

CHAPTER 1174**CITY DEVELOPMENT – SOLID WASTE COLLECTION SERVICES***S.F. 2290*

AN ACT relating to the procedures for city development and to the provision of solid waste collection.

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

Section 1. Section 368.1, subsection 6, Code Supplement 1991, is amended to read as follows:

6. "Committee" means the board members, and the local representatives appointed as provided in ~~section~~ sections 368.14 and 368.14A, to hear and make a decision on a petition or plan for city development.

Sec. 2. Section 368.7, unnumbered paragraphs 2, 3, and 4, Code Supplement 1991, are amended to read as follows:

An application for annexation of territory not within ~~the an~~ an urbanized area of a city ~~other than the city to which the annexation is directed~~ must be approved by resolution of the council which receives the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. Upon receiving approval of the council, the city clerk shall file a copy of the resolution, map, and legal description of the territory involved with the state department of transportation. The city clerk shall also file a copy of the map and resolution with the county recorder and secretary of state. The secretary of state shall not accept and acknowledge a copy of a map and resolution of annexation which would create an island. The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the map and resolution.

An application for annexation of territory within ~~the an~~ an urbanized area of a city ~~other than the city to which the annexation is directed~~ must be approved both by resolution of the council which receives the application and by the board. The board shall not approve an application which creates an island. ~~A copy~~ Notice of the application shall be mailed by certified mail, ~~by the city to which the annexation is directed, at least ten days prior to the filing of the application with the city council, any action by the city council on the application to the council of each city whose boundary adjoins the territory or is within two miles of the territory, to the board of supervisors of each county which contains a portion of the territory, and to the regional planning authority of the territory. Notice of the filing of the application shall be published in an official county newspaper in each affected county at least ten days prior to the filing of the application with any action by the city council on the application.~~ In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

If one or more applications for a voluntary annexation and one or more petitions for an involuntary annexation for a common territory are submitted to the board within thirty days of ~~each other the date the first application or petition was submitted to the board,~~ the board shall approve the application for voluntary annexation, provided that the application meets the applicable requirements of this chapter, unless the board determines by a preponderance of the evidence that the application was filed in bad faith, or that the application as filed is contrary to the best interests of the citizens of the urbanized area, or that the applicant cannot within a reasonable period of time meet its obligation to provide services to the territory to be annexed sufficient to meet the needs of the territory. In consideration of the requests, the board may appoint a committee in the manner provided in section 368.14 to seek additional information from the applicant for voluntary annexation as necessary, including the information required of petitioners pursuant to section 368.11. The board, or the committee, if applicable, shall hold a public hearing on the application for voluntary annexation in the manner

provided for involuntary petitions in section 368.15. The decision of the board under this paragraph shall be made within ninety days of receipt of the application by the board. The failure of the board to approve an application under this paragraph shall be deemed final agency action subject to judicial review. An applicant may appeal a decision of the board no earlier than one hundred eighty days after the decision is issued or not later than thirty days after a final decision is made by the special local committee under section 368.14A, whichever is earlier.

Sec. 3. Section 368.8, Code 1991, is amended to read as follows:

368.8 VOLUNTARY SEVERING OF TERRITORY.

Any territory may be severed upon the unanimous consent of all owners of the territory and approval by resolution of the council of the city in which the territory is located. The council shall provide in the resolution for the equitable distribution of assets and equitable distribution and assumption of liabilities of the territory as between the city and the severed territory. The city clerk shall file a copy of the resolution, map, and a legal description of the territory involved with the state department of transportation. The city clerk shall also file a copy of the map and resolution with the county recorder and secretary of state. The secretary of state shall not accept and acknowledge a copy of a map and resolution of severance which would create an island. The severance is completed upon acknowledgment by the secretary of state that the secretary of state has received the map and resolution.

Sec. 4. Section 368.11, unnumbered paragraph 4, Code Supplement 1991, is amended to read as follows:

At least ten days before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known to all affected parties by sending a letter of intent by certified mail to the council of each city within the urbanized area if the territory is within an urbanized area, or, if the territory is not within an urbanized area, to the council of each city within two miles of the territory, the board of supervisors of each county within the urbanized area, the regional planning authority of the territory involved, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.

Sec. 5. Section 368.17, subsections 6 and 7, Code Supplement 1991, are amended to read as follows:

6. An incorporation of territory, any part of which is within an urbanized area of a two miles of an existing city, unless a petition for annexation of substantially the same territory to such city has been dismissed, disapproved, or voted upon unfavorably within the last five years.

7. ~~An annexation~~ A city development action which creates an island.

Sec. 6. NEW SECTION. 455B.306A ANNEXATION OF TERRITORY – EXPANSION OF SERVICES.

1. A city which annexes an area pursuant to chapter 368, or plans to operate or expand solid waste collection services into an area where the collection of solid waste is presently being provided by a private entity, shall notify the private entity by certified mail at least sixty days before its annexation or expansion of its intent to provide solid waste collection services in the area.

2. A city shall not commence alternative solid waste collection in such an area for one year from the effective date of the annexation or one year from the effective date of the notice that the city intends to operate or expand solid waste collection services in the area, unless the city contracts with the private entity to continue the services for that period.

3. A private entity providing solid waste collection services pursuant to this section shall provide solid waste collection services in the area in accordance with the city's comprehensive plan.

Approved April 29, 1992