

## CHAPTER 414

### MUNICIPAL BOUNDARY ADJUSTMENTS

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#### 414.01 ENABLING PROVISIONS FOR MUNICIPAL BOUNDARY ADJUSTMENTS.

Subdivision 1. **A duty of chief administrative law judge.** The chief administrative law judge shall conduct proceedings, make determinations, and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

Subd. 1a. **Legislative findings.** 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) joint resolutions for orderly annexation, consolidation of municipalities, mergers of towns and municipalities, long-range joint powers planning or other cooperative efforts among counties, cities, and towns should be encouraged.

Subd. 1b. **Goals in promoting, regulating municipal development.** The chief administrative law judge may promote and regulate development of municipalities:

(1) 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

(2) 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

(3) 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. [Repealed, 2002 c 223 s 29]

Subd. 3. [Repealed, 1996 c 303 s 19]

Subd. 3a. [Repealed, 1996 c 303 s 19]

Subd. 4. [Repealed, 1996 c 303 s 19]

Subd. 5. **Consolidation of proceedings.** The chief administrative law judge may order the consolidation of separate proceedings in the interest of economy and expedience.

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 [Repealed, 1969 c 1139 s 87 subd 2]

Subd. 6a. [Repealed, 2002 c 223 s 29]

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 [Repealed, 1969 c 1139 s 88 subd 2]

Subd. 7a. [Repealed, 2008 c 196 art 1 s 22]

Subd. 8. **Planning commission contracts, consultants.** The chief administrative law judge may contract with regional, state, county, or local planning commissions and hire expert consultants to provide specialized information and assistance.

Subd. 8a. **Powers of conductor of proceedings.** Any person conducting a proceeding under this chapter may administer oaths and affirmations; receive testimony of witnesses, and the production of papers, books, and documents; examine witnesses; and receive and report evidence. Upon the written request of a presiding administrative law judge or a party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents material to any proceeding under this chapter. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Subd. 9. [Repealed, 1969 c 1146 s 20]

Subd. 10. **Rulemaking authority.** To carry out the duties and powers imposed upon the chief administrative law judge under this chapter, the chief administrative law judge may adopt the rules, that are reasonably necessary, in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state.

Subd. 11. **Schedule of filing fees.** The chief administrative law judge 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.

Subd. 12. **Request for hearing transcripts; costs.** Any party may request the chief administrative law judge to cause a transcript of the hearing to be made. Any party requesting a copy of the transcript is responsible for its costs.

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

Subd. 14. **Population of changed territory, new municipality.** (a) When an order or approval letter under this chapter enlarges or diminishes the area of an existing municipality or town, the chief administrative law judge shall communicate the order or approval letter to the municipality and the state demographer. The municipality shall prepare an estimate of population and of the number of households for the annexed or detached area of the municipality or town. The estimate shall be certified by the state demographer. The estimate must estimate the population as of the effective date of the order or approval letter and must be so dated.

(b) When a new municipality is created by an order under this chapter, the municipality shall request a separation census from the United States Bureau of the Census and bear any costs incurred.

Subd. 15. **Increased costs, levy period.** When an order under this chapter enlarges an existing municipality or creates a new municipality, the order may indicate 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 levy for these increased costs.

Subd. 16. **Compelled meetings; report.** In any proceeding under this chapter, the chief administrative law judge or conductor of the proceeding may at any time in the process require representatives from any petitioning property owner or involved city, town, county, political subdivision, or other governmental entity to meet together to discuss resolution of issues raised by the petition or order that confers jurisdiction on the chief administrative law judge and other issues of mutual concern. The chief administrative law judge or conductor of the proceeding may determine which entities are required to participate in these discussions. The chief administrative law judge or conductor of the proceeding may require that the parties meet at least three times during a 60-day period. The parties shall designate a person to report to the chief administrative law judge or conductor of the proceeding on the results of the meetings immediately after the last meeting. The parties may be granted additional time at the discretion of the chief administrative law judge or conductor of the proceedings.

Any proposed resolution or settlement of contested issues that results in a municipal boundary change, places conditions on any future municipal boundary change, or results in the withdrawal of an objection to a pending proceeding or the withdrawal of a pending proceeding must be filed with the chief administrative law judge and is subject to the applicable procedures and statutory criteria of this chapter.

Subd. 17. **Data from state agencies.** The chief administrative law judge may request information from any state department or agency in order to assist in carrying out the chief administrative law judge's duties under this chapter. The department or agency shall promptly furnish the requested information.

**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 1,88 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; 1983 c 305 s 24; 1985 c 79 s 1; 1985 c 248 s 70; 1986 c 444; 1987 c 384 art 2 s 1; 1Sp1989 c 1 art 5 s 29; 1994 c 511 s 1,2; 1996 c 303 s 1-7; 1997 c 87 s 3; 2002 c 223 s 1; 2006 c 270 art 2 s 2; 2008 c 196 art 1 s 1-4; art 2 s 15

#### **414.011 DEFINITIONS.**

Subdivision 1. **Application.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

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

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

Subd. 4. **Property, area, land.** 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.** "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. **Abut, abuts, abutting.** 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.** "Boundary adjustment" means any proceeding authorized by this chapter.

Subd. 8. [Repealed, 2002 c 223 s 29]

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

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

Subd. 11. [Repealed, 2008 c 196 art 1 s 22]

Subd. 12. **Chief administrative law judge.** "Chief administrative law judge" means the chief administrative law judge of the state Office of Administrative Hearings or the delegate of the chief administrative law judge under section 14.48.

**History:** 1969 c 1146 s 7; 1973 c 123 art 5 s 7; 1978 c 705 s 9,10; 2002 c 223 s 2,3; 2008 c 196 art 1 s 5

#### **414.012 FILING OF MAPS IN BOUNDARY ADJUSTMENT PROCEEDINGS.**

Subdivision 1. **Corporate boundary map.** A municipality initiating any boundary adjustment authorized by this chapter shall file with the chief administrative law judge 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 chief administrative law judge maps which are necessary to support and identify the land description. The maps shall include copies of plats.

