



**City Council – Meeting Agenda  
February 2, 2021 – 5:30 P.M. – Foley City Hall**

1. Call the meeting to order.
2. Pledge of Allegiance.
3. Approve the agenda.
4. Consent Agenda:
  - Approve minutes of January 5, 2021.
  - Adopt Resolution #2021-03 Accepting Donation.
  - Approve Bridge Agreement with Benton County – 3<sup>rd</sup> Avenue.
  - Approve part-time police officer eligibility list.
  - Approve payment of bills.
5. Amanda Othoudt – Benton Economic Partnership
6. Discussion on orderly annexation agreement – options to proceed.
7. Mayor’s Comments & Open Forum
8. Department Reports:
  - Police Department –Katie McMillin
    - Safe Policing
  - City Engineer – Jon Halter
  - Public Works/Fire – Mark Pappenfus
  - Administration – Sarah Brunn
    - Discuss and approve telework policy.
    - Discussion on federal travel guidance.
    - Update on sewer connection requirement.
9. Old Business
  - Update on wastewater project.
10. New Business
11. Discussion on purchase of PID 020049300 & PID 020050000.
  - Close the meeting per Minn. Stat. 13D.05 Subd. 3(c) 13D.05 – discussion on potential land price of PID 020049300 & PID 020050000.
12. Adjourn

CITY OF FOLEY, MINNESOTA  
CITY COUNCIL MEETING – January 5, 2021

The Foley City Council held a regular meeting on January 1, 2021, at 5:30 p.m. at the Foley City Hall.

Members Present: Mayor Gerard Bettendorf, Councilmembers Jeff Gondeck, Rosalie Musachio, and Gary Swanson.

Members Absent: None

The pledge of allegiance was recited.

The newly elected council members signed the oath of office.

Motion by Gondeck, seconded by Musachio, to approve the agenda. Motion carried, unanimous.

**Consent Agenda**

Motion by Gondeck, seconded by Swanson, to approve the consent agenda, which includes the following:

- Approve minutes of December 1, 2020.
- Adopt Resolution #2021-02 Accepting Donation.
- Accept resignation of part-time police officer Adam Goerger.
- Appoint Todd Foreman to Fire Lieutenant, January 1, 2021-December 31, 2023.
- Approve fire pay compensation clarification and changes.
- Approve payment of bills.

Discussion. Gondeck pointed out that the final payment to Robert McCoy is listed twice on the bills list. Sarah Brunn said it was a typo and would be corrected. Motion carried, unanimous.

Mayor congratulated the council members who were reelected: Gondeck, Brosh, and Mayor Bettendorf

**2021 Annual Appointments**

Discussion followed regarding annual appointments. Several council members expressed concern regarding the difficulty in finding residents who would be willing to serve. We are in need more members, especially on the Planning Commission. Sarah Brunn gave an overview on the steps the city has taken to let the public know and encourage participation on boards and Committees (e.g. advertising, social media...etc...). Brunn also expressed concern that part of the current difficulty was due to the pandemic.

Further discussion followed regarding the current makeup of the Planning Commission with two council members and two residents. Discussion followed. Council reached a decision to let Musachio's term on the Planning Commission expire leaving Gondeck and the two other members on the Planning Commission. Musachio could serve as an alternate if Gondeck could not attend meetings or even be officially reinstated to the commission if more members were added. Additional discussion followed regarding other appointments.

Motion by Swanson, seconded by Brosh, to approve the following appointments:

**Board of Health (1-year term)**

- Dr. Kevin Stiles – Health Officer
- Charlotte Monroe – Member
- Jeannie Rajkowski – Member

**Library Board ( 3-year term):**

- Dawn Magnuson

**Economic Development Authority (4-year term)**

- Jeremy Johnson

Motion carried, unanimous.

**Public Hearing – Fee Schedule Ordinance – Sewer Rate Ordinance**

At 5:40 p.m. Mayor Bettendorf recessed the regular meeting to conduct the public hearing on the proposed sewer rate, Ordinance #453.

No one spoke.

At 5:41 p.m. Mayor Bettendorf reconvened the regular council meeting.

Motion by Gondeck, seconded by Swanson, to adopt Ordinance #453 raising the sewer rate from .69 per 100 gallons to .76 per 100 gallons.

Discussion followed. Brosh asked why the minimum water bill was set at 7,000 gallons for usage. Brunn and Mark Pappenfus, Director of Public Works, explained this was set a long time ago before either of them worked for the city. Brunn further explained that this would be looked into in the upcoming rate study with the Minnesota Rural Water Association later this year. The information in the study will be used to help the city shift from a quarterly to a monthly water/sewer billing cycle. The council will be kept informed on the results of the study.

Motion carried, unanimous.

**Public Hearing – Vacation of City Right-of-Way**

Mayor Bettendorf recessed the regular meeting at 5:43 p.m. to conduct the Public Hearing on the Resolution #2021-01 Vacating City Right-of-Way.

No one spoke.

The regular meeting was reconvened at 5:44 p.m.

Motion by Gondeck, seconded by Musachio, to adopt Resolution #2021-01 Vacating City Right-of-Way. Motion carried, unanimous.

Motion by Gondeck, seconded by Musachio, to adopt the permanent easement agreement establishing a utility easement. Motion carried, unanimous.

### **Minor Subdivision Request – Resolution #2021-03 – Towne/Howard**

Gondeck addressed the council stating the Planning Commission reviewed the request and saw no issues. Brunn explained she had been in communication with the township and that the township board would discuss further tonight at their meeting. Brunn informed the council she planned to attend the meeting.

Motion by Gondeck, seconded by Swanson to adopt Resolution #2021-03, Approving Minor Subdivision. Motion carried, unanimous.

### **Mayor's Comments & Open Forum**

No one spoke.

### **Department Reports**

#### **Foley Police Department**

Chief Katie McMillin gave an overview to the council regarding the December call report. The PD saw a total of 292 calls during the month. Thefts were up. Welfare checks, medical calls, and violation of city ordinances were up. Ordinances included sidewalk shoveling letters. For the entire year, the PD responded to 3,293 calls which was 199 more calls than the previous year – a 6.4% increase. McMillin stated that with the pandemic the officers were doing less traffic enforcement. If that had not been the case, she estimated the overall call volume would have been much higher. McMillin also reminded the council that interviews would be conducted for the part-time officer position on Jan. 11. She asked the council for a motion to give the contingent job offer to the top candidate right away to start the backgrounding process. Final approval would come back on February 2<sup>nd</sup>. Motion by Gondeck, seconded by Musachio to approve the request.

Discussion followed regarding officer list. Gondeck asked the PD to do more Toward Zero Deaths (TZD) hours as he felt it was good training for the officers.

Motion carried, unanimous.

McMillin shared one more interesting item with the council. She has recently assisted the FBI and investigators in Canada. Through their combined efforts, they were able to return \$16,000 to the victim who was a Foley resident. McMillin also shared that use of force training for the department would be held in January/February.

#### **City Engineer**

City Engineer, Jon Halter, gave an overview of the proposed 2022 Hwy 23 – Project Utilities/Eastview Lift Station Abandonment project. Halter explained that the best time to complete the work was during MNDOT's Hwy 23 project since the road would already be torn up and it would be easier to lay the new pipe. The project included the removal of the Eastview lift station and replace it with a gravity sewer. The gravity sewer would be less costly and easier to maintain. The project estimate is currently \$400,000. He asked the council to approve and authorize the initial design for the project. Discussion followed including the city ordinance that would require homes with so many feet of the new sewer stub currently using septic systems to connect to city water/sewer and under what circumstances this would occur. More discussion followed regarding the lift station. Pappenfus explained that the station

is currently 25 years old and would need to be upgraded in 10 years. This project would eliminate this expense and explained how the gravity system required minimal maintenance and was more reliable.

Motion by Gondeck, seconded Musachio, to authorize staff to move forward with the design of the utility improvement project.

Motion carried, unanimous.

### **Public Works and Fire Department**

Mark Pappenfus gave an update to the council. Public Works is making ice for the skating rink and the warming house is open. A sign will be put up on the warming house to let residents know it is not being sanitized against the covid virus and they are using it at their own risk. The acquisition of the vacuum truck is proceeding. The city that is selling the truck signed for their new truck. Pappenfus estimates we could have the vacuum truck by mid-summer. Discussion turned to the lighting fixtures for the Hwy 23 project. Brunn and Pappenfus gave updated information that was received yesterday. Discussion followed regarding the light fixtures and whether or not the council wanted to go with the standard design or upgrade to the poles that would allow for light displays and flag/banner brackets.

Motion by Swanson, seconded by Musachio, to approve the upgraded lights and poles from the roundabout to Broadway Avenue. More discussion followed.

Gondeck, Musachio, and Swanson voted aye.

Bettendorf and Brosh voted nay.

Motion carried.

Mayor Bettendorf thanked the Fire Department for the Dec. 23 fire truck parade. Pappenfus told the council that the department enjoyed it and is looking into possibly expanding it for next year. Pappenfus also informed the council that the department was thankful for the donation of pizza received after the parade.

Pappenfus also informed the council that a new FEMA grant became available for new gear. The department would apply for the grant to upgrade air compression and storage cylinders. If awarded, the city would be responsible for 5% of the cost. The department applied for the same grant last year but did not get it. Pappenfus would bring more details to the council at the next meeting.

### **Administration**

Sarah Brunn presented an amendment to the 2021 budget from a 2008 project that would assure the city was charging funds accordingly. Brunn explained that actual costs charged to the enterprise fund were never calculated on this old bond and the need to make sure the enterprise fund is appropriately charged. Amendment would account for \$40,000 for sewer funds by shifting money out of the enterprise funds to pay for sewer expenses and charging the tax levy less to make the bond payment. Brunn recommended to the council to approve the budget amendment.

Motion by Swanson, seconded by Musachio, to approve the budget amendment. Motion carried, unanimous.

Sarah also informed the council that the Benton County Economic Partnership had approved another business program to provide covid relief funds of \$787,000 to be made available to tier one businesses (hospitality industry) directly affected by the latest order. The city would share the information on social media. If money is left over after the first tier, a second tier would be opened to help non-profits. Applications are due Jan. 29.

### **Old Business**

Brunn gave an update on the wastewater project. Staff is meeting tomorrow with the City of St. Cloud for an update on our connection status. Staff had also received more information on changes proposed to the agreement. Will also discuss metering with St. Cloud to make sure the design is moving in the right direction. Staff also turned in applications for funding.

Brunn also gave an update on the Orderly Annexation agreement with Gilmanton Township. No decision at this time from the township. Brunn informed the council she would be attending the board meeting after the city council meeting. Discussion followed.

### **New Business**

#### **Discussion on purchase of PID 020049300 & PID 020050000.**

At 6:33 p.m. Mayor Bettendorf closed the meeting per Minn. Stat. 13D.05 Subd. 3(c) 13D.05 – for discussion on potential land price of PID 020049300 & PID 020050000.

At 6:40 p.m. the meeting reconvened.

Motion by Musachio, seconded by Gondeck to adjourn. Motion carried, unanimous.

Meeting adjourned.

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Sarah A. Brunn, Administrator

CITY OF FOLEY  
COUNTY OF BENTON  
STATE OF MINNESOTA

RESOLUTION 2021 - 03

A RESOLUTION ACCEPTING DONATIONS FOR THE FIRE DEPARTMENT

WHEREAS, the City of Foley encourages public donations to help defray the costs of the general public of providing services and improve the quality of life in Foley, and

WHEREAS, Bernadette J. Stangler, Walmart, and the Benton Telecommunications Foundation, have offered to donate funds for the Foley Fire Department, and

WHEREAS, Minnesota Statutes 465.03 requires that all gifts and donations of real or personal property be accepted only with the adoption of a resolution approved by two-thirds of the members of the City Council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Foley, Benton County, Minnesota, that these donations are hereby accepted for use by the City of Foley.

BE IT FURTHER RESOLVED that the City extends its sincere appreciation to the following donors for their generous donations:

- Bernadette J. Stangler
- Walmart
- Benton Telecommunications Foundation

PASSED AND ADOPTED by the City Council of the City of Foley, Minnesota, this 2nd day of February 2021.

\_\_\_\_\_  
Gerard L. Bettendorf, Mayor

ATTEST:

\_\_\_\_\_  
Sarah A. Brunn, City Administrator

**ADMINISTRATION AGREEMENT  
BETWEEN THE COUNTY OF BENTON  
AND  
THE CITY OF FOLEY  
TO**

Administer the contract for Benton County project number SAP 005-597-01 (hereinafter referred to as the "Project"), which includes the engineering and new bridge construction on 3<sup>rd</sup> Ave in Foley.

**PARTIES**

This agreement is entered into by the County of Benton (hereinafter referred to as the "County") and the City of Foley (hereinafter referred to as the "City").

**RECITALS**

The City wishes to replace bridge structure L2410. The structures have been deemed structurally deficient based on routine safety inspections and warrant replacement. Minn. § 165.03 establishes that the County Highway Engineer is responsible for inspecting bridges within Township right-of-way. Minnesota Administrative Rules 8820.29 requires that construction plans for the replacement of Township bridges must be completed under the supervision of the County Engineer.

**CONTRACT**

1. The Recitals are incorporated into this Agreement.
2. The County will hire a consulting engineer to perform preliminary engineering and prepare construction plans for the Project(s). The final construction plans shall meet minimum State Aid standards. The City will be provided a copy of those plans for comment and approval prior to acceptance of the plans. All project documents shall be jointly owned by the County and the City.
3. The County's engineer shall follow all applicable Minnesota Administrative Rules and the processes established in the State Aid for Local Transportation (SALT) State Aid Manual (SAM).
4. The County's engineer will prepare bidding and construction specifications. These specifications shall be provided to the County to be incorporated into a bidding packet.
5. The County shall advertise for bids, open bids, and prepare an Abstract of Bids indicating the costs of the Project
6. The County will award a construction contract upon recommendation and concurrence from the City contingent upon approval from MNDOT.



