

CHAPTER 148

VOLUNTARY AND INVOLUNTARY ANNEXATIONS BY CITIES

H.F. 595

AN ACT relating to certain voluntary annexations and to involuntary annexations and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 368.1, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 10A. "Public land" means land owned by the federal government, the state, or a political subdivision of the state.

Sec. 2. Section 368.4, Code 2003, is amended to read as follows:
368.4 ANNEXING MORATORIUM.

A city, following notice and hearing, may by resolution agree with another city or cities to refrain from annexing specifically described territory for a period not to exceed ten years and, following notice and hearing, may by resolution extend the agreement for subsequent periods not to exceed ten years each. Notice of a hearing shall be served by regular mail at least thirty days before the hearing on the city development board, and on the board of supervisors of the county in which the territory is located, and on all persons owning land within the area subject to the agreement and shall be published in an official county newspaper in each county containing a city conducting a hearing regarding the agreement, in any county within two miles of any such city, and in an official newspaper of each city conducting a hearing regarding the agreement. The notice shall include the time and place of the hearing, describe the territory subject to the proposed agreement, and the general terms of the agreement. After passage of a resolution by the cities approving the agreements, a copy of the agreement and a copy of any resolution extending an agreement shall be filed with the city development board within ten days of enactment. If such an agreement is in force, the board shall dismiss a petition or plan which violates the terms of the agreement.

Sec. 3. Section 368.7, subsection 1, Code 2003, is amended to read as follows:

1. a. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right-of-way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries if a copy of the application is mailed by certified mail to the owner and each affected public utility, at least fourteen business days prior to any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city. An annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the board after a hearing for all affected property owners and the county. Public land may be included in the territory to be annexed. However, the area of the territory that is public land included without the written consent of the agency with jurisdiction over the public land may not be used to determine the percentage of territory that is included with the consent of the owner and without the consent of the owner.

b. Prior to notification in paragraph "c", the annexing city shall provide written notice to the board of supervisors and township trustees of each county and township that contains all or a portion of the territory to be annexed. The written notice shall include the same information required in paragraph "c" and shall set a time for a consultation on the proposed annexation between the annexing city and each county and township that contains all or a portion of the

territory to be annexed. The consultation shall be held at least fourteen business days before the applications in paragraph "c" are mailed. The governing body of each such county and township may designate one of its members to attend the consultation. Each such county and township may make written recommendations for modification to the proposed annexation no later than seven business days following the date of the consultation.

Not later than thirty days after the consultation, the board of supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the application or whether it takes no position in support of or against the application. If there is a comprehensive plan for the county, the board shall take the plan into account when considering its resolution. A copy of the resolution shall be immediately filed with the annexing city and shall be considered by the city council when taking action on the application. The city council shall forward a copy of the resolution to the city development board as part of the city proceedings on the annexation. Failure of a board of supervisors to adopt a resolution shall not delay the proceedings on the application nor shall such failure be considered a deficiency either in the application or in the annexing city's proceedings.

c. A copy of the application shall be mailed by certified mail to the nonconsenting owner and each affected public utility, at least fourteen business days prior to any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city.

d. The city shall provide for a public hearing on the application before approving or denying it. The city shall provide written notice at least fourteen business days prior to any action by the city council regarding the application, including a public hearing, by regular mail to the chairperson of the board of supervisors of each county which contains a portion of the territory proposed to be annexed, each public utility which serves the territory proposed to be annexed, each owner of property located within the territory to be annexed who is not a party to the application, and each owner of property which that adjoins the territory to be annexed unless the adjoining property is in a city. The city shall publish notice of the application and public hearing on the application in an official county newspaper in each county which contains a portion of the territory proposed to be annexed. Both the written and published notice shall include the time and place of the public hearing and a legal description of the territory to be annexed. The city may not assess the costs of providing notice as required in this section to the applicants.

e. An application for annexation under this subsection may be withdrawn by an applicant at any time within three business days after the public hearing unless the application was made pursuant to a written agreement for the extension of city services or unless the right to withdraw the application was specifically identified and waived by the applicant in the application. A landowner who has consented to the annexation may, within three business days after the public hearing, withdraw the landowner's consent to the annexation unless the landowner has entered into a written agreement for extension of city services or unless the right to withdraw consent was specifically identified and waived by the landowner.

f. An annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the city development board after a hearing for all affected property owners and the county. When considering such an annexation application, the board may request that the annexing city provide information on the amount of land located in the annexing city that is currently vacant or undeveloped and whether municipal services are being provided to current residents of the annexing city.