**History:** 1978 c 705 s 11; 2002 c 223 s 4; 2008 c 196 art 2 s 15

#### **414.02 EXCLUSIVE METHOD OF MUNICIPAL INCORPORATION.**

Subdivision 1. **Initiating the 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 chief administrative law judge 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. 1a. **Notice of intent to incorporate.** (a) At least 30 days before submitting the petition or resolution to the chief administrative law judge under this section, the township must serve the clerk of each municipality and each township that is contiguous to the township by certified mail a notice of the township's intent to incorporate.

(b) If the proceedings for incorporation are initiated by the requisite number of property owners, the notice of intent to incorporate must be served by the property owner or owners or designee in the manner required under this paragraph. The property owner or owners or designee must serve a notice of intent to incorporate on the town board of the township containing the area proposed for incorporation. The property owner or owners or designee must also serve the clerk of each municipality and each township that is contiguous to the area proposed for incorporation by certified mail a notice of intent to incorporate.

Subd. 2. **Hearing time, place.** Upon receipt of a petition or resolution made pursuant to subdivision 1, the chief administrative law judge shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. **Relevant factors, order.** (a) In arriving at a decision, the chief administrative law judge shall consider the following factors:

(1) present population and number of households, past population and projected population growth for the subject area;

(2) quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(3) present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses;

(4) the present transportation network and potential transportation issues, including proposed highway development;

(5) land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land use controls;

(6) existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services;

(7) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

(8) fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues;

(9) relationship and effect of the proposed action on affected and adjacent school districts and communities;

(10) whether delivery of services to the subject area can be adequately and economically delivered by the existing government;

(11) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment;

(12) degree of contiguity of the boundaries of the subject area and adjacent units of local government; and

(13) analysis of the applicability of the State Building Code.

(b) Based upon these factors, the chief administrative law judge may order the incorporation on finding that:

(1) the property to be incorporated is now, or is about to become, urban or suburban in character; or

(2) that the existing township form of government is not adequate to protect the public health, safety, and welfare; or

(3) the proposed incorporation would be in the best interests of the area under consideration.

(c) The chief administrative law judge may deny the incorporation if the area, or a part thereof, would be better served by annexation to an adjacent municipality.

(d) The chief administrative law judge 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. The chief administrative law judge may also alter the boundaries of the proposed incorporation so as to follow visible, clearly recognizable physical features for municipal boundaries.

(e) In all cases, the chief administrative law judge shall set forth the factors which are the basis for the decision.

(f) Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the chief administrative law judge may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the chief administrative law judge's 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 council members at large as in other municipalities.

(g) The chief administrative law judge'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.

(h) 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 chief administrative law judge's 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; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1996 c 303 s 8; 2002 c 223 s 5; 2006 c 270 art 2 s 3; 2008 c 196 art 1 s 6; art 2 s 15; 2009 c 86 art 1 s 69

**414.021** [Repealed, 1978 c 705 s 33]

**414.03** [Repealed, 1969 c 1146 s 20]

**414.031 ANNEXING UNINCORPORATED PROPERTY; CHIEF ADMINISTRATIVE LAW JUDGE'S ORDER.**

Subdivision 1. **Initiating the proceeding.** (a) A proceeding for the annexation of unincorporated property abutting a municipality may be initiated by submitting to the chief administrative law judge and the affected township one of the following:

- (1) a resolution of the annexing municipality;
- (2) a resolution of the township containing the area proposed for annexation;
- (3) a petition of 20 percent of the property owners or 100 property owners, whichever is less, in the area to be annexed;
- (4) 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.

(b) 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.

(c) 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. 1a. **Notice of intent to annex.** At least 30 days before submitting a petition or resolution to the chief administrative law judge under this section, the petitioning municipality or petitioning property owner or supporting municipality must serve the township clerk of the affected township by certified mail a notice of the petitioning municipality's or the petitioning property owner's intent to annex property within the township. The notice must clearly identify the boundaries of the area proposed to be annexed.

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

Subd. 3. **Hearing time, place.** Upon receipt of a petition or resolution initiating an annexation, the chief administrative law judge shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 3a. **Presiding administrative law judge; tour.** During the evidentiary hearing process, the presiding administrative law judge shall tour the proposed annexation area along with at least one representative of each of the affected towns and municipalities. Prior to the tour of the proposed annexation area, the affected towns and municipalities shall agree on the route or the administrative law judge shall determine the route for the affected towns and municipalities and resolve all disputes regarding the tour.

Subd. 4. **Relevant factors, order.** (a) In arriving at a decision, the presiding administrative law judge shall consider the following sources and factors:

(1) recordings and public documents from joint informational meetings under section 414.0333 relevant to other factors listed in this subdivision;

(2) present population and number of households, past population and projected population growth of the annexing municipality and subject area and adjacent units of local government;

(3) quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(4) degree of contiguity of the boundaries between the annexing municipality and the subject area;

(5) present pattern of physical development, planning, and intended land uses in the subject area and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses and the impact of the proposed action on those land uses;

(6) the present transportation network and potential transportation issues, including proposed highway development;

(7) land use controls and planning presently being utilized in the annexing municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore;

(8) existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of said services;

(9) the implementation of previous annexation agreements and orders;

(10) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

(11) plans and programs by the annexing municipality for providing needed and enhanced governmental services to the subject area in a cost-effective and feasible manner within a reasonable time from the date of the annexation;

(12) an analysis of the fiscal impact on the annexing municipality, the subject area, and adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township;

(13) relationship and effect of the proposed action on affected and adjacent school districts and communities;

(14) adequacy of town government to deliver services to the subject area;

(15) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment;

(16) 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; and



(17) information received by the presiding administrative law judge from the tour required under subdivision 3a.

(b) Based upon the factors, the presiding administrative law judge may order the annexation on finding:

(1) that the subject area is now, or is about to become, urban or suburban in character;

(2) that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare; or

(3) that the annexation would be in the best interest of the subject area.

(c) If only a part of a township is to be annexed, the presiding administrative law judge shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship.

(d) The presiding administrative law judge shall deny the annexation on finding that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.

(e) The presiding administrative law judge may deny the annexation on finding:

(1) 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

(2) that the remainder of the township would suffer undue hardship.

