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SESSION

HOUSE FILE No. **1297**

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,
Technology and Elections

1.1 A bill for an act
1.2 relating to local government; amending the municipal boundary adjustment law;
1.3 amending Minnesota Statutes 2008, sections 13.02, subdivision 11; 394.33,
1.4 subdivision 1; 414.01, subdivisions 1a, 1b; 414.011, by adding a subdivision;
1.5 414.031, subdivision 4; 414.0325, subdivision 3; 414.033, subdivisions 2, 12;
1.6 414.0333; 414.036; 414.041, subdivisions 3, 5; 414.061, subdivisions 4, 5;
1.7 462.357, subdivision 1; 462.358, subdivision 1a; proposing coding for new
1.8 law in Minnesota Statutes, chapter 414; repealing Minnesota Statutes 2008,
1.9 sections 414.02; 414.031, subdivision 1a; 414.0325, subdivision 1a; 414.033,
1.10 subdivisions 10, 13; 414.08; 462.3535; 462.3585; 572A.03, subdivision 3.

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. Minnesota Statutes 2008, section 13.02, subdivision 11, is amended to read:

1.13 Subd. 11. **Political subdivision.** "Political subdivision" means any county, statutory
1.14 or home rule charter city, school district, special district, ~~any town exercising powers~~
1.15 ~~under chapter 368 and located in the metropolitan area, as defined in section 473.121,~~
1.16 ~~subdivision 2,~~ and any board, commission, district, or authority created pursuant to law,
1.17 local ordinance or charter provision. It includes any nonprofit corporation which is a
1.18 community action agency organized pursuant to the Economic Opportunity Act of 1964
1.19 (Public Law 88-452) as amended, to qualify for public funds, or any nonprofit social
1.20 service agency which performs services under contract to a government entity, to the
1.21 extent that the nonprofit social service agency or nonprofit corporation collects, stores,
1.22 disseminates, and uses data on individuals because of a contractual relationship with a
1.23 government entity.

1.24 Sec. 2. Minnesota Statutes 2008, section 394.33, subdivision 1, is amended to read:

1.25 Subdivision 1. **Not inconsistent.** Unless otherwise provided by law, the governing
1.26 body of any town including any town with the powers of a statutory city pursuant to law

2.1 may continue to exercise the authority to plan and zone as provided by law, but after
2.2 the adoption of official controls for a county or portion thereof by the board of county
2.3 commissioners no town shall enact or enforce official controls inconsistent with or less
2.4 restrictive than the standards prescribed in the official controls adopted by the board.
2.5 Nothing in this section shall limit any town's power to adopt official controls, including
2.6 shoreland regulations which are more restrictive than provided in the controls adopted by
2.7 the county. Upon the adoption or amendment of any official controls the governing body
2.8 of the town shall record a certified copy thereof with the county recorder or registrar of
2.9 titles. A certified copy of any official controls of any town which are in effect on August
2.10 1, 1974, shall also be filed by the governing body of the town with the county recorder or
2.11 registrar of titles for record within one year from August 1, 1974.

2.12 Sec. 3. Minnesota Statutes 2008, section 414.01, subdivision 1a, is amended to read:

2.13 Subd. 1a. **Legislative findings.** The legislature finds that:

2.14 (1) sound urban development and preservation of agricultural land and open spaces
2.15 through land use planning is essential to the continued economic growth of this state;

2.16 (2) municipal government most efficiently provides governmental services in areas
2.17 intensively developed for residential, commercial, industrial, and governmental purposes;
2.18 and township government most efficiently provides governmental services in areas used or
2.19 developed for agricultural, open space, and rural residential purposes;

2.20 (3) the public interest requires that municipalities be formed when there exists or will
2.21 likely exist the necessary resources to provide for their economical and efficient operation;

2.22 (4) annexation to existing municipalities of unincorporated areas unable to supply
2.23 municipal services should be facilitated; ~~and~~

2.24 (5) joint resolutions for orderly annexation, consolidation of municipalities, mergers
2.25 of towns and municipalities, long-range joint powers planning or other cooperative efforts
2.26 among counties, cities, and towns should be encouraged; and

2.27 (6) sound land use planning is necessary for Minnesota to achieve its goals in
2.28 greenhouse gas reduction through energy conservation, the reduction in the number and
2.29 length of vehicle trips, and maximizing the use of transit and existing transportation
2.30 infrastructure.

2.31 Sec. 4. Minnesota Statutes 2008, section 414.01, subdivision 1b, is amended to read:

2.32 Subd. 1b. **Goals in promoting, regulating municipal development.** The chief
2.33 administrative law judge may promote and regulate development of municipalities:

3.1 (1) to provide for the extension of municipal government to areas which are
 3.2 developed or are in the process of being developed for intensive use for residential,
 3.3 commercial, industrial, institutional, and governmental purposes or are needed for such
 3.4 purposes; and

3.5 (2) to protect the stability of unincorporated areas which are used or developed for
 3.6 agricultural, open space, and rural residential purposes and are not presently needed for
 3.7 more intensive uses; ~~and~~

3.8 (3) to protect the integrity of land use planning in municipalities and unincorporated
 3.9 areas so that the public interest in efficient local government will be properly recognized
 3.10 and served; and

3.11 (4) to reduce greenhouse gas emissions through land use practices that encourage
 3.12 compact urban development.

3.13 Sec. 5. Minnesota Statutes 2008, section 414.011, is amended by adding a subdivision
 3.14 to read:

3.15 Subd. 13. **Urban or suburban in character.** "Urban or suburban in character"
 3.16 means any area, property, or collection of properties where actual or planned residential
 3.17 densities exceed one unit per 40 acres or any area where actual or planned governmental,
 3.18 institutional, commercial, or industrial development exists, excluding industrial
 3.19 development that is appropriate for rural settings such as those connected with agricultural,
 3.20 forestry, mining, or energy production industries.