7. The County's engineer shall perform or shall provide for construction inspection of the Project by certified technicians. The County will follow the Schedule of Materials Control of MNDot SALT.

8. The County's engineer shall perform all necessary coordination with MNDOT relative to the Project.

9. The County shall retain 5% of the estimated costs from the estimated project total to be paid to the contractors until the Final Contract Voucher is prepared.

10. The Parties shall each be entitled to copies of all documents related to the Project, including as-built or record drawings.

### **COSTS**

11. The City shall reimburse the County for the first \$10,000 (ten thousand dollars) of costs associated with preliminary engineering.

12. The City shall reimburse the County for the first \$10,000 (ten thousand dollars) of costs associated with the construction of replacement structures.

13. At the time of this agreement it is understood that the City has an established method to finance and fund its portion of the construction and engineering costs.

14. The County will prepare intermediate pay estimates based on construction progress reports provided by the City and forward to City prior to submittal to the contractor. The City shall pay its portion to the County within 21 days and the County shall make all payments to the contractor directly for all pay estimates.

### **MISCELLANEOUS**

15. All design changes shall be mutually agreed to by the Parties. The County must approve the modification of any "Major Item" as defined by MnDOT's Standard Specifications for Construction.

16. All future maintenance of the Project shall be the responsibility of the City. Each party shall be liable for its own acts and agrees to indemnify, defend, and hold harmless the other, its officers, and employees against any liability arising out of any act or omission by the indemnifying party. Nothing in this Agreement shall constitute a waiver of the limits of liability or immunities of any party provided by Minnesota Statutes Chapter 466. The City agrees to provide an indemnity for the variance to the project in accordance with Minnesota Rules Chapter 8820.

17. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement or their successors in office.

18. This Agreement contains all negotiations and agreements between the parties. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

19. This Agreement is effective on the date of execution and signatures of each party and will remain in effect until the completion of the contract.

### COUNTY OF BENTON

#### APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

By: \_\_\_\_\_  
Its Chair, Board of Commissioners

Date: \_\_\_\_\_, 2021

#### RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
County Engineer

By: \_\_\_\_\_  
Its County Administrator

Date: \_\_\_\_\_, 2021

### CITY OF FOLEY

By: \_\_\_\_\_  
Its Mayor

Date: \_\_\_\_\_, 2021

By: \_\_\_\_\_  
Its City Administrator

Date: \_\_\_\_\_, 2021

## Part Time Officer Hiring List

01/2021 – 01/2022

1. Jason McDonald
- 2.– Withdrew from Hiring process 1/12/2021
3. Russel Lipinski
4. Grant Crider

# Bills List - February 2, 2021

Gross Salaries - FIRE & COUNCIL	Payroll - 1/8/21	\$	29,570.73
EFTPS	Federal Withholding	\$	4,625.04
MN Dept of Revenue	State Withholding	\$	300.00
State Treas. PERA	PERA	\$	73.50
Gross Salaries	Payroll - 1/15/21	\$	32,927.31
EFTPS	Federal Withholding	\$	5,241.51
MN Dept of Revenue	State Withholding	\$	1,072.49
State Treas. PERA	PERA	\$	5,539.94
Nationwide	Deferred Comp	\$	770.00
Pacific Life Ins	Deferred Comp/Roth IRA	\$	40.00
Further	HSA Contribution	\$	525.00
Gross Salaries	Payroll - 1/29/21	\$	32,982.22
EFTPS	Federal Withholding	\$	5,259.28
MN Dept of Revenue	State Withholding	\$	1,071.92
State Treas. PERA	PERA	\$	5,534.06
Nationwide	Deferred Comp	\$	770.00
Pacific Life Ins	Deferred Comp/Roth IRA	\$	40.00
Further	HSA Contribution	\$	600.00

## To Be Paid - 2/2/21

AllSpec Services	Building Inspection Services	\$	558.35
Auto Value	Generator, Vac Treuck, FD Maint	\$	187.40
Batteries Plus	FD Batteries	\$	371.03
Benton County Highway Dept	PD Fuel	\$	626.59
Benton County Historical Society	2021 Annual Contribution	\$	750.00
Benton County Recorder	Easement & Resolution Recording Fees	\$	92.00
Bolton & Menk	WW Design - WW Expansion	\$	13,908.75
Braun Intertec	Hwy 25 Trail Materials Testing	\$	849.00
Central McGowan	PD Medical Equipment	\$	98.08
Cintas	Uniforms	\$	204.12
Cloudnet	Server Fee	\$	10.00
Coborn's	Office Supplies	\$	73.61
Delta Dental	Employee Dental Insurance	\$	1,092.15
Farm-Rite Equipment	Bobcat, Skidloader, Plow Repairs	\$	742.19
Ferguson Waterworks	Water Meters & Maint	\$	7,221.12
First National Bank of Omaha	Credit Card Purchases	\$	1,036.84
Foley Area Care	2021 Annual Contribution	\$	1,000.00
Foley Fuel & Lumber	PD Door Repair, FD Supplies	\$	59.60
Foley Hardware	Street, PD, Parks, FD & City Hall Maint	\$	69.81
Further	Monthly HSA Cont. Emp DCFSA Reim	\$	5,350.00
Gopher State One Call	Email Tickets	\$	50.00
Granite City Electronics	FD Radio Repair	\$	54.50
Hawkins	Water Chemicals	\$	3,062.48
HealthPartners	Employee Health Insurance	\$	11,919.87
Henry Embroidery	FD Uniforms	\$	236.00
Initiative Foundation	2021 Annual Contribution	\$	600.00
League of MN Cities	2021 PD Patrol Subscription	\$	630.00
Marco	Copier Lease	\$	256.55
MidCo	Phone & Internet Services	\$	719.67
MN Dept of Natural Resources	Water Permit	\$	398.78
MN Dept of Revenue	December 2020 Sales & Use Tax Return	\$	107.00
MN State Hwy Safety & Research Center	FD Driver Training	\$	825.00
Murphy Chevrolet	PD Squad Maint	\$	115.22
Northland Securities	2020 Continuing Disclosure Filing	\$	435.00
Nuss Truck & Equipment	New Snow Plow Chassis	\$	120,808.28
RevTrack	Credit Card Processing Fee	\$	312.56
Rinke Noonan	WW, MNPEA, PD, Zoning, General Legal	\$	1,493.00

RMB Environmental Laboratories	Water & Sewer Testing	\$	219.00
Short Elliot Hendrickson	Towne, WW, HWY 25, I&I, General Engineering	\$	4,129.53
Silt Sock	TIF Payments	\$	20,203.89
Streichers	FD Uniforms	\$	300.00
Sun Life Financial	Employee LTD Insurance	\$	192.17
T&M Shooting Sports	PD Ammunition	\$	579.00
Team Lab	Water and Snow Supplies	\$	1,410.50
Thomas Tool & Supply	Street Supplies	\$	37.78
USAbLe Life	Employee Life Insurance	\$	201.50
Verizon Wireless	Cell Phone & Park Trail Cameras	\$	377.11
Werner Electric	Outdoor Lights Timer Clock	\$	126.61
Wex Bank	Fuel Credit Card Purchases	\$	75.00
Xcel Energy	Utilities	\$	4,004.18
		\$	<b>335,123.82</b>

Resolution # \_\_\_\_\_

**Orderly Annexation and Joint Planning Agreement Between**

**Gilmanton Township and the City of Foley**

**WHEREAS**, the Town of Gilmanton ("Town") and the City of Foley ("City") have had discussions regarding the planning and development of lands adjacent to the City;

**WHEREAS**, the Town and City jointly agree that both intend to conserve agricultural lands and promote growth and development in appropriate areas only upon annexation to the City;

**WHEREAS**, the Town and City jointly enter into this agreement to establish an orderly annexation area and adopted land use controls;

**WHEREAS**, the Town and City jointly agree that lands within the orderly annexation area should be governed by the land use controls of the City instead of Benton County;

**WHEREAS**, the Town and City jointly enter into this agreement to establish a process for administering the City's land use controls within the orderly annexation area;

**WHEREAS**, Minnesota Statutes § 414.0325 provides a procedure for the Town and City to agree on a process of orderly annexation of a designated area; and

**WHEREAS**, the orderly annexation area encompassed by the Agreement is relatively small, consisting of approximately 840 acres, as depicted in **Exhibit A** ("Orderly Annexation Area") and legally described in **Exhibit B**;

**WHEREAS**, on \_\_\_\_\_, 2020 a Notice of Intent to include property in an orderly annexation area was published pursuant to the requirements of Minnesota Statutes § 414.0325 Subd. 1b; and

**WHEREAS**, the City and Town have agreed to all the terms and conditions for the annexation of the Orderly Annexation Area and the City and Town agree that no alteration of the designated area is appropriate and no consideration by the Chief Administrative Law Judge is necessary. The Chief Administrative Law Judge may review and comment, but shall within thirty (30) days, order the annexation in accordance with the terms of the resolution.

**NOW, THEREFORE**, for good and valuable consideration, and after a properly conducted joint public hearing by the Town and City, the Township Board of Supervisors of the Town of Gilmanton and the City Council of the City of Foley hereby resolve and agree as follows:

**ORDERLY ANNEXATION AGREEMENT**

1. **Designation.** The City and Town designate the real property the area described and depicted in Exhibit A ("Orderly Annexation Area") as subject to orderly annexation pursuant to Minnesota Statute 414.0325. The Orderly Annexation Area consists of

approximately 840, the population in the subject area is less than 75, and the land use type is agricultural.

2. **State Jurisdiction.** The Town and City, by approval and submission of this Agreement to the Municipal Boundary Adjustment Unit of the Office of Administrative Hearings, confer jurisdiction upon the Chief Administrative Law Judge to accomplish orderly annexation in accordance with the terms of this Agreement.
3. **Rural Preservation Until Annexation.** The Town and City have identified the Orderly Annexation Area as areas that are about to become urban or suburban, and because the City anticipates being capable of providing services to this area within a reasonable time, the annexation would be in the best interest of the area if development occurs. In the interim, however, the intent of the Town and City is to maintain and preserve the current rural character of the Orderly Annexation Area until property is annexed into the City. This means allowing agricultural uses and homesteads at a density of one per forty acres and restricting subdivisions for building purposes that result in lots smaller than 40 acres. Nothing in this Amendment is intended to impair or restrict the rights of lots of record or legal nonconformities.
4. **Conditions for Annexation.** Property in the Orderly Annexation Area shall be annexed into the City when agreed to by two of the following three parties: the property owner, the City of Foley, or Gilmanton Township.
5. **Property Taxes.** The City and Town to the following property tax provisions:
  - a. **Rate.** The tax capacity rate applicable to property after annexation shall be increased in substantially equal proportions each year of a six-year period until it equals the tax capacity rate of the City. If any part of the annexed property becomes developed prior to the end of the six-year period, it shall be assessed at the City's tax rate.
  - b. **Reimbursement.** The City agrees to reimburse the Town an amount equal to seven years' of property taxes that would be received from annexed properties based on the rates and values at the time of annexation. Payment will be made in a lump sum within 6 months after the annexation is effective.
6. **Agreement Term.** Unless the parties have agreed to an extension, this agreement shall terminate on December 31, 2030.
7. **Exclusive.** It is the intent of the parties that this Agreement sets the exclusive procedures under which annexation from the Township to the City may occur during the term of this Agreement.

## **JOINT PLANNING AGREEMENT**

1. **Applicable Land Use Controls.** Zoning within the Orderly Annexation Area is currently administered by Benton County, utilizing the Benton County Zoning Ordinance. In order to eliminate authority for changes in applicable land use controls from residing with Benton County and outside of the control of either the Town or City, and to eliminate questions of applicability of past revisions of Benton County's Development Code, the Town and City agree to apply the City's zoning ordinance within the Orderly Annexation Area. The goal of land use controls is to preserve the Orderly Annexation Area as agricultural until development is appropriate, so no rezoning of property to a designation other than Agricultural within the Orderly Annexation shall occur prior to annexation.
2. **Zoning Designation.** All property within the Orderly Annexation Area is currently zoned Agricultural "A", Business "B", Business Enterprise "B-2", or Single Family Residence "R-2" under Benton County's designation, a copy of which is attached as **Exhibit C**. Upon execution of this agreement, the property within the Orderly Annexation shall be zoned A-1 Agricultural in accordance with the City's zoning ordinance with the exception that properties zoned B or B-2 shall retain all permitted and conditional uses allowed for such zone under the Benton County's zoning, whether or not such uses currently exist on the property. All existing legal uses in operation on \_\_\_\_\_, 2020 shall be able to continue to operate as legal non-conformities.
3. **Administration of Land Use Controls.** The Town and City agree that land use controls within the Orderly Annexation Area shall be administered as follows:
  - a. **Joint Planning Board.** Pursuant to Minnesota Statutes §§ 414.0325 and 471.59, the Town and City hereby establish a Joint Planning Board to administer land use controls within the Joint Planning Area. The Joint Planning Board shall consist of two township supervisors and two city council members as appointed by their respective bodies. Town representatives shall chair and vice-chair the Joint Planning Board on even years and City representatives shall chair and vice-chair the Joint Planning Board on odd years. Meetings shall be called on an as-needed basis when zoning requests are received or when either the City or Town request a meeting.
  - b. **Staff.** City staff shall, at no cost to the Town, provide all administrative functions for the Joint Planning Board including the preparation of meeting minutes, serving as zoning administrator, and undertaking enforcement actions. The official City newspaper shall be the official newspaper of the Joint Planning Board for all meeting, public hearing, and other official notices.
  - c. **Land Use Permits and Variances.** Conditional and interim use permits and variance requests shall be submitted on the City's forms and processed by the Joint Planning Board in accordance with the City's zoning ordinance.
  - d. **Ordinance Revisions.** Any revisions to the City's Agriculture District zoning ordinance shall automatically apply to the Orderly Annexation Area unless



specifically modified by the Joint Planning Board; this includes any interim ordinances. The City shall provide the Town will notice of any such revisions.

