

SEVERANCE PROCESSES

The City Development Board (“Board”) provides this summary for general informational purposes only and is not intended to serve as a precise statement of Iowa law concerning boundary adjustments. For further information, review [Iowa Code Chapter 368](#) and [Iowa Administrative Code 263](#). Should you have legal questions concerning the boundary adjustment process, including annexations, City personnel are strongly encouraged to contact their City Attorney.

Voluntary Severance of Territory – Unanimous Consent

[Iowa Code §368.8](#)

All property owners consent to be severed, approval by resolution of City Council, equitable distribution of assets, City Clerk files copies of resolution, map and legal description of territory with County Supervisors, Secretary of State, IDOT and County Recorder. SOS shall not accept if severance would create and/or island.

1. If all owners of the territory agree, the City Council in which the territory is located must pass a resolution of approval of severance. The resolution shall provide for equitable distribution of assets and equitable distribution of the liabilities of the territory between the City and the severed territory.
2. The City Clerk shall file a copy of the resolution, map and legal description with the Board of Supervisors in which the territory is located, the Secretary of State and the Department of Transportation.
3. The Secretary of State shall not accept a severance that will create an island of unincorporated territory.
4. The severance is considered complete upon acknowledgement by the Secretary of State that the legal description, map, and resolution have been received

Voluntary Severance of Territory from One City and Annexation Into Another City

[Iowa Code §368.25A](#)

Approval by either City Council may be conditioned upon an agreement entered into by the cities providing for the transition of property taxes or the sharing of property tax revenues from the real property described in the petition for a period not to exceed forty years and providing for all necessary zoning ordinance changes within a period not to exceed ten years. An agreement between cities under this subsection shall be filed with the board at the same time the approved petition is filed. An agreement may include additional transition provisions relating to the transfer or sharing of property tax revenues for property outside the boundaries of the territory described in the petition and any other provisions deemed by the cities to be in the public interest if such actions are within the authority of the cities.

1. A petition for severance shall be filed with the City Council from which severance is requested and a petition for annexation shall be filed with the City Council to which annexation is requested. The petition shall be substantially in the form required as in **Iowa Code §368.7**.
2. The City Council from which severance is requested must pass a resolution of approval of severance.
3. At least **fourteen (14) business days** prior to any action on the **annexation** application(s) by the City, including the public hearing, the City shall provide a copy of the **annexation** application(s) (including the legal description and map of the territory showing its location in relationship to the City) by **CERTIFIED MAIL** to:

- a. Each public utility that serves the Annexation Territory.
 - b. The City Council of each City with a boundary that adjoins or is within two (2) miles of the Annexation Territory.
 - c. The chair of the Board of Supervisors for each County containing a portion of the Annexation Territory; and
 - d. Regional Planning Authority that serves the Annexation Territory.
4. At least **fourteen (14) business days** prior to any action by the City Council on the **annexation** application(s), including the public hearing, the City shall provide written notice of the application(s) (including a legal description of the territory) and the time and place of the public hearing by **REGULAR MAIL** to:
 - a. The Iowa Attorney General (if the Annexation Territory includes property owned by the State of Iowa.
 - b. The County Attorney (if the Annexation Territory includes territory within the road right of way owned by a County); and
 - c. The Railroad (if the Annexation Territory includes property owned by the railroad).
 5. Prior to any action by the City Council on the **annexation** application(s), including the public hearing, the City shall publish notice of the application(s) and public hearing in an official county newspaper and the notice shall include the time and place of the public hearing and a legal description of the Annexation Territory at least **10 business days** prior to any action by the City Council or post in compliance with **Iowa Code §362.3** if the City's population is two hundred (200) or less.
 6. If both the severance and the annexation have been approved by City Council resolution, the annexing City forwards the proposal to the City Development Board.
 7. The City must file one (1) original and one (1) copy of its request and all supporting documentation. Electronic submission is acceptable via email to cdb@iowaeda.com. The Program Administrator will provide written acknowledgement of receipt of the submission. Materials to be submitted to the Board include:
 - a. Applications of the owners (both the severance and **annexation** applications) – **Including documentation establishing authority to sign if the property is owned by a business, trust, or any other entity other than a natural person or being sold under contract.**
 - b. Listing of all properties included in the Annexation Territory including the following for each property (including voluntary applicants, railroad right of way, state owned right of way, and/or county road right of way):
 - i. Legal Owner of and Address of each property;
 - ii. Parcel ID if available;
 - iii. Number of Acres – Net Acres, ROW Acres, Gross Acres; and **(Ex: 95 net acres – 3 County ROW acres = 98 gross acres)**
 - iv. Full Legal Description – **(a brief legal description or the legal description shown on the assessor's website is not acceptable)**
 - c. Full legal description of the entire annexation territory including the right of way to the centerline of all secondary roads adjoining the Annexation Territory. **Please submit a word version of the legal description to cdb@iowaeda.com.**
 - d. Documentation that the County Auditor has verified the accuracy and completeness of the legal description of all territory proposed to be annexed and verified current ownership of the properties included in the Annexation Territory.
 - e. Map(s) of the Annexation Territory **CLEARLY** showing the entire boundary of the existing City, the entire Annexation Territory, adjacent roadways, and the relationship of the Annexation Territory to the annexing City. More than one map may be submitted to provide all of the required information to the Board, if necessary.

