

CITY DEVELOPMENT BOARD[263]

Notice of Intended Action

**Proposing rulemaking related to petitions for involuntary city development action
and providing an opportunity for public comment**

The City Development Board hereby proposes to rescind Chapter 8, “Petitions for Involuntary City Development Action,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 368.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 368.

Purpose and Summary

Pursuant to Executive Order 10, the Board proposes to rescind Chapter 8 and adopt a new chapter with the same title in lieu thereof. The proposed chapter will omit repetition of statutory language and clarify Board policies and procedures.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 263—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on January 9, 2024. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 2, 2024
2:30 to 3 p.m.

1963 Bell Avenue
Des Moines, Iowa
Registration information for online
participation may be found at
www.iowaeda.com/red-tape-review

January 9, 2024
10:30 to 11 a.m.

1963 Bell Avenue
Des Moines, Iowa
Registration information for online
participation may be found at
www.iowaeda.com/red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 263—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
PETITIONS FOR INVOLUNTARY CITY DEVELOPMENT ACTION

263—8.1(368) Purpose. This chapter addresses the requirements and processes for city development board approval of petitions for involuntary city development action, including incorporation, discontinuance, annexation, severance, or consolidation. Such petitions shall be initiated pursuant to Iowa Code section 368.11 or 368.13 and this chapter. The body or bodies initiating the petition will be referred to in this chapter as the petitioner.

263—8.2(368) Contents of the petition. This rule describes the information and documentation a petitioner is required to include in its petition.

8.2(1) General requirements. The petition must provide all applicable information required by Iowa Code section 368.11(3). The petition must clearly identify the petitioner, the proposed action, and the name and address of each property owner within the affected territory. Affected territory shall be identified by complete legal description including, if applicable, right-of-way to the center line of secondary roads. The petition shall state that it does not propose any action prohibited by Iowa Code section 368.17. The petition shall include an overview of the proposed action and briefly describe the affected city or cities, the affected territory and the reasons for the proposed action.

8.2(2) Moratorium. The petition shall contain a statement indicating whether an applicable city is a party to an existing moratorium agreement entered pursuant to Iowa Code section 368.4 and, if so, whether the proposed annexation is consistent with the terms of the agreement.

8.2(3) Map. The map or maps included in the petition shall clearly show all boundaries of the affected city or cities and all affected territory, adjacent roadways, the relationship of the affected territory to any city, and all geographic features deemed relevant to the proposed action. If the petition proposes incorporation, the proposed city boundary shall be shown. The board may request that the petitioner provide information demonstrating the existing and anticipated use of the territory.

8.2(4) County auditor verification. The petition shall include documentation that the county auditor has verified the accuracy and completeness of the legal description of all affected territory and verified current ownership of the parcel(s) included. If the auditor fails to respond to the petitioner's request for verification within 14 days, the petitioner may provide a copy of the request and a statement indicating that no response was received.

8.2(5) Assessed valuations. The petition shall include the assessed valuation and classification assigned for tax purposes (agricultural, residential, commercial, etc.) for each parcel of platted and unplatted land within the affected territory. Documentation shall be provided that the information required by this subrule has been verified in writing by the applicable city or county assessor. If the assessor fails to provide the requested verification within 14 days, the petitioner may provide a copy of the request and a statement indicating that the verification was not provided.

8.2(6) Population density. Population density shall be delineated for the existing city, for the territory, and for the resulting city if the proposal is approved. Population density shall be expressed as persons per acre if the petition proposes annexation or persons per square mile if the petition proposes incorporation, discontinuance, severance or consolidation.

8.2(7) Population growth. If the petition seeks annexation, consolidation or incorporation, the petition shall include projected population growth for the city and the territory. Population projections shall be for a 10- or 20-year period and may be taken from an existing comprehensive plan or may be calculated based on relevant data if no comprehensive plan exists.

8.2(8) Regulations and projections. The petition shall include a description of current and proposed zoning regulations that apply to the affected territory. Projected development and land use patterns shall be described as if existing land use regulations will be continued and as if new applicable land use regulations would be applied after annexation, if approved. Residential, commercial, and industrial development projections shall be provided based on population projections for the city and territory.

If the petition proposes annexation, the amount of vacant developable land within the existing corporate limits and within the territory, as well as an estimate of the amount of developable land needed to accommodate future growth, shall be provided.

8.2(9) Topography. Topographical information shall be in map and narrative form. Maps shall include any affected city and the affected territory and shall consist of contour lines at ten-foot intervals as may be taken from contour maps of the United States Geological Survey or any other source acceptable to the board. A narrative description shall identify flood plains, drainage areas, drainage ways, slopes and bluffs. In petitions proposing annexation or incorporation, the narrative shall also address potential impacts of topography on development of urban uses and the extension of municipal services.