4. **Subdivision of Property**. It is the purpose of this Amendment to regulate subdivisions of land in a manner so as to protect the integrity of the agricultural nature of the Orderly Annexation Area. Such protection requires that any platting or subdivision of property be completed after the property has been annexed to the City, except in those rare circumstances where the Board determines:

- a. the subdivision will not increase the residential density of one single family dwelling per 40 acres;
- b. the subdivision will not precipitate commercial or industrial development; and
- c. the subdivision of land will not harm the continued vitality of the Orderly Annexation Area as a rural, agricultural area which will not be further developed until such time as is appropriate for annexation.

5. **Further Amendment**. Any amendment to the Joint Planning Agreement shall require a public hearing by the Joint Planning Board and approval by the Gilmanston Town Board and the Foley City Council.

**Effective Date**. This Orderly Annexation and Joint Planning Agreement shall be effective upon adoption of the Town Board and City Council and issuance of an Order by the Chief Administrative Law Judge.

Adopted by Town Board of Supervisors for the Town Gilmanston this \_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Town Board Chair

ATTEST:

By: \_\_\_\_\_  
Town Clerk

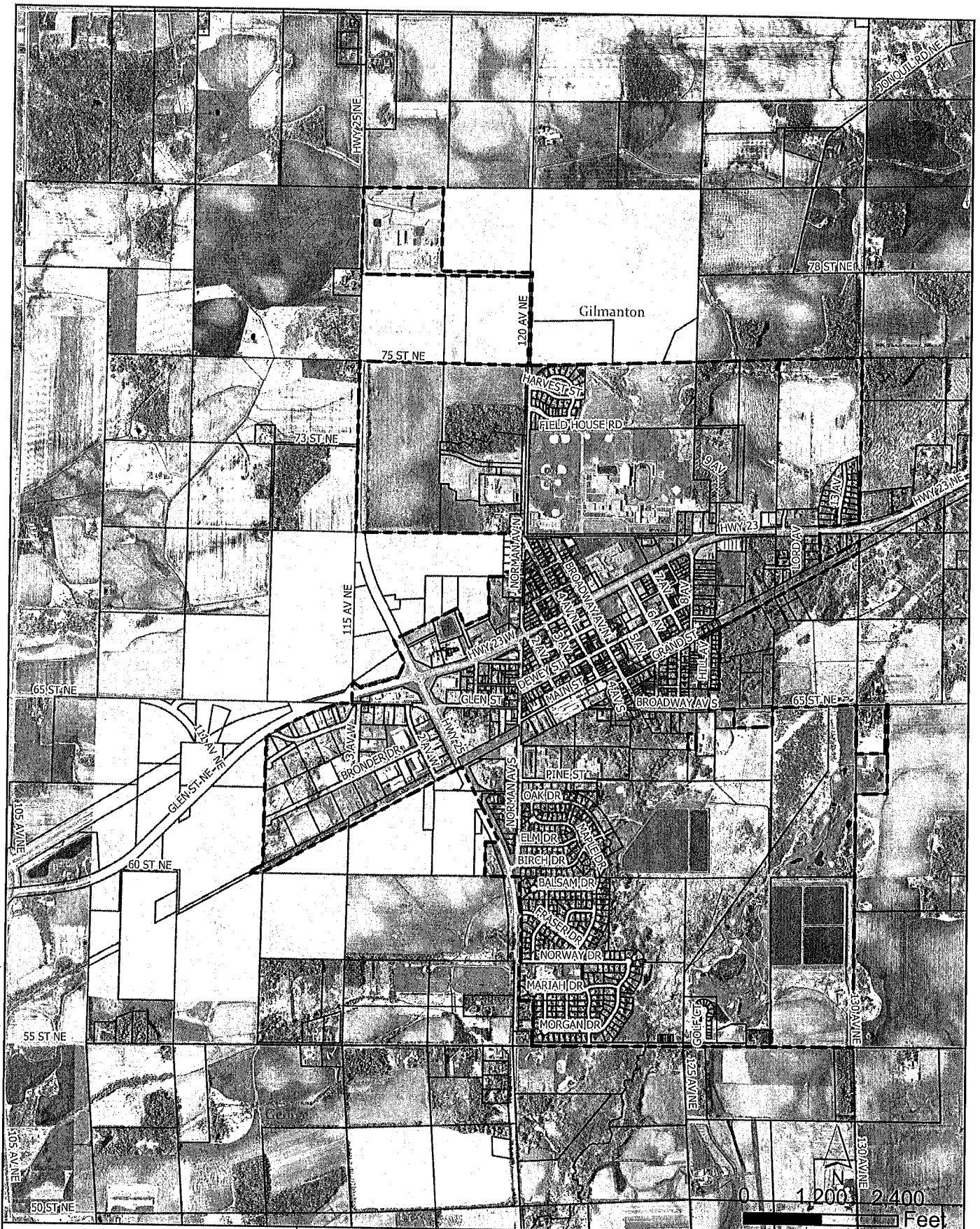
Adopted by City Council for the City of Foley this \_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Administrator

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Print Date: 4/24/2020

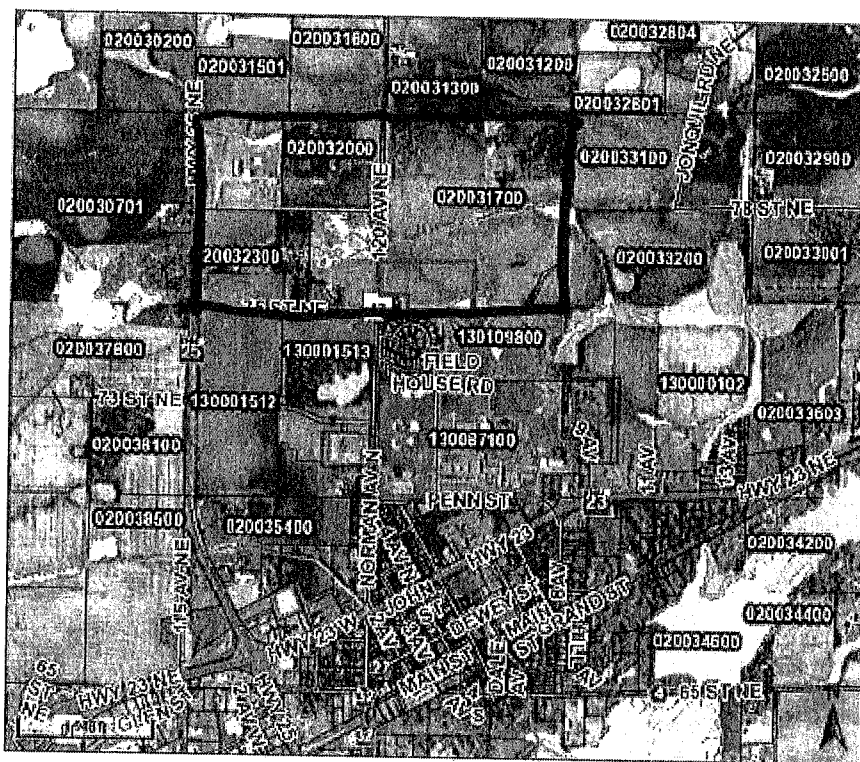
## ORDERLY ANNEXATION AREA

LOCATION MAP  
Foley, Minnesota

Exhibit  
A

This map is neither a legally recorded map nor a survey map and is not intended to be used as one. This map is a compilation of records, information, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and SEH does not represent that the GIS Data can be used for navigational, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this map acknowledges that SEH shall not be liable for any damages which arise out of the user's access or use of data provided.

### Depiction of Orderly Annexation Area



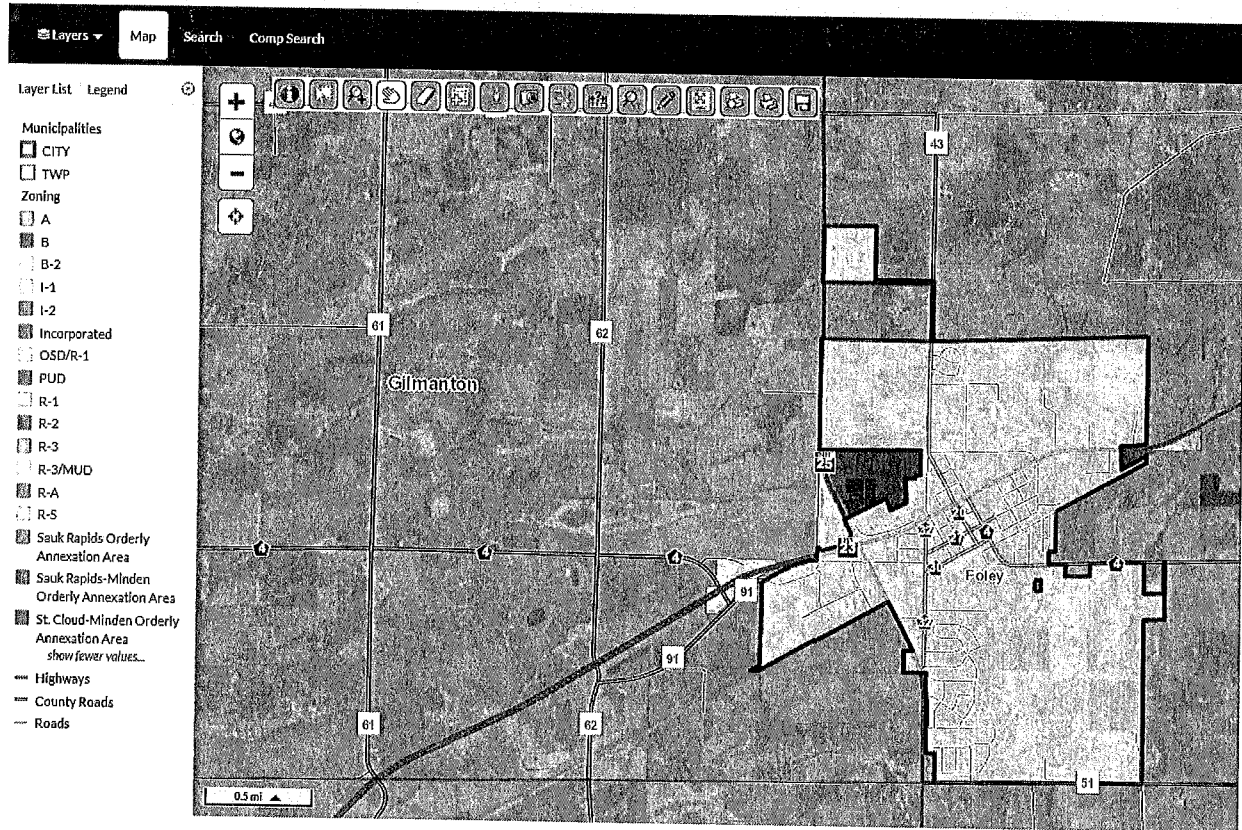
**EXHIBIT B**

Legal Description of Orderly Annexation Area

## EXHIBIT C

### County Zoning of Orderly Annexation Area

**Beacon™** Benton County, MN





HANDBOOK FOR MINNESOTA CITIES

Chapter 2  
Change of Boundaries, Status and  
Name

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This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.



## Chapter 2

# Change of Boundaries, Status and Name

*Learn the procedures for incorporating, consolidating, and dissolving cities and the related procedures of annexation and concurrently detaching from one city and annexing into another. Understand the role of the state's Municipal Boundary Adjustment Unit in these processes.*

### RELEVANT LINKS:

Minn. Const. art. XII, § 3.

See Handbook, *Local Government in Minnesota*.

Minn. Stat. § 414.02.  
Office of Administrative  
Hearings, Municipal  
Boundary Adjustment Unit  
(MBAU), P.O. Box 64620,  
St. Paul, MN 55164;  
651.361.7900.

## I. The Municipal Boundary Adjustment Unit of the state Office of Administrative Hearings

The Minnesota Constitution gives the Legislature the responsibility of establishing and regulating a system of local government. The Constitution specifies that the Legislature may provide for the creation, organization, administration, consolidation, division, and dissolution of local government units and their functions and may change the boundaries of cities.

The local government system in Minnesota has three basic units: towns, cities, and counties. The town form of government is used in rural areas. Towns have very limited taxing and regulatory powers. Emphasis is placed on giving the electors maximum participation in governmental decision making at an annual meeting.

In contrast, the city form of government applies to urban and suburban areas. Cities have broad taxing and regulatory powers. An elected city council makes nearly all city governmental decisions.

The county form of government is the administrative arm of the state. They carry out certain functions, such as providing welfare services and a corrections system. They have five or seven-member boards and all citizens regardless of where they live (city, town or unorganized territory) are represented by a county commissioner. Counties do not have broad powers like cities.

The Municipal Boundary Adjustment Unit of the state Office of Administrative Hearings has authority over all proposed annexations, consolidations, detachments, and incorporations of new cities, with certain exceptions discussed in the section of this chapter on annexation by ordinance and orderly annexation.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.



## RELEVANT LINKS:

Minn. Stat. § 414.09.  
Minn. Stat. § 414.01, subd.  
8a.

Minn. R. 6000.0100-.3400.

Minn. Stat. § 414.02, subd. 1.  
Minn. Stat. § 414.011, subd.  
5.

Minn. Stat. § 414.02, subd.  
1(a).

The Municipal Boundary Adjustment Unit follows uniform procedures established by state law. To accomplish its tasks, a person conducting a proceeding on behalf of the Municipal Boundary Adjustment Unit may administer oaths and affirmations; receive testimony of witnesses, and the production of books, papers, and documents; examine witnesses; and receive and report evidence.

Upon the written request of a presiding administrative law judge or a party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents. The Municipal Boundary Adjustment Unit has also adopted rules of practice to follow in all of its proceedings.

