the administrative affairs of the board.

Subd. 8. The board 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 board conducting or participating in the conduct of any hearings, or its executive director, 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 board, 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 board 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. In proceedings pursuant to this chapter, the executive director or any board member may receive and report evidence and such person shall have power to administer oaths to witnesses, examine witnesses, and receive evidence. In any proceeding in which the evidence is received by one board member or by the executive director, the board member or executive director shall make a report of the evidence to the board. When all members of the board do not attend a hearing in a proceeding, the executive director shall cause a transcript of the hearing to be made and distributed to all board members if requested by a party to the proceeding. Thereupon, the board shall proceed to make its decision based on all the evidence presented. When the evidence is received by fewer than two permanent board members, the board's order shall be stayed for a period of 30 days, during which time any party of record may demand a rehearing by the full board.

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

Subd. 14. When a board order enlarges or diminishes the area of an existing municipality or town, the population of the annexed or detached area shall be as found by the board at its hearing. The effective date of the population change shall be the same as the effective date of the order. The board shall communicate its population finding to the state demographer who shall incorporate that data into the population estimate for the municipality or town. When a new municipality is created by an order of the board, the municipality shall request a separation census from the United States bureau of the census and bear any costs incurred.

Subd. 15. When a board order enlarges an existing municipality or creates a new municipality, the board may indicate in its order the estimated increased costs to the municipality as the result of the boundary adjustment, and the time period that the municipality would be allowed a special levy for these increased costs pursuant to section 275.50, subdivision 5.

History: 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; 1975 c 271 s 6; 1976 c 134 s 70-72; 1977 c 57 s 1; 1978 c 705 s 1-8; 1980 c 487 s 22; 1981 c 268 s 1

414.011 DEFINITIONS.

Subdivision 1. For the purposes of this chapter, 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. The

term includes, but is not limited to, vendees under a contract for deed, and mortgagors. Any reference to a percentage of property owners shall mean in number.

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.

Subd. 7. "Boundary adjustment" means any proceeding by the municipal board authorized by this chapter.

Subd. 8. "Meetings" and "hearings" includes, but is not limited to, board deliberations by electronic media.

Subd. 9. "Corporate boundary map" means a map which accurately describes the boundaries of a municipality.

Subd. 10. "Plat map" means that document recorded in the office of the county recorder in the county where the area is located.

History: 1969 c 1146 s 7; 1973 c 123 art 5 s 7; 1978 c 705 s 9,10

414.012 MAPS.

Subdivision 1. **Corporate boundary map.** A municipality initiating any boundary adjustment authorized by this chapter shall file with the municipal board a corporate boundary map. Any proposed boundary adjustment shall be delineated on a copy of the corporate boundary map.

Subd. 2. **Plat maps.** Any party initiating a boundary adjustment, which includes platted land, shall file with the municipal board maps which are necessary to support and identify the land description. The maps shall include copies of plats.

History: 1978 c 705 s 11

414.02 MUNICIPAL INCORPORATION.

Subdivision 1. **Initiating the incorporation proceedings.** This section provides the exclusive method of incorporating a municipality in Minnesota. Proceedings for incorporation of a municipality may be initiated by petition of 100 or more property owners or by resolution of the town board within an area 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 executive director and shall state the proposed name of the municipality, the names of all parties entitled to mailed notice under section 414.09, the reason for requesting incorporation, and shall include a proposed corporate boundary map.

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

Subd. 3. **Board's order.** In arriving at its decision, the board shall consider the following factors:

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

(b) Quantity of land, both platted and unplatted, within the area proposed for incorporation; the natural terrain of the area including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(c) Present pattern of physical development in the area including residential, industrial, commercial, agricultural and institutional land uses; the present transportation network and potential transportation issues, including proposed highway development;

(d) Land use controls and planning presently being utilized in the area, including comprehensive plans for development in the area and policies of the metropolitan council. If there is an inconsistency between the proposed development and the land use planning ordinance in force, the reason for the inconsistency;

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

(f) Existing or potential problems of environmental pollution and the need for additional services to resolve these problems;

(g) Fiscal data of the area, including the assessed valuation of both platted and unplatted lands and the division between homestead and nonhomestead property, and the present bonded indebtedness; and the mill rates of the county, school district, and township;

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

(i) Adequacy of town government to deliver services to the area; and

(j) Analysis of whether necessary governmental services can best be provided through incorporation or annexation to an adjacent municipality.

