

CHAPTER 8
PETITIONS FOR INVOLUNTARY CITY DEVELOPMENT ACTION
[Prior to 12/11/02, see 263—Ch 2]

263—8.1(368) Board and committee action required. All petitions filed pursuant to Iowa Code section 368.11 requesting involuntary city development action, including incorporation, discontinuance, annexation, severance, or consolidation, must be reviewed by the city development board and, if in proper form, acted upon by a local committee established pursuant to Iowa Code section 368.14 or 368.14A.

263—8.2(368) Initiation of petition. A petition for involuntary city development action may be initiated, pursuant to Iowa Code sections 368.11 and 368.13, by a city council, a county board of supervisors, a regional planning authority, 5 percent of the qualified electors of a city or territory involved in the proposal, or the city development board. When a proposal for city development action is initiated by the city development board, the board may require a city to submit a petition or may formulate its own petition.

263—8.3(368) Contents of the petition. The body or bodies initiating the petition shall be known as the petitioner(s). The petition shall be prefaced by an introductory statement in the following general form:

We, the [city council of _____] [county board of supervisors of _____ county] [regional planning authority for _____] [certain qualified electors of _____] do hereby petition the city development board of the state of Iowa for an [incorporation] [discontinuance] [boundary change], more specifically described as [description of proposed action], and involving land described as [complete legal description].

In addition, the petition shall contain the following information, as required by Iowa Code section 368.11:

8.3(1) General statement of proposal. The general statement of proposal shall be an overview of the proposal, briefly describing the characteristics of the city and territory and the reasons for the corporate boundary change.

8.3(2) Moratorium. The petition shall contain a statement indicating whether a territory proposed for annexation is subject to an existing moratorium agreement and, if so, whether the proposed annexation is consistent with the terms of the agreement.

8.3(3) Map. The map shall clearly show all boundaries of the city and the entire annexation territory, adjacent roadways, the relationship of the territory to the city, and all geographic features deemed relevant to the proposed action. In cases of incorporation, a map of the proposed city boundary shall be provided. In cases of discontinuance or consolidation, a map of the existing city or cities shall be provided. Where land use patterns are expected to be pertinent to consideration of the proposal, the petitioner may be requested to present graphic material representing existing and anticipated use of the territory.

8.3(4) Legal description. The petition shall include a complete legal description of the territory proposed for annexation, severance, incorporation, discontinuance, or consolidation. In cases of annexation, the description of the right-of-way of secondary roads, included as required by Iowa Code section 368.1(14), shall be provided. Prior to filing the petition, the city shall provide a copy of the legal description, map of the territory and list of property owners identified by the city to the county auditor, including the right-of-way of secondary roads, which is included as required by Iowa Code section 368.1(14), with a request that the auditor verify the accuracy and completeness of the legal description and verify current ownership of the parcel(s) involved. The auditor's response shall be included in the petition. If the auditor fails to respond to the request within 14 days, the city may provide a copy of the request and a statement indicating that no response was received in lieu of the auditor's verification.

8.3(5) Assessed valuations. The assessed valuation and classification assigned for tax purposes (agricultural, residential, commercial, etc.) for each parcel of platted and unplatted land within the territory shall be included. This information shall be verified in writing by the city or county assessor. If

upon request by the city, the assessor fails to provide verification of this information within 14 days, the city may provide a copy of the request and a statement indicating that the verification was not provided by the assessor in lieu of the assessor's verification.

8.3(6) Property owners. The name and address of each owner of property within the territory.

8.3(7) Population density. Population density in terms of persons per acre for annexation or persons per square mile for incorporation, discontinuance, severance or consolidation. Population density shall be delineated for the existing city, the territory, and for the resulting city if the proposal is approved.

8.3(8) Potential growth in population. If the petition seeks annexation, consolidation or incorporation, projected population growth for the city and the territory shall be provided. 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.

8.3(9) Residential and commercial development regulation and projections. The petition shall include a description of current and proposed zoning regulations that apply to the annexation territory. Projected development and land use patterns shall be described under the assumption of continuation of existing land use regulations and under the assumption of land use regulations that would be applied after the annexation, if approved. Residential, commercial, and industrial development projections shall be provided based on population projections for the city and territory.

In the case of 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.

8.3(10) Description of topography. Topographical information shall be in map and narrative form. Maps shall include both the city and 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 of the area's topography shall accompany the maps and identify flood plains, drainage areas, drainage ways, slopes and bluffs. In petitions seeking annexation or incorporation, the narrative shall also address topography as it relates to development of urban uses and the extension of municipal services.

8.3(11) Plans for disposal of assets, assumption of liabilities, and provision of services including the following information:

a. Petitions for annexation, consolidation and incorporation shall include a description of existing municipal services and facilities, including but not limited to water supply, sewage disposal, police and fire protection, and street and road maintenance. The petition shall also include information regarding the city's proposal for providing municipal services, including but not limited to water supply, sewage disposal, street and road maintenance, and police and fire protection to the territory, proposed new city, or consolidated city, and the estimated cost of providing said services.

b. In cases of annexation, the petition shall include a statement of 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 increased demand resulting from addition of the territory to the city and the demand which will result from projected development in the territory. The petition shall also include an analysis of existing bonding capacity and bonded indebtedness, and the assets the city may receive that will offset the cost of providing municipal services, 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. In cases of incorporation, a statement of 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 that will offset the cost of providing municipal services, 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.

d. Petitions for severance and discontinuance shall include a statement of the adequacy of sewage disposal, water supply, police and fire protection, and other municipal services being provided to the territory by the city; 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.