## II. Incorporation

Organizing as a city has certain advantages. Areas wishing to become cities can initiate incorporation by petition or by resolution. The League maintains a list of all incorporated places and their dates of incorporation.

### A. Petition or resolution

To initiate an incorporation proceeding by petition, 100 or more property owners residing within an area can file a petition. "Property owner" means the owner of any fee interest of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes, but is not limited to, vendees under a contract for deed and mortgagor.

If the incorporation proceeding is initiated by property owners, the notice of intent to incorporate must be served by the property owner or owners or designee by certified mail on:

- The town board of the township containing the area proposed for incorporation; and
- The clerk of each municipality and each township that is contiguous to the area proposed for incorporation.

In the alternative, the town board with jurisdiction over the land in question can pass a resolution to initiate incorporation. The land cannot be within the limits of an incorporated city, and some of the land must be platted into lots and blocks according to law.

The law does not require any specific amount of land to be platted. The Administrative law judge must receive a copy of the petition or resolution for incorporation, and it must contain the following information:

## RELEVANT LINKS:

- The proposed name of the city.
- The names of all parties entitled to mailed notice under the law.
- The reason for incorporation.
- A map showing the proposed boundaries of the area to be incorporated.

### B. Basic procedure

The basic procedure for incorporation includes the following steps:

- Serving a notice of intent to incorporate.
- The filing of the incorporation petition or resolution.
- Notice of hearing.
- A public hearing by the Administrative law judge.
- Issuance of an order to authorize the incorporation.
- The incorporation is effective upon the election and qualification of city officers or on a later date specified by the Administrative law judge.

Minn. Stat. § 414.02, subd. 4.

### C. Items that must be considered

As a guide in determining whether to approve a petition for incorporation, the Municipal Boundary Adjustment Unit must consider the following items:

- Present population, number of households, past population, and projected population growth for the subject area.
- Quantity of land within the subject area and the natural terrain, including recognizable physical features, general topography, major watersheds, soil conditions, and natural features like rivers, lakes, and major bluffs.
- Present pattern of physical development, planning, and intended land uses in the subject area, including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on these uses.
- The present transportation network and potential transportation issues, including proposed highway development.
- Land-use controls and planning presently in use in the area, including comprehensive plans and policies of the Metropolitan Council where applicable, and whether there are inconsistencies between the proposed development and existing land-use controls.

Minn. Stat. § 414.02, subd. 3.

## RELEVANT LINKS:

- Existing levels of governmental services provided to the area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, recreational facilities, and the impact of the proposed action on the delivery of services.
- Existing or potential environmental problems and whether the incorporation is likely to improve or to resolve these problems.
- Fiscal impact on the subject area and adjacent units of local government; the present bonded indebtedness; the local tax rates of the county, school district, and township; and other tax and government-aid issues.
- Relationship and effect of the proposed incorporation on adjacent and affected school districts within and adjacent to the area.
- Whether delivery of services to the subject area can be adequately and economically delivered by the existing government.
- Whether necessary governmental services can best be provided through incorporation or through annexation to an adjacent city.
- The degree of contiguity of the boundaries of the subject area and adjacent units of local government.
- The applicability of the state building code.

Minn. Stat. § 414.02, subd. 3.

Even though an area meets the legal test for incorporation, the Administrative law judge may deny the petition if annexation to an adjoining city would better serve the area.

At the hearing, the Administrative law judge has authority to alter the boundaries of the proposed incorporation by increasing the area to be incorporated to include land that is, or is about to become, urban or suburban in character. The Administrative law judge may exclude property that may be better served by another unit of government. It may also alter the boundaries to follow clearly recognizable physical features.

Minn. Stat. § 414.09, subd. 3.  
Minn. Stat. § 414.02, subd. 3.

## D. Organizing the city government

If the incorporation is successful, the citizens must elect city officers who will organize the new city's affairs and carry on its government. The Administrative law judge may provide for a ward system with not less than three or more than seven wards if it finds that wards will provide proper representation in the incorporated area. A ward system may be preferable if there is uneven population density in different parts of the area or if agricultural lands are in the path of development. The city may abolish the ward system after four years by a four-fifths vote of the council.

## RELEVANT LINKS:

See Handbook, *The Statutory City*.

See Handbook, *The Home Rule Charter City*.

Minn. Stat. § 414.041.  
*Village of Lakeville v. Village of Farmington*, 297 Minn. 524, 211 N.W.2d 897 (Minn. 1973).

Minn. Stat. § 414.041, subd. 1.  
Minn. Stat. § 414.011, subd. 6.

Minn. Stat. § 414.09.

Min. Stat. § 414.041, subds. 2, 3.

If the Administrative law judge does not determine that a ward system is necessary, the new city will be a statutory Plan A city. The city could, however, adopt another optional plan at any time or the city could adopt a charter.

### III. Consolidation

Proceedings for the consolidation of two or more cities in Minnesota are under the jurisdiction of the Municipal Boundary Adjustment Unit. The courts will not interfere with a decision of the Municipal Boundary Adjustment Unit unless it appears it has not kept within its jurisdiction, has proceeded upon an erroneous theory of law, or has acted arbitrarily and unreasonably without the support of substantial evidence.

There are three ways to initiate proceedings for consolidation:

- The governing body of each included city must pass a resolution that is submitted to the Municipal Boundary Adjustment Unit.
- A number of residents eligible to vote that is equivalent to at least five percent of the resident voters who voted for governor at the last general election must sign a petition.
- The Municipal Boundary Adjustment Unit makes a motion.

The cities must be abutting. The statute defines “abutting” to include areas whose boundaries at least touch one another at a single point, including areas where boundaries would touch except for an intervening roadway, railway, waterway, or parcel of publicly owned land. Two or more cities can consolidate if they have common boundaries, so long as each city shares a common boundary with at least one of the other cities.

The petition or resolution must include the following information about each city: name, description of boundaries, the reasons for requesting the consolidation, and the names of all parties entitled to mailed notice. The party initiating the proceeding must also serve copies of the petition or resolution on all of the included cities.

#### A. Consolidation commission

When the Municipal Boundary Adjustment Unit receives a petition or a resolution requesting consolidation or when it makes its own motion for consolidation, it must appoint a consolidation commission from a list of candidates. Each city council must submit ten names. The commission will include at least five members from each city. The council in each city will submit three names from which the Municipal Boundary Adjustment Unit will choose a chair for the commission. The chairperson cannot be a resident of one of the cities but must reside in one of the affected counties.

## RELEVANT LINKS:

Minn. Stat. § 414.041, subd. 3, 5. Minn. Stat. § 414.02, subds. 3.

Minn. Stat. § 414.041, subds. 4, 5.

Minn. Stat. § 414.02, subd. 3.  
Minn. Stat. § 414.09, subd. 3.  
Minn. Stat. § 414.01, subd. 15.

People holding other elected or appointed offices may serve on the consolidation commission. Commission members hold office until the commission issues a consolidation report. The Municipal Boundary Adjustment Unit fills vacancies in the commission by appointment.

The commission makes rules with reference to its operation, including quorum requirements.

The consolidation commission conducts hearings regarding the proposed consolidation. The hearings must include, but are not limited to:

- A review of the content of any city charter for the proposed consolidated city or the form of government of the proposed consolidated city.
- An analysis of whether a ward system would best serve the proposed consolidated city.
- A consideration of the same factors specified for incorporation of a municipality.

Based on these and other factors, the commission must issue a report with findings and recommendations to the Municipal Boundary Adjustment Unit. The report is due within two years from the date the Municipal Boundary Adjustment Unit appoints the commission.

## **B. The role of the Municipal Boundary Adjustment Unit**

After receiving the consolidation commission's report, the Municipal Boundary Adjustment Unit must designate a time and a place for a hearing.

The Municipal Boundary Adjustment Unit must consider the subjects and factors reviewed by the commission. It may accept, amend, return to the commission for amendment or further study, or reject the commission's recommendations.

The Municipal Boundary Adjustment Unit must order the consolidation if it finds that it is in the best interest of the cities. The Municipal Boundary Adjustment Unit must consider the same factors specified for incorporation of a municipality. If it orders consolidation, it must provide for election of new city officers in accordance with Minn. Stat. § 414.09. The order must indicate the estimated increased costs to the newly enlarged city resulting from the consolidation and the time period that such cities shall be allowed special levies for those increased costs.

## RELEVANT LINKS:

Minn. Stat. § 414.041.

Minn. Stat. § 414.041, subd.  
5.

Minn. Stat. § 414.041, subd.  
7.

Minn. Stat. § 414.067, subd.  
2.

Minn. Stat. § 272.67, subds.  
1, 2.

If the most populous of the consolidating cities is a statutory city, the new city will be a statutory city with an Optional Plan A government. However, the new city may adopt an alternate plan or a city charter at any time. If the most populous of the consolidating cities is a home rule charter city, that city's home rule charter will govern the new city.

If the commission proposes a home rule charter for the new city, the Municipal Boundary Adjustment Unit may combine the issue of the adoption of the charter and the vote on approval of the order for consolidation into one question on the ballot and submit it at a special or general election. The Municipal Boundary Adjustment Unit may recommend not less than three or more than seven wards. The city may abandon the ward system by a four-fifths vote of the council any time after two years. The provisions for approval of the consolidation vary depending on how the consolidation was initiated.

The ordinances of all the cities remain in effect within their former boundaries until repealed by the governing body of the new city.

The new city assumes the name of the most populous city, unless a majority of the cities or the consolidation commission passes a resolution selecting another name.

The consolidation will not reduce the number of license privileges in the included cities.

Upon consolidation, all money, claims, or properties, including real estate the former cities owned, held, or possessed, and any proceeds or taxes the cities levied (collected and uncollected) become the property of the new city to use or dispose of as the council deems best.

Where one city is receiving substantially fewer services before consolidation, the Municipal Boundary Adjustment Unit may require a gradual increase in the levy in that city, over a period not to exceed five years, so it is equal to the tax rate in the new city.

Any bonded indebtedness of a town or former city, which was consolidated into a new city, must be paid for by the persons living within the boundaries of the old community unless the councils of the affected communities agree, by resolution, that the new community will assume the bonded indebtedness of the old units of government.

The Municipal Boundary Adjustment Unit may order the consolidated city divided into urban-service districts and rural-service districts. These districts are separate taxing districts for the purpose of all municipal property taxes except those levied for the payment of bonds and judgments.

## RELEVANT LINKS:

Minn. Stat. § 414.041, subd. 6.

Minn. Stat. § 414.041, subd. 6. See III-C, *Consolidation by petition* (above).

Minn. Stat. § 414.041, subd. 6.

In other words, the rural district would be taxed at a lower rate than the urban district because it would receive less service from the city. These districts may be changed by the city council in the same way an ordinance is changed.

### C. Consolidation by petition

If the resident voters of a city initiated the consolidation by petition, the Municipal Boundary Adjustment Unit's consolidation order is final when the city council in each of the cities approves the resolution, unless voters of an affected city petition their city council for a referendum on the consolidation. At least ten percent of the number of resident voters who voted for governor at the last general election must sign the referendum petition.

The residents must submit the petition within 90 days of the final date of the Municipal Boundary Adjustment Unit's order or the date of the city council's final approval of the order, whichever is later. After the Municipal Boundary Adjustment Unit receives and verifies the petition, it must order the cities to conduct separate referenda at a general or special election in each city on the same day. The cities must hold the referenda within six months of the Municipal Boundary Adjustment Unit's receipt of the petition.

The cities must cover the costs of the referenda. A majority of those voting in each city must approve the proposed consolidation. The chief election judge must certify the results to the Municipal Boundary Adjustment Unit within ten days after the referenda, and then Municipal Boundary Adjustment Unit must notify all parties of the election results.

### D. Council resolution

If resolutions of the city councils initiated the consolidation, the order of the Municipal Boundary Adjustment Unit for consolidation is final unless ten percent or more of the resident voters' petition for a referendum.

### E. Motion of the Municipal Boundary Adjustment Unit

If the motion of the Municipal Boundary Adjustment Unit initiated the consolidation, the order will take effect only after the council of each city approves it by a majority vote, or after the qualified voters vote on the order at a general or special election. If a majority of those voting on the question in each city are in favor of its adoption, the director's order will become effective.

## RELEVANT LINKS:

Minn. Stat. § 414.041, subd. 6.

Minn. Stat. § 414.041, subd. 5.

Minn. Stat. § 414.041, subd. 8.

Minn. Stat. § 465.81.

Minn. Stat. § 465.82.

Minn. Stat. § 465.84.

## F. Referenda

Even if the city council in one of the cities does not approve the consolidation order, ten percent or more of the resident voters of that city who voted for governor at the last general election can petition the city council for a referendum on the consolidation. (See requirements under consolidation by petition). If a majority of those voting in that city approve the order, the consolidation will occur.

If the consolidation is denied or defeated in a referendum, no proceeding for consolidation of the same cities can be initiated for at least two years from the date of the order unless authorized by the Administrative law judge.

## G. Effective date for consolidation

The consolidation is effective upon the election and qualification of new municipal officers, or at such later date as set by the order of the Administrative law judge.

## H. Alternative procedure for consolidation

An alternative procedure provides for the consolidation of two or more cities with each other, cities with towns, towns with other towns, or counties with other counties. The process does not require either application to or approval from the Municipal Boundary Adjustment Unit.

This procedure for consolidation begins when two or more contiguous local units of government jointly develop a plan for cooperation and consolidation. The statute is very specific about the information the plan must contain. For instance, it must describe cooperative activities and combining of services that would lead to an eventual merger of the local governments. Each governing body must approve the plan by resolution. Local governments in the metropolitan area must also submit their plan to the Metropolitan Council for review and comment.

The local governments must hold a consolidation election during the first or second year of implementation. If voters reject the consolidation, the local governments may submit the same or similar question to a vote one more time, the following year.

## IV. Dissolution

Two processes are available to dissolve, or “unincorporate” a statutory city.



## RELEVANT LINKS:

Minn. Stat. § 412.091.