Based upon these factors, the board may order the incorporation if it finds that (a) the property to be incorporated is now, or is about to become, urban or suburban in character, or (b) that the existing township form of government is not adequate to protect the public health, safety, and welfare, or (c) the proposed incorporation would be in the best interests of the area under consideration. The board may deny the incorporation if the area, or a part thereof, would be better served by annexation to an adjacent municipality.

The board 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. In all cases, the board shall set forth the factors which are the basis for the decision.

Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the board may provide for election of councilmen by wards, not less than three nor more than seven in number, whose limits are prescribed in the board 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 four-fifths vote abolish the ward system and provide for the election of all councilmen at large as in other municipalities.

The board's order for incorporation shall provide for the election of municipal 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 section 412.551, at any time. The ordinances of the township in which the new municipality is located shall continue in effect until repealed by the governing body of the new municipality.

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

History: 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; 1975 c 271 s 6; 1978 c 705 s 12

414.021 [Repealed, 1978 c 705 s 33]

414.03 [Repealed, 1969 c 1146 s 20]

414.031 ANNEXATION OF UNINCORPORATED PROPERTY TO A MUNICIPALITY BY BOARD ORDER.

Subdivision 1. **Initiating the proceeding.** A proceeding for the annexation of unincorporated property abutting a municipality may be initiated by submitting to the executive director 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;
- (d) A resolution of the municipal council together with a resolution of the township board stating their desire to have the entire township annexed to the municipality.

The petition, or resolution shall set forth the boundaries of the territory proposed for annexation, 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 supporting the petition.

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

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

Subd. 4. **Board's order.** In arriving at its decision, the board 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) Quantity of land within the property proposed for annexation and the annexing municipality; and natural terrain including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;
- (c) Degree of contiguity of the boundaries between the annexing municipality and the property proposed for annexation;
- (d) Present pattern of physical development of the property proposed for annexation and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses; the present transportation network and potential transportation issues, including proposed highway development;
- (e) Land use controls and planning presently being utilized in the annexing municipality and the property proposed for annexation, including comprehensive plans for development in the area and plans and policies of the metropolitan council. If there is an inconsistency between the proposed development and the land use planning ordinance in force, the reason for the inconsistency;
- (f) Present governmental services being provided in the annexing municipality and the property proposed for annexation, including water and sewer service, fire rating and protection, police protection, street improvements and maintenance, administrative services, and recreational facilities;
- (g) Existing or potential problems of environmental pollution and the need for additional services to resolve these problems;
- (h) Plans and programs by the annexing municipality for providing needed governmental services to the property proposed for annexation;

(i) Fiscal data of the annexing municipality and the property proposed for annexation, including assessed valuation and the present bonded indebtedness, and the mill rates of the county, school district, and township;

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

(k) Adequacy of town government to deliver services to the property proposed for annexation;

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

(m) 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.

Based upon these factors, the board may order the annexation (a) if it finds that the property proposed for annexation is now, or is about to become, urban or suburban in character, or (b) if it finds that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare, or (c) if it finds that the annexation would be in the best interest of the property proposed for annexation. If only a part of a township is to be annexed, the board shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship. The board shall deny the annexation if it 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 board may deny the annexation (a) 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 or (b) if the remainder of the township would suffer undue hardship.

The board 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. If the board determines that part of the area would be better served by another municipality or township, the board may initiate and approve annexation on its own motion by conducting further hearings and issuing orders pursuant to subdivisions 3, 4, and 5. In all cases, the board shall set forth the factors which are the basis for the decision.

Subd. 4a. Proceedings initiated by joint resolution. If the proceeding has been initiated under subdivision 1, clause (d), any annexation order shall include a provision for the election of new municipal officers in accordance with section 414.09. The expanded municipality shall be governed by the home rule charter or statutory form which governs the annexing municipality, except that any ward system for the election of councilmen shall be inoperable. The ordinances of both the annexing 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 board may provide for election of councilmen by wards, not less than three nor more than seven in number, whose limits are prescribed in the board order, upon a finding that area representation is required to accord proper representation in the 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 an annexation 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.

