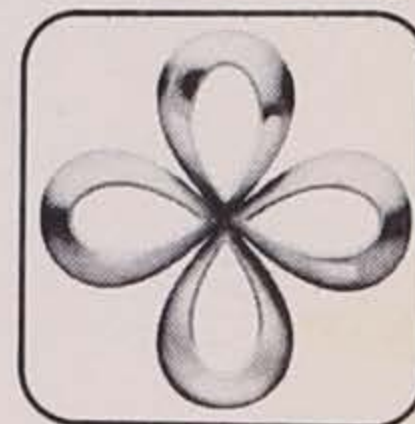


HT
167.5
.I8
P73
1976

A Practical Guide for City Development Actions

CITY DEVELOPMENT BOARD
STATE OF IOWA

OFFICE FOR PLANNING & PROGRAMMING



Iowa
a place to grow

ROBERT D. RAY,
GOVERNOR



Office of the Governor

STATE CAPITOL
DES MOINES, IOWA 50319

ROBERT D. RAY
GOVERNOR

To The Citizens And Elected Officials Of Iowa

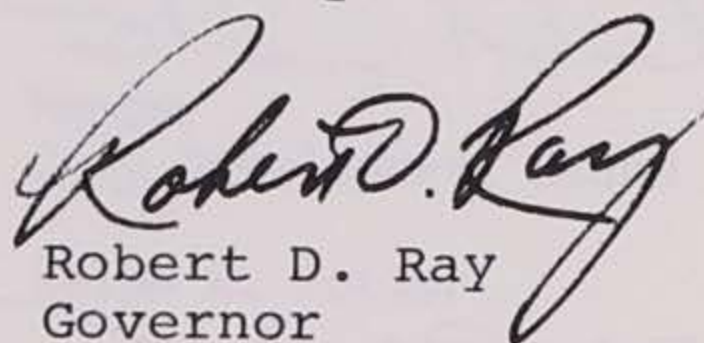
This manual is intended by the City Development Board to improve understanding of the laws and regulations governing corporate boundary change.

The City Development Board was established pursuant to the Iowa Home Rule Act, and is responsible for general supervision of boundary changes.

This manual should be used as a working document by local governments in planning and executing boundary changes. It provides a complete framework for analysis of local and area development needs and problems, and is a step-by-step explanation of legal and administrative responses to such needs.

As needs arise and legislative changes are made, this manual will be up-dated. In your use of this manual, please feel free to contact the City Development Board with any comments or questions you may have.

Sincerely,


Robert D. Ray
Governor

RDR:ks

STATE LIBRARY COMMISSION OF IOWA
Historical Building
DES MOINES, IOWA 50319

STATE LIBRARY OF IOWA
17 P712CD 4:G946 1976 sdoc
Iowa. City Developm/A practical guide fo

3 1723 00024 1752



Iowa
a place to grow

STATE OF IOWA

CITY DEVELOPMENT BOARD

523 EAST TWELFTH STREET • DES MOINES, IOWA 50319
515 / 281-3791

MICHAEL DUNN, Chairperson
SHARON NAIL, Vice Chairperson
RALPH POTTER, Member

November, 1976

A note to the user of this manual:

This manual is intended to clarify the process of corporate boundary change, and to provide a general background for local officials and citizens in the operations of the City Development Board. It may be used as a working guide for local officials involved in planning and executing a boundary change and related activities, as well as residents and property owners of affected areas.

Because of continuing trends in urban migration and development in Iowa, the Board anticipates a volume of approximately one hundred boundary cases per year. In order to process these cases efficiently and in a minimum of time, the Board will rely on local officials to provide complete and accurate information, and follow all procedures correctly.

To ensure accuracy and utility, this manual will be updated and expanded in the future, as needs and problems become evident. In addition, since it is intended as a primary working document, those using it should feel free to contact the Board at any time with questions or comments.

Michael V. Dunn

Michael V. Dunn
Chairman
City Development Board

Sharon Nail

Sharon Nail
Member
City Development Board

Ralph W. Potter

Ralph W. Potter
Member
City Development Board

TABLE OF CONTENTS

PAGE

The City Development Board	1
Responsibilities	2
Options	2
City Development Studies	3
Meetings, Role	3
Annexation	4
Severance	4
Consolidation	4
Discontinuance	5
Incorporation	5
Identification of Needs	5
Formal Steps	8
Closing	22

APPENDICES

1. Sample planning, financial and general impact analyses
2. Glossary of helpful agencies in boundary change
3. Sample form of petition
4. Administrative rules
5. Responsibility outlines for execution of boundary change
6. Code of Iowa, Chapter 368, City Development
7. Addresses for Secretary of State, Iowa Department of Transportation

THE CITY DEVELOPMENT BOARD

The enabling law for the City Development Board is Chapter 368, Code of Iowa. For clarity, Chapter 368, as amended, is quoted and expanded upon below:

BOARD CREATED

SEC. 368.9. A city development board is hereby created. The office for planning and programming shall provide office space, staff assistance, and shall budget funds to cover expenses and compensation of the board and committees. The board consists of three members appointed by the governor with the approval of two-thirds vote of the senate. The initial appointments must be for terms of two, four, and six years. Successive appointments must be for six years, or to fill an unexpired term in case of a vacancy. Members are eligible for reappointment, but no member shall serve more than two complete six-year terms. Each member is entitled to receive from the state his actual and necessary expenses and forty dollars compensation for each day spent in performance of board duties.

The Board was created within the Iowa Municipal Home Rule Act of 1972. It's role is to oversee and when appropriate, initiate annexations, severances, consolidations, discontinuances and incorporations. It's powers were optional before and are mandatory since July 1, 1975. It is funded by state appropriation and consists of three members appointed by the Governor and confirmed by the Senate. The members and term expiration dates are as follows:

<u>Member</u>	<u>Term Expires</u>
Michael Dunn, of Keokuk, Chairman	June 30, 1980
Sharon Nail, of Iowa Falls	June 30, 1982
Ralph W. Potter, of Marion	June 30, 1978

I. RESPONSIBILITIES

1. Conduct studies of city development;
2. Make an annual report to the Governor and General Assembly;
3. Act on all boundary changes both voluntary and involuntary, upon receipt of a petition or upon preparation of a petition by the Board itself;
4. Upon receipt and review of a petition for involuntary boundary action either dismiss it or in the case of acceptance, direct appointment of local representatives to serve with board members as a city development committee and hold a public hearing on the petition and make findings thereon;
5. Upon approval of a proposal by the majority of members of the city development committee after the public hearing, the board directs the County Commissioner of Elections to hold a special election on the petition.
6. The Board staff makes certain filings in the case of voluntary annexations or severances.
7. The Board must approve voluntary annexations within the urbanized area of a city other than the annexing city.

II. OPTIONS

1. Establish administrative rules subject to Code Chapt. 17A;
2. Combine petitions concerning the same area or territory;
3. Dismiss any petition not meeting requirements of the law, or that has been rejected by the voters within two years prior to the date of petition filing;
4. Initiate a petition, or ask a city to submit a plan for boundary adjustment;
5. Subpoena witnesses and documents in connection with a public hearing.

CITY DEVELOPMENT STUDIES

SEC. 368.10. The board shall conduct studies of city development, and shall submit an annual report to the governor and the general assembly.

The board may establish rules for the performance of its duties and the conduct of proceedings before it. The board's rules are subject to Chapter Seventeen A (17A) of the Code as applicable.

The Board has prepared rules, and the Departmental Rules Review Committee has approved same. The rules are in the appendices.

MEETINGS

The Board meets on the third Monday of each month at 523 E. 12th Street, Des Moines, Iowa. All meetings and hearings of the Board are open to the public.

ROLE

The role of the Board is to (1) simplify the process of corporate boundary change, (2) place an objective influence on all boundary changes, and (3) serve as a state-wide monitor of Iowa's changing settlement patterns and acting, when warranted, as a catalyst of such change.

DEFINITIONS

Traditionally, the term "boundary change" evokes one thought; annexation. Actually, the term has four other meanings also, regarding a boundary change. There are: severance, consolidation, discontinuance and incorporation.

Each of these actions should be viewed as possibilities, individually or together, by local officials in boundary situations. These actions may be voluntary or involuntary and within or outside the urbanized area. Each situation will require a different action by the Board. To further their understanding, they are defined and illustrated as follows:

ANNEXATION

Meaning "the addition of territory to a city"; such territory, when added, becomes part of the city's assessed valuation and is taxed according to the municipal levy. Also, newly annexed property becomes subject to zoning (however, in counties without zoning, city zoning power optionally extends two miles beyond the city limits (Ref. Code Chapt. 414.23)). The city is responsible for all municipal services to the annexed area.

SEVERANCE

Meaning "the deletion of territory from a city"; by severing land, the city reduces its assessed valuation accordingly and is relieved of responsibility for services to the area severed. Zoning, however, may remain in effect for two miles beyond the new boundary if the county does not have zoning.

CONSOLIDATION

Meaning "the combining of two or more cities into one city"; two or more cities may consolidate as one under terms agreed upon by both city councils. Such mergers would take approximately six months, and should be arranged for execution to begin by July 1st of an odd-numbered year. An ad hoc committee of elected officials of both cities would negotiate all issues and be ready for an election in November, at which a new "consolidated" city council would be jointly elected by both cities. Following the election, the new city council-elect would, unofficially

in November and December, examine and consolidate the ordinances and budgets of both cities, and make other needed plans for the consolidation, which would take effect the following January first, and on which it could immediately take official action following that date.

DISCONTINUANCE

Meaning "termination of a city"; municipal taxes are no longer levied, and all revenue and facility surpluses and shortages are resolved. All books, records and the corporate seal are filed with the County Auditor, and the City Development Board may levy taxes to make up any deficits.

INCORPORATION

Meaning "establishment of a new city"; the County Commissioner of Elections holds an election for the Mayor and Council, and those elected serve until January following the next city election. All budgeting, tax levy and other city administration is the immediate responsibility of the new mayor and council.

IDENTIFICATION OF NEEDS

There are hundreds of variables that enter into a decision to change boundaries. No manual, checklist or expert can offer an "approach for all occasions" any more than a local official can anticipate all objections to an action. There are, however, obvious points to observe in reaching a decision. Application of these points should help bring up most of the questions to be answered prior to decision-making:

1. Are you considering a boundary change because of an immediate or long range concern? Here, motives for the action should be fully identified. If the concern is immediate, long range effects of the action should be considered, noted, and kept in focus;
2. How would the proposed action benefit the general public? Anyone adversely affected should be identified at this point. Since objection from such persons or groups is a possibility, the general public interest to be served by the action should be documented and measured, and must outweigh individual adverse effects, if any;
3. What would the financial impact be? This presents many questions. For example, is the city able to extend services immediately to a newly annexed area? Are existing facilities capable of handling the needs of the annexed area? What will be the effect on taxes, bonding capacity and revenue sharing? Under no circumstances may a boundary change be undertaken solely to increase tax revenues.