3.21 Sec. 6. **[414.023] INCORPORATIONS PROHIBITED AFTER JUNE 1, 2009.**

3.22 The chief administrative law judge must not order any municipal incorporations
 3.23 after June 1, 2009.

3.24 Sec. 7. Minnesota Statutes 2008, section 414.031, subdivision 4, is amended to read:

3.25 Subd. 4. **Relevant factors, order.** (a) In arriving at a decision, the presiding
 3.26 administrative law judge shall consider the following sources and factors:

3.27 (1) ~~recordings and public documents from joint informational meetings under~~
 3.28 ~~section 414.0333 relevant to other factors listed in this subdivision;~~

3.29 ~~(2)~~ present population and number of households, past population and projected
 3.30 population growth of the annexing municipality and subject area and adjacent units of
 3.31 local government;

4.1 ~~(3)~~ (2) quantity of land within the subject area and adjacent units of local government;
 4.2 and natural terrain including recognizable physical features, general topography, major
 4.3 watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

4.4 ~~(4)~~ (3) degree of contiguity of the boundaries between the annexing municipality
 4.5 and the subject area;

4.6 ~~(5)~~ (4) present pattern of physical development, planning, and intended land
 4.7 uses in the subject area and the annexing municipality including residential, industrial,
 4.8 commercial, agricultural and institutional land uses and the impact of the proposed action
 4.9 on those land uses;

4.10 ~~(6)~~ (5) the present transportation network and potential transportation issues,
 4.11 including proposed highway development;

4.12 ~~(7)~~ (6) land use controls and planning presently being utilized in the annexing
 4.13 municipality and the subject area, including comprehensive plans for development in
 4.14 the area and plans and policies of the Metropolitan Council, and whether there are
 4.15 inconsistencies between proposed development and existing land use controls and the
 4.16 reasons therefore;

4.17 ~~(8)~~ (7) existing levels of governmental services being provided in the annexing
 4.18 municipality and the subject area, including water and sewer service, fire rating and
 4.19 protection, law enforcement, street improvements and maintenance, administrative
 4.20 services, and recreational facilities and the impact of the proposed action on the delivery
 4.21 of said services;

4.22 ~~(9) the implementation of previous annexation agreements and orders;~~

4.23 ~~(10)~~ (8) existing or potential environmental problems and whether the proposed
 4.24 action is likely to improve or resolve these problems;

4.25 ~~(11)~~ (9) plans and programs by the annexing municipality for providing ~~needed and~~
 4.26 ~~enhanced~~ governmental services to the subject area ~~in a cost-effective and feasible manner~~
 4.27 ~~within a reasonable time from the date of the annexation;~~

4.28 ~~(12)~~ (10) an analysis of the fiscal impact on the annexing municipality, the subject
 4.29 area, and adjacent units of local government, including net tax capacity and the present
 4.30 bonded indebtedness, and the local tax rates of the county, school district, and township;

4.31 ~~(13)~~ (11) relationship and effect of the proposed action on affected and adjacent
 4.32 school districts and communities;

4.33 ~~(14) adequacy of town government to deliver services to the subject area;~~

4.34 ~~(15) analysis of whether necessary governmental services can best be provided~~
 4.35 ~~through the proposed action or another type of boundary adjustment;~~

5.1 ~~(16)~~ (12) if only a part of a township is annexed, the ability of the remainder of the
 5.2 township to continue ~~or the feasibility of it being incorporated separately or being~~, to be
 5.3 annexed to another municipality, or to be merged with the annexing municipality; ~~and~~

5.4 ~~(17)~~ (13) information received by the presiding administrative law judge from the
 5.5 tour required under subdivision 3a; and

5.6 (14) analysis of whether the annexation is consistent with the state's goals in
 5.7 reducing vehicle miles traveled, and is likely to help the state achieve its greenhouse
 5.8 gas reduction goals by encouraging development that would be more dense than is
 5.9 contemplated by township or county comprehensive planning and land use controls.

5.10 (b) The presiding administrative law judge must not consider as evidence statements
 5.11 made during a joint informational meeting under section 414.0333 or statements made
 5.12 during any subsequent public meeting that may be held in accordance with a hearing under
 5.13 sections 414.031 and 414.09, unless the statements are subject to examination or cross
 5.14 examination by counsel for either the town or municipality or other party to the proceeding.

5.15 ~~(b)~~ (c) Based upon the factors, the presiding administrative law judge ~~may~~ must
 5.16 order the annexation on finding:

5.17 (1) that the subject area is now, or is about to become, urban or suburban in character;

5.18 (2) that municipal government in the area proposed for annexation is required to
 5.19 protect the public health, safety, and welfare;

5.20 (3) that the annexing municipality has a plan to provide needed services to the
 5.21 subject area including water and sewer in a reasonable amount of time;

5.22 (4) that municipal land use planning is more likely to result in fewer vehicle miles
 5.23 traveled and more likely to help the state achieve its goals in greenhouse gas reduction
 5.24 than existing county or township land use controls; or

5.25 ~~(3)~~ (5) that the annexation would be in the best interest of the subject area.

5.26 ~~(e)~~ (d) If only a part of a township is to be annexed, the presiding administrative
 5.27 law judge shall consider whether the remainder of the township can continue to carry on
 5.28 the functions of government without undue hardship. If the presiding administrative law
 5.29 judge finds that the remaining areas of the township would suffer undue hardship, the
 5.30 presiding administrative law judge must order the annexation of the entire township to the
 5.31 municipality or to another municipality adjoining the township.

5.32 ~~(d) The presiding administrative law judge shall deny the annexation on finding that~~
 5.33 ~~the increase in revenues for the annexing municipality bears no reasonable relation to the~~
 5.34 ~~monetary value of benefits conferred upon the annexed area.~~

5.35 (e) The presiding administrative law judge may deny the annexation on finding:

6.1 ~~(1)~~ that annexation of all or a part of the property to an adjacent municipality would
 6.2 better serve the interests of the residents of the property; ~~or~~

6.3 ~~(2) that the remainder of the township would suffer undue hardship.~~

6.4 (f) The presiding administrative law judge may alter the boundaries of the area to be
 6.5 annexed by increasing or decreasing the area so as to include only that property which
 6.6 is now or is about to become urban or suburban in character or to add property of such
 6.7 character abutting the area proposed for annexation in order to preserve or improve the
 6.8 symmetry of the area, or to exclude property that may better be served by another unit
 6.9 of government.

6.10 (g) The presiding administrative law judge may also alter the boundaries of the
 6.11 proposed annexation so as to follow visible, clearly recognizable physical features.

6.12 (h) If the presiding administrative law judge determines that part of the area would
 6.13 be better served by another municipality or township, the presiding administrative law
 6.14 judge may initiate and approve annexation by conducting further hearings and issuing
 6.15 orders pursuant to subdivisions 3 and 4.

6.16 (i) In all cases, the presiding administrative law judge shall set forth and explain the
 6.17 factors which are the basis for the decision.