(f) The presiding administrative law judge 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.

(g) The presiding administrative law judge may also alter the boundaries of the proposed annexation so as to follow visible, clearly recognizable physical features.

(h) If the presiding administrative law judge determines that part of the area would be better served by another municipality or township, the presiding administrative law judge may initiate and approve annexation by conducting further hearings and issuing orders pursuant to subdivisions 3 and 4.

(i) In all cases, the presiding administrative law judge shall set forth the factors which are the basis for the decision.

**Subd. 4a. Providing for election of new municipal officers.** (a) Any annexation order under this section for annexation by a single municipality of an entire township shall include a provision for the election of new municipal officers in accordance with section 414.09. The chief administrative law judge, or the chief administrative law judge's designee, may also order an election of new municipal officers in accordance with section 414.09 as part of any other annexation order under this section if the chief administrative law judge or the chief administrative law judge's designee determines that such an election would be equitable.

(b) 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 council members shall be inoperable.

(c) 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.

(d) Notwithstanding any other provision of law to the contrary, the chief administrative law judge, or the chief administrative law judge's designee, may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the chief administrative law judge's 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 council members at large.

(e) 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.

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

Subd. 5. [Repealed, 1992 c 556 s 12]

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

Subd. 7. **Copy to county auditors.** A copy of the annexation order must be delivered immediately by the chief administrative law judge to the appropriate county auditors.

Subd. 8. **Timing for tax levy.** For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year.

**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; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1991 c 291 art 12 s 22; 1996 c 303 s 9; 2002 c 223 s 6; 2002 c 235 s 1; 2006 c 270 art 2 s 4,5; 2008 c 196 art 1 s 7-9; art 2 s 15

**414.032** [Repealed, 1978 c 705 s 33]

#### **414.0325 ORDERLY ANNEXATION IN DESIGNATED UNINCORPORATED AREA.**

Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. One or more municipalities, by joint resolution with the county, may designate an

unincorporated area in which there is no organized township government as in need of orderly annexation.

(b) A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed for purposes of this chapter.

(c) The joint resolution will confer jurisdiction on the chief administrative law judge over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the chief administrative law judge.

(d) The resolution shall include a description of the designated area and the reasons for designation.

(e) Thereafter, an annexation of any part of the designated area may be initiated by:

(1) submitting to the chief administrative law judge a resolution of any signatory to the joint resolution; or

(2) the chief administrative law judge.

(f) Whenever a state agency, other than the pollution control agency, orders a municipality to extend a municipal service to an area, the order confers jurisdiction on the chief administrative law judge to consider designation of the area for orderly annexation.

(g) If a joint resolution designates an area as in need of orderly annexation and states that no alteration of its stated boundaries is appropriate, the chief administrative law judge may review and comment, but may not alter the boundaries.

(h) If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the chief administrative law judge is necessary, the chief administrative law judge may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.

Subd. 1a. **Electric utility service notice.** At least 60 days before a petition is filed under this section or section 414.033, the petitioner must notify the municipality that the petitioner intends to file a petition for annexation. At least 30 days before a petition is filed for annexation, the petitioner must be notified by the municipality that the cost of electric utility service to the petitioner may change if the land is annexed to the municipality. The notice must include an estimate of the cost impact of any change in electric utility services, including rate changes and assessments, resulting from the annexation.

Subd. 1b. **Notice of intent to designate an area.** At least ten days before the municipality or township adopts an orderly annexation agreement, a notice of the intent to include property in an orderly annexation area must be published in a newspaper of general circulation in both the township and municipality. The notice must clearly identify the boundaries of the area proposed to be included in the orderly annexation agreement. The cost of providing notice must be equally divided between the municipality and the township, unless otherwise agreed upon by the municipality and the township. This subdivision applies only to the initial designation to include property in an orderly annexation area subject to the orderly annexation agreement, or any expansion of the orderly annexation area subject to the agreement, and not to any subsequent annexation of any property from within the designated area. This subdivision also does not apply

when the orderly annexation agreement only designates for immediate annexation property for which all of the property owners have petitioned to be annexed.

Subd. 2. **Hearing time, place.** Upon receipt of a resolution for annexation of a part of the designated area, the chief administrative law judge shall set a time and place for a hearing in accordance with section 414.09.

Subd. 3. **Relevant factors, order.** (a) In arriving at a decision, the chief administrative law judge shall consider the factors in section 414.031, subdivision 4.

(b) Based upon factors in section 414.031, subdivision 4, the chief administrative law judge may order the annexation:

(1) on finding that the subject area 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

(2) on finding that the existing township form of government is not adequate to protect the public health, safety, and welfare; or

(3) on finding that annexation would be in the best interests of the subject area.

(c) The chief administrative law judge may deny the annexation if it conflicts with any provision of the joint agreement.

(d) The chief administrative law judge 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.

(e) 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 denial 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.

(f) In all cases, the chief administrative law judge shall set forth the factors which are the basis for the decision.

Subd. 4. **Effective date of annexation.** The chief administrative law judge's order shall be effective upon the issuance of the order or at such later time as is provided in the order.

Subd. 4a. **Copy to county auditors.** A copy of the annexation order must be delivered immediately by the chief administrative law judge to the appropriate county auditors.

Subd. 4b. **Timing for tax levy.** For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year.

Subd. 5. **Planning in orderly annexation area.** (a) An orderly annexation agreement 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 section 471.59. The orderly annexation agreement may also delegate planning and land use authority to the municipalities or towns or may establish some other process within the orderly annexation agreement to accomplish planning and land use control of the designated area.

(b) A board or other planning authority designated or established pursuant to an orderly annexation agreement shall have all of the powers contained in sections 462.351 to 462.364,

and shall have the authority to adopt and enforce the State Fire Code promulgated pursuant to section 326B.02, subdivision 5.

(c) The orderly annexation agreement 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.

(d) If the orderly annexation agreement does not provide for joint planning and land use control, delegate planning and land use control to the municipalities or towns, or establish some other process for planning and land use authority, the following procedures shall govern:

(1) 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; or

(2) 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 committee with one member appointed from each of the municipal, town, and county governing bodies.