To organize thinking on the above points, the local official should develop three analyses: planning, general, and financial (samples are in the appendices). The findings of these analyses should yield a good insight to the feasibility of the proposal, and should be included with a petition to the City Development Board. A variety of government offices can provide help in this effort, and a complete list of such agencies is included in the appendices.

After deciding on a course, the City Development Board may be notified informally of the intention to file a petition. This notice will allow

the Board a chance to review the proposed measure informally, and comment. In the event the proposal were changed, it would be easier than if a petition had already been finally filed and circulated.

Also, before filing a petition, it is advisable for the local official to publicize the idea. Because of the potential for misunderstanding, publicity on a boundary change should be carefully organized and executed. Above all, it should feature a chance for dialogue between the local official and any interested citizen.

Most interested, of course, will be those citizens whose lives and property would be directly touched by the proposal. Information presented to this group should be in terms of benefits and costs, and should include specific reasons for the action. If time and resources permit, the local official should meet personally with all citizens directly affected. This approach will diminish some of the opposition. The time to begin publicity is immediately following the decision on action. If publicity is delayed until after a petition is submitted, citizens will not have a "say" in the matter until the public hearing, and it is much more difficult to change a petition at that time, than to change the decision before filing the petition. Early publicity will reduce the possibility of charges of "cover-up" and "concealment" made by citizens against the local official. Such charges are very prone to arise in boundary matters, and whether true or not, they can defeat a proposal.

FORMAL STEPS

FORMAL STEPS

While Chapter 368, Code of Iowa, outlines a series of formal requirements that are to be followed in any boundary adjustment action, certain cases involving boundary adjustment do not require the City Development Board to hold public hearings and conduct an election as specified in the following sections of this Guide. The two categories of boundary adjustment activities outlined here, voluntary annexation and severance require board action only as specified.

Voluntary Annexation Outside The Urbanized Area

The City Development Board does not have jurisdiction in cases involving voluntary annexation outside the urbanized area (defined in Section 368.1, item 12, as "the land within three miles of the boundaries of a city of 15,000 or more population"), except for receiving a copy of the filing set out in the next paragraph.

All of the property owners in an area contiguous to the boundaries of a city may petition the city council of that city to annex their property and the city council can pass a resolution accepting their petition. Following council acceptance of the petition, it is the responsibility of the city clerk to file copies of: 1) the property owners petition, including a legal description of the property; 2) a map of the property to be annexed; and 3) a copy of the city council's resolution accepting the property owner's petition with the following:

1. The recorder of each county which contains a portion of the city or territory involved.

2. The Secretary of State*
3. The Iowa Department of Transportation.*
4. The City Development Board.

* Addresses in Appendicies

In the case of voluntary annexation outside the urban area, it is the responsibility of the city clerk to follow proper filing procedures. The City Development Board reviews these voluntary petitions to insure conformance with Chapter 368, Code of Iowa and keeps a copy on record in its files.

Voluntary Annexation within the Urbanized Area

When all of the property owners in an area contiguous to the corporate boundaries of a city petition the city council of that city to annex their property and the city involved is within the urbanized area (as defined in Sections 368.1, item 12, Code of Iowa), the city then must pass a resolution approving the property owners' petition and file copies of: 1) the owners' petition; 2) plat and; 3) approving resolution; together with a petition by the city, with the City Development Board requesting approval by the Board. To act on this, the Board requires the petition to include the information described in Section 368.11. The city must also serve notice of filing and a copy of the petition upon the following (368.11):

- 1) The council of each city within the urbanized area.
- 2) The board of supervisors for each county which contains a

portion of the city or territory involved in the boundary adjustment.

- 3) Any regional planning authority for the area involved. (see list in Appendix.)

The Board reviews the petition and if no notification of intent to appeal is received, and the time period for appeal has expired, the boundary adjustment will be complete upon proper filing, by the Board, with the following:

- 1) The clerk of each city involved in the boundary adjustment.
- 2) The recorder of each county which contains a portion of any city or territory involved.
- 3) The Secretary of State.
- 4) The Iowa Department of Transportation.

Voluntary Severance

Any territory may be severed upon the unanimous consent of all owners of the territory and approval by resolution of the council of the city in which the territory is located. The council shall provide in the resolution for the equitable distribution of assets and equitable distribution and assumption of liabilities of the territory as between the city and the severed territory.

The council shall file a copy of the resolution and a map with the City Development Board.

The severance shall be completed when the Board has filed copies of the resolution and map with the following:

- 1) The clerk of each city involved in the boundary adjustment.
- 2) The recorder of each county which contains a portion of any city or territory involved.
- 3) The Secretary of State.
- 4) The Iowa Department of Transportation

Involuntary Development Actions

In cases of involuntary annexation, or severance (no petition from property owners), consolidation, discontinuance, and incorporation, the formal steps outlined here must be followed.

NOTE: See appropriate flow charts in the appendix.

PETITION - FILING AND SUBSTANCE

SEC. 368.11. A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board by a city council, a county board of supervisors, a regional planning authority, or five percent of the qualified electors of a city or territory involved in the proposal. Notice of the filing, including a copy of the petition, must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed, or severed, and any regional planning authority for the area involved.

Within ninety days of receipt of a petition, the board shall initiate appropriate proceedings or dismiss the petition. The board may combine for consideration petitions or plans which concern the same territory or city.

The petition must include substantially the following information as applicable:

1. A general statement of the proposal.
2. A map of the territory, city, or cities involved.
3. Assessed valuation of platted and unplatted land.
4. Names of property owners.

5. Population density.
6. Description of topography.
7. Plans for disposal of assets and assumption of liabilities.
8. Description of existing municipal services, including but not limited to water supply, sewage disposal, and fire and police protection.
9. Plans for agreements with any existing special service districts.
10. In a case of annexation or incorporation, the petition must state that none of the territory is within a city.
11. In a case of incorporation or consolidation, the petition must state the name of the proposed city.

Within the administrative rules adopted by the board, these additional requirements are made:

1. The map should be of a scale which in the Board's judgment, will be sufficiently clear and useful for the purpose.
2. The assessed valuation, by parcel, of all platted or unplatted land, according to most recent city or county assessor's records must be included, and must be verified by the city or county assessor.
3. The documentation must include names of the property owners within the areas delineated on the map, by legal descriptions in the petition.
4. Density, or persons per acre for annexation, persons

per square mile for incorporation, discontinuance or consolidation must be given.

5. Topographic maps must be included. If U. S. Geological survey maps are available, they may be used. These can usually be obtained from the State Geological Survey (Iowa City).
6. Any boundary change will involve either disposal of assets, assumption of liabilities, or both. No matter how small the proposal may be, plans should be included, as far as practicable. These plans should be brief, accurate, quantitative statements.
7. The documentation must include a description of all existing municipal services, plans for agreements with any existing or anticipated special service districts, and a statement in case of an annexation or incorporation, that none of the territory is within a city.

The petition should be an original and eight copies, and should include or have attached all information cited above and as called for in the City Development Board Administrative Rules, included in the appendices.

The petition may be in any legally acceptable form, but should be accurate and complete as possible in all respects. A sample form of petition is included in the appendices. Also, any of the agencies listed in the appendices are available to assist in analyzing needs and in documenting the petition.

DISMISSAL

SEC. 368.12. The board may dismiss a petition only if it finds that the petition does not meet the requirements of this part, or that substantially the same incorporation, discontinuance, or boundary adjustment has been disapproved by a committee formed to consider the proposal, or by the voters, within the two years prior to the date the petition is filed with the board. The board shall file for record a statement of each dismissal and the reason for it, and shall promptly notify the parties to the proceeding of its decision.

A petition must be either approved or dismissed by the Board within 90 days of receipt. The date of receipt is the date of the first board meeting following actual receipt, as indicated by the date entered on the petition by the Office for Planning and Programming. If a petition is dismissed, the Board may invite the petitioner to submit again.

PLANS FORMULATED AT BOARD'S REQUEST

SEC. 368.13. Based on the results of its studies, the board may initiate proceedings for the incorporation, discontinuance, or boundary adjustment of a city. The board may request a city to submit a plan for boundary adjustment, or may formulate its own plan for incorporation, discontinuance, or boundary adjustment. A plan submitted at the board's initiation must include the same information as a petition and be filed and acted upon in the same manner as a petition. A petition or plan may include any information relevant to the proposal, including but not limited to results of studies and surveys, and arguments.

Besides receiving petitions from others, the Board can initiate its own proceedings, and may ask cities to submit basic information.

APPOINTMENT OF LOCAL REPRESENTATIVES

SEC. 368.14. If a petition is not dismissed, the board shall direct the appointment of local representatives to serve with board members as a committee to consider the proposal. Each local representative is entitled to receive from the state his actual and necessary expenses spent in performance of committee duties. Two board members and one local representative, or if the number of local representatives exceeds one, two board members and at least one-half of the appointed local representatives, are required for a quorum of the committee. A local representative must be a qualified elector of the territory or city he represents, and must be selected as follows:

1. From a territory to be incorporated, one representative appointed by the county board of supervisors. If

the territory is in more than one county, the board shall direct the appointment of a local representative from each county involved.

2. From a city to be discontinued, one representative appointed by the city council.
3. From a territory to be annexed to or severed from a city, one representative appointed by the county board of supervisors.
4. From a city to which territory is to be annexed or from which territory is to be severed, one representative appointed by the city council.
5. From each city to be consolidated, one representative appointed by each city council.

Though the City Development Board is at state level, all direct results of its actions are at the local level. It is essential, therefore, to provide for a strong local influence on Board actions. The local representatives on the committee, through the public hearing and its subsequent recommendations, provides such local influence.

PUBLIC HEARING

SEC. 368.15. The committee shall conduct a public hearing on a proposal as soon as practicable. Notice of the hearing must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the county board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed, or severed, and any regional planning authority for the area involved. A notice of the hearing, which includes a brief description of the proposal and a statement of where the petition or plan is available for public inspection, must be published as provided in Section 362.3 Code of Iowa, except that there must be two publications in a newspaper having general circulation in each city and each territory involved in the proposal. Any person may submit written briefs, and in the committee's discretion, may be heard on the proposal. The board may subpoena witnesses and documents relevant to the proposal.

The committee must hold the public hearing as soon as possible, and at a time and location convenient to the general public. All notification requirements of Section 368.15 must be met, and a copy of the petition must be made available for public inspection at a convenient place designated by the Board.

