

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

[Prior to 1/9/91, City Development Board[220] Ch 4]

[Prior to 12/11/02, 263—Ch 4]

263—10.1(368) Election. If a petition or plan is approved, the board shall set a date within 90 days after the committee files its written decision, for a special election on the proposal and shall notify, by certified mail 30 days prior to the election date, the county commissioner of elections responsible for conducting the election who shall conduct the election. The board shall proceed with establishing a date for an election on the proposal regardless of appeal or applications filed pursuant to rule 9.13(368). Appeal of a committee decision does not stay the election. After the county commissioner of elections has certified the results to the board, the board shall serve and publish notice of the results as provided in Iowa Code section 362.3.

This rule is intended to implement Iowa Code section 368.19.

263—10.2(368) Final order. Documents filed pursuant to Iowa Code section 368.20(2) shall be officially recorded. Upon the final filing of documents as specified in Iowa Code section 368.20(2), the board shall issue an order stating the boundary change is complete. A copy of the order shall accompany the documents and be officially recorded. Copies of the order shall also be served on the county auditor and any city involved in the change.

This rule is intended to implement Iowa Code section 368.20.

263—10.3(368) Record. The record of an involuntary boundary adjustment proceeding shall include the following as applicable:

1. The original petition or plan and any amendment;
2. Proofs of service and publication of required public hearing notices;
3. All pleadings filed with the board and committee and any answers or rulings on the pleadings;
4. The public hearing transcript and all evidence received at public hearing;
5. All briefs and documents filed on the board or committee by parties to the proceedings and all other filings made by those not parties but taken note of by the board or committee;
6. Public documents taken note of by the board or committee;
7. The committee's findings of fact, conclusions of law and determination;
8. The board's election order;
9. Certification and proof of publication of election results;
10. The board's final order.

The record shall be opened when a petition for boundary adjustment is filed with the board and shall be closed when the board has issued its final order.

This rule is intended to implement Iowa Code section 17A.19.

263—10.4(368) Appeal. A city or a resident or property owner in the territory or city whose urbanized area contains all or part of the territory may appeal a decision of the board or a committee, or the legality of an election, to the district court of a county which contains a portion of any city or territory involved. Appeal must be filed within 30 days of the filing of a decision or the second publication of notice of the result of an election. Appeal of an approval of a petition or plan does not stay the election. When an appeal is filed, the board shall be so notified and provided with a copy of the appeal.

Within 30 days after 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 which is the subject of the petition. By stipulation of all parties to the review proceedings, the record of such a case may be shortened.

This rule is intended to implement Iowa Code sections 368.22 and 17A.19.

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

10.5(1) *Discontinuance.* Meaning the termination of a city; the board shall publish two notices as provided in Iowa Code section 368.15 that it will receive and adjudicate claims against a discontinued city for a period of six months from publication of last notice. The board shall take control of all city balances, property, and records during the six-month period. 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 as provided for by section 368.21. After all allowed claims have been paid, any remaining balances in the discontinued city's account shall be deposited in the general fund of the county where the former city was located and all property and records of the discontinued city shall be deposited with the county auditor of the county designated by the board.

10.5(2) *Boundary adjustment.* Meaning annexation, severance or consolidation; at the discretion of the board, and upon request of the governing bodies involved, advisory assistance may be provided in implementation of a boundary adjustment.

10.5(3) *Consolidation.* Meaning the consolidation of two or more adjoining cities into one city; after the electorates have approved the consolidation, 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 thereof 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.

This rule is intended to implement Iowa Code section 368.21.

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