6.18 Sec. 8. Minnesota Statutes 2008, section 414.0325, subdivision 3, is amended to read:

6.19 Subd. 3. **Relevant factors, order.** (a) ~~In arriving at a decision, the chief~~
 6.20 ~~administrative law judge shall consider the factors in section 414.031, subdivision 4.~~

6.21 ~~(b) Based upon factors in section 414.031, subdivision 4, The chief administrative~~
 6.22 ~~law judge may shall~~ order the annexation:

6.23 (1) on finding that the orderly annexation petition complies with relevant state
 6.24 statutes; or

6.25 ~~(1)~~ (2) on finding that the subject area is now or is about to become urban or
 6.26 suburban in character and that the annexing municipality is capable of providing the
 6.27 services required by the area within a reasonable time; or

6.28 ~~(2)~~ (3) on finding that the existing township form of government is not adequate to
 6.29 protect the public health, safety, and welfare; or

6.30 ~~(3)~~ (4) on finding that annexation would be in the best interests of the subject area.

6.31 ~~(c) The chief administrative law judge may deny the annexation if it conflicts with~~
 6.32 ~~any provision of the joint agreement.~~

6.33 ~~(d) The chief administrative law judge may alter the boundaries of the proposed~~
 6.34 ~~annexation by increasing or decreasing the area so as to include that property within the~~

7.1 ~~designated area which is in need of municipal services or will be in need of municipal~~
 7.2 ~~services:~~

7.3 ~~(e) If the annexation is denied, no proceeding for the annexation of substantially the~~
 7.4 ~~same area may be initiated within two years from the date of the denial order unless the~~
 7.5 ~~new proceeding is initiated by a majority of the area's property owners and the petition is~~
 7.6 ~~supported by affected parties to the resolution:~~

7.7 ~~(f)~~ (b) In all cases, the chief administrative law judge shall set forth and explain the
 7.8 factors which are the basis for the decision granting or not granting the order.

7.9 Sec. 9. Minnesota Statutes 2008, section 414.033, subdivision 2, is amended to read:

7.10 Subd. 2. **Conditions.** (a) A municipal council may by ordinance declare land
 7.11 annexed to the municipality and any such land is deemed to be urban or suburban in
 7.12 character or about to become so if:

7.13 (1) the land is owned by the municipality;

7.14 (2) the land is completely surrounded by land within the municipal limits;

7.15 (3) the land abuts the municipality and ~~the area to be annexed is 120 acres or less,~~
 7.16 ~~and the area to be annexed is not presently served by public wastewater facilities or~~
 7.17 ~~public wastewater facilities are not otherwise available, and the municipality receives a~~
 7.18 ~~petition for annexation from ~~all~~ a majority of the property owners of the land. Except as~~
 7.19 ~~provided for by an orderly annexation agreement, this clause may not be used to annex~~
 7.20 ~~any property contiguous to any property previously annexed under this clause within the~~
 7.21 ~~preceding 12 months if the property is owned by the same owners and annexation would~~
 7.22 ~~cumulatively exceed 120 acres; or~~

7.23 (4) the land is platted or has been approved ~~after August 1, 1995,~~ by a for a
 7.24 preliminary plat or final plat for subdivision to provide residential lots that average ~~21,780~~
 7.25 43,560 square feet or less in area ~~and the land is located within two miles of the municipal~~
 7.26 limits or for commercial, industrial, governmental, or institutional development.

7.27 (b) A municipality also may annex by ordinance unincorporated territory that abuts
 7.28 the municipality under the procedures in this paragraph.

7.29 (1) The municipality must adopt a resolution of consideration and file it with the
 7.30 Office of Administrative Hearings, the clerk of the county where the property is located,
 7.31 and the clerk of the affected township at least 90 days before the municipality may enact
 7.32 an annexation ordinance. The resolution must include a statement of the municipality's
 7.33 intent to annex under this paragraph and a legal description of the area to be annexed.

7.34 (2) After the adoption of the resolution of consideration the municipality must
 7.35 update its comprehensive plan to include the area proposed for annexation and must

8.1 prepare a report detailing the urban characteristics of the area and a plan for the provision
8.2 of urban services. The report and service plan must include:

8.3 (i) a map showing the area proposed for annexation and its relation to current
8.4 municipal boundaries;

8.5 (ii) a description of the general physical land use pattern, current and proposed
8.6 land uses, current and proposed land use controls, service needs, projected growth,
8.7 environmental conditions, and current and future transportation needs within the proposed
8.8 annexation area;

8.9 (iii) plans for the provision of water and sewer services including a schedule of
8.10 when services would be extended to the annexation area;

8.11 (iv) a plan for the extension of public safety services such as police and fire
8.12 protection;

8.13 (v) a plan for the extension of other municipal services such as recreation, street
8.14 maintenance, and administration; and

8.15 (vi) an updated comprehensive plan that does not allow residential densities in the
8.16 annexation area that are less than what is already in effect for the existing residential
8.17 parts of the municipality.

8.18 (3) The updated comprehensive plan, report, and service plan must be completed at
8.19 least 30 days before a public hearing is held on the proposed annexation. Copies of the
8.20 plans must be sent to the Office of Administrative Hearings and the affected town, and
8.21 must also be made available at city hall for public inspection and copying.

8.22 (4) After the compilation of the report required under clause (2), the municipality
8.23 must fix a date for a public hearing on the question of annexation. The municipality
8.24 must publish notice in a newspaper of general circulation at least ten days before the
8.25 hearing. The municipality must also send a notice of the public hearing to the town clerk
8.26 of the affected township and to all property owners within and contiguous to the proposed
8.27 annexation area. Notice must be given to the town clerk of the affected township and the
8.28 property owners no later than 14 days before the public hearing.

8.29 (5) At the public hearing the municipality shall present its findings and
8.30 recommendations and hear public testimony on the question of annexation. All persons
8.31 appearing must have an opportunity to be heard at least once. The governing body of the
8.32 municipality also may accept written comments on the question of annexation at that time
8.33 and for ten days following the public hearing.

8.34 (6) After the public hearing and before enacting an annexation ordinance under this
8.35 paragraph, the governing body of the municipality must make the following findings:

8.36 (i) the proposed annexation area is contiguous to the municipality's boundaries;

9.1 (ii) at least 40 percent of the existing lots in the proposed annexation area are
9.2 developed or are proposed to be developed for residential, commercial, industrial,
9.3 governmental, or institutional uses and at least 40 percent of the lots within the proposed
9.4 annexation area have an average lot size of 20 acres or less; and

9.5 (iii) the municipality is capable of extending services in a manner consistent with the
9.6 municipality's service plan in a reasonable time.

9.7 (7) Upon making the findings required by clause (6), the municipality may enact the
9.8 annexation ordinance declaring the land to be annexed to the municipality.