At the hearing, a City Development Board member will preside. The hearing should begin at precisely the time stated in the official public notice and should begin with a statement by the Chairman on the purpose of the hearing, and on rules to be followed in the hearing. Suggested rules are:

1. Anyone who wishes may express his or her views;
2. Those in favor of the proposal will be heard first and those opposed will be heard next;
3. All views expressed must have a factual basis;
4. Repetition will not be permitted;
5. The committee may question any speaker;
6. A complete record should be made of the hearing;

Further detail on public hearings is in the Administrative Rules included in the appendices.

Any party to a hearing may have ten days after a hearing to submit briefs in regard to a petition. Refer to rule 2.10 in the appendices for details.

CONDITIONS FOR APPROVAL

SEC. 368.16. Subject to section 368.17, the committee shall approve any proposal which it finds to be in the public interest. A committee shall base its finding upon all relevant information before the committee, including but not limited to the following:

1. Statements in the petition or plan, and evidence supporting those statements.
2. Recommendations of the regional planning authority for the area.
3. Commercial and industrial development.
4. Potential growth in population.
5. Cost and adequacy of existing services and facilities.
6. Potential effect of the proposal and of possible

alternative proposals on the cost and adequacy of services and facilities.

7. Potential effect of the proposal on adjacent areas, and on any unit of government directly affected, including but not limited to the potential effect on future revenues of any such unit of government.

SEC. 368.17. The committee may not approve:

1. An incorporation unless it finds that the city to be incorporated will be able to provide customary municipal services within a reasonable time.
2. A discontinuance or severance if the city to be discontinued or the territory to be severed will be surrounded by one or more cities unless a petition for annexation of the same area is also filed and approved.
3. A discontinuance or severance unless it finds that the county or another city will be able to provide necessary municipal services to the residents.
4. An annexation unless the territory is adjoining the city to which it will be annexed, and the committee finds that the city will be able to provide to the territory substantial municipal services and benefits not previously enjoyed by such territory, and that the motive for annexation is not solely to increase revenues to the city.
5. A consolidation unless the cities are contiguous.
6. An incorporation of territory, any part of which is within an urbanized area of a city, unless a petition for annexation of substantially the same territory to each city has been dismissed, disapproved, or voted upon unfavorably within the last five years.

SEC. 368.18. The committee may amend a petition or plan. If a petition or plan is substantially amended, the committee shall continue the hearing to a later date and serve and publish a notice describing the amended petition or plan, as required in section 368.15.

In the event anyone is aggrieved by a decision of the committee, he may, within twenty days from the date of receipt of final committee decision, apply to the committee for a rehearing, a change or a vacation of the decision. Such application must include the grounds upon which it is based, along with any claimed errors. If the application is for amendment of findings, or order, such amendments must be stated clearly. Anyone applying for an amendment must notify all parties of same, and anyone adverse to the amendment may have twenty days from the transmittal date of the application to answer thereto. If the committee has not yet

issued a decision, any party to a petition desiring a further hearing may apply for same to the committee. Approval of such application is subject to Rule 2.11. Any city, resident or property owner in a territory or city involved in a boundary change may appeal a decision of the board or a committee, or the legality of an action, to district court. See Rule 2.13 for details of the appeal procedure.

APPROVAL

If, after a public hearing, the committee approves a petition, the committee is dissolved and the Board directs the county commissioner of elections to put the proposal to public vote. In a consolidation, it must pass by majority vote of each city affected. In all other cases, it passes if a majority of all persons voting thereon approve. If passed, it takes effect upon the Board giving required notice and making all filings specified in the law. The Board will supervise the procedures to carry out the proposal where required, and if requested and at its option, will offer such further aid as it deems useful. In the event of an appeal, execution would be delayed pending a district court ruling in the matter.

AMENDMENT

If a major amendment is made following the public hearing, the hearing must be continued to a later date, again meeting all notice requirements.

DISAPPROVAL

If disapproved, the petition is returned to the Board and all parties are notified accordingly, with reasons for disapproval given. At the

Board's option, the petitioner may be asked to submit a new proposal. A disapproval may be appealed by the petitioner through district court, in which case all proceedings would be stayed pending a ruling.

ACTIONS FOLLOWING APPROVAL OR DISAPPROVAL

SEC. 368.19. The committee shall approve or disapprove the petition or plan as amended, within ninety days of the final hearing, and shall file its decision for record and promptly notify the parties to the proceeding of its decision. If a petition or plan is approved, the board shall set a date within ninety days for a special election on the proposal and the county commissioner shall conduct the election. In a case of incorporation or discontinuance, qualified electors of the territory or city may vote, and the proposal is authorized if a majority of those voting approves it. In a case of annexation or severance, qualified electors of the territory and the city may vote, and the proposal is authorized if a majority of the total number of persons voting approves it. In a case of consolidation, qualified electors of each city to be consolidated may vote, and the proposal is authorized only if it receives a favorable majority vote in each city. The county commissioner of elections shall publish notice of the election as provided in section 49.53 of this act, and shall conduct the election in the same manner as other special city elections. The costs of an incorporation election shall be borne by the initiating petitioners if the election fails, but if the proposition is approved the cost shall become a charge of the new city.

PUBLICATION REQUIREMENTS

SEC. 368.20. If a proposal is authorized by the voters and after the county commissioner of elections has certified the results to the board, the board shall:

1. Serve and publish notice of the result as provided in section 362.3.
2. File with the secretary of state, the clerk of each city incorporated or involved in a boundary adjustment, and with the recorder of each county which contains a portion of any city or territory involved, copies of the proceedings including the original petition or plan and any amendments, the order of the board approving the petition or plan, proofs of service and publication of required notices, certification of the election result, and any other material deemed by the board to be of primary importance to the proceedings. Upon proper filing and expiration of time for appeal, or upon a subsequent date as provided in the proposal, the incorporation, discontinuance, or boundary adjustment

is complete, except that if an appeal to any of the proceedings is pending, completion does not occur until the appeal is decided. The clerk of each city incorporated or involved in a boundary adjustment shall also file with the state department of transportation and with the city development board a copy of the plat and legal land description of each completed annexation.

IMPLEMENTATION OF PLANS

SEC. 368.21. When an incorporation, discontinuance, or boundary adjustment is complete, the board shall supervise procedures necessary to carry out the proposal. In the case of an incorporation, the county commissioner of elections shall conduct an election for mayor and council of the city, who shall serve until their successors take office following the next regular city election. In the case of a discontinuance, the board shall publish two notices as provided in section 368.15 that it will receive and adjudicate claims against the discontinued city for a period of six months, and shall cause necessary taxes to be levied against the property within the discontinued city to pay claims allowed. All records of a discontinued city shall be deposited with the county auditor of the county designated by the board. Any remaining balances shall be deposited in the general fund of the county where the former city was located. In the case of boundary adjustments, the proper city officials shall carry out procedures necessary to implement the proposal.

APPEAL PROCEDURE

SEC. 368.22. A city, or a resident or property owner in the territory or city involved may appeal a decision of the board or a committee, or the legality of an election, to the district court of a county which contains a portion of any city or territory involved.

Appeal must be filed within thirty days of the filing of a decision or the second publication of notice of the result of an election.

Appeal of an approval of a petition or plan does not stay the election.

The court's review on appeal of a decision is limited to questions relating to jurisdiction, regularity of proceedings, and whether the decision appealed from is arbitrary, unreasonable, or without substantial supporting evidence. The court may reverse and remand a decision of the board or a committee, with appropriate directions.

CLOSING

This manual is offered as an aid to local officials in efforts to adjust boundaries of Iowa communities to reflect changing needs and conditions. While it is intended to be comprehensive, it is impossible to anticipate every situation beforehand. Therefore, the manual should be applied with individual judgment of local conditions, and with the thought that the City Development Board and its enabling legislation were created to expedite and simplify the boundary change process. Comments, criticisms and suggested improvements on Board policy, this manual and the law itself are most welcome and should be addressed to the following:

City Development Board
c/o State of Iowa
523 E. 12th Street
Des Moines, Iowa 50319
Phone (515) 281-3982

SAMPLE PLANNING, FINANCIAL AND GENERAL IMPACT ANALYSES

11

PLANNING ANALYSIS

TYPE OF BOUNDARY CHANGE CONSIDERED _____

RELATIONSHIP BETWEEN PROPOSED ACTION AND:

LOCAL AND REGIONAL COMPREHENSIVE PLANS _____

EXISTING SETTLEMENT PATTERNS, INCLUDING STREETS THROUGHOUT
AFFECTED AREA _____

CAPITAL IMPROVEMENT PLANS AND BUDGETS _____

EXISTING ZONING (WILL THE PROPOSED ACTION NECESSITATE ZONING
CHANGES, POSSIBLY LEADING TO SPECULATION?) _____

EXISTING BLIGHTED OR DETERIORATING AREAS (COULD THE PROPOSED ACTION
RESULT IN FURTHER ABANDONMENT OF SUCH AREAS?) _____

FORMAL POLICIES OF THE AREA PLANNING AUTHORITY _____

ADMINISTRATIVE/FINANCIAL ANALYSIS*

TYPE OF BOUNDARY CHANGE CONSIDERED: _____

IMPACT OF PROPOSED ACTION ON CITY'S:

ASSESSED VALUATION X .05 = BONDING CAPACITY

BEFORE: _____

AFTER: _____

NET DIFFERENCE
(gain/loss) _____

APPROXIMATE PROPERTY TAX CAPACITY TAKEN FROM OR ADDED TO MUNICIPAL
LEVY (at current aggregate rate) _____

LOCAL RESIDENTIAL FIRE INSURANCE RATES FOR TERRITORY BEFORE _____
AFTER _____

CHANGE IN FEDERAL REVENUE SHARING FORMULA ALLOCATION _____

ESTIMATED GAIN (loss) \$ _____

*As part of the administrative/financial analysis, the local official may wish to complete cost and revenue worksheets similar to the ones shown on pages 28 to 39. These worksheets are not mandatory and need not be completed or they may be modified to fit the needs of individual situations.