(e) The committee under paragraph (d), clause (2), shall:

(1) 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; and

(2) have all of the powers contained in sections 462.351 to 462.364, and the authority to adopt and enforce the State Fire Code promulgated pursuant to section 326B.02, subdivision 5.

**Subd. 6. Validity, effect of orderly annexation agreement.** An orderly annexation agreement is a binding contract upon all parties to the agreement and is enforceable in the district court in the county in which the unincorporated property in question is located. The provisions of an orderly annexation agreement are not preempted by any provision of this chapter unless the agreement specifically provides so. If an orderly annexation agreement provides the exclusive procedures by which the unincorporated property identified in the agreement may be annexed to the municipality, the municipality shall not annex that property by any other procedure.

**History:** 1978 c 705 s 14; 1Sp1981 c 4 art 1 s 171,172; 1982 c 424 s 116; 1983 c 18 s 1; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1991 c 291 art 12 s 23; 1992 c 556 s 4; 1994 c 511 s 3; 1996 c 303 s 10-12; 1997 c 202 art 5 s 2; 2002 c 223 s 7; 2002 c 236 s 1; 2005 c 136 art 9 s 14; 2006 c 270 art 2 s 6,7; 2007 c 90 s 1; 2007 c 140 art 3 s 6; art 13 s 4; 2008 c 196 art 1 s 10-12; art 2 s 15

#### **414.033 ANNEXATION BY ORDINANCE.**

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

**Subd. 2. Conditions.** 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:

(1) the land is owned by the municipality;

(2) the land is completely surrounded by land within the municipal limits;

(3) the land abuts the municipality and the area to be annexed is 120 acres or less, and the area to be annexed is not presently served by public wastewater facilities or public wastewater facilities are not otherwise available, and the municipality receives a petition for annexation from all the property owners of the land. Except as provided for by an orderly annexation agreement, this clause may not be used to annex any property contiguous to any property previously annexed under this clause within the preceding 12 months if the property is owned by the same owners and annexation would cumulatively exceed 120 acres; or

(4) the land has been approved after August 1, 1995, by a preliminary plat or final plat for subdivision to provide residential lots that average 21,780 square feet or less in area and the land is located within two miles of the municipal limits.

Subd. 2a. [Repealed, 1997 c 202 art 5 s 9]

Subd. 2b. **Notice, hearing required.** Before a municipality may adopt an ordinance under subdivision 2, clause (2), (3), or (4), a municipality must hold a public hearing and give 30 days' written notice by certified mail to the town or towns affected by the proposed ordinance and to all landowners within and contiguous to the area to be annexed.

Subd. 3. **60 percent bordered and 40 acres or less.** 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 chief administrative law judge, unless the area is appropriate for annexation by ordinance under subdivision 2, clause (3). The town board shall have 90 days from the date of service to serve objections with the chief administrative law judge. If no objections are forthcoming within the said 90-day period, such land may be annexed by ordinance. If objections are filed with the chief administrative law judge, the chief administrative law judge shall conduct hearings and issue an 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. **Petition by property owners; objections; procedure.** If the land is platted, or, if unplatted, does not exceed 200 acres, 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 chief administrative law judge, 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 chief administrative law judge and the annexing municipality. Upon receipt of such objections, the chief administrative law judge shall proceed to hold a hearing and issue an order in accordance with section 414.031, subdivisions 3 and 4. If written objections are not submitted within the time specified in this section 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. **If pending proceeding; waivers from parties.** 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 chief administrative law judge, no action

thereon shall be taken by the municipality, unless otherwise provided by an order of the chief administrative law judge, until final disposition has been made of the pending petition. Under this section, the chief administrative law judge 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.

Subd. 7. **Filing; effective date; copy to auditors.** Any annexation ordinance provided for in this section must be filed with the chief administrative law judge, the township, the county auditor and the secretary of state and is final on the date the ordinance is approved by the chief administrative law judge. A copy of the annexation ordinance must be delivered immediately by the governing body of the municipality to the appropriate county auditors.

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

Subd. 9. [Repealed, 1997 c 87 s 4]

Subd. 10. **Chief administrative law judge may require additional information.** The chief administrative law judge may require the city or property owners to furnish additional information concerning an annexation by ordinance to inform the chief administrative law judge about the extent to which the proposed annexation conforms to the statutory criteria set forth in sections 414.01, subdivision 1, and 414.031, subdivision 4.

Subd. 11. **When annexed land is in floodplain or shoreland area.** When a municipality declares land annexed to the municipality under subdivision 2, clause (3), and the land is within a designated floodplain, as provided by section 103F.111, subdivision 4, or a shoreland area, as provided by section 103F.205, subdivision 4, the municipality shall adopt or amend its land use controls to conform to chapter 103F, and any new development of the annexed land shall be subject to chapter 103F.

Subd. 12. **Property taxes.** When a municipality annexes land under subdivision 2, clause (2), (3), or (4), property taxes payable on the annexed land shall continue to be paid to the affected town or towns for the year in which the annexation becomes effective. If the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year.

Subd. 13. **Electric utility service notice; cost impact.** At least 30 days before a municipality may adopt an ordinance under subdivision 2, clause (2), (3), or (4), the petitioner must be notified by the municipality that the cost of electric utility service to the petitioner may change if the land is annexed to the municipality. The notice must include an estimate of the cost impact of any change in electric utility services, including rate changes and assessments, resulting from the annexation.