9.9 Sec. 10. Minnesota Statutes 2008, section 414.033, subdivision 12, is amended to read:

9.10 Subd. 12. **Property taxes.** When a municipality annexes land under subdivision
9.11 2, paragraph (a), clause (2), (3), or (4), or paragraph (b), property taxes payable on the
9.12 annexed land shall continue to be paid to the affected town or towns for the year in which
9.13 the annexation becomes effective. If the annexation becomes effective on or before
9.14 August 1 of a levy year, the municipality may levy on the annexed area beginning with
9.15 that same levy year. If the annexation becomes effective after August 1 of a levy year, the
9.16 town may continue to levy on the annexed area for that levy year, and the municipality
9.17 may not levy on the annexed area until the following levy year.

9.18 Sec. 11. Minnesota Statutes 2008, section 414.0333, is amended to read:

9.19 **414.0333 JOINT INFORMATIONAL MEETING.**

9.20 There must be a joint informational meeting of the municipal council of the annexing
9.21 municipality and the town board of supervisors of the township containing the land
9.22 proposed to be annexed or included in annexation proceedings under section 414.031.
9.23 For an annexation under section 414.031, the joint informational meeting must be held
9.24 after the final mediation meeting or the final meeting held pursuant to section 414.01,
9.25 subdivision 16, if any, and before the hearing on the matter is held. If no mediation
9.26 meetings are held, the joint informational meeting must be held after the initiating
9.27 documents have been filed and before the hearing on the matter. The time, date, and
9.28 place of the public informational meeting must be determined jointly by the chair of the
9.29 town board of supervisors and the mayor of the annexing municipality. The chair of the
9.30 town board of supervisors and the mayor must serve as the cochairs for the informational
9.31 meeting. Notice of the time, date, place, and purpose of the informational meeting must be
9.32 posted by the town clerk in the township's designated place for posting notices, and by the
9.33 municipal clerk in the municipality's designated place for posting notices. In addition,
9.34 both the city and town shall publish, at their own expense, notice in their respective

10.1 official newspapers. If the city and town use the same official newspaper, a joint notice
 10.2 may be published and the costs evenly divided. All notice required by this section must
 10.3 be provided at least ten days before the date for the public informational meeting. At
 10.4 the public informational meeting, all persons appearing must have an opportunity to be
 10.5 heard, but the co-chairs may, by mutual agreement, establish the amount of time allowed
 10.6 for each speaker. The municipal council, the town board of supervisors, and any resident
 10.7 or affected property owner may be represented by counsel ~~and may place into the record~~
 10.8 ~~of the informational meeting documents, expert opinions, or other materials supporting~~
 10.9 ~~their positions on issues raised by the proposed annexation proceeding.~~ The clerk of the
 10.10 township must record minutes of the proceedings of the informational meeting and the
 10.11 municipal clerk must make an audio recording of the informational meeting. The township
 10.12 must provide the chief administrative law judge and the municipality with a copy of the
 10.13 printed minutes and the municipality must provide the chief administrative law judge and
 10.14 the township with a copy of the audio recording. ~~The record of the informational meeting~~
 10.15 ~~for a proceeding under section 414.031 is admissible in any proceeding under this chapter~~
 10.16 ~~and shall be taken into consideration by the chief administrative law judge or the chief~~
 10.17 ~~administrative law judge's designee.~~

10.18 Sec. 12. Minnesota Statutes 2008, section 414.036, is amended to read:

10.19 **414.036 CITY REIMBURSEMENT LIMITATION ON PAYMENTS TO**
 10.20 **TOWN TO ANNEX TAXABLE PROPERTY.**

10.21 Subdivision 1. Orderly annexation. Unless otherwise agreed to by the annexing
 10.22 municipality and the affected town, when an order or other approval under ~~this chapter~~
 10.23 section 414.0325 annexes part of a town to a municipality, the order or other approval
 10.24 must provide a reimbursement from the municipality to the town for all or part of the
 10.25 taxable property annexed at the town tax rate at the time of annexation as part of the
 10.26 order. The reimbursement shall be completed in substantially equal payments over not
 10.27 less than two nor more than eight years from the time of annexation. The municipality
 10.28 must reimburse the township for all special assessments assigned by the township to the
 10.29 annexed property that are received by the municipality, and any portion of debt incurred
 10.30 by the town prior to the annexation and attributable to the property to be annexed but
 10.31 for which no special assessments are outstanding, provided the town makes a written
 10.32 request and includes supporting documentation to the municipality within 60 days of the
 10.33 order. Reimbursement for debt attributable to the annexed property must either be paid
 10.34 by the municipality in substantially equal payments over a period of not less than two or
 10.35 no more than eight years or upon the same terms as the debt was incurred by the town.

11.1 Reimbursement for special assessments must be paid to the town within 30 days of receipt
 11.2 of assessment payments by the municipality from the county or property owner.

11.3 Subd. 2. **Annexation by ordinance.** When a municipality adopts an ordinance
 11.4 under section 414.033 annexing part of a town to a municipality, the ordinance must
 11.5 provide a reimbursement from the municipality to the town for the loss of taxes from the
 11.6 property annexed for the period and in accordance with the following schedule:

11.7 (1) in the first levy year following the year when the annexing municipality could
 11.8 first levy on the annexed area, the municipality must make a cash payment to the affected
 11.9 town in an amount equal to 90 percent of the property taxes distributed to the town
 11.10 in regard to the annexed area in the last year the property taxes from the annexed area
 11.11 were payable to the town;

11.12 (2) in the second year, an amount equal to 80 percent;

11.13 (3) in the third year, an amount equal to 60 percent;

11.14 (4) in the fourth year, an amount equal to 40 percent; and

11.15 (5) in the fifth and final year, an amount equal to 20 percent.

11.16 Subd. 3. **Exclusive.** The reimbursements authorized in this section are the only
 11.17 payments or consideration that can be made by a municipality to a town under this chapter.

11.18 **Sec. 13. [414.037] COMPETING PETITIONS FOR ANNEXATION.**

11.19 If two or more municipalities seek to annex all or a portion of the same
 11.20 unincorporated area, the chief administrative law judge shall designate a time and place
 11.21 for a hearing in accordance with sections 414.031 and 414.09. The hearing shall be
 11.22 limited to a determination of which municipality can better serve all or a portion of the
 11.23 area to be annexed.

11.24 **Sec. 14. Minnesota Statutes 2008, section 414.041, subdivision 3, is amended to read:**

11.25 **Subd. 3. **Commission's hearing and report.**** (a) The consolidation commission
 11.26 shall conduct hearings regarding the proposed consolidation.

