

Red Tape Review Rule Report (Due: September 1, 20 23)

Department Name:	City Development Board	Date:	8/31/2023	Total Rule Count:	11
IAC #:	263	Chapter/ SubChapter/ Rule(s):	Chapter 8	Iowa Code Section Authorizing Rule:	Chapter 368
Contact Name:	Lisa Connell	Email:	lisa.connell@iowaeda.com	Phone:	515-348-6163

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter describes the application and approval procedures for petitions for involuntary city development board action.

Is the benefit being achieved? Please provide evidence.

Yes. Cities, counties, regional planning authorities, and registered voters (“petitioners”) are able to apply for and receive board decisions on petitions for involuntary city development board action.

What are the costs incurred by the public to comply with the rule?

Petitioners require staff time to compile and submit documentation to the board and to participate in any necessary meetings or hearings where a petition is considered. Additionally, the cost of recording board orders approving petitions are paid by the petitioner.

What are the costs to the agency or any other agency to implement/enforce the rule?

Pursuant to Iowa Code section 368.9, the Economic Development Authority (IEDA) provides office space and staff assistance to the board and budgets funds to cover expenses of the board and committees created pursuant to chapter 368. Staff time is required to review applications and administer the board’s activities.

Do the costs justify the benefits achieved? Please explain.

Yes. The documentation and procedures outlined in this chapter ensure the board can fulfill its oversight obligations as imposed by Iowa Code chapter 368.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The board's oversight obligations are imposed by Iowa Code chapter 368. The documentation and procedures outlined in the chapter are no more than necessary to fulfil those obligations.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes.

Rule 263.8.1 should be updated to clarify the purpose of the chapter.

Rule 263.8.2 should be repealed because it is redundant of statutory language. Reference to the applicable sections of statute can be added to rule 263.8.1.

Rule 263.8.3 should be updated to use more concise language and remove statutory language.

Rule 263.8.4 should be updated to use more concise language.

Rule 263.8.5 should be updated to use more concise language and remove statutory language.

Rule 263.8.7 should be updated to use more concise language.

Rule 263.8.8 should be updated for clarity.

Rule 263.8.9 should be updated for clarity.

Rule 263.8.10 should be updated to use more concise language and remove statutory language.

Rule 263.8.11 should be updated to use more concise language and remove statutory language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

263.8.2

***RULES PROPOSED FOR RE-PROMULGATION* (list rule number[s] or include text if available):**

CHAPTER 8
PETITIONS FOR INVOLUNTARY CITY DEVELOPMENT ACTION

263—8.1(368) Purpose. This chapter addresses the requirements and processes for city development board approval of petitions for involuntary city development action, including incorporation, discontinuance, annexation, severance, or consolidation. Such petitions shall be initiated pursuant to Iowa Code sections 368.11 or 368.13 and this chapter. The body or bodies initiating the petition will be referred to in this chapter as the petitioner(s).

263—8.2(368) Contents of the petition. This rule describes the information and documentation a petitioner is required to include in its petition.

8.2(1) General requirements. The petition must provide all applicable information required by Iowa Code section 368.11(3). The petition must clearly identify the petitioner, the proposed action, and the name and address of each property owner within the affected territory. Affected territory shall be identified by complete legal description including, if applicable, right-of-way to the center line of secondary roads. The petition shall state that it does not propose any action prohibited by Iowa Code section 368.17. The petition shall include an overview of the proposed action and briefly describe the affected city or cities, the affected territory and the reasons for the proposed action.

8.2(2) Moratorium. The petition shall contain a statement indicating whether an applicable city is a party to an existing moratorium agreement entered pursuant to Iowa Code section 368.4 and, if so, whether the proposed annexation is consistent with the terms of the agreement.

8.2(3) Map. The map or maps included in the petition shall clearly show all boundaries of the affected city or cities and all affected territory, adjacent roadways, the relationship of the affected territory to any city, and all geographic features deemed relevant to the proposed action. If the petition proposes incorporation, the proposed city boundary shall be shown. The board may request that the petitioner provide information demonstrating the existing and anticipated use of the territory.