GENERAL IMPACT ANALYSIS

TYPE OF BOUNDARY CHANGE CONSIDERED: _____

POPULATION

NAMES OF POLITICAL SUBDIVISIONS AFFECTED, AND CURRENT POPULATIONS OF EACH

POLITICAL SUBDIVISION	CURRENT POPULATION	POPULATION POTENTIAL GAIN OR LOSS	NEW TOTAL
--------------------------	-----------------------	--------------------------------------	--------------

GEOGRAPHIC AREA (sq.mi.) BEFORE PROPOSED ACTION _____

AFTER PROPOSED ACTION _____

WATERWAYS ADDED TO ___ OR DELETED FROM ___ AREA: _____

RESULTS OF ENGINEERING ANALYSIS OF SOILS AND TERRAIN OF AREA INVOLVED:

LAND USES NOT DESIRABLE RESIDENTIAL _____

COMMERCIAL _____

INDUSTRIAL _____

PUBLIC - SEMI PUBLIC _____

RECREATION _____

FLOOD PLAIN CHARACTERISTICS OF AFFECTED AREA _____

TYPES OF ACTIVITIES LIKELY TO BE ENCOURAGED BY THE PROPOSED CHANGE:

NOISE AND POLLUTION CHARACTERISTICS OF SUCH ACTIVITIES _____

WILL POLLUTANTS FROM SUCH ACTIVITIES BE CARRIED BY PREVAILING WINDS
OVER THE MORE POPULOUS PART OF THE AFFECTED COMMUNITY? _____

	Name		Name	
	of Unit of Government Receiving Territory		of Unit of Government Losing Territory	
	One Time Costs Resulting From Boundary Changes	Recurring Annual Costs Based Upon Estimates For Current Fiscal Year	Annual Cost Savings Based Upon Estimates For Current Fiscal Year	Other Cost Savings or (Additional Costs)
LEISURE TIME OPPORTUNITIES SUB-PROGRAM				
Parks				
Playgrounds and Recreation				
Community Recreation Centers				
Swimming Pools or Beaches				
Auditorium or Civic Center				
Zoo, Botanical Garden, Arboretum				
Marinas & Boat Facilities				
Senior Citizen Recreation Programs				
HOME AND COMMUNITY ENVIRONMENT PROGRAM				
PHYSICAL ENVIRONMENTAL SUB-PROGRAM				
Buildings and Housing Safety				
Sanitary Sewers & Wastewater Treatment				
Storm Sewers				
Solid Waste Collection & Disposal				
Sanitary Disposal Planning				
Street Cleaning				
General Pollution Control				
Cemetery				
Community Beautification				
Tree Plantings				
Weeds and Brush				
Forestry Nursery				
Greenhouse				
Housing and Urban Renewal				
Utilities				
Water				
Gas				
Electric				
Other				
ECONOMIC WELL-BEING SUB-PROGRAM				
Employment Opportunities Development				
Manpower Training				
Youth Opportunity Program				
Industrial Development and Publicity				
Public Scales				
Senior Citizen Programs				
TRANSPORTATION SUB-PROGRAM				
Roadway Maintenance				
Alleys Maintenance				
Large Culverts and Bridges				

	Name		Name	
	of Unit of Government Receiving Territory		of Unit of Government Losing Territory	
	One Time Costs Resulting From Boundary Changes	Recurring Annual Costs Based Upon Estimates For Current Fiscal Year	Annual Cost Savings Based Upon Estimates For Current Fiscal Year	Other Cost Savings or (Additional Costs)
Snow and Ice Control				
Street Drainage				
Sidewalks				
Street Construction				
Street Engineering				
Arterial Construction				
Local Construction				
Alleys Construction				
Right-of-Way Acquisition				
Administration-Street Supervision & Overhead				
Equipment Operations				
Airports				
Transit				
Special Transit (Sr. Citizen or Handicapped)				
Other Transportation				
Parking System				
River Transportation-Terminals & Docks				
Railway Aid				
POLICY AND ADMINISTRATION PROGRAM				
Legislative (Council)				
Judicial				
Executive & Administration (Mayor and/or Manager or Administrator)				
Financial Administration (Clerk and Treasurer)				
Elections				
Legal Services (Attorney)				
Planning and Zoning				
City Hall (and General Bldgs.) (or Civic Center)				
Miscellaneous Unallocated				
General Liability Insurance				
ANNUAL DEBT REPAYMENTS				

	Name of Unit of Government Receiving Territory	Name of Unit of Government Losing Territory		
	One Time Costs Resulting From Boundary Changes	Recurring Annual Costs Based Upon Estimates For Current Fiscal Year	Annual Cost Savings Based Upon Estimates For Current Fiscal Year	Other Cost Savings or (Additional Costs)
	/ / / / /	/ / / / /	/ / / / /	/ / / / /

OTHER COSTS

TOTAL COSTS

Personnel Changes
Additions
Eliminations

No. _____ No. _____ No. _____ No. _____

No. _____ No. _____ No. _____ No. _____

	Name of Unit of Government Re- ceiving Territory.			Name of Unit of Government Losing Territory.		
	Assessed Value Of Territory	Rate (Dollars Per 1000)	Dollars Raised From New Territory Based Upon Estimates Current Fiscal Year	Assessed Value Of Territory	Rate (Dollars Per 1000)	Dollars Lost From New Territory Based Upon Estimates Current Fiscal Year
Purchase of such Bridge (\$3.375)						
Tax to Pay Contract Terms for use of Bridge (\$0.675)						
Aid a Railroad Build or Rebuild (\$3.375)						
LICENSES AND PERMITS						
Business Licenses	Number	Rate		Number	Rate	
Alcoholic Beverage Control Licenses						
Beer only Permits						
Liquor Licenses						
Beverage Handlers Licenses						
Cigarette Permits						
Special Business Regulatory Licenses						
Peddlers, Solicitors & Transient						
Merchants Licenses						
Amusement Licenses						
Tree Surgeons						
Utility Franchise Fees (Other than taxes)						
Building Trades Licenses						
Electricians Licenses						
Mechanical (Heating & Vent.)						
Plumbers License						
Gas Installers						
Building & Construction Permits						
Building						
Electical						
Gas						
Mechanical						
Plumbing						

Name of Unit of Government Re- ceiving Territory.			Name of Unit of Government Losing Territory.		
Number	Rate	Dollars Raised From New Territory Based Upon Estimates Current Fiscal Year	Number	Rate	Dollars Lost From New Territory Based Upon Estimates Current Fiscal Year
		\$			\$
Transportation Fees & Charges					
Parking Meter Fees					
Other Parking Fees					
Airport Fees					
River Port & Terminal Fees					
Public Scales					
Cemetery Charges					
Charges for Optional Services					
Culture-Recreation Charges					
Library Fines & Book Charges					
Park Fees					
Recreation Fees, Swimming Pool					
Cultural Event Admission Fees					
Animal Control and Shelter Charges					
Miscellaneous General Government Charges					
Map Sales					
Water					
Electric					
Gas					
Heating Charges					
Other					
FINES, FORFEITURES AND PENALTIES					
Court Fines					
Parking Violation Fees					
Forfeitures of Bonds, Deposits, etc.					
Penalties on Delinquent Charges					

Transportation Fees & Charges
 Parking Meter Fees
 Other Parking Fees
 Airport Fees
 River Port & Terminal Fees

Public Scales
 Cemetery Charges
 Charges for Optional Services
 Culture-Recreation Charges
 Library Fines & Book Charges
 Park Fees
 Recreation Fees, Swimming Pool
 Cultural Event Admission Fees
 Animal Control and Shelter Charges
 Miscellaneous General Government Charges
 Map Sales
 Water
 Electric
 Gas
 Heating Charges
 Other

FINES, FORFEITURES AND PENALTIES
 Court Fines
 Parking Violation Fees
 Forfeitures of Bonds, Deposits, etc.
 Penalties on Delinquent Charges

	Name of Unit of Government Re- ceiving Territory.			Name of Unit of Government Losing Territory.		
	Assessed Value Of Territory	Rate (Dollars Per 1000)	Dollars Raised From New Territory Based Upon Estimates Next Fiscal Year	Assessed Value Of Territory	Rate (Dollars Per 1000)	Dollars Lost From New Territory Based Upon Estimates Next Fiscal Year
	Remarks			Remarks		
Other Indemnities Received			\$			\$
Reimbursement for Goods/Services						
Other Non-Revenue Receipts						
INTRAGOVERNMENTAL SERVICES CHARGES						
Equipment Rental Services						
Central Stores Services						
Central Data Processing Services						
Central Communications Services						
Other Intragovernmental Services						
	\$		\$	\$		\$
TOTAL ESTIMATED YEARLY REVENUE CHANGE (excluding bond proceeds & general property tax)						
General Property Taxes						
TOTAL YEARLY REVENUE						
LESS: ESTIMATED YEARLY CHANGE IN YEARLY RECURRING ANNUAL COSTS (from Cost Analysis Worksheet)						
EQUALS: Net Gain (Loss) to City or to County and Township						
First Year Bond Proceeds						
Less: Required one-time savings						
Plus: One time costs resulting from boundary changes						
Difference: Net gain or loss of general repeating costs vs. revenues, plus bond proceeds, plus or minus one-time savings or costs.						

APPENDIX 2
Glossary of Helpful Agencies in
Boundary Change

Cooperative Extension Service

Iowa State University

Ames, Iowa 50010

(515) 294-6360

NOTE: Area offices are located in Cedar Rapids, Council Bluffs, Creston, Davenport, Dubuque, Fort Dodge, Mason City, Ottumwa, Sioux City, Spencer and Waterloo.

Iowa Development Commission

250 Jewett Building

Des Moines, Iowa 50309

(515) 281-3581

NOTE: Area representatives are Ray Helmer, 915 Bloomington Str., Iowa City, Iowa 52240, and Peter Dows, Box 459, Storm Lake, Iowa 50588.

League of Iowa Municipalities

444 Insurance Exchange Building

Des Moines, Iowa 50309

(515) 288-2119

Iowa Natural Resources Council

Grimes Building

Des Moines, Iowa 50319

(515) 281-5914

Office for Planning & Programming*

523 E. 12th Street

Des Moines, Iowa 50319

(515) 281-3765

Iowa Department of Soil Conservation

Grimes Building

Des Moines, Iowa 50319

(515) 281-5851

Iowa Water Pollution Control Commission

State Hygienic Lab

University of Iowa

Iowa City, Iowa 52240

(319) 353-5880

Iowa Geological Survey

16 W. Jefferson Street

Iowa City, Iowa 52240

(319) 281-5345

*Access point for City Development Board

Upper Explorerland Regional Planning Commission

RC&D Project Office
134 West Green Street
Postville, Iowa 52162
(319) 864-7551

North Iowa Area Council of Governments

202 First, Southeast
Mason City, Iowa 50401
(515) 423-0491

Northwest Iowa Area III Regional Council of Governments

Room 14, McCallister Building
Fourth Street and Grand Avenue
Spencer, Iowa 51301
(712) 262-7225

Siouxland Interstate Metropolitan Planning Council

P.O. Box 447
Sioux City, Iowa 51102
(712) 279-6286

Mid-Iowa Development Association Regional Planning Commission

Wahkonsa Manor
12 South Tenth Street
Fort Dodge, Iowa 50501
(515) 576-7183

Area Six Regional Planning Commission

Suite 10, Woodbury Building
8 North First Avenue
Marshalltown, Iowa 50158
(515) 752-0717