11.27 (b) The hearings shall include, but are not limited to, the following subjects:

11.28 (1) the contents of any city charter for the proposed consolidated city or the form of
 11.29 government of the proposed consolidated city;

11.30 (2) analysis of whether a ward system shall be included in the form of government
 11.31 of the proposed consolidated city; and

11.32 (3) each factor considered by the chief administrative law judge under ~~section~~
 11.33 ~~414.02~~, subdivision ~~3~~ 5.

12.1 (c) Based on these factors and upon other matters which come before the
 12.2 consolidation commission, the commission shall issue a report to the chief administrative
 12.3 law judge with findings and recommendations within two years from the date of the chief
 12.4 administrative law judge's initial appointment of the commission.

12.5 Sec. 15. Minnesota Statutes 2008, section 414.041, subdivision 5, is amended to read:

12.6 Subd. 5. **Relevant factors, order.** (a) In arriving at a decision, the chief
 12.7 administrative law judge shall consider the following factors ~~in section 414.02, subdivision~~
 12.8 ~~3:~~

12.9 (1) present population and number of households, past population, and projected
 12.10 population growth for the subject area;

12.11 (2) quantity of land within the subject area; the natural terrain including recognizable
 12.12 physical features, general topography, major watersheds, soil conditions, and such natural
 12.13 features as rivers, lakes, and major bluffs;

12.14 (3) present pattern of physical development, planning, and intended land uses in the
 12.15 subject area, including residential, industrial, commercial, agricultural, and institutional
 12.16 land uses, and the impact of the proposed action on those uses;

12.17 (4) the present transportation network and potential transportation issues, including
 12.18 proposed highway development;

12.19 (5) land use controls and planning presently being utilized in the subject area,
 12.20 including comprehensive plans, policies of the Metropolitan Council; and whether there
 12.21 are inconsistencies between proposed development and existing land use controls;

12.22 (6) existing levels of governmental services being provided to the subject area,
 12.23 including water and sewer service, fire rating and protection, law enforcement, street
 12.24 improvements and maintenance, administrative services, and recreational facilities, and
 12.25 the impact of the proposed action on the delivery of the services;

12.26 (7) existing or potential environmental problems and whether the proposed action is
 12.27 likely to improve or resolve these problems;

12.28 (8) fiscal impact on the subject area and adjacent units of local government,
 12.29 including present bonded indebtedness; local tax rates of the county, school district, and
 12.30 other governmental units including, where applicable, the net tax capacity of platted and
 12.31 unplatted lands and the division of homestead and nonhomestead property; and other
 12.32 tax and governmental aid issues;

12.33 (9) relationship and effect of the proposed action on affected and adjacent school
 12.34 districts and communities;

13.1 (10) whether delivery of services to the subject area can be adequately and
13.2 economically delivered by the existing government;

13.3 (11) analysis of whether necessary governmental services can best be provided
13.4 through the proposed action or another type of boundary adjustment; and

13.5 (12) degree of contiguity of the boundaries of the subject area and adjacent units of
13.6 local government.

13.7 (b) The chief administrative law judge shall consider and may accept, amend, return
13.8 to the commission for amendment or further study, or reject the commission's findings and
13.9 recommendations based upon the chief administrative law judge's written determination
13.10 of what is in the best interests of the affected municipalities.

13.11 (c) The chief administrative law judge shall order the consolidation on finding that
13.12 consolidation will be for the best interests of the municipalities. In all cases, the chief
13.13 administrative law judge shall set forth the factors which are the basis for the decision.

13.14 (d) If the chief administrative law judge orders consolidation, the order shall provide
13.15 for election of new municipal officers in accordance with section 414.09.

13.16 (e) If the most populous of the included municipalities is a statutory city, the new
13.17 municipality shall be a statutory city and the plan of government shall be Optional Plan A,
13.18 provided that an alternate plan may be adopted pursuant to section 412.551, at any time. If
13.19 the most populous of the included municipalities is a home rule charter city or organized
13.20 under a statute other than chapter 412, the new municipality shall be governed by its home
13.21 rule charter or the statutory form under which it is governed except that any ward system
13.22 for the election of council members shall be inoperable.

13.23 (f) If the commission's findings and recommendations include a proposed home rule
13.24 charter for the new municipality, the order may combine the issue of the adoption of the
13.25 charter and the vote on approval of the order for consolidation into one question on the
13.26 ballot, and shall submit it in a special or general election as provided in section 410.10.

13.27 (g) The ordinances of all of the included municipalities shall continue in effect within
13.28 their former boundaries until repealed by the governing body of the new municipality.

13.29 (h) Notwithstanding any other provision of law to the contrary, the order may
13.30 establish a ward system in the new municipality, in which event the order shall establish
13.31 not less than three nor more than seven wards, each of which shall elect one council
13.32 member. When more than two years have elapsed after consolidation, the governing body
13.33 may, by a four-fifths vote, abolish the ward system.

13.34 (i) The new municipality shall assume the name of the most populous municipality
13.35 unless previous to the election another name is chosen by joint resolution of a majority of
13.36 the included municipalities or by the consolidation commission.

14.1 (j) The number of license privileges existing in the included municipalities prior
14.2 to consolidation and pursuant to state law shall not be diminished as a result of the
14.3 consolidation.

14.4 (k) If the consolidation is denied or defeated in a referendum, no proceeding for the
14.5 consolidation of the same municipalities may be initiated within two years from the date
14.6 of the order unless authorized by the chief administrative law judge.

14.7 Sec. 16. Minnesota Statutes 2008, section 414.061, subdivision 4, is amended to read:

14.8 Subd. 4. **Chief administrative law judge's initiative.** The chief administrative
14.9 law judge (1) may initiate proceedings for the concurrent detachment and annexation
14.10 of portions of one municipality completely surrounded by another municipality, or (2)
14.11 may act upon the petition of all of the owners of property in the completely surrounded
14.12 area. In such cases the chief administrative law judge shall conduct hearings and issue
14.13 an order pursuant to section 414.09. In arriving at a decision, the chief administrative
14.14 law judge shall consider the factors in section ~~414.02~~ 414.041, subdivision ~~3~~ 5. The
14.15 chief administrative law judge shall order the proposed action on finding that it will be
14.16 for the best interests of the municipalities and the property owners. In all cases, the chief
14.17 administrative law judge shall set forth the factors which are the basis for the decision.