**History:** 1969 c 1146 s 12; 1975 c 271 s 6; 1978 c 705 s 15-21; 1979 c 50 s 52; 1985 c 30 s 2,3; 1991 c 291 art 12 s 24; 1992 c 556 s 5-8; 1994 c 511 s 4-8; 1996 c 303 s 13,14; 1997 c 31 art 3 s 14,15; 1997 c 202 art 5 s 3-5; 2002 c 223 s 8-12; 2006 c 270 art 2 s 8,9,13; 2007 c 90 s 2,3,5; 2008 c 196 art 2 s 15; 2008 c 277 art 1 s 98

#### **414.0333 JOINT INFORMATIONAL MEETING.**

There must be a joint informational meeting of the municipal council of the annexing municipality and the town board of supervisors of the township containing the land proposed to be annexed or included in annexation proceedings under section 414.031. For an annexation under

section 414.031, the joint informational meeting must be held after the final mediation meeting or the final meeting held pursuant to section 414.01, subdivision 16, if any, and before the hearing on the matter is held. If no mediation meetings are held, the joint informational meeting must be held after the initiating documents have been filed and before the hearing on the matter. The time, date, and place of the public informational meeting must be determined jointly by the chair of the town board of supervisors and the mayor of the annexing municipality. The chair of the town board of supervisors and the mayor must serve as the co-chairs for the informational meeting. Notice of the time, date, place, and purpose of the informational meeting must be posted by the town clerk in the township's designated place for posting notices, and by the municipal clerk in the municipality's designated place for posting notices. In addition, both the city and town shall publish, at their own expense, notice in their respective official newspapers. If the city and town use the same official newspaper, a joint notice may be published and the costs evenly divided. All notice required by this section must be provided at least ten days before the date for the public informational meeting. At the public informational meeting, all persons appearing must have an opportunity to be heard, but the co-chairs may, by mutual agreement, establish the amount of time allowed for each speaker. The municipal council, the town board of supervisors, and any resident or affected property owner may be represented by counsel and may place into the record of the informational meeting documents, expert opinions, or other materials supporting their positions on issues raised by the proposed annexation proceeding. The clerk of the township must record minutes of the proceedings of the informational meeting and the municipal clerk must make an audio recording of the informational meeting. The township must provide the chief administrative law judge and the municipality with a copy of the printed minutes and the municipality must provide the chief administrative law judge and the township with a copy of the audio recording. The record of the informational meeting for a proceeding under section 414.031 is admissible in any proceeding under this chapter and shall be taken into consideration by the chief administrative law judge or the chief administrative law judge's designee.

**History:** 2006 c 270 art 2 s 10; 2008 c 196 art 1 s 13

#### **414.0335 IF PCA-ORDERED GOVERNMENTAL SERVICE EXTENSION.**

Subdivision 1. **Annexation-by-ordinance alternative.** If a determination or order by the pollution control agency, under section 115.49 or other similar statute is made, that cooperation by contract is necessary and feasible between a municipality and an unincorporated area located outside the existing corporate limits of a municipality, the municipality required to provide or extend through a contract a governmental service to an unincorporated area, during the statutory 90-day period provided in section 115.49 to formulate a contract, may in the alternative to formulating a service contract to provide or extend the service, declare the unincorporated area described in the Pollution Control Agency's determination letter or order annexed to the municipality by adopting an ordinance and submitting it to the chief administrative law judge.

Subd. 2. **Chief administrative law judge's role.** The chief administrative law judge may review and comment on the ordinance but shall approve the ordinance within 30 days of receipt. The ordinance is final and the annexation is effective on the date the chief administrative law judge approves the ordinance.

Subd. 3. **City to amend plan and controls.** Thereafter, the city shall amend its comprehensive plan and official controls in accordance with chapter 462.

**History:** 1997 c 202 art 5 s 6; 2002 c 223 s 13; 2008 c 196 art 2 s 15



**414.034** [Repealed, 1978 c 705 s 33]

**414.035 DIFFERENTIAL TAXATION FOR UP TO SIX YEARS.**

Whenever an order, under section 414.031, annexes part or all of a township to a municipality, the order may provide that the tax rate of the annexing municipality on the area annexed shall be increased in substantially equal proportions over not more than six years to equality with the tax rate on the property already within the municipality. The appropriate period, if any, shall be based on the time reasonably required to effectively provide property-tax-supported municipal services to the annexed area. Nothing in this section prohibits a differential tax provision from being included in an orderly annexation agreement.

**History:** 1978 c 705 s 22; 1979 c 50 s 53; 1987 c 50 s 1; 1989 c 277 art 4 s 46; 2002 c 223 s 14; 2008 c 196 art 1 s 14

**414.036 CITY REIMBURSEMENT TO TOWN TO ANNEX TAXABLE PROPERTY.**

Unless otherwise agreed to by the annexing municipality and the affected town, when an order or other approval under this chapter annexes part of a town to a municipality, the order or other approval must provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the order. The reimbursement shall be completed in substantially equal payments over not less than two nor more than eight years from the time of annexation. The municipality must reimburse the township for all special assessments assigned by the township to the annexed property, and any portion of debt incurred by the town prior to the annexation and attributable to the property to be annexed but for which no special assessments are outstanding, in substantially equal payments over a period of not less than two or no more than eight years.

**History:** 1981 c 189 s 1; 2002 c 223 s 15; 2006 c 270 art 2 s 11

**414.038 EFFECT OF ANNEXATION ON TOWNSHIP ROADS.**

Whenever a municipality annexes property abutting one side of a township road, the segment of road abutting the annexed property must be treated as a line road and is subject to section 164.14. Whenever a municipality annexes the property on both sides of a township road, that portion of road abutting the annexed property ceases to be a town road and becomes the obligation of the annexing municipality. This section does not prohibit the annexing municipality from contracting with the township for continued maintenance of the road. Any portion of a township road that ceases to be a township road pursuant to this section may still be counted as a township road for the road-and-bridge account revenues for the year in which the annexation occurs.

**History:** 1Sp2003 c 19 art 2 s 60

**414.039 EFFECT OF ANNEXATION ON EASEMENTS.**

If a municipality annexes property in which the affected township holds any easement for the benefit of the public, the township's easement interest continues unless otherwise agreed to by the township.

**History:** 1Sp2003 c 19 art 2 s 61

**414.04** [Repealed, 1969 c 1146 s 20]

**414.041 CONSOLIDATION OF MUNICIPALITIES.**

Subdivision 1. **Initiating the proceeding.** (a) Two or more municipalities may be the subject of a single proceeding provided that each municipality abuts at least one of the included municipalities.

(b) The proceeding shall be initiated in one of the following ways:

(1) submitting to the chief administrative law judge a resolution of the city council of each affected municipality;

(2) submitting to the chief administrative law judge a petition signed by a number of residents eligible to vote equivalent to five percent or more of the resident voters of a municipality who voted for governor at the last general election; or

(3) by the chief administrative law judge.