Iowa Northland Regional Council of Governments

Suite N, Russell Lamson Building
Waterloo, Iowa 50701
(319) 235-0311

East Central Intergovernmental Association

22B Fischer Building
Dubuque, Iowa 52001
(319) 556-4166

Bi-State Metropolitan Planning Commission

1504 Third Avenue
Rock Island, Illinois 61201
(309) 788-6338

East Central Iowa Association of Regional Planning Commissions
332 East Washington
Davis Building
Iowa City, Iowa 52240
(319) 354-2328

Central Iowa Regional Association of Local Governments
104½ East Locust Street
Des Moines, Iowa 50309
(515) 244-3257

Area XII Council of Governments
527½ North Adams
Carroll, Iowa 51401
(712) 792-3511

Metropolitan Area Planning Agency
Suite 200
7000 West Center Road
Omaha, Nebraska 68106
(402) 397-0330

Southern Iowa Council of Governments
215 North Elm Street
Creston, Iowa 50801
(515) 782-8491

Area XV Regional Planning Commission
Box 137
Centerville, Iowa 52544
(515) 856-2114

Southeast Iowa Regional Planning Commission
P.O. Box 971
Keokuk, Iowa 52632
(319) 524-4711

East Central Iowa Association of Regional Planning Commissioners
 311 East Washington
 Davis Building
 Iowa City, Iowa 52240
 (319) 334-2125

Central Iowa Regional Association of Local Governments
 1401 East Iowa
 Des Moines, Iowa 50319
 (515) 264-1257

Area XII Council of Governments
 520 North State
 Carroll, Iowa 51401
 (712) 792-3511

Metropolitan Area Planning Agency
 Suite 104
 700 West Center Street
 Omaha, Nebraska 68102
 (402) 397-0333

Southwest Iowa Council of Governments
 112 North 5th Street
 Council Bluffs, Iowa 51503
 (515) 793-0481

SAMPLE FORM OF PETITION

Area XV Regional Planning Commission
 504 1st
 Des Moines, Iowa 50319
 (515) 281-3114

Southwest Iowa Regional Planning Commission
 P.O. Box 97
 Keosauqua, Iowa 52245
 (319) 324-2714

Northwest Iowa Regional Planning Commission
 1405 West Center
 Des Moines, Iowa 50319
 (515) 281-3114

Northwest Iowa Regional Planning Commission
 1000 West Center
 Des Moines, Iowa 50319
 (515) 281-3114

Northwest Iowa Regional Planning Commission
 1000 West Center
 Des Moines, Iowa 50319
 (515) 281-3114

SAMPLE FORM OF PETITION

We, the (City Council of _____), (County Board of Supervisors of _____), (Regional Planning Commission of _____), (Certain Undersigned voters of _____), do petition the City Development Board of the State of Iowa for a(n) (Incorporation, Disincorporation, Annexation, Severance or Consolidation, or any combination thereof) more specifically described as (state clearly each individual action proposed, identifying all affected political subdivisions), and involving land described as (legal description, using either lot numbers, metes and bounds, or both; separate actions should be related to legal descriptions in numeric order).

* * *

Care should be used to ensure accuracy of all maps, legal descriptions and technical data, attached to the petition as documentation. A list of exhibits should accompany the petition, also. Refer to the Administrative Rules, items 1.1 through 1.4 for more detail on documentation.

Following the documentation, the reason for and purpose of the proposed action should be stated, as clearly and concisely as possible.

Passed by the (petitioning body) this _____ day of _____, 19____.

Attest: _____

(Mayor) (Chairman, Regional Planning Commission) (Chairman, County Supervisors)

(or)

Signed By:

Petitioners' Names

Petitioner's residence (legal description of property)

... the City Council of ...
 ... (Certain Indentured ...
 ... Development Board of the State of ...
 ... District ...
 ... each individual action proposed ...
 ... subdivisions) and ...
 ... using either lot numbers, ...
 ... actions should be related to legal descriptions in ...

ADMINISTRATIVE RULES

... and technical data ...
 ... A list of exhibits ...
 ... the Administrative Rules ...
 ... for more detail on documentation ...

... following the documentation, the reason for and purpose of the
 proposed action should be stated, as clearly and concisely as possible

Passed by the Commission this _____ day of _____ 19__

Attest: _____
 Secretary
 Stated by: _____
 Petitioner's Name
 Petitioner's Address (Legal Description of Property)

CITY DEVELOPMENT BOARD

Pursuant to the authority of Chapter 368, Code of Iowa the following rules are adopted.

CHAPTER 1 OPERATIONS OF BOARD

220--1.1(368) Application of rules. These rules shall be applicable to all proceedings and transactions of the city development board, hereinafter called the board. These rules are subject to modification by the board as provided for by chapter 17A of the Code.

220--1.2(368) Filing of petition. A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board as provided for by section 368.11. Notice shall be given as provided for by section 368.11. If a petition for voluntary annexation is filed within the urbanized area of a city, other than the city to which the request for annexation is directed, a notice of the request for board approval shall be served on the other city or cities involved. The notice shall include a brief description of the proposal and the time and place that the request is to be acted upon by the board.

220--1.3(368) Initiation of petition. A petition initiated for incorporation, discontinuance or boundary adjustment shall be initiated pursuant to chapter 368. Where the petition is voter filed, the signatures of the voters shall be attached to the petition. The petition shall show a sufficient number of voter signatures to commence proceedings for incorporation, discontinuance or boundary adjustment as the case may be, and the method of computing the number of signatures required. Where a petition is commenced by a regional planning authority, an authorizing resolution shall accompany the petition.

220--1.4(368) Drafting of petition. The body or bodies commencing a petition shall be known as the petitioner(s). The petition shall be in the following form: "We, the (City Council of _____), (County Board of Supervisors of _____), (Regional Planning Authority of _____), (Certain Voters of _____), do petition the City Development Board of the State of Iowa for an (incorporation), (discontinuance), (boundary change), more specifically described as (description of proposed action(s)), and involving land described as (legal description)." The initial statement shall be followed by applicable information as specified in chapter 368, including the following:

1.4(1) Map. A map of the territory, city or cities involved, which shall show all features which, in the judgment of the board, are pertinent to the proposed action.

1.4(2) Tax information. Assessed valuation, by parcel, of all platted or unplatted land, according to most recent city or county assessor's records. Such information and its currency shall be verified by the city or county assessor.

1.4(3) Property owners. Names of property owners within the area delineated by the legal description in the petition.

1.4(4) Density. Population density: Persons per acre for annexation, persons per square mile for incorporation, discontinuance or consolidation.

1.4(5) Topography. Topographic information, which shall be in map form and consist of contour lines at ten foot intervals as may be taken from contour maps of the U.S. Geological Survey, or any other source acceptable to the board.

1.4(6) Plans. Plans for disposal of assets and assumption of liabilities shall be included. Substance and format of such plans shall be subject to approval of the board.

1.4(7) Additional information. A description of all existing municipal services, plans for agreements with any existing or anticipated special service districts, and a statement, concerning annexation or incorporation, that none of the territory is within a city. In a case of incorporation or consolidation, the petition shall state the name of the proposed city.

220--1.5(368) Costs. Any costs which are incurred in drafting the petition or in preparation of supporting documentation shall be borne by the petitioner. If any facts accompanying the petition are not contradicted by opposing parties at a hearing on the petition, it shall be evidence of such facts except that the board may from appropriate public records determine whether or not such are the facts and may require the petitioners to prove such facts by competent evidence.

220--1.6(368) Quorum. At least two members of the board shall constitute a quorum. A quorum shall be necessary for passage of any action.

220--1.7(368) Dismissal of a petition. No petition shall be dismissed because it is incorrectly titled, or parties or facts thereto incorrectly designated, but opportunity shall be given in such cases to correct the error by amendment. A petition may be dismissed only in accord with section 368.12.

220--1.8(368) Proceedings on an original petition. An original plus eight copies of a petition shall be filed with the board, together with all attachments. Prior to initiation of action where a petition has been filed, the board shall serve notice by certified mail of

such filing, including a copy of the petition, to the chief elected official of each city or county and the chairperson of the regional planning authority within or containing the area involved. The date of receipt of a petition by the board shall be the date of the first board meeting following actual receipt, as indicated by the date stamped, of the petition by the division of municipal affairs, office for planning and programming. Regular meetings shall be held on the third Monday of each month at 523 East Twelfth Street, Des Moines, Iowa.

220--1.9(368) Proceedings initiated by board. The board may initiate its own proceedings or its own plan. Such proceedings or plan shall conform to the requirements of a petition and shall be filed and notice served in accordance with the Code. The board shall direct the appointment of a committee consisting of the board members and a local representative from each governmental subdivision with boundaries affected by the proposed action. Local representative committee appointments shall be made by resolution of the appropriate governing body. Such resolution shall state that the local representative is a qualified voter of the city or territory he or she represents. A copy of the resolution shall be submitted to the board.

220--1.10(368) Board supervision of proposal execution. The board shall proceed accordingly in the following cases:

1.10(1) Discontinuance. Meaning termination of a city; the board shall supervise a discontinuance as provided for by section 368.21. Upon the close of the six-month period, the board shall determine the extent of any unpaid allowed claims. Such determination shall be verified by a certified public accountant or by the state auditor. In the case of unpaid allowed claims, the board shall direct the appropriate governing body to levy the necessary taxes as provided for by section 368.21.

1.10(2) Boundary adjustment. Meaning annexation, severance or consolidation: at the discretion of the board, and upon request of the governing bodies involved, advisory assistance may be provided in implementation of a boundary adjustment.

220--1.11(368) Data. The board shall develop and maintain statewide data on development actions taken under chapter 368.

220--1.12(368) Petition for rule change. As required by section 17A.7 the board prescribes the following form for petitions requesting the promulgation, amendment or repeal of the board's rules: "We, the (name of the petitioner(s)), do petition the City Development

board of the State of Iowa to (promulgate), (amend), (repeal), the rule (number of rule) to read as follows: (rule change)." Petitions shall be submitted to the board at its official address and such petitions shall be considered and acted upon at the following regular meeting of the board. The board's minutes shall serve as the written record of the board's actions on the petition.

220--1.13(368) Declaratory rulings. Declaratory rulings as required by section 17A.9 shall be handled in similar manner as petitions for rule changes.

220--1.14(368) Public information. The board is located at 523 East Twelfth Street, Des Moines, Iowa 50319. The public may obtain information and make submissions or requests of the board at this address during normal working hours. The board's manual "A Practical Guide to City Development Actions" describes the forms and instructions that are to be used by the public in dealing with the board.