14.18 Sec. 17. Minnesota Statutes 2008, section 414.061, subdivision 5, is amended to read:

14.19 Subd. 5. **Property owners may initiate.** Property owners may initiate proceedings
14.20 for the concurrent detachment of their property from one municipality and its annexation
14.21 to an adjacent municipality by a petition signed by all of them that they submit to the chief
14.22 administrative law judge accompanied by a resolution of the city council of each of the
14.23 affected municipalities. The chief administrative law judge shall conduct hearings and
14.24 issue an order pursuant to section 414.09. In arriving at a decision, the chief administrative
14.25 law judge shall consider the factors in section ~~414.02~~ 414.041, subdivision ~~3~~ 5. The
14.26 chief administrative law judge shall order the proposed action on finding that it will be
14.27 for the best interests of the municipalities and the property owner. In all cases, the chief
14.28 administrative law judge shall set forth the factors which are the basis for the decision.

14.29 Sec. 18. Minnesota Statutes 2008, section 462.357, subdivision 1, is amended to read:

14.30 Subdivision 1. **Authority for zoning.** For the purpose of promoting the public
14.31 health, safety, morals, and general welfare, a municipality may by ordinance regulate
14.32 on the earth's surface, in the air space above the surface, and in subsurface areas, the
14.33 location, height, width, bulk, type of foundation, number of stories, size of buildings

15.1 and other structures, the percentage of lot which may be occupied, the size of yards and
 15.2 other open spaces, the density and distribution of population, the uses of buildings and
 15.3 structures for trade, industry, residence, recreation, public activities, or other purposes,
 15.4 and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil
 15.5 conservation, water supply conservation, conservation of shorelands, as defined in
 15.6 sections 103F.201 to 103F.221, access to direct sunlight for solar energy systems as
 15.7 defined in section 216C.06, flood control or other purposes, and may establish standards
 15.8 and procedures regulating such uses. To accomplish these purposes, official controls may
 15.9 include provision for purchase of development rights by the governing body in the form of
 15.10 conservation easements under chapter 84C in areas where the governing body considers
 15.11 preservation desirable and the transfer of development rights from those areas to areas the
 15.12 governing body considers more appropriate for development. No regulation may prohibit
 15.13 earth sheltered construction as defined in section 216C.06, subdivision 14, relocated
 15.14 residential buildings, or manufactured homes built in conformance with sections 327.31
 15.15 to 327.35 that comply with all other zoning ordinances promulgated pursuant to this
 15.16 section. The regulations may divide the surface, above surface, and subsurface areas of the
 15.17 municipality into districts or zones of suitable numbers, shape, and area. The regulations
 15.18 shall be uniform for each class or kind of buildings, structures, or land and for each class
 15.19 or kind of use throughout such district, but the regulations in one district may differ from
 15.20 those in other districts. The ordinance embodying these regulations shall be known as the
 15.21 zoning ordinance and shall consist of text and maps. A city that provides water and sewer
 15.22 services to a majority of its households may by ordinance extend the application of its
 15.23 zoning regulations to unincorporated territory located within two miles of its limits in any
 15.24 ~~direction, but not in a county or town which has adopted zoning~~ and the city's regulations
 15.25 supersede any existing regulations in the unincorporated area to which the city's
 15.26 regulations are extended; provided that where two or more noncontiguous ~~municipalities~~
 15.27 cities have boundaries less than four miles apart, each is authorized to control the zoning
 15.28 of land on its side of a line equidistant between the two noncontiguous ~~municipalities~~
 15.29 cities unless a ~~town or county in the affected area has adopted zoning regulations~~ the cities
 15.30 otherwise agree. Any city may thereafter enforce such regulations in the area to the same
 15.31 extent as if such property were situated within its corporate limits, ~~until the county or town~~
 15.32 ~~board adopts a comprehensive zoning regulation which includes the area.~~

15.33 Sec. 19. Minnesota Statutes 2008, section 462.358, subdivision 1a, is amended to read:

15.34 Subd. 1a. **Authority.** To protect and promote the public health, safety, and general
 15.35 welfare, to provide for the orderly, economic, and safe development of land, to preserve

16.1 agricultural lands, to promote the availability of housing affordable to persons and families
16.2 of all income levels, and to facilitate adequate provision for transportation, water, sewage,
16.3 storm drainage, schools, parks, playgrounds, and other public services and facilities, a
16.4 municipality may by ordinance adopt subdivision regulations establishing standards,
16.5 requirements, and procedures for the review and approval or disapproval of subdivisions.
16.6 The regulations may contain varied provisions respecting, and be made applicable only
16.7 to, certain classes or kinds of subdivisions. The regulations shall be uniform for each
16.8 class or kind of subdivision.

16.9 A ~~municipality~~ city that provides water and sewer services to a majority of its
16.10 households may by resolution extend the application of its subdivision regulations to
16.11 unincorporated territory located within two miles of its limits in any direction ~~but not~~
16.12 ~~in a town which has adopted subdivision~~ but the city's regulations shall supersede any
16.13 existing regulations in the unincorporated area to which they are extended; provided that
16.14 where two or more noncontiguous ~~municipalities~~ cities have boundaries less than four
16.15 miles apart, each is authorized to control the subdivision of land equal distance from its
16.16 boundaries within this area unless the cities otherwise agree. Any city may thereafter
16.17 enforce such regulations in the area to the same extent as if the property were situated
16.18 within its corporate limits.

16.19 Sec. 20. **REPEALER.**

16.20 Minnesota Statutes 2008, sections 414.02; 414.031, subdivision 1a; 414.0325,
16.21 subdivision 1a; 414.033, subdivisions 10 and 13; 414.08; 462.3535; 462.3585; and
16.22 572A.03, subdivision 3, are repealed.

414.02 EXCLUSIVE METHOD OF MUNICIPAL INCORPORATION.

Subdivision 1. **Initiating the proceedings.** This section provides the exclusive method of incorporating a municipality in Minnesota. Proceedings for incorporation of a municipality may be initiated by petition of 100 or more property owners or by resolution of the town board within an area which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law. The petition or resolution shall be submitted to the chief administrative law judge and shall state the proposed name of the municipality, the names of all parties entitled to mailed notice under section 414.09, the reason for requesting incorporation, and shall include a proposed corporate boundary map.

Subd. 1a. **Notice of intent to incorporate.** (a) At least 30 days before submitting the petition or resolution to the chief administrative law judge under this section, the township must serve the clerk of each municipality and each township that is contiguous to the township by certified mail a notice of the township's intent to incorporate.