First, a number of voters equal to one third of those voting at the last city election may petition the Municipal Boundary Adjustment Unit for a special election on the question of dissolving the city. The Municipal Boundary Adjustment Unit must hold hearings prior to the election and determine what town(s) the land will belong to if the dissolution occurs. A favorable majority vote of those voting on the question at the special election will dissolve the city. Six months after the date of such election, the city shall cease to exist.

Minn. Stat. § 412.093.

Second, whenever a city fails to hold city elections for two consecutive years, and if one or more bonds or claims against the city remain unpaid, any bondholder or claimant may secure the dissolution of the city and payment of the city's bonds and claims.

In either of these events, the net result is the same. All city assets will go toward repayment of outstanding bonds or claims after which all remaining assets become the properties of the town or the towns in which the city was located.

Minn. Stat. § 410.30.

These provisions apply only to dissolution of statutory cities. For a home rule charter city to dissolve, it must return to statutory city status by abandoning its charter and then dissolve in the above manner.

Minn. Stat. § 412.081.

## V. Separation from town

Some Minnesota cities that incorporated prior to July 1, 1949, have never been separated from the town or towns where they are located.

The city is still part of the town for purposes of general town government, town elections, town assessments, and ownership of the town hall and other property. All statutory cities incorporated after July 1, 1949, were automatically separated from the town when they incorporated. All cities in the seven-county metropolitan area, regardless of the date of their incorporation, are separate from the town for election purposes.

For most purposes, cities not separated from the town have four distinct characteristics:

- The town assessor is also responsible for assessing all property in the city. The city has no assessor of its own.
- The town levies taxes for general town purposes against property in the city.
- The city does not constitute a separate election district in state and national elections. Town officials still administer these elections.
- While town voters living outside city limits can't vote on city matters or hold city offices, city residents may vote at town meetings, in town bond elections, and hold town offices.

## RELEVANT LINKS:

Minn. Stat. § 412.081 subd.2.

Minn. Stat. § 365.44.

Minn. Stat. § 414.06.

Minn. Stat. § 414.06, subd. 1.

None of these characteristics exist in cities that have been separated from the town for governmental purposes.

There are two methods of separating cities from towns for election and assessment purposes. One is by action of the city, with or without notice to the town. The other is by petition of town or city voters, or both, to the town board for a vote on the proposal at the next annual town meeting. Either of these methods may be used, but they may not be used concurrently.

Cities may separate from their respective towns for election and assessment purposes by getting the approval of their voters with a ballot question at a general or special election. The question of separation can be brought to the voters either by the council's own motion, or by a petition signed by a number of voters equal to 25 percent of those voting in the last preceding city election. If the voters favor separation, the city clerk must notify the county auditor and the secretary of state. The separation then takes effect 30 days after the date of the election.

Some towns may take the initiative in separating from the city. At least 50 voters of the town must sign a petition requesting an election on the question and file it with the town clerk. The clerk must insert a statement in the notice calling the next annual town meeting indicating the separation proposal will be before the voters at the meeting.

If a majority of the votes cast at that meeting favor separation, the town is separated from the city for all purposes. Although both town and city residents may sign the original petition, only town voters may participate in the election. The town clerk should notify the county auditor, secretary of state, and state auditor of the change in status of the city.

This procedure is the only method a town may use to separate itself from a city. The county board has no power to separate governmental units.

## VI. Detachment

The only way to detach land that is already part of a city (remove it from the city boundaries) is with the approval of the Municipal Boundary Adjustment Unit. To qualify, the land must be adjacent to the city's boundaries, rural in character, and not developed for urban-residential, commercial or industrial purposes.

The following procedures govern the process of detaching land:

The Municipal Boundary Adjustments Unit must receive a petition requesting the detachment. The petition may be initiated by council resolution or by the owners of the land to be detached.

## RELEVANT LINKS:

Minn. Stat. § 414.06, subd. 1.

If the land constitutes less than 40 acres, all property owners must sign the petition. If the land is more than 40 acres, the signatures of 75 percent of the owners are sufficient. The petition must describe the boundaries of the land, the resident population, the number and character of any buildings on the land, and any city improvements to the land. The petition must include a statement of the reasons for seeking detachment and a summary of what, if any, efforts were undertaken before filing the resolution or petition to resolve the issues forming the basis for the resolution or petition.

Minn. Stat. § 414.06, subd. 1a.

If a petition is submitted without a resolution from the city, the petitioners shall also provide a copy of the petition to the city from which the land may be detached, and if the petition includes land for which a property owner has not signed the petition, to each property owner subject to the petition who has not signed it. A copy of the petition must also be mailed or otherwise delivered to: (1) the clerk of the town to which the property would be attached if the detachment is granted; (2) the clerk of any other abutting town or city; and (3) the county recorder in the county where the land is located.

After receiving a detachment notice, the town board for the town to which the land is proposed to be attached may submit a resolution stating that the town board supports, opposes, or is neutral to the petition. The failure to submit a resolution before any required hearing must be deemed a position of neutrality.

Minn. Stat. § 414.06, subd. 2.

If the town submits a resolution of support for a petition opposed by the city from which the land is proposed to be detached, or a resolution in opposition to a petition supported by a resolution of the municipality, the town becomes a party to the required hearing.

Minn. Stat. § 414.06, subd. 7.

If both a resolution of support from the city and a petition by all the property owners are submitted, and no resolution of opposition has been received from a town, no hearing is necessary, and the chief administrative law judge shall grant the petition. If both the city and town submit a resolution opposing the petition, a hearing must not be held, and the chief administrative law judge shall deny the petition. In any other case, a hearing shall be held. The chief administrative law judge shall order the parties to participate in a mediation session.

The chief administrative law judge shall divide the costs of the mediation and hearing in an equitable manner, but unless the chief administrative law judge makes specific findings as to why a party shall be responsible for a greater share, the petitioning landowners are responsible for at least 50 percent of the total costs.

## RELEVANT LINKS:

Minn. Stat. § 414.06 subd. 3.

After the hearing, the administrative law judge must issue its order. No popular vote is necessary in any detachment proceedings. The Administrative law judge may grant the petition if it finds:

- The conditions set forth in the petition exist.
- The detachment would not affect the symmetry of the detaching city.
- The land is not needed for reasonably anticipated future development of the detaching city.

The Administrative law judge may decrease the size of the detachment area. It may also relieve the detached area of any city from indebtedness and require the assumption of town indebtedness in such proportions as it deems equitable. The detached land then becomes a part of the town in which it is located.

The Administrative law judge may deny the detachment if it finds the remainder of the city cannot continue to carry on the functions of government without undue hardship.

## VII. Concurrent detachment and annexation

Property in one city that is contiguous or bordering upon another city may be concurrently detached and annexed by the adjoining city. There are three ways to initiate the procedure:

- By the concurrent resolutions of the cities.
- By the initiative of the Administrative law judge (if a neighboring city completely surrounds the area).
- By a petition of all property owners in the affected area and the resolution of at least one city.

The Administrative law judge must conduct a hearing and issue an order either approving the concurrent action with or without modifications or denying the detachment and annexation of the property. The alternative-dispute-resolution process authorized by law may also be applied. The order of the Administrative law judge is final, and no subsequent elections are necessary.

## VIII. Annexation

Annexation questions pose some of the most difficult and technical policy problems facing municipal officials. Annexations present difficulties because sound, realistic facts and estimates regarding the financial and service implications of a proposed annexation are necessary. Annexation involves important policy questions relating to the welfare of the entire urban community, including both the city and surrounding land.

Minn. Stat. § 414.061, subds. 1, 3.

Minn. Stat. § 414.12, subd. 1.

Minn. Stat. § 414.061, subds. 4, 5.

## RELEVANT LINKS:

The council must determine if the city, as a corporate entity, will grow with the surrounding economic community. The council must also decide whether the city can extend services to the surrounding developing areas and annex those areas without incurring a heavy financial responsibility that results in increased taxes or other fees and charges.

Annexation allows cities to grow in an orderly, planned manner. Cities need to evaluate and study five questions before deciding to pursue an annexation.

- How will annexation affect the residents, landowners, and property in the area to be annexed?
- What additional costs will the city incur when providing city services to the annexed area?
- How much revenue can, and will the city obtain through taxes and other charges levied against the annexed area?
- What is the present status of land available in the area and the outlook for future development?
- What impact, if any, will annexation have on development in the area?

The most important considerations should be the annexation's impact on the area, and whether annexation to the city will provide residents and taxpayers in the area with benefits commensurate with any additional taxes they may have to pay. For example, will police and fire protection improve?

Will zoning laws and subdivision regulations apply, and will the city enforce them? Will more city utilities be available or be available at lower rates? Benefits such as these should be roughly proportional to any added costs to taxpayers in the annexed area. Annexation's value is questionable if its major consequence is to increase tax revenues of the annexing community.

A second consideration is the cost the annexing city will incur. Newly annexed areas might cause three different kinds of cost burdens.

The first cost burden is the daily operating cost. This includes the additional cost of providing the area with police protection, fire protection, street maintenance, park maintenance, street lighting, and recreational programs.

The second cost burden is capital cost. Unless it is already fully developed, the new area will need certain capital improvements as it develops, including streets; park land and improvements; and sewer, water, and other utility facilities. In many cases, the city may partially recover these costs through special assessments, but usually some cash outlay is necessary.

## RELEVANT LINKS:

Furthermore, public-improvement bonds that are repayable through special-assessment levies still add to the city's gross debt and, thus, place a greater burden on its ultimate borrowing capacities.

Finally, the third cost burden relates to an increase in demand on existing public facilities. After the annexation, the residents in the new part of the city will be eligible to use all the services provided by the city. The council should determine what impact, if any, this will have on the operation of the library, hospital, nursing home, swimming pool, golf course, and similar facilities that charge more for non-residents.

Only when the council thoroughly evaluates these, and similar factors will a true picture of added city expenditures emerge.

The council must also consider the taxes and other revenues the city might obtain from the annexed area. This involves more than just a determination of receipts from the area during the next tax and budget year. The council should also consider the long-term revenue liabilities of the area in terms of its ability to support municipal services as it either develops or declines.

In addition to knowing how much revenue the annexed land will produce, it is also important to know whether property in the annexed area can bear the burden of added charges for governmental services. The council must determine if the property owners in the annexed area will be able to pay the additional taxes and special assessments the city will levy once the area becomes part of the city. The council should look at this issue in terms of the present and future paying capacity of the property owners.

The solutions to these issues depend on the answers to the questions dealing with present development and estimates for probable future development in the area. Such estimates must be both reasonable and conservative. It is better to underestimate than to overestimate when evaluating the taxpaying potential of a given geographic area.

Finally, the council should also attempt to determine what impact, if any, the proposed annexation would have on future development in the area.

This involves more than determining whether development will be faster or slower due to the change in governmental status. The council should also look at which governmental form will most effectively stimulate and control future development and keep it in harmony with the interests of the urban community and with the social and economic area. In addition, the council should decide whether city control would best enforce regulations governing building standards, population density, land use, and other factors instrumental in the proper, healthy urbanization of the area.

## RELEVANT LINKS:

Minn. Stat. §§ 414.031-414.033.

Minn. Stat. § 414.031, subd. 4.  
Minn. Stat. § 414.011, subd. 6. See *State v. Village of Mound*, 234 Minn. 531, 48 N.W.2d 855 (Minn. 1951).  
*Village of Orono v. Village of Long Lake*, 247 Minn. 264, 77 N.W.2d 46 (Minn. 1956).

Minn. Stat. § 414.031, subd. 4.

*Village of Orono v. Village of Long Lake*, 247 Minn. 264, 77 N.W.2d 46 (Minn. 1956).

Minn. Stat. § 414.061.  
See Section VII, Concurrent detachment and annexation.

Often, an area being considered for annexation has been developed in a less dense manner than the adjoining city; thus, the property tax revenues from that area in relation to the amount of services it will receive as part of the city will not be in the same proportion as the adjoining city. The council may wish to weigh this factor against the long-term implications of not bringing the area into the city.

All this information will let the city council make policy decisions regarding the merits and demerits of an annexation proposal. Having obtained this information, the council should seek a final decision that will protect and promote the best interests of the city, the area to be annexed, the county and town in which the area is located, and the entire social and economic community surrounding the city.

### A. Statutory requirements for annexation

Annexation of land cannot occur unless it meets the following three requirements:

First, the land must adjoin the corporate limits of the annexing city. The statute speaks of annexation of unincorporated territory abutting a city. Land abuts a city when its boundaries and those of the city coincide or touch one another so that after annexation, the annexed territory will be united with the city in forming a homogeneous community that can provide all of its parts with the benefits of local government.

The statute defines “abuts” to include areas with boundaries that at least touch one another at a single point, or with boundaries that would touch but for an intervening road, railroad, waterway, or parcel of publicly owned land. In those cases where an annexation needs the approval of the Administrative law judge, it may alter the boundaries of the area to preserve or improve the symmetry of the area.

Second, the Administrative law judge may approve an annexation if it finds city governance of the area is necessary to protect the public health, safety, and welfare; if annexation is found to be in the best interests of the city and the territory to be annexed; or, if land is, or is about to become, suburban or urban in character. This generally refers to land in close proximity to the city, of limited size, suburban in character, and with a community of interest so it will adapt to city government.

Third, the land may not already be part of another city. A concurrent detachment from one city and annexation to another city could occur through a different procedure.

## RELEVANT LINKS:

Office of Administrative  
Hearings, Municipal  
Boundary Adjustment Unit,  
P.O. Box 64620, St. Paul,  
MN 55164; 651.361.7900.

Minn. Stat. § 414.033.

## B. Annexation procedures

Although the statutes set out three different annexation procedures, only one procedure may apply in any given situation. The appropriate procedure depends on the ownership, size, and other characteristics of the land under consideration. For annexation purposes, the jurisdiction and authority of the Municipal Boundary Adjustment Unit is uniform for all communities throughout the state. The Municipal Boundary Adjustment Unit has information to assist units of government in presenting evidence in boundary-adjustment proceedings.