220--1.15(368) Description of board's operation. The city development board is composed of three members appointed by the governor with the approval of two-thirds vote of the senate to serve six-year terms. Every two years a different appointment expires and in the case of vacancy the appointments are for the unexpired term. Members are eligible for reappointment, but no member shall serve more than two complete six-year terms. All actions in the name of the board shall be authorized by not less than two-thirds of the board members eligible to vote. The board meets on the third Monday of every month at 10:00 a.m. at 523 East Twelfth, Des Moines, Iowa and at this address during normal working hours; the public may obtain information or make submissions or requests of the board; all final orders, decisions and opinions are available for public inspection; and all rules and other written statements of law or policy, or interpretations formulated, adopted or used by the board in the discharge of its functions are available for public inspection.

The board's function is to supervise municipal boundary changes including incorporations, discontinuances, annexations, severances or consolidations for the state of Iowa. Specifically, the board accepts petitions for boundary changes, initiates appropriate proceeding or dismisses the petitions, directs the appointment of local representatives to serve with the board members as a committee to consider the petition, arranges for a special election on committee-approved petitions, makes the necessary filings after an election is held, and supervises the procedures necessary to carry out the voter approved petitions. The board conducts studies of municipal development and based upon the results of its studies may initiate boundary change proceedings.

CHAPTER 2 COMMITTEE PROCEEDINGS

220--2.1(368) Committee chairperson. Prior to a public hearing as provided for section 368.15 of the Code the board shall appoint from within its members a chairperson who shall chair the public hearing. All filings with the committee shall be made upon the chairperson.

220--2.2(368) Public hearings. Public hearings shall be held on dates and locations determined by the board, however, whenever possible, in or near the locale so affected. The board shall serve written notice, not

later than ten calendar days prior to a hearing, upon the appropriate bodies specified in section 368.15. The board shall, prior to serving notice, designate a suitable place to make the petition or plan available for public inspection. The board shall ensure that the petition or plan is available on or before the date of notice and publication. All notices and publications made pursuant to chapter 368 shall comply with section 362.3. All hearings and meetings of the board and committees shall comply with chapter 28A (Open meetings).

220--2.3(368) Conduct of public hearings. The petitioner(s) shall have the burden of proof and shall present their evidence first. Parties opposed to the petition shall then submit evidence. The committee chairperson shall determine the order in which opposing parties shall submit evidence. Parties who are neither the petitioner nor opposing parties may appear at a public hearing and present evidence.

220--2.4(368) Failure to appear. If a petitioner fails to appear at a proceeding, the hearing may be dismissed or postponed at the discretion of the committee, or the committee may approve the petition on the basis of verified proof and affidavits, if any, filed in the case, which shall be considered as having been offered in evidence at the hearing by the petitioner.

220--2.5(368) Admission of evidence. The committee shall observe rules of privilege recognized by law. It may exclude incompetent, irrelevant, and immaterial evidence.

220--2.6(368) Documentary evidence. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. All evidence, including records and documents in possession of the committee, shall be made a part of the record. A transcript shall be made only upon application by a party and paid for by that party.

220--2.7(368) Public documents. The committee may take note of appropriate public documents and records of a general scientific or technical nature by notice to all parties involved, limiting the time within which such parties may object to the accuracy of the facts sought to be proved from such documents or records.

220--2.8(368) Record of proceeding. The committee shall prepare an official record of all proceedings, including testimony and exhibits. Testimony may be taken by mechanical recording device. A transcript shall be furnished upon application, at the expense of the applicant.

220-2.9(368) Witnesses and subpoenas. Subpoenas requiring attendance of witnesses at any designated place of hearing within the state of Iowa shall be issued by the board pursuant to state law. Subpoenas for books, papers, or documents, unless directed by the board, shall be issued only upon application to the board in writing. Application to require parties to produce documentary evidence shall specify the books, papers, or documents required, and the facts to be proved by them. Witnesses who are subpoenaed are entitled to the same fees as are subpoenaed witnesses in the district court of Iowa, such fees to be paid by the party at whose insistence the testimony is to be given. Service of subpoenas shall be in like manner as provided by law for service of subpoenas in the district court of Iowa.

220--2.10(368) Brief. The committee shall allow ten days after a public hearing within which the parties may file briefs. A copy of such briefs shall be given to opposing parties. All briefs for presentation to the committee shall be filed with same, accompanied by written evidence of service upon opposing counsel or party or parties.

220--2.11(368) Application for further hearing. Before a final decision is filed, any party thereto desiring a further hearing may file an application therefor with the committee. The application shall state the grounds for a further hearing; and if it is proposed to produce added testimony, such testimony shall be summarized. No further hearing shall be granted where it is apparent that the added evidence will be merely cumulative. Such application shall be transmitted by certified mail to all parties to the proceeding. An adverse party shall have ten days from the date of transmittal of the application within which to answer thereto. No reply to such answer shall be permitted. The committee may grant or deny such petition with or without hearing or, in its discretion, set a hearing on such application.

220--2.12(368) Rehearings, amendment, vacation, reconsideration, reargument. Within twenty days from the date of receipt of final committee decision or order, any party may apply to the committee for a rehearing, or for an amendment or vacation of the findings of fact, decision or order, or for reconsideration or argument. The application shall set forth grounds upon which it is based, along with the claimed errors. If an application is for amendment of findings of fact, decision or order, the application shall contain the desired proposed amendments, and the reasons therefor shall be clearly stated. The party applying for rehearing, amendment, or vacation of findings shall transmit such application by certified mail to all parties to the proceeding. An adverse party shall have twenty days from the date of transmittal of the application within which to answer thereto, and no reply to such answer shall be permitted. The committee may grant or deny such application with or without a hearing on the application. Pending a decision, the committee may vacate and set aside such decision or order.

220--2.13(368) Appeal. An appeal to a decision of the board, or committee, or legality of an election may be made as provided for in section 17A.19. When an appeal is filed, the board shall be so notified, and provided with a copy of the appeal.

220--2.14(368) Amendment of effective date of order or decision. Petitions for amendment of orders of decisions which seek only a change in their effective date, or in the period of notice or other period of date thereby prescribed, shall be made by petition filed and served in like manner as other petitions under this rule, except that, in case of unforeseen emergency satisfactorily shown by the application, which requires relief within three days of receipt of application, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties to the proceeding.

220--2.15(368) Election. Within ninety calendar days of the close of the final public hearing, if a petition or plan is approved, the board shall confer with the county commissioner of elections responsible for conducting the election, and the board shall set a date within ninety calendar days for a special election on the proposal, and shall notify

the county commissioner of elections by certified mail, who shall hold the election pursuant to section 368.19.

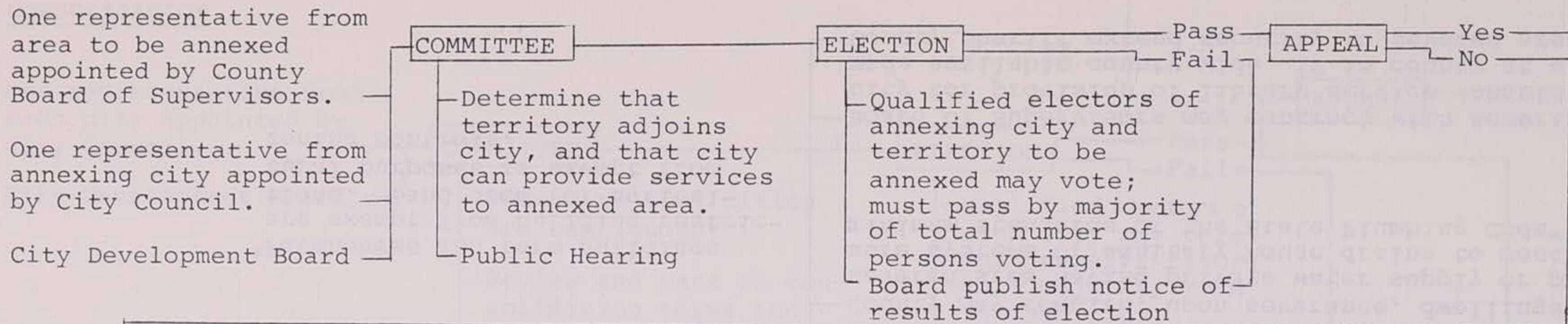
220--2.16(368) Amendment of a petition. A petition may be amended any time before the record has been closed after a public hearing is held pursuant to section 368.15, upon resolution by the committee and notice to all parties to the proceeding. Any proposed amendments shall be served upon all parties of record. When any party has legal counsel, service upon counsel shall be deemed service upon the party.

220--2.17(368) Description of committee's operations. If the board does not dismiss a municipal boundary change petition, the board directs the appointment of local representatives to serve with board members as a committee to consider the petition. A quorum of the committee consists of two board members and one local representative, or if the number of local representatives exceeds one, then two board members and at least one-half of the appointed local representatives are required for a quorum. Local representatives shall be qualified voters of the city or territory they represent and are selected as follows; (1) from a territory to be incorporated, one representative appointed by the county board of supervisors. If the territory is in more than one county, the board shall direct the appointment of a local representative from each county involved; (2) from a city to be discontinued, one representative appointed by the city council; (3) from a territory to be annexed to or severed from a city, one representative appointed by the county board of supervisors; (4) from a city to which territory is to be annexed or from which territory is to be severed, one representative appointed by the city council; and (5) from each city to be consolidated, one representative appointed by each city council.

The duties and powers of each committee are: To give proper notice and hold a public hearing on the petition before it; approve any petition which it finds to be in the public interest based upon all relevant information before the committee and complies with all legal statutes. After the final hearing, the committee shall within ninety days either approve or disapprove the petition or plan as amended and file its decision for record and promptly notify the parties to the proceedings of its decision. The board is then responsible for arranging for a special election on committee approved petitions, making the necessary filings after an election is held, and supervising the procedures necessary to carry out the voter approved petitions.