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Until the effective date of the annexation order, the town board and other officers of the town shall continue to exercise their powers and duties under the town laws in that portion of the municipality that was formerly the town, and the council and other officers of the annexing municipality shall continue to exercise their powers and duties in that portion of the expanded municipality that was formerly the municipality. Thereafter the town board and the council of the annexing municipality shall have no jurisdiction within the 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 expanded 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 municipality.

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

Subd. 5. Annexation election. Where the proceeding for annexation has been initiated by petition of a majority of the property owners within the area to be annexed or when the board has assumed jurisdiction under subdivision 1, clause (d) and orders that the entire township named in the resolution be annexed to the city named in the resolution, no referendum is required. In all other instances the order of the board 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 board within the area determined by the board to be primarily and substantially interested in or affected by the board order. The executive director 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 board shall appoint the necessary election judges from voters resident in the area and shall supervise them in their duties. The board shall designate the polling place or places, using so far as possible the usual polling place or places. The 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 board'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 executive director of the board. If the certificate shows the majority of the votes cast were "For Annexation" the board's order shall be effective in accordance with subdivision 6. If a majority of votes were cast against the annexation, the board shall not issue an order for annexation. If the annexation is denied, or if it is defeated in the referendum, no proceeding for the annexation of substantially the same area may be initiated within two years from the date of the board's order, unless the new proceeding is initiated by a majority of the area's property owners and the petition is supported by any abutting townships and municipalities. The executive director shall upon receipt of the certificate notify all parties of record of the election results.

Subd. 6. **Effective date of annexation.** The annexation shall be effective as of the date fixed in the annexation order or on such later date as is fixed in the annexation order.

History: 1969 c 1146 s 10; 1973 c 123 art 5 s 7; 1973 c 621 s 11; 1975 c 271 s 6; 1978 c 705 s 13

414.032 [Repealed, 1978 c 705 s 33]

414.0325 ORDERLY ANNEXATIONS WITHIN A DESIGNATED AREA.

Subdivision 1. **Initiating the proceeding.** One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation and may confer jurisdiction on the board over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the executive director. The resolution shall include a description of the designated area. Thereafter, an annexation of any part of the designated area may be initiated by submitting to the executive director a resolution of any signatory to the joint resolution or by the board of its own motion. Whenever the pollution control agency or other state agency pursuant to sections 115.03, 115.071, 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 board to consider designation of the area for orderly annexation.

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

Subd. 3. **Board's order.** In arriving at its decision, the board 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) Quantity of land within the property proposed for annexation and the annexing municipality; and natural terrain including general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(c) Degree of contiguity of the boundaries between the annexing municipality and the property proposed for annexation;

(d) Present pattern of physical development of the property proposed for annexation and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses; the present transportation network and potential transportation issues, including proposed highway development;

(e) Land use controls and planning presently being utilized in the annexing municipality and the property proposed for annexation, including comprehensive plans for development in the area and plans and policies of the metropolitan council. If there is an inconsistency between the proposed development and the land use planning ordinance in force, the reason for the inconsistency;

(f) Present governmental services being provided in the annexing municipality and the property proposed for annexation, including water and sewer service, fire rating and protection, police protection, street improvements and maintenance, administrative services, and recreational facilities;

(g) Existing or potential problems of environmental pollution and the need for additional services to resolve these problems;

(h) Plans and programs by the annexing municipality for providing needed governmental services to the property proposed for annexation;

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(i) Fiscal data of the annexing municipality and the property proposed for annexation, including assessed valuation and the present bonded indebtedness, and the mill rates of the county, school district, and township;

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

(k) Adequacy of town government to deliver necessary services to the property proposed for annexation;

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

(m) 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.

Based upon these factors, the board may order the annexation if it finds that the area proposed for annexation (a) is now or is about to become urban or suburban in character and that the annexing municipality is capable of providing the services required by the area within a reasonable time; or (b) if it finds that the existing township form of government is not adequate to protect the public health, safety, and welfare; or (c) if it finds that annexation would be in the best interests of the area proposed for annexation. The board may deny the annexation if it conflicts with any provision of the joint agreement. The board 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.