(c) 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.

(d) The party initiating the proceeding shall serve copies of the petition or resolution on all of the included municipalities.

Subd. 2. **Consolidation commission.** Upon receipt of a petition or a resolution requesting consolidation or upon the chief administrative law judge's own motion, the chief administrative law judge 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 chief administrative law judge shall appoint a commission chair 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 chief administrative law judge 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.** (a) The consolidation commission shall conduct hearings regarding the proposed consolidation.

(b) The hearings shall include, but are not limited to, the following subjects:

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

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

(3) each factor considered by the chief administrative law judge under section 414.02, subdivision 3.

(c) Based on these factors and upon other matters which come before the consolidation commission, the commission shall issue a report to the chief administrative law judge with findings and recommendations within two years from the date of the chief administrative law judge's initial appointment of the commission.

Subd. 4. **Chief administrative law judge's hearing and notice.** Upon receipt of the commission's report, the chief administrative law judge shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 5. **Relevant factors, order.** (a) In arriving at a decision, the chief administrative law judge shall consider the factors in section 414.02, subdivision 3.

(b) The chief administrative law judge 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 chief administrative law judge's written determination of what is in the best interests of the affected municipalities.

(c) The chief administrative law judge shall order the consolidation on finding that consolidation will be for the best interests of the municipalities. In all cases, the chief administrative law judge shall set forth the factors which are the basis for the decision.

(d) If the chief administrative law judge orders consolidation, the order shall provide for election of new municipal officers in accordance with section 414.09.

(e) 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 council members shall be inoperable.

(f) If the commission's findings and recommendations include a proposed home rule charter for the new municipality, the order may 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.

(g) 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.

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

(i) 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.

(j) 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.

(k) 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 order unless authorized by the chief administrative law judge.

Subd. 6. **Final approval; petition; referenda.** (a) If the consolidation was initiated by a petition of the resident voters of a municipality, the 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 order or the date of final approval of the order by the city councils, whichever is later.

(b) Upon receipt and verification of the petition, the chief administrative law judge 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.

(c) 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 chief administrative law judge by the chief election judge within ten days after the referenda. The chief administrative law judge shall upon receipt of the certificate notify all parties of the election results.

(d) If the consolidation was initiated by a city council resolution of each affected municipality, the 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 paragraph (a).

(e) If the consolidation was initiated by the chief administrative law judge, no chief administrative law judge's consolidation order involving existing municipalities shall become effective unless adopted by the council of each affected municipality by a majority vote and unless the consolidation order 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 chief administrative law judge; and, if a majority of the votes cast on the question in each municipality are in favor of its adoption, the order shall become effective as provided herein.

(f) Notwithstanding a disapproval of the order for consolidation by a city council of an affected municipality required to approve the order in paragraph (a) or (e), the 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 paragraph (a), and a majority of those voting in that municipality approve the order for consolidation.

**Subd. 7. Differential taxation for up to five years.** Where one municipality is receiving substantially fewer municipal services, the chief administrative law judge may provide that the tax rate of the municipality shall be increased in substantially equal proportions over a period of not more than five years to equality with the tax rate in the remainder of the new municipality. The period shall be determined by the chief administrative law judge on the basis of the period reasonably required to provide substantially equal municipal services.

**Subd. 8. Effective date of consolidation.** The consolidation shall be effective upon the election and qualification of new municipal officers, or at such later date as set by the 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; 1986 c 444; 1989 c 277 art 4 s 47; 1996 c 303 s 15,16; 2002 c 223 s 16; 2004 c 293 art 2 s 47; 2008 c 196 art 2 s 15

**414.05** [Repealed, 1969 c 1146 s 20]

**414.051 TOWNSHIPS OF MORE THAN 2,000; CHIEF ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS.**

After each federal census the chief administrative law judge 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 the chief administrative law judge considers 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; 2002 c 223 s 17; 2008 c 196 art 2 s 15

**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 chief administrative law judge a resolution of the municipality to which the land is attached or by submitting to the chief administrative law judge 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, and a statement of the reasons the petitioners or the municipality is seeking the detachment. In addition, the petitioners shall summarize what, if any, efforts were undertaken prior to filing the resolution or petition to resolve the issues forming the basis for the resolution or petition. If a petition is submitted without a resolution from the city, the petitioners shall also provide a copy of the petition to the city from which the land may be detached, and if the petition includes land for which a property owner has not signed the petition, to each property owner subject to the petition who has not signed the petition. A copy must also be mailed or otherwise delivered to the following parties: (1) the clerk of the town to which the property would be attached if the detachment is granted; (2) the clerk of any other abutting town or city; and (3) the county recorder in the county in which the land is located.

Subd. 1a. **Town options.** Upon receipt of the notice provided in subdivision 1, the town board of the town to which the land is proposed to be attached may submit to the chief administrative law judge a resolution stating that the town board supports, opposes, or is neutral to the petition. The failure to submit a resolution before any hearing required under this section must be deemed a position of neutrality. If the town submits a resolution of support for a petition opposed by the municipality from which the land is proposed to be detached, or a resolution in opposition to a petition supported by a resolution of the municipality, the town becomes a party to the hearing required under this section and is subject to the distribution of costs as provided in subdivision 7.

Subd. 2. **Hearing, if needed.** If both a resolution of support from the municipality and a petition by all the property owners are submitted, and no resolution of opposition has been received from a town as provided in subdivision 1a, no hearing is necessary and the chief administrative law judge shall grant the petition. If both the municipality and town submit a resolution opposing the petition, a hearing must not be held and the chief administrative law judge shall deny the petition. In any other case, upon receipt of a petition or resolution, the chief administrative law judge shall designate a time and place for a hearing in accordance with section 414.09, except that instead of the meetings otherwise required under section 414.01, subdivision

16, the chief administrative law judge shall order the parties to participate in a mediation session. The mediator must be on a list of mediators approved by the Office of Administrative Hearings, unless the parties stipulate to a mediator not on the list. The cost of the mediation must be apportioned as provided for in subdivision 7.