Sec. 4. Section 368.11, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 14. In the case of an annexation, a plan for extending municipal services to be provided by the annexing city to the annexed territory within three years of July 1 of the fiscal year in which city taxes are collected against property in the annexed territory.

Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003, is amended to read as follows:

Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each county which contains a part of the territory at least five days before the date of the public meeting. The mayor of the city proposing to annex the territory, or that person's designee, shall serve as chairperson of the public meeting. The city clerk of the same city or the city clerk's designee shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the county board of supervisors of each county where the territory is located and to the board by the chairperson of the meeting.

Sec. 6. Section 368.11, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Within thirty days after receiving notice that a petition for involuntary annexation has been filed with the board, the board of supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the petition or whether it takes no position in support of or against the petition. If there is a comprehensive plan for the county, the board shall take the plan into account when considering its resolution. A copy of the resolution shall be immediately filed with the annexing city and with the city development board. Failure of a board of supervisors to adopt a resolution shall not delay the proceedings on the petition nor shall such failure be considered a deficiency either in the petition or in the annexing city's proceedings.

Sec. 7. Section 368.25, Code 2003, is amended to read as follows:

368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

Prior to expiration of the three-year period established in section 368.11, subsection 14, the annexing city shall submit a report to the board describing the status of the provision of municipal services identified in the plan required in section 368.11, subsection 14. If a city fails to provide municipal services, or fails to show substantial and continuing progress in the provision of municipal services, to territory involuntarily annexed, according to the plan for extending municipal services filed pursuant to section 368.11, subsection 14, within three years after city taxes are imposed in the annexed territory the time period specified in that subsection, the city development board shall may initiate proceedings to sever the annexed territory from the city. The board shall notify the city of the severance proceedings and shall hold a public hearing on the proposed severance. The board shall give notice of the hearing in the same manner as notice of a public meeting in section 368.11. The board may order severance of all or a portion of the territory and the order to sever is not subject to approval at an election. However, a city may appeal to request that the board for allow up to an additional three years to provide municipal services if good cause is shown. A petition for severance filed pursuant to this section shall be filed and acted upon in the same manner as a petition under section 368.11. As an alternative to severance of the territory, the board may impose a moratorium on additional annexation by the city until the city complies with its plan for extending municipal services. For purposes of this section, "municipal services" means services selected by a landowner to be provided by the city, including, but not limited to, water supply, sewage disposal, street and road maintenance, and police and fire protection, if the provision of such services is within the legal authority of the annexing city included in the plan required by section 368.11, subsection 14, for extending municipal services.

Sec. 8. NEW SECTION. 368.26 ANNEXATION OF CERTAIN PROPERTY — COMPLIANCE WITH LESS STRINGENT REGULATIONS.

A city ordinance or regulation that regulates a condition or activity occurring on protected

farmland or regulates a person who owns and operates protected farmland is unenforceable against the owner of the protected farmland for a period of ten years from the effective date of the annexation, to the extent the city ordinance or regulation is more stringent than county legislation. Section 335.2 shall apply to the protected farmland until the owner of the protected farmland determines that the land will no longer be operated as an agricultural operation. Any enforcement activity conducted in violation of this section is void.

A "condition or activity occurring on protected farmland" includes but is not limited to the raising, harvesting, drying, or storage of crops; the marketing of products at roadside stands or farm markets; the creation of noise, odor, dust, or fumes; the production, care, feeding, or housing of animals including but not limited to the construction, operation, or management of an animal feeding operation, an animal feeding operation structure, or aerobic structure, and to the storage, handling, or application of manure or egg washwater; the operation of machinery including but not limited to planting and harvesting equipment, grain dryers, grain handling equipment, and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

For the purposes of this section, "protected farmland" means land that is part of a century farm as that term is defined in section 403.17, subsection 10. "County legislation" means any ordinance, motion, resolution, or amendment adopted by a county pursuant to section 331.302.

Sec. 9. IMMEDIATE EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2003

CHAPTER 149

REGULATION OF FARM DEER

H.F. 624

AN ACT regulating farm deer, providing for penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 10.1, subsection 14, Code 2003, is amended to read as follows:

14. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, farm deer as defined in section ~~481A.1~~ 170.1, or poultry.

Sec. 2. Section 169A.1, subsection 1, Code 2003, is amended to read as follows:

1. "Animal" means a creature belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section ~~481A.1~~ 170.1; or poultry.

Sec. 3. Section 169C.1, subsection 3, Code 2003, is amended to read as follows:

3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section ~~481A.1~~ 170.1; or poultry.

Sec. 4. NEW SECTION. 170.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires: