

STATE OF MINNESOTA
MINNESOTA MUNICIPAL BOARD

In the Matter of the Proposed
Adoption of Amendments of Rules
for the Minnesota Municipal Board

STATEMENT OF NEED
AND REASONABLENESS

GENERAL STATEMENT

A revision of the Municipal Board Rules of Procedure has not been done since 1974. The amendments will provide a clearer understanding of agency's procedures, improve the quality of data received, and make the rules legally consistent with present law since a number of amendments have occurred to Chapter 414 since 1974.

The amended rules will not adversely affect small business and may enhance small business by clarifying the procedures and streamlining.

The need for and reasonableness of each of the new rules and amendments to the existing rules is as follows:

MINNESOTA RULE 6000.0100

The title of the rule is changed from "Petition Defined" to "Definitions" because all definitions are consolidated in this rule.

Subpart 1 is amended to include terminology to apply to all definitions.

Subpart 2. "Parties" is former rule 6000.0300 paraphrased with the exception of the following sentence which is now under 6000.1200. "The board may hear the facts or evidence of any person or organization, but no person becomes, or is considered to be, a party to the proceeding solely by reason of entering an appearance at the hearing." This sentence is transferred to the public hearing rule because it addresses more particularly the facts or evidence the board may hear of any person or organization at the board hearing.

Subpart 3 is amended for stylistic and technical improvement.

Subpart 4. The following is added to eliminate confusion about who constitutes a property owner. "Property owner" is as defined in Minnesota Statutes, section 414.011, subdivision 5."

MINNESOTA RULE 6000.0110 COMMENCEMENT OF PETITION.

Stylistic and technical improvements are made to more clearly express how an initiating party must show that they have the required number of residents or property owners to commence a proceeding.

MINNESOTA RULE 6000.0200 FORM OF PETITION

The title is changed from "TITLE" to "FORM" OF PETITION because this rule does more than describe the title. The rule is broken into two subparts

to make it more understandable. The words "shall be designated" are changed to "must be titled" to more accurately reflect what is being required on the title. The words "as the case may be" are struck for stylistic improvement. The words "pursuant to Minnesota Statutes, section)" are added to help eliminate any possible confusion as to what section of law the petition is initiated under. The word "thereto" is deleted and the word "such" is changed to "these" for stylistic improvement. The sentence, "Sample petition forms will be provided by the board upon request." is added to assist the petitioners, however, the Municipal Board sample form is not being required.

MINNESOTA RULE 6000.0400 REPRESENTATION.

The first sentence is amended for stylistic and technical improvement. The sentence, "Where a petition is by property owners, one of the petitioners may represent the group." is added to clarify how groups may be represented. "A corporation cannot appear in person" is changed to "A government official may appear on behalf of a party that is a county, municipality, town, or government agency." A corporation representative may qualify under the definition of parties in rule 6000.0100, subpart 2 and is unnecessary. The last sentence "When any party has appeared by an attorney, or a person representing a group service upon such attorney or chosen representative shall be deemed service upon the party and all members of the group." is not new, but is presently under rule 6000.0800 Service, E. (With the exception of the group representative which is added consistent with the previous amendment.)

MINNESOTA RULE 6000.0500 PLEADINGS.

Objections filed are sometimes mistakenly considered to be responsive pleadings. The addition of the sentence, "Objections filed pursuant to Minnesota Statutes, chapter 414, are jurisdictional documents and not responsive pleadings", should eliminate that misunderstanding. The second sentence is amended to exclude the reference to becoming a party because party is defined in rule 6000.0100, subpart 2. The words "no responsive pleading is necessary" is added to eliminate confusion on the need. The remaining language in this rule is deleted because it is unnecessary. The general data practices act governs how copies of public documents can be obtained not just by parties but by the general public.

MINNESOTA RULE 6000.0600 PETITION.

The first sentence is deleted since it is presently inconsistent with the law. Chapter 414 no longer requires that information on the petition. The second sentence is deleted because it is combined with the following sentence in a more concise manner. The next amendment allows the board to "independently verify the accuracy of" the facts as opposed to the former language "from appropriate public records or documents determine whether or not such are" the facts. The amended language is more specific and more clearly reflects verification of accuracy. The remaining language is struck because it is contained in rule 6000.1700 ADMISSION OF EVIDENCE.

MINNESOTA RULE 6000.0700 AMENDMENTS.

This rule is changed to provide for amendments to annexations by ordinance, which is not addressed in the existing rule and has caused

confusion. The amendment ensures that notice is required to all those who are entitled to original notice in Chapter 414. The amendments clarify that amendments can be made any time until "the board has rendered a final decision on the petition." There have been instances of confusion in the past as to when and how amendments can occur. In the third sentence the word "done" is changed to "proposed and granted" to more accurately reflect the action. The words "subject to the statutory authority of the board to alter the boundaries proposed in the petition" are stricken because they are unnecessary. Language is added to clarify how an amendment for a petition signed by property owners is accomplished when the amendment is for a different area than the one described in the original petition. The amendment allows the property description to be corrected or changed without taking away rights of the property owners. The amendment states it cannot be amended for a different area "unless the amendment or a waiver is signed by all the property owners who signed the original petition."

MINNESOTA RULE 6000.0800 FILING OF PETITION

The title is changed from "SERVICE" to "FILING" OF PETITION to more accurately reflect the contents of the rule.

B. The language deleted is unnecessary because of amendments to Chapter 414. Waivers are now included under 414.033 and the number of days for objection or waivers is changed from 60 under previous statutory language to 90 days.

C. Amendments are made for stylistic and technical improvements to

more clearly state the information required.

D. This is deleted because it is now contained in rule 6000.1200 PUBLIC HEARINGS.

E. This is deleted because the first sentence is now combined under rule 6000.0700 AMENDMENTS. The second sentence is deleted because it is now contained under rule 6000.0400 REPRESENTATION.

MINNESOTA RULE 6000.0900 CONTINUANCES.

"AND EXTENSIONS OF TIME" is deleted from the title and first sentence because it is unnecessary. The words in the first sentence have been rearranged and the words "for cause shown, or upon the board's own initiative." are added for clarity. The deletion of the last sentence is made to eliminate driving great distances merely to continue a hearing. It is a burden of time and dollars to have the director drive to various parts of the state merely to open a hearing and continue it to another date.

MINNESOTA RULE 6000.1000 STIPULATIONS.

The deleted language is replaced by new language which is more succinct and understandable.

MINNESOTA RULE 6000.1150 PREHEARING CONFERENCE.

This rule is new and is being added in response to the desire on

everyone's part to save time and money in the process. It will help focus issues, promote joint agreement and reduce the need for more lengthy, contested, expensive hearings wherever possible.

MINNESOTA RULE 6000.1200 PUBLIC HEARINGS.

The sentence "The petitioner shall notify the board at least seven days prior to the hearing of any personal knowledge of controversy regarding the hearing." is added to assist in saving possible costs to the agency.

The amendments in the next sentence are made for stylistic and technical improvement. The next sentence is not new but is taken from former rule 6000.0300 PARTIES. The last sentence is former rule 6000.0800 SERVICE, D. It appears more logical to have these two sentences under PUBLIC HEARINGS where people will want to know who the board will be hearing from and who must pay rather than under the rules on PARTIES and SERVICE OF PETITION.

MINNESOTA RULE 6000.1310 EXAMINATION OF WITNESSES.

This is not new language, it is similar to former rule 6000.1300 EXAMINATION OF WITNESSES. It is rephrased to more clearly express and reflect the intent of the rule.

MINNESOTA RULE 6000.1400 EXHIBITS.

The first sentence amendments are for stylistic and technical improvement. The words "where possible parties should offer an exhibit in

8-1/2 by 11-inch size" are added to conform to the general trend of reducing size for cost efficiency.

MINNESOTA RULE 6000.1510 ORDER OF PROCEDURE.

This is not new language. It is former rule 6000.1500 ORDER OF PROCEDURE paraphrased in a more concise manner with the exception of the last sentence which is now covered under rule 6000.0100 DEFINITIONS, subpart 2 Parties.

MINNESOTA RULE 6000.1600 FAILURE TO APPEAR.

The words "a petitioner" are changed to "the initiating party" for stylistic and technical improvement. The sentence, "The board may allow the record to remain open for receipt of stipulated facts which the board may use in reaching its decision.", replaces old language to simplify and clarify a procedure when there is failure to appear.

MINNESOTA RULE 6000.1700 ADMISSION OF EVIDENCE.

The amendments in this rule are made for stylistic and technical improvement. The last sentence added is not new. It is from present rule 6000.0600 PETITION. The Revisor of Statutes suggested it was more proper under this rule.

MINNESOTA RULE 6000.1900 EVIDENCE IN A PROCEEDING.

The words in the title "CONTESTED CASE" are changed to "PROCEEDING" to be consistent with the law, which contains the word "proceeding". The word "case" is replaced with "proceeding" throughout rule 6000.1900.

Subpart 1. The amendments made in this subpart are for technical and stylistic improvement.

Subpart 2. This is not new language, but language from rule 6000.2100 RECORD OF PROCEEDINGS paraphrased.

MINNESOTA RULE 6000.2210 SUBPOENAS.

Subpart 1. This is not new language, but is paraphrased and streamlined from present rule 6000.2200 SUBPOENA FOR WITNESSES AND DOCUMENTARY EVIDENCE. The amendment also clarifies who has responsibility for preparing the subpoena.

Subpart 2. Streamlined from present rule 6000.2300 FEES OF WITNESSES.

Subpart 3. Streamlined from present rule 6000.2400 SERVICE OF SUBPOENAS.

MINNESOTA RULE 6000.2500 REQUESTS FOR WRITTEN OR ORAL ARGUMENTS.

The word "briefs" is changed to "written arguments" throughout this rule and rule 6000.2600 to use more common language. Other amendments are

made for technical and stylistic improvement, as well as to remove ambiguity.

MINNESOTA RULE 6000.2600 FILING AND SERVICE OF WRITTEN ARGUMENTS.

The word "secretary" is changed to "executive director" to conform with amendments to Chapter 414. Other amendments are for stylistic and technical improvement.

MINNESOTA RULE 6000.3000 REQUEST FOR ADDITIONAL HEARING.

The word "PETITIONS" is changed to "REQUEST" and the word "FURTHER" is changed to "ADDITIONAL" in the title and in the entire rule. The deletion and amended language is made to simplify the rule. The word "request" instead of "petition" is made to avoid confusion with other "petitions". The words "merely cumulative" are exchanged for "incompetent, irrelevant, immaterial, cumulative, or repetitious" for more explicit reasons for additional hearings. The time a party has to make a response has been reduced from ten to seven days to make the process more responsive and less time consuming for all concerned (including small business). (This is an amendment to streamline the procedure that was also considered in addressing the impact on small business.)

MINNESOTA RULE 6000.3100 REQUEST FOR AMENDMENT.

The title and rule is amended to replace the word "PETITION" with "REQUEST". The words "REHEARING, VACATION, RECONSIDERATION, REARGUMENT" in the title and rule are deleted because they are confusing to the users and

because there are other alternatives already available in the rules and Chapter 414 to respond to a board order. The amendment streamlines the process without taking away an avenue of recourse for the parties. The amendment reducing the time from ten to seven days is consistent with the previous rule and will streamline the process. The remainder of the amendments are for technical or stylistic improvement. The last sentence is not new, it is former rule 6000.3200 AMENDMENT OF EFFECTIVE DATE OF ORDER OR DECISION paraphrased and made more succinct.

MINNESOTA RULE 6000.3400 SCHEDULE OF FILING FEES

Subpart 2. The word "consolidation" is changed to "annexation" to reflect a change in the law.

Subpart 3. The title is changed to conform to the words used in the law. The last sentence is deleted because it is questionable whether the board can require cities to reimburse property owners. Further, other governmental units are not required to reimburse for other types of boundary adjustments.

Subpart 4. Amendments are for stylistic and technical improvement.

Subpart 5. Amendments are for stylistic and technical improvement. The word "petition" under the DEFINITIONS section includes "resolution and ordinances" and those words, therefore, are deleted because they are unnecessary. The phrase "before a file will be opened on the proceeding" is deleted because it is included in rule 6000.0800, part A.

Subpart 9. The sentence "Where the strict application of the filing fee requirements would unfairly impose a burden on the petitioner, the board in its discretion, may waive the filing fee." is added to eliminate an extra filing fee burden on petitioners. An example is where there is a fee paid for a particular proceeding that was contested and the Municipal Board has successfully encouraged the parties to get together to resolve their differences. The result is a refiling for substantially, if not exactly, the same property under another section of the law, which under strict interpretation of existing rules for filing fees would require an additional filing fee. The petitioner would in fact be paying two fees as the result of a cooperative effort by all parties and saving all parties and the state additional costs and time. The intent of this amendment is to support, not hinder cooperation of parties.

REPEALER.

MINNESOTA RULE 6000.0300 (PARTIES). This is now interwoven with rule 6000.0100, subpart 2 PARTIES.

MINNESOTA RULE 6000.1100 DOCKETS. This rule is unnecessary because Minnesota Data Practices Act (M.S. 15.1621) governs how copies of public documents can be obtained and the Minnesota Records Retention Schedule (M.S. 138.17) governs retention and disposal of public records.

MINNESOTA RULE 6000.1300 EXAMINATION OF WITNESSES is now paraphrased in rule 6000.1310 EXAMINATION OF WITNESSES.

MINNESOTA RULE 6000.1500 ORDER FOR PROCEDURE is now paraphrased in rule 6000.1510 ORDER OF PROCEDURE in a more concise manner.

MINNESOTA RULE 6000.1800 DOCUMENTARY EVIDENCE is unnecessary because rule 6000.1900 EVIDENCE IN A PROCEEDING adequately covers intent of former rule.

MINNESOTA RULE 6000.2000 OFFICIAL NOTICE is now paraphrased in a more concise way in rule 6000.1900, subpart 1 NOTICE OF CERTAIN FACTS.

MINNESOTA RULE 6000.2100 RECORD OF PROCEEDING is now contained in rule 6000.1900, subpart 2 RECORD OF PROCEEDING paraphrased.

MINNESOTA RULE 6000.2200 SUBPOENA FOR WITNESSES AND DOCUMENTARY EVIDENCE is now contained in rule 6000.2210, subpart 1 paraphrased.

MINNESOTA RULE 6000.2300 FEES OF WITNESSES is now paraphrased in rule 6000.2210, subpart 2.

MINNESOTA RULE 6000.2400 SERVICE OF SUBPOENAS is paraphrased in rule 6000.2210, subpart 3.

MINNESOTA RULE 6000.2700 RECORDING AND TRANSCRIBING ORAL ARGUMENT is now contained in rule 6000.1900, subpart 2 RECORD OF PROCEEDING.

MINNESOTA RULE 6000.2800 DECISION AND ORDER; FILING, CONTENT, SERVICE is repealed because it is unnecessary. The board must file decisions with all

parties required as under the uniform procedures section, Minnesota Statutes 414.09. Parties may request copies of any public documents under the Minnesota Data Practices Act making this specific rule unnecessary. Chapter 414 requires all orders of the board to be in writing with accompanying Findings of Fact.

MINNESOTA RULE 6000.2900 PROPOSAL FOR DECISION OR ORDER is repealed because: Chapter 414 now contains provisions for instances where a majority of the members have not heard or read the evidence; the Minnesota Data Practices Act allows parties to request copies of public documents and other options are available to the parties including requests for additional hearing (6000.3000) and requests for amendments (6000.3100) in addition to the appeal process under Chapter 414. This rule is therefore unnecessary and repealed to streamline the process and reduce costs.

MINNESOTA RULE 6000.3200 AMENDMENT OF EFFECTIVE DATE OF ORDER OR DECISION is repealed because it is contained in a more succinct fashion - under rule 6000.3100 REQUEST FOR AMENDMENT, in the last sentence.

MINNESOTA RULE 6000.3300 SECOND PETITION UPON SAME GROUND. Second petition upon same ground is repealed because there must ultimately be an end to a proceeding. Other options are available in Chapter 414 and other rules.

MINNESOTA RULE 6000.3500 ORDERLY ANNEXATION is repealed because it is unnecessary with the amendments that have been made to Minnesota Statutes 414.0325 and other rules with the exception of the reporting requirements, current subpart 4, which requires "One year after the joint agreement has been

accepted by the board, and every year thereafter, for as long as the joint resolution is in effect, the parties shall inform the board of any changed conditions, which would mandate action by the terms of the agreement within the area designated for orderly annexation." This is repealed because it is an undue burden on parties, it is costly, and parties have not been following this rule. It is not cost efficient for the agency to require them to do so. If there are problems with a joint agreement, one of the parties will seek to have it amended or bring it to the attention of the board.

Subpart 5 AMENDING THE JOINT AGREEMENT is repealed because it requires the board to only accept amendments after notice and hearing. This is another cost to the State of Minnesota as well as the parties. If an amendment is made to the joint agreement and signed by all parties, it is unnecessary for the board to hold a hearing. There have been no requests to do so.