Subd. 3. **Order.** Upon completion of the hearing, the chief administrative law judge may order the detachment on finding 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. In making the findings, the chief administrative law judge shall consider all applicable comprehensive plans, land use regulations, and land use maps of the affected municipality, town, and county that have been adopted at the time the petition was submitted. The chief administrative law judge may deny the detachment on finding that the remainder of the municipality cannot continue to carry on the functions of government without undue hardship. The chief administrative law judge may 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 town, it shall become a part of each town, being divided by projecting through it the boundary line between the towns. 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 town of which it becomes a part, in such proportion as the chief administrative law judge shall deem just and equitable having in view the amount of taxes due and delinquent and the indebtedness of each town 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 net tax capacity of the taxable property in each town and municipality.

Subd. 4. **Effective date of detachment.** The detachment shall be effective upon the issuance of the order, or at such later date, as provided by the order.

Subd. 5. **Copy to county auditors.** A copy of the detachment order must be delivered immediately by the chief administrative law judge to the appropriate county auditors.

Subd. 6. **Timing of tax levy.** For the purposes of taxation, if the detachment becomes effective on or before August 1 of a levy year, the towns acquiring the detached area may levy on it beginning with that same levy year. If the detachment becomes effective after August 1 of a levy year, the municipality may continue to levy on the detached area for that levy year, and the towns acquiring the detached area may not levy on it until the following levy year.

Subd. 7. **Costs.** Notwithstanding the provisions of section 414.067, the chief administrative law judge shall apportion the costs of the mediation and hearing in an equitable manner, but unless the chief administrative law judge makes specific findings as to why a party shall be responsible for a greater share, the petitioning landowners are responsible for at least 50 percent of the total costs.

**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; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1991 c 291 art 12 s 25; 2002 c 223 s 18; 2008 c 196 art 2 s 15; 2012 c 135 s 1-5

**414.061 INCORPORATED LAND; CONCURRENT DETACHMENT, ANNEXATION.**

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 (1) submitting to the chief administrative law judge resolutions of both municipalities describing the land and stating their desire to detach and annex the land, or (2) submitting to the chief administrative law judge the petition of property owners and the resolution of at least one municipality describing the land and stating its desire to have the land concurrently detached and annexed as provided in the property owners' petition.

Subd. 2. **Order.** If both municipalities have submitted resolutions under subdivision 1 and the resolutions are in order, the chief administrative law judge may order the detachment and annexation.

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

Subd. 3a. **Copy to county auditors.** A copy of the annexation order must be delivered immediately by the chief administrative law judge to the appropriate county auditors.

Subd. 3b. **Timing of tax levies.** For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality acquiring the detached area of another municipality may levy on it beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the municipality losing the detached area may continue to levy on it for that levy year, and the municipality acquiring the detached area may not levy on it until the following levy year.

Subd. 4. **Chief administrative law judge's initiative.** The chief administrative law judge (1) may initiate proceedings for the concurrent detachment and annexation of portions of one municipality completely surrounded by another municipality, or (2) may act upon the petition of all of the owners of property in the completely surrounded area. In such cases the chief administrative law judge shall conduct hearings and issue an order pursuant to section 414.09. In arriving at a decision, the chief administrative law judge shall consider the factors in section 414.02, subdivision 3. The chief administrative law judge shall order the proposed action on finding that it will be for the best interests of the municipalities and the property owners. In all cases, the chief administrative law judge shall set forth the factors which are the basis for the decision.

Subd. 4a. [Repealed, 1996 c 303 s 19]

Subd. 5. **Property owners may initiate.** Property owners may initiate proceedings for the concurrent detachment of their property from one municipality and its annexation to an adjacent municipality by a petition signed by all of them that they submit to the chief administrative law judge accompanied by a resolution of the city council of at least one of the affected municipalities. The chief administrative law judge shall conduct hearings and issue an order pursuant to section 414.09. In arriving at a decision, the chief administrative law judge shall consider the factors in section 414.02, subdivision 3. The chief administrative law judge shall order the proposed action on finding that it will be for the best interests of the municipalities and the property owner. In all

cases, the chief administrative law judge shall set forth the factors which are the basis for the decision.

**History:** 1969 c 1146 s 16; 1973 c 621 s 6; 1975 c 271 s 6; 1978 c 705 s 25-27; 1985 c 30 s 4; 1Sp1986 c 3 art 1 s 53-55; 1991 c 291 art 12 s 26; 1994 c 511 s 9; 1996 c 303 s 17,18; 2002 c 223 s 19; 2006 c 270 art 2 s 12; 2008 c 196 art 2 s 15; 2011 c 115 s 1-3

#### **414.063 PART OF JOINT AGREEMENTS MAY BE PUT IN ORDERS.**

After notice and hearing as provided in section 414.09, the chief administrative law judge may include provisions of joint agreements between political subdivisions in the orders.

**History:** 1978 c 705 s 28; 2002 c 223 s 20; 2008 c 196 art 2 s 15

#### **414.065 IF STATE IS FEE OWNER OF PROPOSED BOUNDARY ADJUSTMENT LAND.**

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 APPORTIONED ASSETS AND OBLIGATIONS.**

Subdivision 1. **Township or municipality divided.** Whenever the chief administrative law judge divides an existing governmental unit, the chief administrative law judge, or other qualified person designated by the chief administrative law judge with the concurrence of the parties, 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 town or consolidated cities.** 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 taxes levied to pay 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 taxable 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 taxes levied to pay the indebtedness must be levied upon all taxable property within the boundaries of the new municipality. Notwithstanding that the bonded indebtedness may be payable from taxes levied on only a portion of the taxable property in the new or surviving municipality, the full faith and credit of the new or surviving municipality must



secure any outstanding bonded indebtedness to which the full faith and credit of the annexed or consolidated township or municipality was pledged. If any general funds of the new or surviving municipality are used to pay debt service on the bonded indebtedness, the general funds must be reimbursed, with or without interest, from taxes levied on taxable property in the former township or municipality.