8.3(12) Effect of the proposal and possible alternative proposals. At a minimum, the petition shall include a description of the effect that approval of the proposal will have on the cost and adequacy of services and facilities and a description of the effect of disapproval of the proposal on the cost and adequacy of services and facilities.

8.3(13) Effect of proposal on adjacent areas. The petition shall include documentation of the amount of revenue lost or gained by any city, township, or county affected by the proposal. Consideration shall be given to property tax, state shared revenues, federal revenue sharing, and any other major sources of revenue.

8.3(14) Service agreements. The petition shall identify services which may be provided through agreement with township fire districts, 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.

8.3(15) 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.

8.3(16) Name of proposed city. A petition for incorporation or consolidation shall state the name of the proposed resulting city.

8.3(17) Transition of taxation. In cases of annexation the city may, but is not required to, include a provision for transition for the imposition of city taxes against property within the annexation territory. The provision shall not allow greater exemption for taxation than the tax exemption formula schedule provided under Iowa Code section 427B.3, subsections 1 through 5, and shall be applied in the levy and collection of taxes. The provision may also allow for the partial provision of city services during the time in which the exemption from taxation is in effect.

8.3(18) Islands. The petition shall state whether approval of the proposal will create an island of unincorporated area.

8.3(19) Location of the territory. Petitions for annexation, incorporation, and consolidation shall include the following information:

a. Annexation. Petitions for annexation shall state whether the territory is adjoining the city to which annexation is proposed and whether any of the territory is in an existing city.

b. Incorporation. Petitions for incorporation shall state whether any of the territory to be incorporated is in an existing city or within two miles of the boundary of an existing city. If all or a portion of the area proposed for incorporation is within two miles of another city, the petition must include documentation that a petition for annexation of substantially the same territory has been dismissed, disapproved, or voted upon unfavorably within five years prior to filing of the petition.

c. Consolidation. Petitions for consolidation shall state whether all of the affected cities are contiguous.

[ARC 9546B, IAB 6/1/11, effective 7/6/11 (See Delay note at end of chapter); ARC 9664B, IAB 8/10/11, effective 7/20/11]

263—8.4(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” shall include Monday through Friday of each week, excluding “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 for involuntary city development action filed with the board.

263—8.5(368) Filing and service.

8.5(1) Filing. The original and 15 copies of a petition shall be filed with the board. A petition will be deemed filed with the board on the date it is received by board staff. The board shall return a file-stamped copy of the petition to the petitioner.

8.5(2) Service. Within seven days of the filing of a petition with the board the petitioner shall serve notice of the filing, including a copy of the petition, upon the council of each city for which a discontinuance, annexation, severance or consolidation is proposed; the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed, or severed; and the regional planning authority for the area involved.

8.5(3) Proof of service. The petitioner shall file proof of compliance with the service requirement of subrule 8.5(2) with the board.

263—8.6(368) Costs. All costs which 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(s).

263—8.7(368) Staff review of petition. Within two weeks of the filing of a petition for involuntary city development action, board staff shall review the request to determine whether the city has filed all of the information required by rule 8.3(368). If the request is found to be 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—8.8(368) Submission of petition to the board—notice. Petitions will be submitted to the board at the first meeting conducted 31 days or more after filing of the petition. The board shall provide the petitioner with notice of all meetings at which the board will consider or act upon the petition.

263—8.9(368) Board review of petition. Upon submission of a petition, the board shall review the petition for substantial compliance with Iowa Code section 368.11 and rules 8.3(368) through 8.5(368). 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 these rules upon finding the requirement inapplicable to the petition under review.

263—8.10(368) Board action on petition. On the basis of its review of the petition, the board shall accept the petition for further proceedings or dismiss the petition.

8.10(1) Acceptance. The board shall accept for further proceedings any petition that it finds to be in substantial compliance with the filing requirements of Iowa Code section 368.11 and these rules and not subject to dismissal pursuant to Iowa Code section 368.12.

8.10(2) Dismissal. A petition may be dismissed by the board only upon finding one of the statutory grounds for dismissal set forth in Iowa Code section 368.12. In cases of dismissal, the board shall issue an order indicating the reasons for the dismissal, providing copies to the petitioner and all parties to the proceeding.

263—8.11(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 serve with the board as a city development 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 a qualified elector of the city or territory represented or, if none of the qualified electors of the territory will accept the appointment or the territory has no resident qualified electors, that the representative owns property within the territory. 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.

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¹ July 6, 2011, effective date of 8.3(9) delayed 70 days by the Administrative Rules Review Committee at its meeting held June 14, 2011.