If the annexation is denied, no proceeding for the annexation of substantially the same area may be initiated within two years from the date of the board's order unless the new proceeding is initiated by a majority of the area's property owners and the petition is supported by affected parties to the resolution. In all cases, the board shall set forth the factors which are the basis for the decision.

Subd. 4. Effective date of annexation. The board's order shall be effective upon the issuance of the order or at such later time as is provided by the board in its order.

Subd. 5. Planning in the area designated for orderly annexation. A joint resolution may provide for the establishment of a board to exercise planning and land use control authority within any area designated as an orderly annexation area pursuant to this section, in the manner prescribed by Minnesota Statutes 1976, Section 471.59, Subdivisions 2 to 8, inclusive.

(a) A board established pursuant to a joint resolution shall have all of the powers contained in sections 462.351 to 462.364, and shall have the authority to adopt and enforce the uniform fire code promulgated pursuant to section 299F.011.

(b) The joint resolution may provide that joint planning and land use controls shall apply to any or all parts of the area designated for orderly annexation as well as to any adjacent unincorporated or incorporated area, provided that the area to be included shall be described in the joint resolution.

(c) If the joint resolution does not provide for joint planning and land use control, the following procedures shall govern:

If the county and townships agree to exclude the area from their zoning and subdivision ordinances, the municipality may extend its zoning and subdivision regulations to include the entire orderly annexation area as provided in section 462.357, subdivision 1, and section 462.358, subdivision 1.

If the county and township do not agree to such extraterritorial zoning and subdivision regulation by the municipality, zoning and subdivision regulation within the orderly annexation area shall be controlled by a three-member commit-

tee 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 sections 462.357 and 462.358, within the orderly annexation area. The committee shall have all of the powers contained in sections 462.351 to 462.364, and shall have the authority to adopt and enforce the uniform fire code promulgated pursuant to section 299F.011.

History: 1978 c 705 s 14; 1Sp1981 c 4 art 1 s 171,172; 1982 c 424 s 116

414.033 ANNEXATION BY ORDINANCE.

Subdivision 1. Unincorporated property abutting a municipality may be annexed to the municipality by ordinance as provided for in this section.

Subd. 2. A municipal council may by ordinance declare land annexed to the municipality and any such land is deemed to be urban or suburban in character or about to become so if:

- (a) The land is owned by the municipality; or
- (b) The land is completely surrounded by land within the municipal limits.

Subd. 3. If the perimeter of the area to be annexed by a municipality is 60 percent or more bordered by the municipality and if the area to be annexed is 40 acres or less, the municipality shall serve notice of intent to annex upon the town board and the municipal board. The town board shall have 90 days from the date of service to serve objections with the board. If no objections are forthcoming within the said 90 day period, such land may be annexed by ordinance. If objections are filed with the board, the board shall conduct hearings and issue its order as in the case of annexations under section 414.031, subdivisions 3 and 4.

Subd. 4. [Repealed, 1978 c 705 s 33]

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, within ten days thereafter, shall file copies of the petition with the board, the town board, the county board and the municipal council of any other municipality which borders the land to be annexed. Within 90 days from the date of service, the town board or the municipal council of such abutting municipality may submit written objections to the annexation to the board and the annexing municipality. Upon receipt of such objections, the board shall proceed to hold a hearing and issue its order in accordance with section 414.031, subdivisions 3, 4, and 5. If written objections are not submitted within the time specified hereunder and if the municipal council determines that property proposed for the annexation is now or is about to become urban or suburban in character, 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 another boundary adjustment proceeding pending before the board, no action thereon shall be taken by the municipality, unless otherwise provided by an order of the board, until final disposition has been made of the petition pending before the board. Under this section the board will accept a waiver from all parties having a right to object, stating they have no objections to the proposed annexation and waiving the 90 day period before an annexation ordinance may be adopted.

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Subd. 7. Any annexation ordinance provided for in this section must be filed with the board, the township, the county auditor and the secretary of state and is final on the date the ordinance is approved by the board.