8.2(10) Plans. Petitions shall describe plans for disposal of assets, assumption of liabilities, and provision of services as applicable to the action requested in the petition.

a. Petitions for annexation, consolidation and incorporation shall describe existing and proposed municipal services and facilities, including but not limited to water supply, sewage disposal, police and fire protection, and street and road maintenance, and the estimated cost of providing proposed services.

b. Petitions for annexation shall describe the capability of the existing city sewage system; water system; transportation infrastructure; park and recreation system; and police, fire, and public works departments to accommodate the addition of territory and projected development. The petition shall also include an analysis of existing bonding capacity and bonded indebtedness and the assets a city may receive including property tax, increase in municipal bonding capacity, state and federal shared revenues, special assessment policies, revenue bonds, user fees, and federal funds where applicable.

c. Petitions for incorporation shall describe the capability of the proposed city to develop a sewage system; water system; transportation infrastructure; park and recreation system; and police, fire, and public works departments to accommodate the territory proposed for incorporation and an explanation of the assets the proposed city may receive, including property tax, an increase in municipal bonding capacity, state and federal shared revenues, special assessment policies, revenue bonds, user fees, and federal funds where applicable.

d. Petitions for severance and discontinuance shall describe the adequacy of sewage disposal, water supply, police and fire protection, and other municipal services being provided to the territory by the city. Such petitions shall also include a statement of the capability and intent of the county in which the city or territory is located to assume responsibility for police protection, street and road maintenance and repair, and other services and an analysis of the capability of the township fire district to provide fire protection.

e. Petitions for discontinuance shall include an inventory of all real estate, funds, and personal property owned by the city and all existing liabilities of the city, and a proposal for disposition of all assets and satisfaction or assumption of all liabilities.

8.2(11) Committee consideration. The petition shall include documentation to allow assessment of the relevant considerations for committee approval in Iowa Code section 368.16.

8.2(12) Service agreements. The petition shall identify services that may be provided through agreement with township fire districts and rural water and sanitary districts and proposed agreements with any county or city for police protection, ambulance service, or any other service deemed to be of importance to the proposed boundary adjustment and shall present examples of existing service agreements.

8.2(13) Shared roads. The petition shall include a proposed formal agreement between affected municipal corporations and counties for the maintenance and improvement and traffic control of any road that is divided as a result of an incorporation or a boundary adjustment.

263—8.3(368) Preliminary notice and public meeting. A petitioner initiating an involuntary city development proceeding shall comply with the applicable notice, publication, and public meeting requirements contained in Iowa Code section 368.11. For purposes of calculating the required period of notice, business days include Monday through Friday of each week, except legal holidays as set forth in Iowa Code section 4.1(34). Proof of substantial compliance with these requirements, including copies of certified mail receipts, certification of publication of notice of the meeting, minutes of the public meeting and copies of the documents received at the meeting, shall accompany each petition submitted pursuant to this chapter.

263—8.4(368) Filing and service. The petitioner shall send two copies of a petition, including all supporting documentation, to the board. A petition will be deemed filed with the board on the date it is received by board staff. The board shall acknowledge receipt of the petition. The petitioner shall serve notice of the filing as required by Iowa Code section 368.11(1) within seven days of filing a petition with the board. The petitioner shall file proof of compliance with the service requirement with the board.

263—8.5(368) Costs. All costs that are incurred in drafting a petition, preparing supporting documents, mailing and publishing notices and other preliminary proceedings and the cost of recording, if the proposal is approved, shall be borne by the petitioner.

263—8.6(368) Staff review of petition. Within two weeks of receiving a petition filed pursuant to this chapter, board staff will review the request to determine whether the petitioner has filed all required information. If the petition is incomplete, staff shall notify the petitioner, identifying the required item(s) omitted and offering the petitioner an opportunity to provide the omitted information prior to submission of the petition to the board.

263—8.7(368) Submission of petition to the board—notice. A petition filed pursuant to this chapter will be considered by the board at the first meeting conducted 31 days or more after the petition is filed. The board shall provide the petitioner with notice of all meetings at which the board will consider the petition.

263—8.8(368) Board review of petition—waiver. Upon submission of a petition, the board shall review the petition for substantial compliance with Iowa Code section 368.11 and this chapter. In conducting this review, the board will presume that factual assertions made within the petition

are accurate. The board may, however, request and examine appropriate public records or request additional information from the petitioner if deemed necessary to its review. The board may waive any requirement of this chapter upon finding the requirement inapplicable to the petition under review.

263—8.9(368) Board action on petition. The board shall accept for further proceedings any petition that it finds to be in substantial compliance with Iowa Code section 368.11 and this chapter. The board may dismiss a petition pursuant to Iowa Code section 368.12.

263—8.10(368) Formation of local committee. If the petition is accepted by the board for further proceedings, the board shall direct the appointment of local representatives to a committee as required by Iowa Code section 368.14. Committee appointments shall be made by resolutions of the appropriate governing bodies within 45 days of issuance of the board's order. The resolutions shall state that the local representative selected is qualified to serve on the committee pursuant to Iowa Code section 368.14. Copies of the resolutions and the address and telephone number of each local representative shall be promptly submitted to the board. In the event a city or county fails to timely notify the board of appointment of its local representative, the committee may conduct its proceedings in the absence of that local representative so long as a quorum is present.

These rules are intended to implement Iowa Code chapter 368.