ANNEXATION

Await District Court Ruling



IMPLEMENTATION

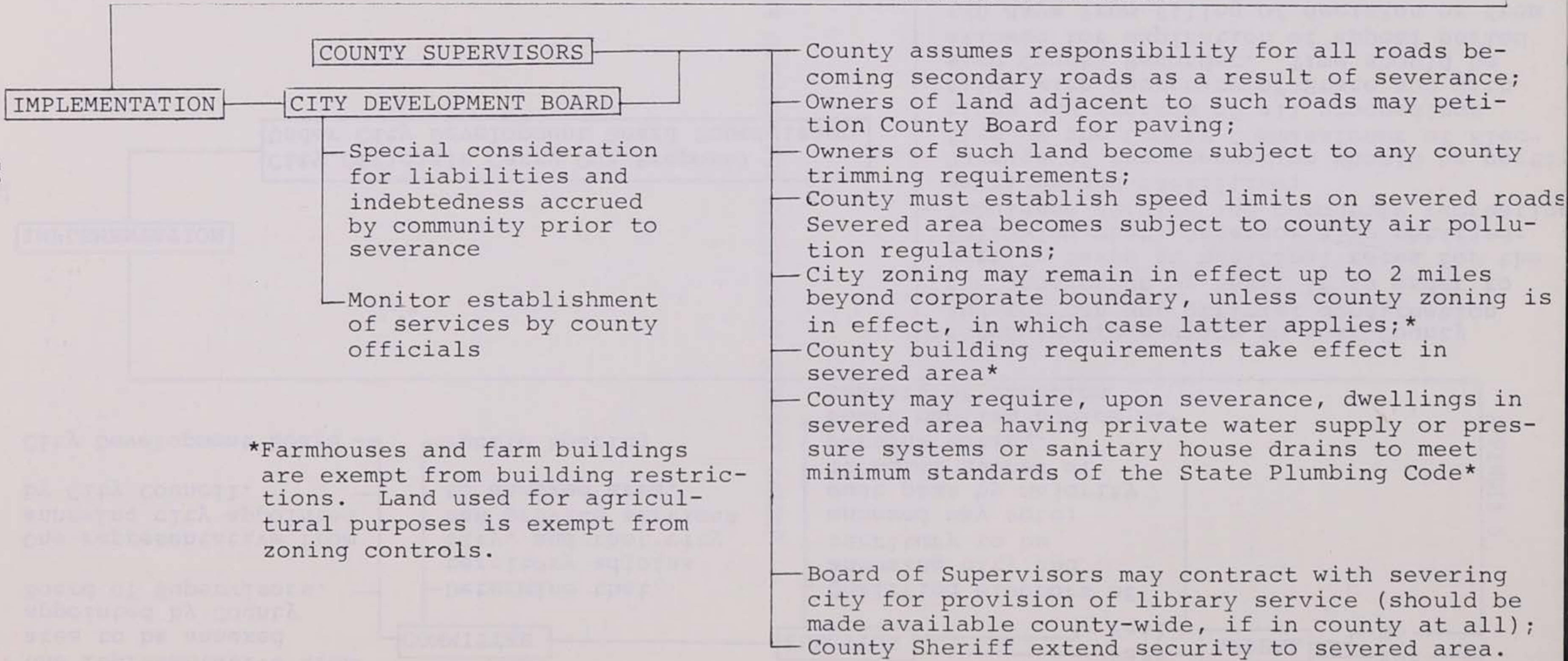
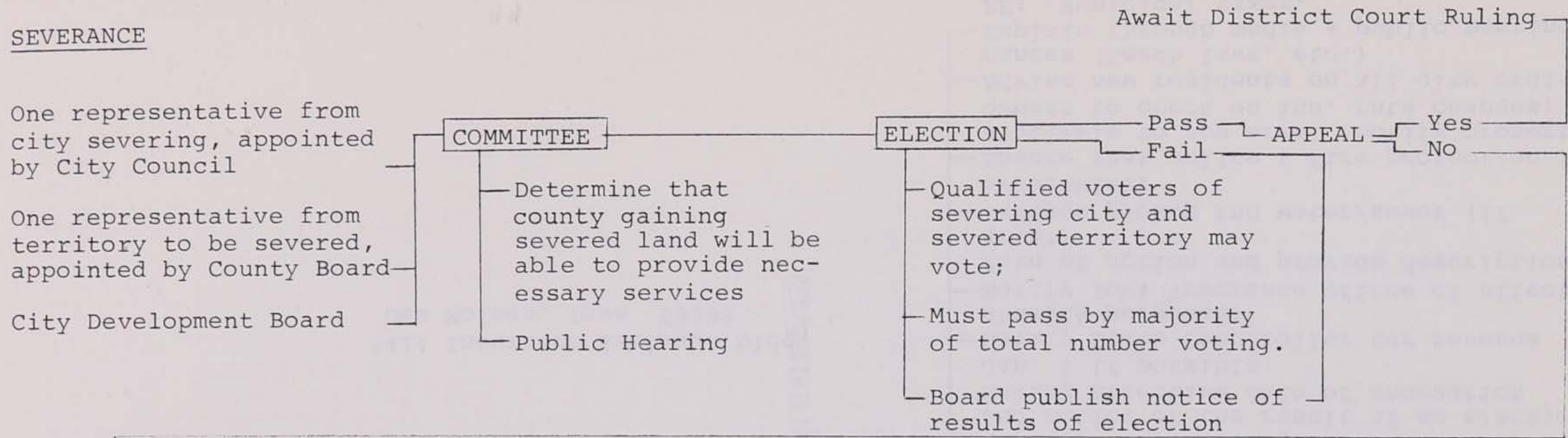
55

City Officials Carry Out Proposal Under City Development Board Supervision

- Schedule proceedings so that County Auditor can get official confirmation the annexation by April 15 in order to certify taxes at municipal rates for the following year; Assessor also notified;
- Ambulance service and community recreation services and facilities;
- Passage of the annexation should be certified by the County Commissioner of Elections and records of all proceedings filed with Secretary of State and with each County Recorder. Time should be allowed for expiration of appeal period (30 days from filing of decision or from 2nd notice of the result of an election) making effective date of annexation Jan. 1 if possible;
- Notify State Comptroller for revenue sharing purposes;
- Notify Iowa Insurance Office of effective date of action and provide description of area*;
- Garbage pickup and water/sewer (if available);
- Ensure that police & fire protection is available to new area. Notify property owners to check on ins. rate changes;
- Advise new residents on all city ordinances (Leash laws, etc.)
- Explain through media & public meetings. RE: Municipal taxes.

*414 Insurance Exchange Bldg.
Des Moines, Iowa 50309

SEVERANCE



*Farmhouses and farm buildings are exempt from building restrictions. Land used for agricultural purposes is exempt from zoning controls.

CONSOLIDATION

One representative from each city appointed by City Council.

City Development Board

COMMITTEE

- Determine that cities are contiguous;
- Review and pass on consolidation terms indicated by parties to the proposal;
- Public Hearing

ELECTION

- Qualified electors of each city may vote. Must receive favorable majority vote in each city.
- Board publish notice of results of election

Pass
Fail

APPEAL

Yes
No

Await District Court Ruling

57

IMPLEMENTATION

CITY ELECTION

- Election in accord with Code of Iowa

MAYOR & COUNCIL

Completion of Implementation Steps

- Consolidate city administration in accord with terms of original consolidation agreement.
- Mediate and resolve all disputes or disagreements arising from the consolidation.
- Consult with City Development Board as needed.

DISCONTINUANCE

Await District Court Ruling

One representative from city to be discontinued, appointed by City Council.

City Development Board

COMMITTEE

— May not approve if the city to be discontinued or the territory to be severed will be surrounded by one or more cities unless a petition for annexation of the same area is also filed and approved.

— Public Hearing

ELECTION

Pass
Fail

APPEAL

Yes
No

— Qualified voters of the city may vote.

— Proposal is passed if majority of those voting approves it.

— Board publish notice of results of election

IMPLEMENTATION

COUNTY SUPERVISORS

County assumes responsibility for all governmental services previously offered by community. For details, see flow chart on SEVERANCE.

CITY DEVELOPMENT BOARD

— Publish notices RE: 1088, Section 39 and Section 3 to receive and adjudicate claims against city;

— Levy taxes to pay claims allowed, and expenses of wrap-up;

— Surpluses paid into school fund.

INCORPORATION

One representative from each county involved appointed by County Board of Supervisors

City Development Board

COMMITTEE

May not approve if area or part of area is within an urbanized area of city unless a petition for annexation of substantially the same territory to such city has been dismissed, disapproved or voted upon unfavorably in past 5 years.

Public Hearing

Appeal to District Court

Ruling

Against — Terminate
For

INCORPORATION ELECTION

Pass

Fail

APPEAL

Yes
No

Await District Court Ruling

IMPLEMENTATION

CITY ELECTION

Conducted by County Commissioner of Elections for Mayor & Council

MAYOR & COUNCIL

Serve until successors take office following next regular city election

CITY DEVELOPMENT BOARD MONITOR

Completion of Implementation

- Arrange temporary loan with bank through anticipatory warrants; draw warrants on same;
- Immediately apply to Highway Division of D.O.T. for road use tax forms; (Must be used for roads)
- Certify population to State Treasurer for liquor profit tax revenue; (Can be used for anything)
- Issue of Licenses to all taverns, etc.; (City in lieu of county)
- Draw up budget for remainder of fiscal year and hold hearing on same. Adopt budget and certificate of corporate tax levy. Send to County Auditor and State Comptroller. Three months after start of next fiscal year, city should receive 1st tax revenue from county.
- Prepare required map of local and arterial streets.

CHAPTER 368
CITY DEVELOPMENT

DIVISION I
DEFINITIONS

368.1 Definitions. As used in this Chapter, unless the context otherwise requires:

1. "Board" means the city development board established in section 368.9.

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

3. "City development" means an incorporation, discontinuance or boundary adjustment.

4. "Incorporation" means establishment of a new city.

5. "Discontinuance" means termination of a city.

6. "Boundary adjustment" means annexation, severance or consolidation.

7. "Annexation" means the addition of territory to a city.

8. "Severance" means the deletion of territory from a city.

9. "Consolidation" means the combining of two or more cities into one city.

10. "Territory" means the land area proposed to be incorporated, annexed, or severed.

11. "Adjoining" means having a common boundary for not less than two hundred feet. Land areas may be adjoining although separated by a roadway or waterway.

12. "Urbanized area" means the land area within three miles of the boundaries of a city of fifteen thousand or more population.

DIVISION II
GENERAL PROVISIONS

368.2 Name change. A city may change its name as follows:

1. The council shall propose the name change and shall notify the county commissioner of elections that the question shall be submitted at the next regular city election.

2. The county commissioner of elections shall publish notice, as provided in section 362.3, of the proposed new name, and of the fact that the question will be submitted at the next regular city election. The county commissioner of elections shall report the results of the balloting on the question to the mayor and the city council.

3. If a majority of those voting on the question approves the proposed new name, the city clerk shall enter the new name upon the city records and file certified copies of the proceedings, including the council's proposal, proof of publication of notice, and certification of the election result, with the county recorder and with the secretary of state. Upon proper filing the name change is complete and effective.

368.3 Discontinuance. A city is discontinued if, for a period of six years or more, it has held no city election and has caused no taxes to be levied. If the board receives knowledge of facts which cause an automatic discontinuance under this section, it shall make a determination that the city is discontinued, shall take control of the property of the discontinued city, and shall carry out all necessary procedures as if the city were discontinued under a petition or plan.

368.4 Annexing moratorium. A city, following notice and hearing, may by resolution agree with another city or cities to refrain from annexing specifically described territory for a period not to exceed ten years and, following notice and hearing, may by resolution extend the agreement for subsequent periods not to exceed ten years each. If such an agreement is in force, the board shall dismiss a petition or plan which violates the terms of the agreement.