(b) If the proceedings for incorporation are initiated by the requisite number of property owners, the notice of intent to incorporate must be served by the property owner or owners or designee in the manner required under this paragraph. The property owner or owners or designee must serve a notice of intent to incorporate on the town board of the township containing the area proposed for incorporation. The property owner or owners or designee must also serve the clerk of each municipality and each township that is contiguous to the area proposed for incorporation by certified mail a notice of intent to incorporate.

Subd. 2. **Hearing time, place.** Upon receipt of a petition or resolution made pursuant to subdivision 1, the chief administrative law judge shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. **Relevant factors, order.** (a) In arriving at a decision, the chief administrative law judge shall consider the following factors:

(1) present population and number of households, past population and projected population growth for the subject area;

(2) quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(3) 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 those uses;

(4) the present transportation network and potential transportation issues, including proposed highway development;

(5) land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land use controls;

(6) existing levels of governmental services being provided to the subject area, including water and sewer service, 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 the services;

(7) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

(8) fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues;

(9) relationship and effect of the proposed action on affected and adjacent school districts and communities;

(10) whether delivery of services to the subject area can be adequately and economically delivered by the existing government;

(11) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment;

(12) degree of contiguity of the boundaries of the subject area and adjacent units of local government; and

(13) analysis of the applicability of the State Building Code.

(b) Based upon these factors, the chief administrative law judge may order the incorporation on finding that:

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(1) the property to be incorporated is now, or is about to become, urban or suburban in character; or

(2) that the existing township form of government is not adequate to protect the public health, safety, and welfare; or

(3) the proposed incorporation would be in the best interests of the area under consideration.

(c) The chief administrative law judge may deny the incorporation if the area, or a part thereof, would be better served by annexation to an adjacent municipality.

(d) The chief administrative law judge may alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character, or may exclude property that may be better served by another unit of government. The chief administrative law judge may also alter the boundaries of the proposed incorporation so as to follow visible, clearly recognizable physical features for municipal boundaries.

(e) In all cases, the chief administrative law judge shall set forth the factors which are the basis for the decision.

(f) Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the chief administrative law judge may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the chief administrative law judge's order upon a finding that area representation is required to accord proper representation in the proposed incorporated area because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development, but after four years from the effective date of an incorporation the council of the municipality may by resolution adopted by a four-fifths vote abolish the ward system and provide for the election of all council members at large as in other municipalities.

(g) The chief administrative law judge's order for incorporation shall provide for the election of municipal officers in accordance with section 414.09. The plan of government shall be "Optional Plan A", provided that an alternate plan may be adopted pursuant to section 412.551, at any time.

(h) The ordinances of the township in which the new municipality is located shall continue in effect until repealed by the governing body of the new municipality.

Subd. 4. **Effective date of incorporation.** The incorporation shall be effective upon the election and qualification of new municipal officers or on such later date as is fixed by the director's order.

414.031 ANNEXING UNINCORPORATED PROPERTY BY CHIEF ADMINISTRATIVE LAW JUDGE'S ORDER.

Subd. 1a. **Notice of intent to annex.** At least 30 days before submitting a petition or resolution to the chief administrative law judge under this section, the petitioning municipality or petitioning property owner or supporting municipality must serve the township clerk of the affected township by certified mail a notice of the petitioning municipality's or the petitioning property owner's intent to annex property within the township. The notice must clearly identify the boundaries of the area proposed to be annexed.

414.0325 ORDERLY ANNEXATION IN DESIGNATED UNINCORPORATED AREA.

Subd. 1a. **Electric utility service notice.** At least 60 days before a petition is filed under this section or section 414.033, the petitioner must notify the municipality that the petitioner intends to file a petition for annexation. At least 30 days before a petition is filed for annexation, 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.

414.033 ANNEXATION BY ORDINANCE.

Subd. 10. **Chief administrative law judge may require additional information.** The chief administrative law judge may require the city or property owners to furnish additional information concerning an annexation by ordinance to inform the chief administrative law judge

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about the extent to which the proposed annexation conforms to the statutory criteria set forth in sections 414.01, subdivision 1, and 414.031, subdivision 4.

Subd. 13. **Electric utility service notice; cost impact.** At least 30 days before a municipality may adopt an ordinance under 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.

414.08 CHIEF ADMINISTRATIVE LAW JUDGE MAY APPEAL FROM DISTRICT COURT.

An appeal may be taken under the Rules of Civil Appellate Procedure by the chief administrative law judge from a final order or judgment made or rendered by the district court when the chief administrative law judge determines that the final order or judgment adversely affects the public interest.

462.3535 COMMUNITY-BASED PLANNING.

Subdivision 1. **General.** Each municipality is encouraged to prepare and implement a community-based comprehensive municipal plan. A community-based comprehensive municipal plan is a comprehensive plan that is consistent with the goals of community-based planning in section 4A.08.

Subd. 2. **Coordination.** A municipality that prepares a community-based comprehensive municipal plan shall coordinate its plan with the plans, if any, of the county and the municipality's neighbors both in order to prevent the plan from having an adverse impact on other jurisdictions and to complement the plans of other jurisdictions. The municipality shall prepare its plan to be incorporated into the county's community-based comprehensive plan, if the county is preparing or has prepared one, and shall otherwise assist and cooperate with the county in its community-based planning.

Subd. 3. **Joint planning.** Under the joint exercise of powers provisions in section 471.59, a municipality may establish a joint planning district with other municipalities or counties that are geographically contiguous, to adopt a single community-based comprehensive plan for the district. A municipality may delegate its authority to adopt official controls under sections 462.351 to 462.364, to the board of the joint planning district.

Subd. 4. **Cities; urban growth areas.** (a) The community-based comprehensive municipal plan for a statutory or home rule charter city, and official controls to implement the plan, must at a minimum, address any urban growth area identified in a county plan and may establish an urban growth area for the urbanized and urbanizing area. The city plan must establish a staged process for boundary adjustment to include the urbanized or urbanizing area within corporate limits as the urban growth area is developed and provided municipal services.

(b) Within the urban growth area, the plan must provide for the staged provision of urban services, including, but not limited to, water, wastewater collection and treatment, and transportation.

Subd. 5. **Urban growth area boundary adjustment process.** (a) After an urban growth area has been identified in a county or city plan, a city shall negotiate, as part of the comprehensive planning process and in coordination with the county, an orderly annexation agreement with the townships containing the affected unincorporated areas located within the identified urban growth area. The agreement shall contain a boundary adjustment staging plan that establishes a sequencing plan over the subsequent 20-year period for the orderly growth of the city based on its reasonably anticipated development pattern and ability to extend municipal services into designated unincorporated areas located within the identified urban growth area. The city shall include the staging plan agreed upon in the orderly annexation agreement in its comprehensive plan. Upon agreement by the city and town, prior adopted orderly annexation agreements may be included as part of the boundary adjustment plan and comprehensive plan without regard to whether the prior adopted agreement is consistent with this section. When either the city or town requests that an existing orderly annexation agreement affecting unincorporated areas located within an identified or proposed urban growth area be renegotiated, the renegotiated plan shall be consistent with this section.