Subd. 3. **Revision of tax records; redistribution of levies.** In an apportionment made under this section, the chief administrative law judge 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; 1997 c 219 s 4; 2002 c 223 s 21,22; 2008 c 196 art 1 s 15; art 2 s 15

**414.068** [Repealed, 1978 c 705 s 33]

#### **414.07 APPEALS.**

Subdivision 1. **Orders, time limit.** All orders in proceedings under this chapter shall be issued within one year from the date of the day 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. 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.** (a) Any person aggrieved by any order issued under this chapter may appeal to the district court upon the following grounds:

- (1) that the order was issued without jurisdiction to act;
- (2) that the order exceeded the orderer's jurisdiction;
- (3) that the order is arbitrary, fraudulent, capricious or oppressive or in unreasonable disregard of the best interests of the territory affected; or

- (4) that the order is based upon an erroneous theory of law.

(b) 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 chief administrative law judge and the attorney general's assistant assigned to the chief administrative law judge for purposes of this chapter.

(c) If the court determines that the action 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 involved, in whole or in part, as the case requires. The matter shall then be remanded for further action in conformity with the decision of the court.

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

- (e) An appeal lies from the district court as in other civil cases.

**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; 1983 c 247 s 150; 1Sp1986 c 3 art 1 s 82; 1994 c 511 s 10; 2002 c 223 s 23; 2008 c 196 art 2 s 15

**414.08 CHIEF ADMINISTRATIVE LAW JUDGE MAY APPEAL FROM DISTRICT COURT.**

An appeal may be taken under the Rules of Civil Appellate Procedure by the chief administrative law judge from a final order or judgment made or rendered by the district court when the chief administrative law judge 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; 1983 c 247 s 151; 2002 c 223 s 24; 2008 c 196 art 2 s 15

**414.09 UNIFORM PROCEDURES.**

Subdivision 1. **Hearings.** (a) Proceedings initiated by the submission of an initiating document or by the chief administrative law judge shall come on for hearing within 30 to 60 days from receipt of the document by the chief administrative law judge or from the date of the chief administrative law judge's action and the person conducting the hearing must submit an order no later than one year from the date of the day of the first hearing.

(b) 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.

(c) The chief administrative law judge 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.

(d) The chief administrative law judge shall see that notice of the hearing is published for two successive weeks in a legal newspaper of general circulation in the affected area.

(e) When the chief administrative law judge exercises 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 order.** The chief administrative law judge shall see that copies of the order are 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, affected county auditor, and any other party of record. The affected county auditor shall record the order against the affected property.

Subd. 3. **Elections of municipal officers.** (a) An order approving an incorporation or consolidation pursuant to this chapter, or an order requiring an election under section 414.031, subdivision 4a, shall set a date for an election of new municipal officers not less than 45 days nor more than 60 days after the issuance of such order.

(b) The chief administrative law judge 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.

(c) The acting clerk shall prepare the official election ballot.

(d) Any person eligible to hold municipal office may file an affidavit of candidacy not more than four weeks nor less than two weeks before the date designated in the order for the election.

(e) The election shall be conducted in conformity with the charter and the laws for conducting municipal elections insofar as applicable.

(f) 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.

(g) 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; 1984 c 543 s 48; 1994 c 511 s 11,12; 2002 c 223 s 25; 2002 c 235 s 2; 2003 c 2 art 5 s 10,17; 2008 c 196 art 2 s 15

**414.10** [Repealed, 2000 c 446 s 4]

**414.11** [Repealed, 2002 c 223 s 29]

#### **414.12 CHIEF ADMINISTRATIVE LAW JUDGE'S POWERS.**

Subdivision 1. **Alternative dispute resolution.** (a) Notwithstanding anything to the contrary in sections 414.01 to 414.09, before assigning a matter to an administrative law judge for hearing, the chief administrative law judge, upon consultation with affected parties and considering the procedures and principles established in sections 414.01 to 414.09, may require that disputes over proposed boundary adjustments be addressed in whole or in part by means of alternative dispute resolution processes in place of, or in connection with, hearings that would otherwise be required pursuant to sections 414.01 to 414.09, including those provided in chapter 14.

(b) In all proceedings, the chief administrative law judge has the authority and responsibility to conduct hearings and issue final orders related to the hearings under sections 414.01 to 414.09.

Subd. 2. [Repealed, 2008 c 196 art 1 s 22]

Subd. 3. **Cost of proceedings.** (a) The parties to any matter directed to alternative dispute resolution under subdivision 1 must pay the costs of the alternative dispute resolution process or hearing in the proportions that they agree to.

(b) Notwithstanding section 14.53 or other law, the Office of Administrative Hearings is not liable for the costs.

(c) If the parties do not agree to a division of the costs before the commencement of mediation, arbitration, or hearing, the costs must be allocated on an equitable basis by the mediator, arbitrator, or chief administrative law judge.

(d) The chief administrative law judge may contract with the parties to a matter for the purpose of providing administrative law judges and reporters for an administrative proceeding or alternative dispute resolution.

(e) The chief administrative law judge shall assess the cost of services rendered by the Office of Administrative Hearings as provided by section 14.53.

Subd. 4. **Parties.** In this section, "party" means:

(1) a property owner, group of property owners, municipality, or township that files an initiating document or timely objection under this chapter;

(2) the municipality or township within which the subject area is located;

(3) a municipality abutting the subject area; and

(4) any other person, group of persons, or governmental agency residing in, owning property in, or exercising jurisdiction over the subject area that submits a timely request, and is

determined by the presiding administrative law judge to have a direct legal interest that will be affected by the outcome of the proceeding.

Subd. 5. **Effectuation of agreements.** Matters resolved or agreed to by the parties as a result of an alternative dispute resolution process, or otherwise, may be incorporated into a joint resolution adopted pursuant to section 414.0325, subdivision 1, or into one or more stipulations for purposes of further proceedings in accordance with the applicable procedures and statutory criteria of this chapter.

Subd. 6. **Limitations on authority.** Nothing in this section shall be construed to permit any municipality, town, or other political subdivision to take, or agree to take, any action that is not otherwise authorized by this chapter.

**History:** 1999 c 243 art 16 s 25; 2000 c 446 s 1; 2002 c 223 s 26,27; 2008 c 196 art 1 s 15,16-20