368.5 Annexing state property. Territory owned by the state of Iowa may be annexed, but the attorney general must be served with notice of the hearing and a copy of the proposal.

368.6 Repealed 66 G.A. Chapter 197, Section 34.

368.7 Annexation by petition. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right of way may be included in the application

without the consent of the railway if a copy of the application is mailed by certified mail to the owner of the right of way, at least ten days prior to the filing of the application with the city council. The application must contain a map of the territory showing its location in relationship to the city.

An application for annexation under this section must be approved by resolution of the council which receives the application. If the territory is within the urbanized area of a city other than the city to which the request for annexation is directed, the application must also be approved by the board. Upon receiving approval of the council, the city clerk shall file a copy of the map and resolution with the board. The annexation is completed when the board has filed copies of the applicable portions of the proceedings as required in section three hundred sixty-eight point twenty (368.20), subsection two (2) of the Code.

368.8 Severing territory. Any territory may be severed upon the unanimous consent of all owners of the territory and approval by resolution of the council of the city in which the territory is located. The council shall provide in the resolution for the equitable distribution of assets and equitable distribution and assumption of liabilities of the territory as between the city and the severed territory. The council shall file a copy of the resolution and a map with the board. The severance shall be completed when the board has filed copies of the resolution and map as provided in section 386.20, subsection 2.

DIVISION III CITY DEVELOPMENT BOARD

368.9 Board created. A city development board is hereby created. The office for planning and programming shall provide office space, staff assistance, and shall budget funds to cover expenses and compensation of the board and committees. The board consists of three members appointed by the governor with the approval of two-thirds vote of the senate. The initial appointments must be for terms of two, four, and six years. Successive appointments must be for six years, or to fill an unexpired term in case of a vacancy. Members are eligible for reappointment, but no member shall serve more than two complete six-year terms.

Each member is entitled to receive from the state his actual and necessary expenses and forty dollars compensation for each day spent in performance of board duties.

368.10 Annual report. The board shall conduct studies of city development, and shall submit an annual report to the governor and the general assembly.

The board may establish rules for the performance of its duties and the conduct of proceedings before it. The board's rules are subject to chapter 17A, as applicable.

368.11 Petition for incorporation. A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board by a city council, a county board of supervisors, a regional planning authority, or five percent of the qualified electors of a city or territory involved in the proposal. Notice of the filing, including a copy of the petition, must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed or severed, and any regional planning authority for the area involved.

Within ninety days of receipt of a petition, the board shall initiate appropriate proceedings or dismiss the petition. The board may combine for consideration petitions or plans which concern the same territory or city.

The petition must include substantially the following information as applicable:

1. A general statement of the proposal.
2. A map of the territory, city or cities involved.
3. Assessed valuation of platted and unplatted land.
4. Names of property owners.
5. Population density.
6. Description of topography.
7. Plans for disposal of assets and assumption of liabilities.
8. Description of existing municipal services, including but not limited to water supply, sewage disposal, and fire and police protection.
9. Plans for agreements with any existing special service districts.
10. In a case of annexation or incorporation, the petition must state that none of the territory is within a city.

11. In a case of incorporation or consolidation, the petition must state the name of the proposed city.

368.12 Dismissal. The board may dismiss a petition only if it finds that the petition does not meet the requirements of this part, or that substantially the same incorporation, discontinuance, or boundary adjustment has been disapproved by a committee formed to consider the proposal, or by the voters, within the two years prior to the date the petition is filed with the board. The board shall file for record a statement of each dismissal and the reason for it, and shall promptly notify the parties to the proceeding of its decision.

368.13 Board may initiate proceedings. Based on the results of its studies, the board may initiate proceedings for the incorporation, discontinuance, or boundary adjustment of a city. The board may request a city to submit a plan for boundary adjustment, or may formulate its own plan for incorporation, discontinuance, or boundary adjustment. A plan submitted at the board's initiation must include the same information as a petition and be filed and acted upon in the same manner as a petition. A petition or plan may include any information relevant to the proposal, including but not limited to results of studies and surveys, and arguments.

368.14 Local representatives. If a petition is not dismissed, the board shall direct the appointment of local representatives to serve with board members as a committee to consider the proposal. Each local representative is entitled to receive from the state his actual and necessary expenses spent in performance of committee duties. Two board members and one local representative, or if the number of local representatives exceeds one, two board members and at least one-half of the appointed local representatives, are required for a quorum of the committee. A local representative must be a qualified elector of the territory or city he represents, and must be selected as follows:

1. From a territory to be incorporated, one representative appointed by the county board of supervisors. If the territory is in more than one county, the board shall direct the appointment of a local representative from each county involved.

2. From a city to be discontinued, one representative appointed by the city council.

3. From a territory to be annexed to or severed from a city, one representative appointed by the county board of supervisors.

4. From a city to which territory is to be annexed or from which territory is to be severed, one representative appointed by the city council.

5. From each city to be consolidated, one representative appointed by each city council.

368.15 Public hearing. The committee shall conduct a public hearing on a proposal as soon as practicable. Notice of the hearing must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the county board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed, or severed, and any regional planning authority for the area involved. A notice of the hearing, which includes a brief description of the proposal and a statement of where the petition or plan is available for public inspection, must be published as provided in section 362.3, except that there must be two publications in a newspaper having general circulation in each city and each territory involved in the proposal. Any person may submit written briefs, and in the committee's discretion, may be heard on the proposal. The board may subpoena witnesses and documents relevant to the proposal.

368.16 Approval of proposal. Subject to section 368.17, the committee shall approve any proposal which it finds to be in the public interest. A committee shall base its finding upon all relevant information before the committee, including but not limited to the following:

1. Statements in the petition or plan, and evidence supporting those statements.
2. Recommendations of the regional planning authority for the area.
3. Commercial and industrial development.
4. Potential growth in population.
5. Cost and adequacy of existing services and facilities.
6. Potential effect of the proposal and of possible alternative proposals on the cost and adequacy of services and facilities.
7. Potential effect of the proposal on adjacent areas, and on any unit of government directly affected, including but not limited to the potential effect on future revenues of any such unit of government.

368.17 When approval barred. The committee may not approve:

1. An incorporation unless it finds that the city to be incorporated

will be able to provide customary municipal services within a reasonable time.

2. A discontinuance or severance if the city to be discontinued or the territory to be severed will be surrounded by one or more cities unless a petition for annexation of the same area is also filed and approved.

3. A discontinuance or severance unless it finds that the county or another city will be able to provide necessary municipal services to the residents.

4. An annexation unless the territory is adjoining the city to which it will be annexed, and the committee finds that the city will be able to provide to the territory substantial municipal services and benefits not previously enjoyed by such territory, and that the motive for annexation is not solely to increase revenues to the city.

5. A consolidation unless the cities are contiguous.

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

368.18 Amendment. The committee may amend a petition or plan. If a petition or plan is substantially amended, the committee shall continue the hearing to a later date and serve and publish a notice describing the amended petition or plan, as required in section 368.15.

368.19 Time Limit Election. The committee shall approve or disapprove the petition or plan as amended, within ninety days of the final hearing, and shall file its decision for record and promptly notify the parties to the proceeding of its decision. If a petition or plan is approved, the board shall set a date within ninety days for a special election on the proposal and the county commissioner of elections shall conduct the election. In a case of incorporation or discontinuance, qualified electors of the territory or city may vote, and the proposal is authorized if a majority of those voting approves it. In a case of annexation or severance, qualified electors of the territory and of the city may vote, and the proposal is authorized if a majority of the total number of persons voting approves it. In a case of consolidation, qualified electors of each city to be consolidated may vote, and the proposal is authorized only if it receives a favorable majority vote in each city. The county commissioner of elections shall publish notice of the election as provided in section forty-nine point fifty-three (49.53) of the Code and shall conduct the election in the same manner as other special city elections.

The costs of an incorporation election shall be borne by the initiating petitioners, if the election fails, but if the proposition is approved, the cost shall become a charge of the new city.

368.20 Procedure after approval. After the county commissioner of elections has certified the results to the board, the board shall:

1. Serve and publish notice of the result as provided in section 362.3.

2. File with the secretary of state, the clerk of each city incorporated or involved in a boundary adjustment, and with the recorder of each county which contains a portion of any city or territory involved, copies of the proceedings including the original petition or plan and any amendments, the order of the board approving the petition or plan, proofs of service and publication of required notices, certification of the election result, and any other material deemed by the board to be of primary importance to the proceedings. Upon proper filing and expiration of time for appeal, or upon a subsequent date as provided in the proposal, the incorporation, discontinuance, or boundary adjustment is complete, except that if an appeal to any of the proceedings is pending, completion does not occur until the appeal is decided. The clerk of each city incorporated or involved in a boundary adjustment shall also file with the state department of transportation and with the city development board a copy of the plat and legal land description of each completed annexation.

368.21 Supervision of procedures. When an incorporation, discontinuance, or boundary adjustment is complete, the board shall supervise procedures necessary to carry out the proposal. In the case of an incorporation, the county commissioner of elections shall conduct an election for mayor and council of the city, who shall serve until their successors take office following the next regular city election. In the case of a discontinuance, the board shall publish two notices as provided in section 368.15 that it will receive and adjudicate claims against the discontinued city for a period of six months from the date of last notice, and shall cause necessary taxes to be levied against the property within the discontinued city to pay claims allowed. All records of a discontinued city shall be deposited with the county auditor of the county designated by the board. Any remaining balances shall be deposited in the general fund of the county where the former city was located. In the case of boundary adjustments, the proper city officials shall carry out procedures necessary to implement the proposal.

368.22 Appeal. A city, or a resident or property owner in the territory or city involved may appeal a decision of the board or a committee, or the legality of an election, to the district court of a county which contains a portion of any city or territory involved.

Appeal must be filed within thirty days of the filing of a decision or the second publication of notice of the result of an election.

Appeal of an approval of a petition or plan does not stay the election.

The court's review on appeal of a decision is limited to questions relating to jurisdiction, regularity of proceedings, and whether the decision appealed from is arbitrary, unreasonable, or without substantial supporting evidence. The court may reverse and remand a decision of the board or a committee, with appropriate directions.

Secretary of State
State Capitol
Des Moines, Iowa 50319

Law Department of Transportation
2000 Riverside Drive
Des Moines, Iowa 50319

MAILING ADDRESSES FOR
SECRETARY OF STATE AND
IOWA DEPARTMENT OF TRANSPORTATION

Secretary of State
State Capitol
Des Moines, Iowa 50319

Iowa Department of Transportation
5238 Northwest 2nd
Ames, Iowa 50010