- f. Copies of all notices, publications, **and** certification that the City has complied with the notice requirements of **Iowa Code Chapter 368**, including proof of mailing of the **annexation** application(s) and affidavit of publication of the required public notice. For purposes of calculating the required periods of mailings and notices, “business days” shall include Monday through Friday of each week, excluding “legal holidays” as set forth in **Iowa Code §4.1(34)** and the first day shall be excluded and the last day included.
 - g. General Statement of the Proposed Annexation by the City including:
 - h. Current & Expected Use of the Annexation Territory.
 - i. Description of existing and proposed municipal services and facilities including but not limited to: water supply, sanitary sewer services, public safety (Fire, EMS, Police) services, street and road maintenance, parks and recreation services, library and culture services, etc.
 - ii. Reasons for Landowner’s Request(s) for Annexation, if known.
 - iii. Statement indicating whether the Annexation Territory is subject to an existing moratorium agreement entered into pursuant to **Iowa Code §368.4**, and, if so, whether the proposed annexation is consistent with the terms of the agreement.
 - iv. Statement indicating whether state-owned property or county-owned road right-of-way has been included in the proposed annexation. If the territory proposed for annexation includes right-of-way for a state highway, documentation of consultation with the Iowa Department of Transportation must also be included.
 - v. Statement relating to any proposed formal agreements between the annexing City and affected County for the maintenance, improvement, and/or traffic control of any shared or divided road as a result of the proposed annexation.
 - vi. Statement indicating if any 28E agreements are impacted by the proposed annexation; and
 - vii. Statement indicating whether the City has applied [Smart Planning Principles](#) to the Annexation Territory and, if applicable, a description of how the City has applied, or intends to apply, the principles.
 - i. City Council resolution approving the proposed annexation and if, at the discretion of the of the City Council, the provision of transition for the imposition of City taxes against property within the Annexation Territory pursuant to **Iowa Code §368.11(3)(m)(1)** has been approved.
 - j. City Council resolution approving the proposed severance.
 - k. Copy of any agreement(s) between the cities relating to boundary adjustments pertaining to the properties included in the annexation territory and/or agreements relating to the transition of property taxes from the real property contained in the annexation territory.
8. The Board will consider the severance/annexation proposal at its first meeting conducted thirty-one (31) days or more after the petition is filed. The Board will provide notice of the meeting to consider the filing of the annexation proposal. At this meeting, the Board will hear input on whether the proposal is complete and properly filed. If the application is accepted, a date for public hearing is set.
 9. The Board will provide notice of the public hearing hold the public hearing pursuant to the notice. After hearing all evidence, the Board will decide whether to approve or deny the severance/annexation and may only approve the boundary adjustment if the Board also approves any agreements between the Cities pursuant to **Iowa Code Chapter 368**.
 - a. If the severance/annexation is approved, the Board shall issue a written decision to the City Clerk of the annexing City, the severing City and other required parties

pursuant to **Iowa Code §368.7(3)**. Upon expiration of the 30-day appeal period, the Board will file copies of the Board's proceedings with the Secretary of State, County Recorder, Department of Transportation and required parties pursuant to **Iowa Code §368.20(2)**.

- b. If the severance/annexation is denied, the Board will notify the parties as required by **Iowa Code §368.7(3)**.
10. The annexation is complete upon acknowledgement by the Secretary of State that the legal description, map, and resolution have been received.

Involuntary Severance

[Iowa Code §368.11](#)

1. 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 registered voters 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, the Council of a City if an incorporation includes territory within the City's urbanized area, and any Regional Planning Authority for the area involved.
2. Within ninety (90) 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 or which provide for a boundary adjustment or incorporation affecting common territory. The combined petitions may be submitted for consideration by a special local committee pursuant to **Iowa Code §368.14A**.
3. The petition must substantially include the information as listed in [Iowa Code §368.11\(3\)](#).
4. At least **fourteen (14) business days** before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known by sending a letter of intent by certified mail to the Council of each City whose urbanized area contains a portion of the territory, the Board of Supervisors of each county which contains a portion of the territory, the Regional Planning Authority of the territory involved, each affected public utility, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.
5. Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official County newspaper in each county which contains a part of the territory at least five days before the date of the public meeting. The mayor of the City proposing to annex the territory, or that person's designee, shall serve as chairperson of the public meeting. The City Clerk of the same City or the City Clerk's designee shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the County Board of Supervisors of each county where the territory is located and to the Board by the chairperson of the meeting.
6. Within thirty (30) days after receiving notice that a petition for involuntary annexation has been filed with the Board, the Board of Supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the petition or whether it takes no position in support of or against the petition. If there is a comprehensive plan for the County, the Board shall take the plan into account when

considering its resolution. A copy of the resolution shall be immediately filed with the annexing City and with the City Development Board. Failure of a Board of Supervisors to adopt a resolution shall not delay the proceedings on the petition nor shall such failure be considered a deficiency either in the petition or in the annexing City's proceedings.

PLEASE NOTE: Pursuant to [Iowa Code section 312.3\(4\)](#), the Mayor and Council shall certify the actual population of the Annexation Territory as determined by the last census to the State Treasurer. The certification should be sent to: Treasurer of the State of Iowa, c/o RUT, Capitol Building, Des Moines, IA 50319 or treasurer@tos.iowa.gov.