The three annexation procedures are applicable in different situations and require completing certain steps.

### 1. Annexation by ordinance

In some circumstances, a city may annex unincorporated property simply by passing an ordinance declaring the land as annexed to the city. Cities may annex by ordinance when any of the following conditions exist:

- The city owns the land to be annexed.
- The land is completely surrounded by land already within city limits.
- The land abuts the city and the area to be annexed is 120 acres or less, not presently served or capable of being served by available public wastewater facilities, and all the landowners petition the city for annexation (except as provided for by an orderly annexation agreement, this clause may not be used to annex any property contiguous to any property either simultaneously proposed to be or previously annexed under this clause within the preceding 12 months if the property is or has been owned at any point during that period by the same owners and annexation would cumulatively exceed 120 acres).
- The land is within two miles of the city and has been approved for platting after Aug. 1, 1995, and the platted lots average 21,780 square feet or less.

The law considers land described above to be urban in character. The city can annex it merely by passing an ordinance in all these situations. The city must file copies of the ordinance with the Administrative law judge, the town clerk, the county auditor, and the secretary of state. Annexation does not become effective until the Administrative law judge approves the filing. Unless the city owns the land to be annexed, it must serve notice of intent to annex upon the town board and all landowners within and contiguous to the area to be annexed and hold a public hearing.



## RELEVANT LINKS:

Minn. Stat. § 115.49, subd.  
2a. Minn. Stat. § 414.0335.

Minn. Stat. § 414.033, subd.  
3.  
See discussion of hearings  
under Section VIII-B-3,  
*Petition, hearing and order  
of the Municipal Boundary  
Adjustment Unit.*

Minn. Stat. § 414.033, subd.  
13.

Minn. Stat. § 414.033, subd.  
5.

Minn. Stat. § 414.033, subd.  
7.

Land may also be annexed by ordinance if the Minnesota Pollution Control Agency (MPCA) has required the city to extend a government service outside its jurisdiction into an unincorporated area.

If 60 percent or more of the perimeter of the area to be annexed borders the city and the area is 40 acres or less, the city may annex it by ordinance. However, the city must serve notice of its intent upon the town board and wait 90 days for the town's objection. If the town board raises objections, the city may abandon the proceedings, or the Administrative law judge will hold hearings and order or deny the annexation.

At least 30 days before a municipality may adopt an ordinance under Minn. Stat. § 414.033, subdivision 2, clause (2), (3), or (4), the petitioner must be notified by the municipality that the cost of electric utility service to the petitioner may change if the land is annexed to the municipality. The notice must include an estimate of the cost impact of any change in electric utility services, including rate changes and assessments, resulting from the annexation. Within ten days, copies of the petition must go to the Administrative law judge, the town board, and the county board of the town and county in which all or any part of the land is located, and to the governing body of all cities abutting the land to be annexed.

Another type of annexation by ordinance can occur if land is platted, or if unplatted, does not exceed 200 acres, and a majority of the owners petition the council for annexation.

The town board or the governing body of another city can submit written objections to the annexation to the Administrative law judge and to the city within 90 days of the filing of the petition. If either the town or a city file objections, the annexing city can take no further action on the petition. The petition automatically goes to the Administrative law judge, which will hold a hearing and issue its order.

If no one files objections, and the council determines the property proposed for annexation is currently or is about to become urban or suburban in character, the council may pass an ordinance annexing the land. However, if all property owners involved do not sign the petition, a public hearing before the city council is necessary before the city can adopt the ordinance. All property owners in the affected area must receive a mailed notice at least 30 days before the hearing.

Except when a town or city objects to an annexation, no action by the Administrative law judge is necessary to annex land in this manner. However, the city must file copies of the annexing ordinance with the Administrative law judge, the county auditor, the town clerk, and the secretary of state. The annexation does not become effective until the Administrative law judge approves the ordinance.

## RELEVANT LINKS:

Minn. Stat. § 414.033, subd. 6.

*Gilbert v. Minnesota State Office of Strategic and Long-Range Planning*, No. CX-01-1221 (Minn. Ct. App. Jan. 29, 2002 (unpublished decision)).

Minn. Stat. § 414.0325.

Minn. Stat. § 414.0325.

Minn. Stat. § 414.033.

If a city receives a petition for annexation of land, and all or part of the land is already included in a petition pending before the Administrative law judge for incorporation or annexation, the city cannot act on the petition until the Administrative law judge makes a final order on the pending petition.

The Municipal Boundary Adjustment Unit stresses that most annexations by ordinance are exceptions to the requirement for a hearing. Cities must clearly show that the facts making the exception operative are present. The Municipal Boundary Adjustment Unit will not approve an annexation ordinance without this information. The Minnesota Court of Appeals has held, however, that once the criteria in the statute authorizing annexation by ordinance have been satisfied, the Municipal Boundary Adjustment Unit does not have authority to conduct a further review of the proceeding, and it must approve the annexation.

## 2. Orderly annexation

One or more townships and one or more cities can initiate an orderly annexation process by passing a joint resolution designating an unincorporated area in need of orderly annexation. One or more cities, by joint resolution with the county, may also designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed.

The Municipal Boundary Adjustment Unit promotes orderly annexation because it emphasizes negotiation and agreement. At least ten days before the city or township adopts an orderly annexation agreement, a notice of the intent to include property in an orderly annexation area must be published in a newspaper of general circulation in both the township and city.

The notice must clearly identify the boundaries of the area proposed to be included in the orderly annexation agreement. The cost of providing notice must be equally divided between the city and the township, unless otherwise agreed upon by the city and township.

## RELEVANT LINKS:

Minn. Stat. § 414.0325, subd. 1.  
*City of Waite Park v. Minn. Office of Admin. Hearings*, No. A05-1888 (Minn. Ct. App. July 18, 2006) (unpublished decision).

Minn. Stat. § 414.0325, subd. 6.

Minn. Stat. § 115.03. Minn. Stat. § 115.071. Minn. Stat. § 115.49. Minn. Stat. § 414.0335.

Minn. Stat. § 462.3535, subd. 5.  
See Handbook, *Community Development and Redevelopment*.

Minn. Stat. § 414.09.

Minn. R. 6000.0100-.3400.

Minn. Stat. § 414.0325, subds. 1, 3.

These requirements apply only to the initial designation to include property in an orderly annexation area subject to the orderly annexation agreement, or to any expansion of the orderly annexation area subject to the agreement, and not to any subsequent annexation of any property from within the designated orderly annexation area. These requirements do not apply when the orderly annexation agreement only designates for immediate annexation of property for which all of the property owners have petitioned to be annexed.

Once the Administrative law judge has received the joint resolution, an initiation of an annexation of any part of the designated area can occur by either the submission of a resolution from any party to the original joint resolution or by the Administrative law judge on its own motion.

If the orderly annexation agreement states that no alteration of the area is appropriate, the Administrative law judge may review and comment on the resolution, but it may not alter the boundaries. Likewise, if the joint resolution sets conditions for the annexation and states the consideration of the Administrative law judge is not necessary, the Administrative law judge may only review and comment on the resolution and must order, within 30 days, the annexation under the terms of the resolution.

An orderly annexation agreement is a binding contract upon all parties to the agreement and is enforceable in the district court in the county in which the unincorporated property in question is located. The provisions of an orderly annexation agreement are not pre-empted by any other provision of annexation law unless specifically provided for by the agreement.

If an orderly annexation agreement provides the exclusive procedures by which the unincorporated property identified in the agreement may be annexed to the city, the city shall not annex that property by any other procedure.

Whenever the MPCA or another state agency orders a city to extend municipal services to a certain unincorporated area, the Administrative law judge may consider designating the area for orderly annexation.

If a city designates an urban-growth area based on a community-based comprehensive plan, an orderly annexation agreement must then be negotiated.

When the Administrative law judge receives a joint resolution for annexation of part of the designated orderly annexation area, it must schedule a hearing following the requirements for hearings in other annexation actions.

## RELEVANT LINKS:

*City of Waite Park v. Minn. Office of Admin. Hearings*, No. A05-1888 (Minn. Ct. App. July 18, 2006) (unpublished decision).

If the joint resolution provides for the conditions for annexation of an area and states that board consideration is not necessary, the Administrative law judge may review and comment on the resolution, but it shall, within 30 days, order the annexation under the terms of the resolution.

If the resolution allows for consideration by the Administrative law judge, it may order the annexation if it makes any of the following findings:

- The area proposed for annexation is currently, or is about to become, urban or suburban in character, and the annexing city is capable of providing the needed services within a reasonable time.
- The existing town form of government is not adequate to protect public health, safety, and welfare.
- Annexation would be in the best interest of the proposed area.

The Administrative law judge may deny the annexation if it conflicts with any provision of the joint resolution. The Administrative law judge may increase or decrease the boundaries of the proposed annexation to include property that is in need of, or will be in need of, city services, unless the joint resolution states no alteration of boundaries is appropriate.

If the Administrative law judge denies annexation, the law prohibits any other proceedings for the annexation of substantially the same area within two years of its order, unless a majority of the area's property owners initiate the new proceeding and affected parties to the resolution support the resolution. In all cases, the Administrative law judge will set out the factors that are the basis for its decision.

The order of the Administrative law judge is effective when it is issued or at some later date, if specified in the order. No annexation election is necessary.

In the area designated for orderly annexation, an orderly annexation agreement may provide for the establishment of a planning and land use control board under the Joint Powers Act.

This board would have all of the powers contained in the Municipal Planning Act. It also would have the authority to adopt and enforce the uniform fire code. The orderly annexation agreement may provide that joint planning and land-use controls apply to any or all parts of the area designated for orderly annexation, as well as to any adjacent unincorporated or incorporated area described by the joint resolution.

If the joint resolution does not provide for joint planning and land-use control, delegate planning and land-use control to the municipalities or towns or establish some other process for planning and land-use authority, the following procedures take effect.

Minn. Stat. § 471.59.

Minn. Stat. §§ 462.35-462.364.

Minn. Stat. § 462.357, subd. 1.  
Minn. Stat. § 462.358, subd. 1.

## RELEVANT LINKS:

Minn. Stat. § 414.031.  
Office of Administrative  
Hearings, Municipal  
Boundary Adjustment Unit,  
P.O. Box 64620, St. Paul,  
MN 55164; 651.361.7900.

Minn. Stat. § 414.031, subd.  
1a.

Minn. Stat. § 414.065.

If the county and townships agree to exclude the area from their zoning and subdivision ordinances, the city may extend its zoning and subdivision regulations to include the orderly annexation area. If the county and township do not agree to such extraterritorial zoning and subdivision regulation, zoning and subdivision regulation within the orderly annexation area will be under the control of a three-member committee. The governing bodies of the city, town, and county will each appoint one member to the committee. The committee serves as the governing body and the board of appeals and adjustments within the orderly annexation area. The committee has all the powers provided by the Municipal Planning Act, plus the authority to adopt and enforce the uniform fire code.

### 3. Petition, hearing, and order by Municipal Boundary Adjustments

If a city cannot annex land by ordinance or by orderly annexation, the annexing procedure is as outlined in this section.

#### a. Initiating the proceeding

Before initiating any boundary-adjustment request, the city, township, county, or property owner should meet to discuss planning issues. Any affected party may call a meeting at which the public should be allowed to participate. The party requesting the boundary adjustment should notify the Municipal Boundary Adjustment Unit of the outcome of any meetings.

Holding these meetings is optional, but it is strongly encouraged by the Municipal Boundary Adjustment Unit.

#### b. Notice of intent to annex

At least 30 days before submitting a petition or resolution to the Administrative law judge, the petitioning city or petitioning property owner or supporting city must serve the township clerk of the affected township by certified mail a notice of the intent to annex property. The notice must clearly identify the boundaries of the area proposed to be annexed.

#### c. The petition

A petition for a public hearing before the Municipal Boundary Adjustment Unit may come from any of the following:

## RELEVANT LINKS:

Minn. Stat. § 414.01, subd. 16.

- A resolution of the annexing city.
- A resolution of the town containing the area to be annexed.
- A petition of 20 percent of the property owners or 100 property owners, whichever is less, residing in the area to be annexed.
- A resolution of the city council, together with a resolution of the town board, stating a desire to annex the entire township to the city.

In addition, in the case of state-owned property, the executive council of the state may petition for a hearing.

The petition must go to the Municipal Boundary Adjustment Unit. If property owners initiate the proceeding, they must also include a copy of a resolution of the annexing city supporting the proposed annexation. The petition must set forth:

- The boundaries of the area proposed for annexation.
- Names of all parties entitled to notice, and reasons for requesting annexation.
- For jurisdictional purposes, the petition should also show the area meets the three minimum statutory requirements for annexation.

All petitions for boundary adjustment must include a fact-finding form. The form must detail the results of the planning meeting outlined above if one was held. If the boundary adjustment is contested, the Administrative law judge may require the parties to meet at least three times over a 60-day period. The parties may be granted additional time at the discretion of the Administrative law judge. At least one of the meetings must be open to the public and allow public comment.

In addition, a contested boundary adjustment will trigger the preparation of a fact-finding report by the Administrative law judge.

Any proposed resolution or settlement of contested issues that results in a municipal-boundary change, places conditions on any future municipal-boundary change, or results in the withdrawal of an objection to a pending proceeding or the withdrawal of a pending proceeding must be filed with the Municipal Boundary Adjustment Unit.

### **d. Mediation and arbitration**

If efforts to resolve boundary issues fail, and the issues have not previously been mediated, the parties may be required to participate in an alternative dispute resolution process. The Administrative law judge may require parties to: choose a mediator of their own; accept a mediator assigned by the Office of Dispute Resolution; or accept the mediation services provided by the Office of Administrative Hearings.

Minn. Stat. § 414.12.

## RELEVANT LINKS:

Minn. Stat. § 414.12, subd. 5.  
Minn. Stat. § 414.0325, subd. 1.