(b) After a city's community-based comprehensive plan is approved under this section, the orderly annexation agreement shall be filed with the chief administrative law judge of the state Office of Administrative Hearings or any successor agency. Thereafter, the city may orderly

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annex the part or parts of the designated unincorporated area according to the sequencing plan and conditions contained in the negotiated orderly annexation agreement by submitting a resolution to the chief administrative law judge. The resolution shall specify the legal description of the area designated pursuant to the staging plan contained in the agreement, a map showing the new boundary and its relation to the existing city boundary, a description of and schedule for extending municipal services to the area, and a determination that all applicable conditions in the agreement have been satisfied. Within 30 days of receipt of the resolution, the chief administrative law judge shall review the resolution and if it finds that the terms and conditions of the orderly annexation agreement have been met, shall order the annexation. The boundary adjustment shall become effective upon issuance of an order by the chief administrative law judge. The chief administrative law judge shall cause copies of the boundary adjustment order to be mailed to the secretary of state, Department of Revenue, state demographer, and Department of Transportation. No further proceedings under chapter 414 or 572A shall be required to accomplish the boundary adjustment. This section provides the sole method for annexing unincorporated land within an urban growth area, unless the parties agree otherwise.

(c) If a community-based comprehensive plan is updated, the parties shall renegotiate the orderly annexation agreement as needed to incorporate the adjustments and shall refile the agreement with the chief administrative law judge.

Subd. 6. Review by adjacent municipalities; conflict resolution. Before a community-based comprehensive municipal plan is incorporated into the county's plan under section 394.232, subdivision 3, a municipality's community-based comprehensive municipal plan must be coordinated with adjacent municipalities within the county. As soon as practical after the development of a community-based comprehensive municipal plan, the municipality shall provide a copy of the draft plan to adjacent municipalities within the county for review and comment. An adjacent municipality has 30 days after receipt to review the plan and submit written comments.

Subd. 7. County review. (a) If a city does not plan for growth beyond its current boundaries, the city shall submit its community-based comprehensive municipal plan to the county for review and comment. A county has 60 days after receipt to review the plan and submit written comments to the city. The city may amend its plan based upon the county's comments.

(b) If a town prepares a community-based comprehensive plan, it shall submit the plan to the county for review and comment. As provided in section 394.33, the town plan may not be inconsistent with or less restrictive than the county plan. A county has 60 days after receipt to review the plan and submit written comments to the town. The town may amend its plan based on the county's comment.

Subd. 8. County approval. (a) If a city plans for growth beyond its current boundaries, the city's proposed community-based comprehensive municipal plan and proposed urban growth area must be reviewed and approved by the county before the plan is incorporated into the county's plan. The county may review and provide comments on any orderly annexation agreement during the same period of review of a comprehensive plan.

(b) Upon receipt by the county of a community-based comprehensive plan submitted by a city for review and approval under this subdivision, the county shall, within 60 days of receipt of a city plan, review and approve the plan in accordance with this subdivision. The county shall review and approve the city plan if it is consistent with the goals stated in section 4A.08.

(c) In the event the county does not approve the plan, the county shall submit its comments to the city within 60 days. The city may, thereafter, amend the plan and resubmit the plan to the county. The county shall have an additional 60 days to review and approve a resubmitted plan. In the event the county and city are unable to come to agreement, either party may initiate the dispute resolution process contained in chapter 572A. Within 30 days of receiving notice that the other party has initiated dispute resolution, the city or county shall send notice of its intent to enter dispute resolution. If the city refuses to enter the dispute resolution process, it must refund any grant received from the county for community-based planning activities.

Subd. 9. Plan adoption. The municipality shall adopt and implement the community-based comprehensive municipal plan after the Office of Strategic and Long-Range Planning has reviewed and commented on the county's plan that incorporates the municipality's plan. The municipality shall thereafter, where it deems appropriate, incorporate any comments made by the office into its plan and adopt the plan.

Subd. 10. No mandamus proceeding. A mandamus proceeding may not be instituted against a municipality under this section to require the municipality to conform its

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community-based comprehensive plan to be consistent with the community-based planning goals in section 4A.08.

462.3585 JOINT PLANNING BOARD.

Upon request of a home rule charter or statutory city council or county or town board by resolution presented to the county auditor of the county of the affected territory a board shall be established to exercise planning and land use control authority in the unincorporated area within two miles of the corporate limits of a city. The board shall have members in a number determined by the city, county, and town. Each governmental unit shall have an equal number of members. The members shall be appointed from the governing bodies of the city, county, and town. Upon request of more than one county or town board with respect to the unincorporated area within two miles of the corporate limits of a single city, the parties may create one board rather than a separate board for each county or town, with equal membership from each affected governmental unit. The board shall serve as the governing body and board of appeals and adjustments for purposes of sections 462.351 to 462.364 within the two-mile area. The board shall have all of the powers contained in sections 462.351 to 462.364 and shall have authority to adopt and enforce the State Fire Code promulgated pursuant to section 326B.02, subdivision 5. The city shall provide staff for the preparation and administration of land use controls unless otherwise agreed by the governmental units. If a municipality extends the application of its subdivision regulations to unincorporated territory located within two miles of its limits pursuant to section 462.358, subdivision 1a, before the creation of a joint board, the subdivision regulations which the municipality has extended shall apply until the joint board adopts subdivision regulations.

572A.03 ARBITRATION PANEL DECISION STANDARDS.

Subd. 3. **Municipal incorporations.** For municipal incorporations under section 414.02, the arbitration panel may order the incorporation if it finds that: (1) the property to be incorporated is now, or is about to become, urban or suburban in character; (2) that the existing township form of government is not adequate to protect the public health, safety, and welfare; or (3) the proposed incorporation would be in the best interests of the area under consideration. The panel may deny the incorporation if the area, or a part of it, would be better served by annexation to an adjacent municipality. The panel may alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character, or may exclude property that may be better served by another unit of government. The panel may also alter the boundaries of the proposed incorporation so as to follow visible, clearly recognizable physical features for municipal boundaries. In all cases, the panel shall set forth the factors which are the basis for the decision.