Subd. 8. [Repealed, 1980 c 487 s 23]

History: 1969 c 1146 s 12; 1975 c 271 s 6; 1978 c 705 s 15-21; 1979 c 50 s 52

414.034 [Repealed, 1978 c 705 s 33]

414.035 DIFFERENTIAL TAXATION.

Whenever a board order, under sections 414.031, 414.0325 or 414.033, annexes part or all of a township to a municipality, the board may provide that the mill levy of the annexing municipality on the area annexed shall be increased in substantially equal proportions over not less than two nor more than six years to equality with the mill levy on the property already within the municipality. The appropriate period, if any, shall be based on the time reasonably required to effectively provide full municipal services to the annexed area.

History: 1978 c 705 s 22; 1979 c 50 s 53

414.036 MUNICIPAL REIMBURSEMENT.

When a board order under section 414.0325 annexes part of a town to a municipality, the orderly annexation agreement between the town and municipality may provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the board order. The reimbursement shall be completed in substantially equal payments over not less than two nor more than six years from the time of annexation.

History: 1981 c 189 s 1

414.04 [Repealed, 1969 c 1146 s 20]

414.041 CONSOLIDATION OF TWO OR MORE MUNICIPALITIES.

Subdivision 1. **Initiating the proceeding.** Two or more municipalities may be the subject of a single proceeding provided that each municipality abuts at least one of the included municipalities. The proceeding shall be initiated in one of the following ways:

(a) Submitting to the executive director a resolution of the city council of each affected municipality;

(b) Submitting to the executive director a petition signed by five percent or more of the resident voters of a municipality who voted for governor at the last general election; or

(c) By the board on its own motion.

The petition or resolution shall set forth the following information about each included municipality: name, description of boundaries, 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. **Appointment of consolidation commission.** Upon receipt of a petition or a resolution requesting consolidation or upon the board's own motion, the board shall appoint a consolidation commission from a list of ten candidates submitted by each affected city council. The commission shall be composed of not fewer than five members from each affected municipality. From a separate list of three persons submitted by each affected city council, the board shall appoint a commission chairperson who is not a resident of an affected municipality but who resides in an affected county.

No person is disqualified from serving on a consolidation commission by reason of holding other elected or appointed office. Consolidation commission members shall hold office until a consolidation report has been issued by the commission. The board shall fill vacancies in the commission by appointment. The consolidation commission shall make rules with reference to its operation and procedures including quorum requirements with reference to its operations and procedures.

Subd. 3. Commission's hearing and report. The consolidation commission shall conduct hearings regarding the proposed consolidation. The hearings shall include, but are not limited to, the following subjects:

(a) The contents of any city charter for the proposed consolidated city or the form of government of the proposed consolidated city;

(b) Analysis of whether a ward system shall be included in the form of government of the proposed consolidated city; and

(c) Each factor considered by the board under subdivision 5, clauses (a) to (i).

Based on these factors and upon other matters which come before the consolidation commission, the commission shall issue a report to the municipal board with findings and recommendations within two years from the date of the board's initial appointment of the commission.

Subd. 4. Board's hearing and notice. Upon receipt of the commission's report, the executive director shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 4a. Differential taxation. Where one municipality is receiving substantially fewer municipal services, the board 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 board on the basis of the period reasonably required effectively to provide substantially equal municipal services.

Subd. 5. Board's order. In arriving at its decision, the board shall consider the following factors:

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

(b) Quantity of land within the included municipalities; and natural terrain including general topography, major watersheds, soil conditions, and such natural features as rivers, lakes and major bluffs;

(c) Degree of contiguity of the boundaries between the included municipalities;

(d) Analysis of whether present planning and physical development in the included municipalities indicates that the consolidation of these municipalities will benefit planning and land use patterns in the area; the present transportation network and potential transportation issues, including proposed highway development;

(e) Analysis of whether consolidation of the included municipalities is consistent with comprehensive plans for the area;

(f) Analysis of whether governmental services now available in the included municipalities can be more effectively or more economically provided by consolidation;

(g) Analysis of whether there are existing or potential environmental problems and whether municipal consolidation will help improve such conditions;

(h) Analysis of tax and governmental aid issues involved in the consolidation of the included municipalities; and

- (i) Analysis of the effect of consolidation on area school districts.
- (j) Analysis of the applicability of the state building code.