Minn. Stat. § 414.0333.

Minn. Stat. § 414.031, subd. 3a.

Fees for mediation may be split as agreed to by all the parties. If the parties do not agree to a division of the costs, they must be allocated on an equitable basis by the mediator, arbitrator, or chief administrative law judge.

Matters resolved or agreed to by the parties as a result of an alternative dispute resolution process, or otherwise, may be incorporated into a joint resolution or into one or more stipulations for purposes of further proceedings.

### **e. Joint informational meeting**

There must be a joint informational meeting of the city council of the annexing city and the town board of supervisors of the township containing the land proposed to be annexed or included in annexation proceedings by the Administrative law judge's order.

The joint information meeting must be held after the final mediation meeting or the final meeting held pursuant to Minn. Stat. § 414.01, subd. 16, if any, and before the hearing on the matter is held.

If no mediation meetings are held, the joint information meeting must be held after the initiating documents have been filed and before the hearing on the matter. The time, date, and place of the public informational meeting must be determined jointly by the chair of the town board of supervisors and the mayor of the annexing city.

At least ten days before the date for the meeting, both the city and the town must publish at their own expense, notice of the meeting in their respective official newspapers. If the city and town use the same official newspaper, a joint notice may be published, and the costs evenly divided.

The clerk of the township must record minutes of the proceedings of the informational meeting and the city clerk must make an audio recording of the informational meeting.

### **f. Hearing**

During the evidentiary hearing process, the presiding administrative law judge must tour the proposed annexation area along with at least one representative of each of the affected towns and municipalities. Prior to the tour of the proposed annexation area, the affected towns and municipalities shall agree on the route or the administrative law judge shall determine the route for the affected towns and cities and resolve all disputes regarding the tour.

## RELEVANT LINKS:

Minn. Stat. § 414.031, subd. 4.

*Town of Burnsville v. City of Bloomington*, 268 Minn. 84, 128 N.W.2d 97 (Minn. 1964).

Minn. Stat. § 414.031, subd. 4.

Minn. Stat. § 414.0333.  
Minn. Stat. § 414.031 subd. 4.

### g. Powers and duties of the Municipal Boundary Adjustment Unit

After mediation and arbitration, the Municipal Boundary Adjustment Unit or its designated decision maker (mediator or arbitrator) may order the annexation if it makes any of the following findings:

- City government of the property will protect the public health, welfare, and safety.
- The property is, or is about to become, urban or suburban in character.
- Annexation would be in the best interest of the subject area.

The Municipal Boundary Adjustment Unit or its designated decision maker may deny the annexation if it makes any of the following findings:

- The increase in revenues for the annexing city bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.
- Annexation of all or a part of the property to an adjacent city would better serve the interest of the residents of the property.
- The remainder of the town would suffer undue hardship.

The Municipal Boundary Adjustment Unit or its designated decision-maker may alter the boundaries of the area to be annexed:

- By increasing or decreasing the area to include only property that is, or is about to become, urban or suburban in character.
- To add property abutting the area proposed for annexation in order to follow visible, clearly recognizable features.
- To exclude property that may be better served by another unit of government.

If the Municipal Boundary Adjustment Unit or its designated decision maker determines another city or town could better serve part of the area, the Municipal Boundary Adjustment Unit may initiate and approve annexation on its own motion by conducting further hearings and issuing orders. In all cases, the Municipal Boundary Adjustment Unit must indicate the basis for the decision.

In arriving at its decision, the Municipal Boundary Adjustment Unit or its designated decision-maker must consider the following factors:

- Recordings and public documents from joint informational meetings.
- Present population and number of households, past population, and projected population growth of the annexing city, subject area, and adjacent units of local government.



## RELEVANT LINKS:

- Quantity of land within the subject area and adjacent units of local government and natural terrain, including recognizable physical features; general topography; major watersheds; soil conditions; and such natural features such as rivers, lakes, and major bluffs.
- Degree of contiguity of the boundaries between the annexing city and the subject area.
- Present pattern of physical development, planning and intended land uses in the subject area and the annexing city including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those land uses.
- The present transportation network and potential transportation issues, including proposed highway development.
- Land-use controls and planning presently in use in the annexing city and in the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council and whether there are inconsistencies between the proposed development and the existing land-use-planning controls.
- Existing levels of governmental services in the annexing city and the subject area, including water and sewer, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities, and the impact of the proposed action on the delivery of these services.
- The implementation of previous annexation agreements and orders.
- Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems.
- The annexing city's plans and programs for providing needed and enhanced governmental services to the subject area in a cost-effective and feasible manner within a reasonable time from the date of the annexation.
- An analysis of the fiscal impact on the annexing city and the property proposed for annexation, and adjacent units of local government, including assessed valuation and the present bonded indebtedness and the mill rates of the county, school district, and town.
- Relationship and impact of the proposed action on affected and adjacent school districts and communities.
- Adequacy of town government to deliver services to the subject area.
- Analysis of whether necessary governmental services can best be provided through the proposed action or another form of boundary adjustment.
- If only part of a town is annexed, the ability of the remainder of the town to continue, or the feasibility of it being incorporated separately or annexed to another city.

## RELEVANT LINKS:

Minn. Stat. § 414.031, subd. 4a.

See Handbook, *The Statutory City*.

See Handbook, *The Home Rule Charter City*

Minn. Stat. § 414.031, subd. 4a. Minn. Stat. § 414.09.

Minn. Stat. § 414.031, subd. 4a.

- Information received by the presiding administrative law judge from the required tour.

### **h. Annexation of an entire township**

Whenever annexation by the Municipal Boundary Adjustment Unit's order involves the annexation of an entire township, the order must include a provision for the election of new city officers. The expanded city would have a home rule charter or statutory form of government depending on what form is currently used in the annexing city. However, any existing ward system for the election of councilmembers would be inoperable. The ordinances of both the annexing city and the town would continue within the former boundaries until repealed by the governing body of the city.

### **i. Other powers of the Municipal Boundary Adjustment Unit**

The Municipal Boundary Adjustment Unit may also order the election of new city officers as part of any other annexation order under this procedure, if the Municipal Boundary Adjustment Unit or its designee determines that such an election would be equitable. The Municipal Boundary Adjustment Unit may provide for election of councilmembers by wards, not less than three or more than seven in number, if it finds that area representation is necessary for proper representation due to an uneven population density or the existence of agricultural lands in the path of suburban development. After four years from the effective date of an annexation, the council may adopt a resolution by a four-fifths vote to abolish the ward system and provide for election of councilmembers at large.

Until the effective date of the annexation order, the town board and other officers of the town continue to exercise their powers and duties under the town laws in the portion of the city that was formerly the town.

The council and other officers of the annexing city continue to exercise their powers and duties in the portion of the expanded city that was formerly the city. When the order takes effect, the town board and the council of the annexing city have no jurisdiction within the city. Then, the new city council and other new officers have jurisdiction, including jurisdiction over improvements and the levying of special assessments.

The new city council can continue or discontinue any board that may have previously existed in the town or former city.

## RELEVANT LINKS:

Minn. Stat. § 414.067.

### C. Apportionment of assets, liabilities, and population

Whenever the Municipal Boundary Adjustment Unit divides an existing governmental unit, it must apportion property and obligations. It should consider the value of land in the existing town, the indebtedness, the taxes due and delinquent, other revenue accrued but not received, and the ability of the rest of the town to function effectively.

The order cannot relieve any property from any tax liability for payment of bonded indebtedness, but the taxable property in the new city may become primarily liable. When a city annexes an entire town or consolidates with an existing city, all money, claims, or properties, including real estate and any taxes that have been levied (whether collected or uncollected), become the annexing city's property. The city has full authority to use and dispose of such property.

Any bonded indebtedness of the town annexed to an existing city is borne only by the property within the boundaries of the former town. However, the governing bodies may, by resolution, agree the new city will assume the former town's bonded indebtedness that was outstanding at the time of the annexation.

Minn. Stat. § 414.036.

Unless otherwise agreed to by the annexing municipality and the affected town, when an order or other approval annexes part of a town to a city, the order or other approval must provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the order. The reimbursement shall be completed in substantially equal payments over not less than two or more than eight years from the time of annexation.

The city must reimburse the township for all special assessments assigned by the township to the annexed property, and any portion of debt incurred by the town prior to the annexation and attributable to the property to be annexed but for which no special assessments are outstanding, in substantially equal payments over a period of not less than two or more than eight years.

Minn. Stat. § 4zA.02 (b)(10).

Boundary changes approved by the Municipal Boundary Adjustment Unit must be reported to the state demographer. The affected cities and towns must make a population estimate as a result of the change in boundaries and submit it to the state demographer, who must then certify a population and household estimate of the affected area.

## RELEVANT LINKS:

Minn. Stat. § 414.07.

*Rockford Township v. City of Rockford*, 608 N.W.2d 903 (Minn. Ct. App. 2000).

Minn. Stat. § 572B.23.

*City of Waite Park v. Minn. Office of Admin. Hearings*, No. A05-1888 (Minn. Ct. App. July 18, 2006) (unpublished decision).  
Minn. Stat. § 414.0325.

Minn. Stat. § 413.02.  
Minn. Stat. §§ 410.07-410.12.

Minn. Stat. § 413.02, subd. 3.

## D. Appeals

Any person aggrieved by an annexation order may appeal it in district court if the person contends the Municipal Boundary Adjustment Unit lacked jurisdiction or exceeded its jurisdiction; the order was arbitrary, fraudulent, capricious or oppressive; or, the order was based on an erroneous theory of law.

The appeal must be filed within 30 days of the Municipal Boundary Adjustment Unit's annexation order in the district court of the county where the majority of the area is located. An appeal does not stop the order.

Minnesota's Uniform Arbitration Act also provides a limited basis for appeals that may apply to annexations proceedings involving arbitration.

In addition, the Minnesota Court of Appeals has held that if a city has been denied its statutory right to a summary annexation under the orderly annexation statute, it can seek a writ of mandamus to compel the Municipal Boundary Adjustment Unit to perform its statutory duty of ordering the annexation without conducting further hearings.

## IX. Change of name

A statutory or home rule charter city may change its official name after successful completion of the following four-step procedure. A home rule charter city may also change its name by charter amendment.

- A number of voters equal to 20 percent of the number voting in the last city election must petition for the name change. The request must be filed with the council.
- The proposal must go to the voters for approval at either a general or special election. A majority of those voting on the question must favor the change.
- The election authorizes, but does not require, the council to change the name of the city. The council must adopt an ordinance approving the change.
- The city must file certified copies of the ordinance with the county auditor, the state auditor, and the secretary of state. It is also advisable to file a copy with the county recorder. The name change becomes effective with the completion of these filings.

The name of any statutory city may also be changed to the same name as its post office designation by ordinance. The change is effective upon the filing of a certified copy of the ordinance with the county auditor, the state auditor, and the secretary of state.

## RELEVANT LINKS:

Minn. Stat. § 413.02, subd. 5.

A change in name does not affect any liability, obligation, power, duty, law or ordinance of the city except the city must thereafter use the new name.

Any statutory city that was a village or a borough on Dec. 31, 1973, may continue to use the term “village” or “borough” for any purpose including, but not limited to, internal administration, public communications, and published and posted notices. However, in all proceedings governed by statute or rule or regulation of a state agency, and in all legal proceedings the city is a party to, it must use the term “city.”

Should a city wish to continue to use the designation “village” on a permanent basis, it might be wise to consider an official name change. In such a case, the city would be known officially as the “City of \_\_\_\_\_ Village” or the “City of the Village of \_\_\_\_\_.”



## **Minnesota Board of Peace Officer Standards and Training**

1600 University Avenue, Suite 200  
St. Paul, MN 55104-3825  
(651) 643-3060 • Fax (651) 643-3072  
[www.post.state.mn.us](http://www.post.state.mn.us)

Dear Chief Law Enforcement Officer Mcmillin:

On behalf of Minnesota POST Board, this letter confirms we are certifying that the Foley Police Dept. meets certain eligibility requirements, set forth by the U.S. Department of Justice, for discretionary federal grants. The Foley Police Dept. is qualified to receive federal grants for three years from the date of this letter.

Pursuant to Section 2 of the Presidential Executive Order on Safe Policing for Safe Communities, dated June 16, 2020, Executive Order No. 13929 (the "Executive Order on Safe Policing"), the U.S. Department of Justice's discretionary grant funding is only available to state, local, and university or college law enforcement agencies that have obtained (or are in the process of seeking) credentials certifying that they meet certain standards on use of force. The Executive Order on Safe Policing empowers the U.S. Attorney General to designate independent credentialing bodies — including Minnesota POST Board — to certify that a law enforcement agency meets the conditions of eligibility for federal grants.

Following our review, we have determined that the Foley Police Dept. meets the conditions for certification. Accordingly, the Minnesota POST Board will include your agency going forward within our database of certified law enforcement agencies. On or before January 31, each year, we will provide the name of each certified law enforcement agency to the U.S. Department of Justice.

If you would like to discuss further, please do not hesitate to contact me either by email at [erik.misselt@state.mn.us](mailto:erik.misselt@state.mn.us) or by phone at 651-643-3060. Thanks very much.

Sincerely,

Erik Misselt  
Executive Director



# Fact Sheet

[www.cops.usdoj.gov](http://www.cops.usdoj.gov)

## Safe Policing for Safe Communities

### Section 2. Standards for Certification

#### *Implementation of the Executive Order on Safe Policing for Safe Communities*

On June 16, 2020, President Donald J. Trump issued Executive Order (EO) 13929 on Safe Policing for Safe Communities.<sup>1</sup> The EO's goal is to ensure that law enforcement agencies continue striving to provide transparent, safe, and accountable delivery of services to communities. This delivery will enhance community confidence in law enforcement and facilitate the identification and correction of internal issues before they result in injury to the public or to law enforcement officers.