8.2(4) County auditor verification. The petition shall include documentation that the county auditor has verified the accuracy and completeness of the legal description of all affected territory and verified current ownership of the parcel(s) included. If the auditor fails to respond to the petitioner's request for verification within 14 days, the petitioner may provide a copy of the request and a statement indicating that no response was received.

8.2(5) Assessed valuations. The petition shall include the assessed valuation and classification assigned for tax purposes (agricultural, residential, commercial, etc.) for each parcel of platted and unplatted land within the affected territory. Documentation shall be provided that the information required by this subrule has been verified in writing by the applicable city or county assessor. If the assessor fails to provide the requested verification within 14 days, the petitioner may provide a copy of the request and a statement indicating that the verification was not provided.

8.2(6) Population density. Population density shall be delineated for the existing city, the territory, and for the resulting city if the proposal is approved. Population density shall be expressed as persons per acre if the petition proposes annexation or persons per square mile if the petition proposes incorporation, discontinuance, severance or consolidation.

8.2(7) Population growth. If the petition seeks annexation, consolidation or incorporation, the petition shall include projected population growth for the city and the territory. Population projections shall be for a 10- or 20-year period and may be taken from an existing comprehensive plan or may be calculated based on relevant data if no comprehensive plan exists.

8.2(8) Regulations and projections. The petition shall include a description of current and proposed zoning regulations that apply to the affected territory. Projected development and land use patterns shall be described as if existing land use regulations will be continued and as if new applicable land use regulations would be applied after annexation, if approved. Residential, commercial, and industrial development projections shall be provided based on population projections for the city and territory.

If the petition proposes annexation, the amount of vacant developable land within the existing corporate limits and within the territory, as well as an estimate of the amount of developable land needed to accommodate future growth, shall be provided.

8.2(9) Topography. Topographical information shall be in map and narrative form. Maps shall include any affected city and the affected territory and shall consist of contour lines at ten-foot intervals as may be taken from contour maps of the United States Geological Survey or any other source acceptable to the board. A narrative description shall identify flood plains, drainage areas, drainage ways, slopes and bluffs. In petitions proposing annexation or incorporation, the narrative shall also address potential impacts of topography on development of urban uses and the extension of municipal services.

8.2(10) Plans. Petitions shall describe plans for disposal of assets, assumption of liabilities, and provision of services as applicable to the action requested in the petition.

a. Petitions for annexation, consolidation and incorporation shall describe existing and proposed municipal services and facilities, including but not limited to water supply, sewage disposal, police and fire protection, and street and road maintenance and the estimated cost of providing proposed services.

b. Petitions for annexation shall describe the capability of the existing city sewage system, water system, transportation infrastructure, park and recreation system, and police, fire, and public works departments to accommodate the addition of territory and projected development. The petition shall also include an analysis of existing bonding capacity and bonded indebtedness, and the assets a city may receive including property tax, increase in municipal bonding capacity, state and federal shared revenues, special assessment policies, revenue bonds, user fees, and federal funds where applicable.

c. Petitions for incorporation shall describe the capability of the proposed city to develop a sewage system, water system, transportation infrastructure, park and recreation system, and police, fire, and public works departments to accommodate the territory proposed for incorporation, and an explanation of the assets the proposed city may receive, including property tax, increase in municipal bonding capacity, state and federal shared revenues, special assessment policies, revenue bonds, user fees, and federal funds where applicable.

d. Petitions for severance and discontinuance shall describe the adequacy of sewage disposal, water supply, police and fire protection, and other municipal services being provided to the territory by the city. Such petitions shall also include a statement of the capability and intent of the county in which the city or territory is located to assume responsibility for police protection, street and road maintenance and repair, and other services; and an analysis of the capability of the township fire district to provide fire protection.

e. Petitions for discontinuance shall include an inventory of all real estate, funds, and personal property owned by the city and all existing liabilities of the city, and a proposal for disposition of all assets and satisfaction or assumption of all liabilities.