The board shall consider and may accept, amend, return to the commission for amendment or further study, or reject the commission's findings and recommendations based upon the board's written determination of what is in the best interests of the affected municipalities.

The board shall order the consolidation if it finds that consolidation will be for the best interests of the municipalities. In all cases, the board shall set forth the factors which are the basis for the decision.

If the board orders consolidation, it 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 section 412.551, at any time. If the most populous of the included municipalities is a home rule charter city or organized under a statute other than chapter 412, 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. If the commission's findings and recommendations include a proposed home rule charter for the new municipality, the board may in its order combine the issue of the adoption of the charter and the vote on approval of the order for consolidation into one question on the ballot, and shall submit it in a special or general election as provided in section 410.10. 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 board 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 or by the consolidation commission.

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 or defeated in a referendum, no proceeding for the consolidation of the same municipalities may be initiated within two years from the date of the board's order unless authorized by the board.

Subd. 6. Final approval of the consolidation. (a) If the consolidation was initiated by a petition of the resident voters of a municipality, the board's order for consolidation shall be final upon approval by resolution of the city councils in each of the affected municipalities unless ten percent or more of the resident voters of an affected municipality who voted for governor at the last general election petition the city council for a referendum on the consolidation. The petition must be submitted within 90 days of the final date of the board's order or the date of final approval of the board's order by the city councils, whichever is later. Upon receipt and verification of the petition, the board shall order the municipalities to conduct separate referenda at a general or special election in each municipality on the same day, and the referenda shall be held within six months of the receipt of the petition. Costs of the respective referenda shall be borne by the respective municipality. A majority of those voting in each city must approve the proposed consolidation. The results of the referenda shall be certified to the executive

director of the municipal board by the chief election judge within ten days after the referenda. The executive director shall upon receipt of the certificate notify all parties of the election results:

(b) If the consolidation was initiated by a city council resolution of each affected municipality, the board's order for consolidation shall be final unless ten percent or more of the resident voters of an affected municipality petition for a referendum as provided in clause (a).

(c) If the consolidation was initiated by the board's own motion, no consolidation order of the board 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 board 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 board; and, if a majority of the votes cast on the question in each municipality are in favor of its adoption, the order of the board shall become effective as provided herein.

(d) Notwithstanding a disapproval of the board's order for consolidation by a city council of an affected municipality required to approve the board's order in clause (a) or (c), the board's order for consolidation shall nevertheless be deemed approved by that city council if ten percent or more of the resident voters of that municipality who voted for governor at the last general election petition the city council for a referendum on the consolidation as provided in clause (a), and a majority of those voting in that municipality approve the board's order for consolidation.

Subd. 7. Differential taxation. Where one municipality is receiving substantially fewer municipal services, the board 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 board on the basis of the period reasonably required effectively to provide substantially equal municipal services.

Subd. 8. 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 board in its order.

History: 1969 c 1146 s 13; 1973 c 123 art 5 s 7; 1973 c 621 s 5; 1975 c 271 s 6; 1978 c 705 s 23; 1979 c 287 s 1

414.05 [Repealed, 1969 c 1146 s 20]

414.051 BOARD'S REVIEW OF TOWNSHIPS ACCORDING TO POPULATION.

After each federal census the board may 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.

History: 1969 c 1146 s 14; 1975 c 271 s 6; 1981 c 357 s 106

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, rural in character and not developed for urban residential, commercial, or industrial purposes may be detached from the municipality according to the following procedure. The proceeding may be initiated by submitting to the board a resolution of the municipality to which the land is attached or by submitting to the board 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. **Board's hearing and notice.** If both a resolution of the municipality and a petition by all the property owners are submitted, no hearing is necessary. In any other case, upon receipt of a petition or resolution, the executive director of the board shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. **Board's order.** Upon completion of the hearing, the board 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 rural in character and not developed for urban residential, commercial or industrial 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 board may deny the detachment if it finds that the remainder of the municipality cannot continue to carry on the functions of government without undue hardship. The board shall have authority to decrease the area of property to be detached and may include only a part of the proposed area to be detached. 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 board 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 board's order, or at such later date, as provided by the board in its order.

History: 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; 1975 c 271 s 6; 1978 c 705 s 24

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 executive director resolutions of both municipalities describing the land and stating their desire to detach and annex the land.