Pursuant to authority vested in the Attorney General by the EO, a group of designated organizations will serve as the independent credentialing bodies. An independent credentialing body will be responsible for certifying that an applying law enforcement agency is in compliance with two mandatory safe policing principles in the U.S. Department of Justice (DOJ) *Standards of Certification*. A list of approved certifying agencies and the DOJ Standards of Certification can be found at <https://cops.usdoj.gov>.

The DOJ *Standards of Certification* identifies two **safe policing principles that independent credentialing bodies must consider**<sup>2</sup> when assessing certification of applying law enforcement agencies:

1. **Adherence to applicable laws.** The applying agency maintains use of force policies that adhere to all applicable federal, state, and local laws.<sup>3</sup>
2. **Prohibition of choke holds.** The applying agency maintains use of force policies that prohibit the use of choke holds, except in situations where the use of deadly force is allowed by law.

Certification of adherence to the two required principles is a prerequisite to a law enforcement agency's eligibility for DOJ discretionary grant funding. Agencies will be required to provide a current and valid certification by **January 31** in order to be eligible for federal funds in that year's funding cycle. Certifications will be good for three years from their date of issue. The credentialing body will maintain a list of certified agencies within its jurisdiction and submit this list to the DOJ's Office of Community Oriented Policing Services (COPS Office), which will serve as the repository for the list of all eligible law enforcement agencies.

Independent credentialing bodies in each state will be able to provide agencies with guidance on how they can obtain certification. Agencies should contact their state bodies directly for this information. Agencies in areas where there is not an independent credentialing body should contact the International Association of Directors of Law Enforcement Standards and Training (IADLEST).

1. The White House, *Executive Order on Safe Policing for Safe Communities*, Executive Order 13929, June 16, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-safe-policing-safe-communities/>.

2. The DOJ *Standards* document identifies other factors that the credentialing bodies may also consider in their own reviews.

3. Policies apply to both paid and volunteer law enforcement officers.

## Frequently Asked Questions

### **EO 13929 and the DOJ Standards of Certification apply to which entities?**

The EO and DOJ *Standards of Certification* are applicable to state, local, and university or college law enforcement agencies (LEA) seeking DOJ discretionary (i.e., competitive) grant funding. They do not apply to tribal law enforcement agencies.

### **As it relates to certification of safe policing standards, what does an LEA that plans to apply for DOJ discretionary grant funds in fiscal year (FY) 2021\* need to do?**

LEAs that plan to *or could* apply to receive DOJ discretionary grant funds should begin reviewing their policies to determine whether they meet the criteria as set forth in the *Standards of Certification*. LEAs can contact the independent DOJ-approved credentialing body or bodies in their state or a nationally recognized entity with questions and assistance. Those LEAs that believe they comply with the Standards of Certification can immediately initiate a letter to one of the independent DOJ-approved credentialing bodies seeking further review and approval. LEAs that plan to apply for DOJ discretionary grant funds for FY 2021 must be certified or have started the certification process no later than January 31, 2021.

### **Are the independent credentialing bodies authorized to start work right away?**

Yes. The independent credentialing bodies are authorized to start certifying law enforcement agencies.

### **Will an LEA be permitted to apply for FY 2021 discretionary grant funds if it is not certified by January 31, 2021?**

LEAs need not be certified by January 31, 2021, to apply for any DOJ discretionary grants for FY 2021; however, they must be in the process of being certified. Applicants must affirm and provide proof that they are in the process of becoming certified as

complying with safe policing practices at the time of making a grant application. Being in the process of receiving certification means that the LEA must have contacted a local credentialing body and the body must be in the process of conducting its review. Applicant agencies that are in the process of certification and that are selected to receive discretionary grant funds must be certified by the time they accept the grant award.

### **What processes will certifying entities use to issue their certifications?**

Each individual certifying entity will develop its own locally tailored process. Some may conduct policy reviews of law enforcement agencies to ensure that they are compliant with the two mandatory requirements of the EO. Other entities may request that law enforcement agencies provide a statement of declaration attesting that agency policy has been reviewed and is compliant with the EO. The statement of declaration is a legally binding document and assures that the agency head has reviewed the policy or policies and complies with the two mandatory requirements of the EO. Other certifying entities may require both a policy review and a statement of declaration or other means that they develop to assure that agencies are in compliance.

### **I am an independent credentialing body. How do I submit my list of certified agencies?**

Certifying entities will be provided a standardized spreadsheet on which to capture the list of agencies they have certified. Credentialing bodies will be provided additional information on the submission process.

### **Will the credentialing bodies charge a fee to certify pursuant to the EO and DOJ Standards?**

Some credentialing bodies could charge a nominal fee to certify law enforcement agencies. LEAs can contact the independent DOJ-approved credentialing body or bodies in their state or a nationally recognized entity with questions and assistance.

*continued on p. 3*

\* FY 2021 grant solicitations occur between October 1, 2020, and September 30, 2021.



**Frequently Asked Questions, cont'd**

**If an LEA decides after January 31, 2021, after having seen a particular FY 2021 solicitation, that they would like to apply for a discretionary grant, are they permitted to apply if they have not yet started the process of certification?**

It is recommended that all LEAs that *might make* an application start the process of becoming certified to prevent the LEA from being precluded from applying later. An LEA that finds itself in this situation may make an appeal to the relevant DOJ grant-making agency for consideration.

**What if an LEA is denied certification by an independent credentialing body?**

The LEA may make an appeal to the Deputy Attorney General for review and relief.

**What if there is not a credentialing body in the state?**

LEAs that do not have a DOJ-approved credentialing body in their state may use one of the following approved nationally recognized entities:

- The Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA)
- International Association of Campus Law Enforcement Administrators (IACLEA)
- International Association of Directors of Law Enforcement Standards and Training (IADLEST)

**Will there be language about the *Standards of Certification* in the FY 2021 solicitations?**

Yes. Specific language regarding certifications will be included in all FY 2021 solicitations.

**How often do I need to renew my certification?**

The certifications will be valid for a three-year period and will need to be renewed according to that schedule.

**Can I use my CALEA or IACLEA accreditation in lieu of certification?**

Agencies that have current active accreditation from CALEA or IACLEA may request certification from the respective agencies, and certification may be issued using the existing accreditation as a basis provided the required safe policing principles are also taken into consideration.

**For states with multiple credentialing bodies, will they have different roles?**

Where there are more than two credentialing bodies in a state, they will coordinate to run parallel certifying processes in the most efficient way possible to meet the needs of law enforcement agencies within their state.

**How were the credentialing bodies identified?**

The agencies that have been initially identified to serve as the credentialing bodies are organizations that are recognized for routinely establishing law enforcement standards and processes for reviewing adherence to those standards. The Attorney General has sole discretion for the selection of these organizations.

**Is there a process of becoming a DOJ-approved independent credentialing body?**

The Attorney General has already identified numerous entities to serve in this capacity. However, an entity inquiring about becoming a DOJ-approved independent credentialing body can petition the DOJ by submitting an application to the Director of the COPS Office. Applications should include (1) the name of the entity, (2) point of contact and contact information, and (3) detailed information as to why the entity requires the ability to serve as an independent credentialing body.

**Where do I go if I have questions or receive inquiries?**

For questions related to the certification process, we encourage you to reach out to your state or national certification organization. Updated information will continue to be posted to the COPS Office website at <https://cops.usdoj.gov>, and you may also contact the COPS Office at 800-421-6770.

**Contact the COPS Office**

For more information about COPS Office programs and resources, please call the COPS Office Customer Care Center at 800-421-6770 or by email at [AskCopsRC@usdoj.gov](mailto:AskCopsRC@usdoj.gov) or visit the COPS Office website at [www.cops.usdoj.gov](http://www.cops.usdoj.gov).

**Telework Policy**

Telework – a work arrangement that allows an employee to perform scheduled regular functions at a telework location that is not the employee's permanent work location.

The City of Foley hereby establishes policy that intermittent telework may be arranged by those positions properly equipped with technology and where the job position allows for the capability of telework. Telework must be planned in advanced and approved by both the employee's direct supervisor and the City Administrator.

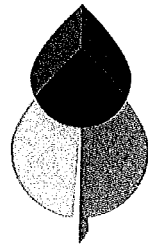
Telework arrangements must comply with state and federal employment laws. The teleworker also remains responsible for all job duties of the position while teleworking. Work schedules must be arranged in advance. Employee is also subject to use of vacation and sick leave during times not working and leave requests must be submitted in the same manner as if working from the permanent work location.

The teleworker is responsible for additional supplies and expenses necessary to telework at the location, including but not limited to internet and telephone connection equipment and costs. The teleworker is responsible for being reachable by co-workers, supervisors and customers during telework hours. Any violation of telework policies could result in immediate termination of the telework arrangement.

ARTICLE III

Unlawful Discharge

- Sec. 1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.
- Sec. 2. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and the City's NPDES/SDS Permit.
- Sec. 3. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- Sec. 4. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the City, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this Code, within ninety (90) days of the date said public sewer is operational, provided said public sewer is within 150 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official thirty (30) day notice shall be served instructing the affected property owner to make said connection.
- Sec. 5. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Article III, Section 4 of the Ordinance, the City must undertake to have said connection made and shall assess the cost thereof against the benefitted property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Benton, Minnesota and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this ordinance.



# FOLEY AREA Community Foundation

January 26, 2021

City of Foley  
251 4th Ave N/ PO Box 709  
Foley, MN 56329

Dear Friends,

As with most fundraising activities this past year, the pandemic has prevented us from holding our annual dinner/silent auction where we raise funds to support an annual \$1,000 scholarship for a deserving Foley senior student.

While the needs of the students attending college has not gone away due to the pandemic, our ability to raise funds has been hindered. This year, we are asking you to consider donating an amount of money equal to approximately 50% of what you would typically have donated/spent in the past. In honoring Cliff Stiles wisdom, "You are welcome to donate 100%."

Our intention would be this is a one year experience and is directly related to the pandemic. Subsequent years, we plan to hold our traditional dinner, silent auction, and fun and games. Your consideration and support of our foundation and more directly our students in the Foley School Community is appreciated.

Should you choose to donate you can do so by check or online. If you donate by check please make checks payable to: Foley Area Community Foundation and mailed back in the enclosed return envelope. Online donations can be made at <https://www.communitygiving.org/donors-advisors/donations> and choose the Foley Area Community Foundation Fund.

We invite you to follow us on Facebook @FoleyAreaCommunityFoundation to stay up to date with all that is happening at the foundation. If you have any questions or would like more information about the foundation you can contact us by phone at 320-253-4380 or by email at [FACF@communitygiving.org](mailto:FACF@communitygiving.org).

Thank you for your consideration,

Foley Area Foundation Board of Directors:

Rebecca Howard – Chair

Bernie Peterson - Treasurer

Alyssa Stewart

Paul Neubauer – Secretary

Juanita Beauchamp

Stephanie Rudnitski

Maggie Schefers – Vice Chair

**TO:** FOLEY CITY COUNCIL  
**FROM:** SARAH BRUNN, CITY ADMINISTRATOR  
**SUBJECT:** 02-02-21 -COUNCIL MEETING  
**DATE:** JANUARY 29, 2021

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### **Consent Agenda**

There is a bridge agreement on your consent agenda in order to work with the county on the 3<sup>rd</sup> Avenue bridge replacement. This was brought up at a prior meeting and is part of the process to move forward with the project which is scheduled for 2022. Staff is also looking at some utility work for this project and will discuss that as a separate item at a later date.

The police eligibility list is also on your agenda. Chief McMillin has started the backgrounding process on the top candidate as requested at the last meeting.

### **Amanda Othoudt – Benton Economic Partnership**

I've asked Ms. Othoudt to attend the meeting to introduce herself as the new director of the BEP. I actually worked with Ms. Othoudt when I was at the City of Becker for a while and I think she will be a great asset to our community. She has already been helping us with a few projects including the fiber project and industrial park concept. Since our staff is small at the city, we are able to tap into Ms. Othoudt's economic development experience for additional support in our projects.

### **Discussion on Orderly Annexation**

We are at a bit of stand still when it comes to the orderly annexation agreement. I've had a few discussions on the item and I think it's best to again attend their February 2<sup>nd</sup> meeting @ 7:30pm. If possible, I would like to have a council rep or two attend with me – we can decide that on Tuesday. We also need to have a discussion on how to move forward on this item at our council meeting.

### **Telework Policy**

I am presenting a telework policy for council consideration after discussing with the personnel committee. The office staff continues to do some telework but with lower case numbers and kids starting to return to school we have been able to spend more physical time in City Hall. The telework policy will allow us to continue this option in the future on an intermittent basis. It's a nice option for employees to do some work at home when other situations come up. Keep in mind, under the state order, employees who can telework are to do so. We can telework but some of our functions also require a physical presence in the office. I do not expect any employee to spend the majority of their time teleworking on a normal basis (outside a pandemic) – it would only be allowed when a situation warrants it.

### **Federal Travel Guidance**

The personal committee also discussed travel guidance and how we can keep our employees safe after travel. Since that meeting, Biden has issued a number of executive orders on testing and quarantine requirements related to travel so our recommendation at this time would be to simply follow those federal orders and CDC guidance. More may be coming from the federal administration on this item. We can discuss this further at the meeting.

**Discussion on PID 020049300& PID 020050000**

An update will be provided at the meeting.

**Sewer Connection Ordinance**

I believe I misspoke at the last council meeting on the footage requirement of connection into the sanitary system. The ordinance requires connection if located within 150 feet of the public sewer. I've included the section of the ordinance in your packet for reference. Please let me know if you have questions.

**Foley Area Community Foundation**

I received a request from the Foley Area Community Foundation for a donation. This has not been addressed in our 2021 budget. If there is interest in making this donation, it should be addressed by the council as a whole. A letter is included in your packet.

**Upcoming Reminders:**

**February 8, 2021 – Planning Commission Meeting**

**January 15, 2021 – City Hall Closed- Holiday**

**March 2, 2021 – Council Meeting**