8.2(11) Committee consideration. The petition shall include documentation to allow assessment of the relevant considerations for committee approval in Iowa Code section 368.16.

8.2(12) Service agreements. The petition shall identify services which may be provided through agreement with township

fire districts, rural water and sanitary districts, and proposed agreements with any county or city for police protection, ambulance service, or any other service deemed to be of importance to the proposed boundary adjustment and shall present examples of existing service agreements.

8.2(13) Shared roads. The petition shall include a proposed formal agreement between affected municipal corporations and counties for the maintenance and improvement and traffic control of any road that is divided as a result of an incorporation or a boundary adjustment.

263—8.4(368) Preliminary notice and public meeting. A petitioner initiating an involuntary city development proceeding shall comply with the applicable notice, publication, and public meeting requirements contained in Iowa Code section 368.11. For purposes of calculating the required period of notice, “business days” include Monday through Friday of each week, except “legal holidays” as set forth in Iowa Code section 4.1(34). Proof of substantial compliance with these requirements, including copies of certified mail receipts, certification of publication of notice of the meeting, minutes of the public meeting and copies of the documents received at the meeting, shall accompany each petition submitted pursuant to this chapter.

263—8.5(368) Filing and service. The petitioner shall send two copies of a petition, including all supporting documentation, to the board. A petition will be deemed filed with the board on the date it is received by board staff. The board shall acknowledge receipt of the petition. The petitioner shall serve notice of the filing as required by Iowa Code section 368.11(1) within seven days of filing a petition with the board. The petitioner shall file proof of compliance with the service requirement with the board.

263—8.6(368) Costs. All costs which are incurred in drafting a petition, preparing supporting documents, mailing and publishing notices and other preliminary proceedings and the cost of recording, if the proposal is approved, shall be borne by the petitioner(s).

263—8.7(368) Staff review of petition. Within two weeks of receiving a petition filed pursuant to this chapter, board staff will review the request to determine whether the petitioner has filed all required information. If the petition is incomplete, staff shall notify the petitioner, identifying the required item(s) omitted and offering the petitioner an opportunity to provide the omitted information prior to submission of the petition to the board.

263—8.8(368) Submission of petition to the board—notice. A petition filed pursuant to this chapter will be considered by the board at the first meeting conducted 31 days or more after the petition is filed. The board shall provide the petitioner with notice of all meetings at which the board will consider the petition.

263—8.9(368) Board review of petition—waiver. Upon submission of a petition, the board shall review the petition for substantial compliance with Iowa Code section 368.11 and this chapter. In conducting this review, the board will presume that factual assertions made within the petition are accurate. The board may, however, request and examine appropriate public records or request additional information from the petitioner if deemed necessary to its review. The board may waive any requirement of this chapter upon finding the requirement inapplicable to the petition under review.

263—8.10(368) Board action on petition. The board shall accept for further proceedings any petition that it finds to be in substantial compliance with Iowa Code section 368.11 and this chapter. The board may dismiss a petition pursuant to Iowa Code section 368.12.

263—8.11(368) Formation of local committee. If the petition is accepted by the board for further proceedings, the board shall direct the appointment of local representatives to a committee as required by Iowa Code section 368.14. Committee appointments shall be made by resolutions of the appropriate governing bodies within 45 days of issuance of the board’s order. The resolutions shall state that the local representative selected is qualified to serve on the committee pursuant to Iowa Code section 368.14. Copies of the resolutions and the address and telephone number of each local representative shall be promptly submitted to the board. In the event a city or county fails to timely notify the board of appointment of its local representative, the committee may conduct its proceedings in the absence of that local representative so long as a quorum is present.

These rules are intended to implement Iowa Code chapter 368.

****For rules being re-promulgated with changes, you may attach a document with suggested changes, if available.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	682*
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	15*

*Estimated. The reduction in word count and restrictive terms may be impacted by the board's review of the proposed updates.

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.