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

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

Subd. 4. **Board initiation.** The board may initiate proceedings for the concurrent detachment and annexation of portions of one municipality completely surrounded by another municipality, on its own motion or upon the petition of all of the owners of property in the completely surrounded area. In such cases the

board shall conduct hearings and issue its order as in the case of consolidations of two or more municipalities under sections 414.041, subdivisions 3 and 5, and 414.09.

Subd. 4a. **Property not joining major portion of municipality.** Upon the petition of all of the owners of property of a portion of a municipality which at no point joins the major portion of the municipality but which at some point joins another municipality the board may initiate proceedings for the concurrent detachment and annexation of said portion. In such cases the board shall conduct hearings and issue its order as in the case of consolidations of two or more municipalities under sections 414.041, subdivisions 3 and 5, and 414.09.

History: 1969 c 1146 s 16; 1973 c 621 s 6; 1975 c 271 s 6; 1978 c 705 s 25-27

414.063 JOINT AGREEMENTS.

After notice and hearing as provided in section 414.09, the board may include provisions of joint agreements between political subdivisions in its orders.

History: 1978 c 705 s 28

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 part of a boundary adjustment, the executive council of the state of Minnesota may petition for, or consent to, any action proceeding under this chapter, if the council deems such action to be in the best interests of the state.

History: 1965 c 899 s 16; 1978 c 705 s 29

414.067 APPORTIONMENT OF ASSETS AND OBLIGATIONS.

Subdivision 1. **Township or municipality divided.** Whenever the board divides an existing governmental unit, the board may apportion the property and obligations 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 a municipality is consolidated into a new municipality, all money, claims, or properties, including real estate owned, held, or possessed by the annexed, incorporated 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 board 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.

History: 1969 c 1146 s 17; 1971 c 62 s 1; 1973 c 621 s 7; 1975 c 271 s 6; 1978 c 705 s 30

414.068 [Repealed, 1978 c 705 s 33]

414.07 APPEALS.

Subdivision 1. **Orders of board, time limitation.** All orders of the board 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 board. 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 order of the board may appeal to the district court upon the following grounds:

- (a) That the board had no jurisdiction to act;
- (b) That the board exceeded its jurisdiction;
- (c) That the order of the board 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. All notices and other documents shall be served on both the executive director and the attorney general's assistant assigned to the board.

If the court shall determine that the action of the board 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 board involved, in whole or in part, as the case may require, and thereupon the matter shall be remanded to the board for further action in conformity with the decision of the court.

To render a review of a board 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 the rules of civil appellate procedure.

History: 1959 c 686 s 7; 1961 c 645 s 7; 1969 c 1146 s 18; 1975 c 271 s 6; 1976 c 239 s 42; 1978 c 705 s 31

414.08 APPEAL TO SUPREME COURT.

An appeal may be taken under the provisions of rule 103.03 of the rules of civil appellate procedure, to the supreme court by the Minnesota municipal board 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 Minnesota municipal board determines that the final order or judgment adversely affects the public interest.

History: 1965 c 834 s 1; 1975 c 271 s 6; 1976 c 239 s 43

414.09 UNIFORM PROCEDURES OF BOARD.

Subdivision 1. **Hearings.** Proceedings initiated by the submission of an initiating document or by the board of its own motion shall come on for hearing within 30 to 120 days from receipt of the document by the board or from the date of board action. In any proceeding before the board and upon the request of any party, the board shall meet physically rather than by means of electronic media. 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 executive director 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. The executive director 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 board 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 board's order.** The executive director shall cause copies of the board's order to be mailed to all parties entitled to mailed notice of hearing under subdivision 1, the secretary of state, the department of revenue, the state demographer, individual property owners if initiated in that manner, and any other party of record.

Subd. 3. **Elections of municipal officers.** An order approving an incorporation or consolidation pursuant to this chapter 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 board 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 board 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 board 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.

The election shall be conducted in conformity with the charter and the laws for conducting municipal elections insofar 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.

History: 1969 c 1146 s 19; 1973 c 123 art 5 s 7; 1975 c 271 s 6; 1976 c 44 s 31; 1978 c 705 s 32