

**CITY DEVELOPMENT BOARD[263]**

**Notice of Intended Action**

**Proposing rulemaking related to board proceedings on petitions for involuntary boundary change after committee approval and providing an opportunity for public comment**

The City Development Board hereby proposes to rescind Chapter 10, “Board Proceedings on Petitions for Involuntary Boundary Change After Committee Approval,” 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 and section 17A.19.

*Purpose and Summary*

Pursuant to Executive Order 10, the Board proposes to rescind Chapter 10 and adopt a new chapter in lieu thereof. The proposed new 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](mailto: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  
3:30 to 4 p.m.

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

January 9, 2024  
11:30 a.m. to 12 noon

1963 Bell Avenue  
Des Moines, Iowa  
Registration information for online  
participation may be found at  
[www.iowaeda.com/red-tape-review](http://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 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10  
BOARD PROCEEDINGS ON PETITIONS FOR INVOLUNTARY BOUNDARY  
CHANGE AFTER COMMITTEE APPROVAL

**263—10.1(368) Election.** If a petition or plan is approved, the board shall submit the proposal at an election held pursuant to Iowa Code section 368.19, regardless of appeal or applications for rehearing filed pursuant to rule 263—9.13(368).

**263—10.2(368) Final order.** The board will issue an order stating the boundary change is complete in conjunction with the procedure after approval specified in Iowa Code section 368.20 and include such order with documents filed or recorded.

**263—10.3(368) Record.**

**10.3(1)** The record of an involuntary boundary adjustment proceeding shall include the following as applicable:

- a. The original petition or plan and any amendment;
- b. Proofs of service and publication of required public hearing notices;
- c. All pleadings filed with the board and committee and any answers or rulings on the pleadings;
- d. The public hearing transcript and all evidence received at public hearing;
- e. All briefs and documents filed on the board or committee by parties to the proceedings and all other filings made by those not parties;
- f. Public documents referenced by the board or committee;
- g. The committee's findings of fact, conclusions of law and determination;
- h. The board's election order;
- i. Certification and proof of publication of election results;
- j. The board's final order.

**10.3(2)** The record shall be opened when a petition is filed with the board and shall be closed when the board has issued its final order.

**263—10.4(368) Appeal.**

**10.4(1)** When an appeal is filed pursuant to Iowa Code section 368.22, the appellant shall notify the board and provide a copy of the appeal.

**10.4(2)** Within 30 days after the filing of the petition, the board shall transmit to the reviewing court the original or a certified copy of the entire record of the case that is the subject of the petition. By stipulation of all parties to the review proceedings, the record of such a case may be shortened.

**263—10.5(368) Board supervision of proposal execution.** The board shall proceed accordingly in the following cases:

**10.5(1) *Discontinuance.*** The board will supervise discontinuance of a city pursuant to Iowa Code section 368.21. The board shall take control of all city balances, property, and records during the six-month period following the last notice of discontinuance published by the board. Upon the close of the six-month period, the board shall determine the extent of any unpaid allowed claims and such determination shall be verified by a certified public accountant or by the state auditor. In the case of unpaid allowed claims, the board shall approve payment from the discontinued city's account or shall direct the appropriate governing body to levy the necessary taxes.

**10.5(2) *Boundary adjustment.*** The board may, upon request of the applicable governing bodies, provide advisory assistance in implementation of an annexation, severance, or consolidation.

**10.5(3) *Consolidation.*** After a consolidation has been approved in an election held pursuant to Iowa Code section 368.19, the board may authorize the cities to continue to operate as individual cities until an election of a new city council has been held and the result certified. The election of a new city council shall be held within 90 days of the date of the appeal period authorized by Iowa Code section 368.22.

These rules are intended to implement Iowa Code section 17A.19 and chapter 368.