

House Engrossed
incorporation; urban areas

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 108
HOUSE BILL 2455

AN ACT

AMENDING SECTIONS 9-101 AND 9-101.01, ARIZONA REVISED STATUTES; RELATING
TO MUNICIPAL FORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-101, Arizona Revised Statutes, is amended to
3 read:

4 9-101. Incorporation; definitions

5 A. If two-thirds of the qualified electors residing in a community
6 containing a population of fifteen hundred or more inhabitants or in a
7 community within ten miles of the boundary of a national park or monument
8 that contains a population of five hundred or more persons petition the
9 board of supervisors, setting forth the metes and bounds of the community,
10 and the name under which the petitioners desire to be incorporated, and
11 praying for the incorporation of the community into a city or town, and
12 the board is satisfied that two-thirds of the qualified electors residing
13 in the community have signed the petition, it shall declare, by an order
14 entered of record, the community incorporated as a city or town.

15 B. If ten percent of the qualified electors residing in a community
16 containing a population of fifteen hundred or more persons or in a
17 community within ten miles of the boundary of a national park or monument
18 that contains a population of five hundred or more persons petition the
19 board of supervisors in the manner prescribed in subsection A of this
20 section, praying for the calling of an election with the express intent to
21 incorporate the community as a city or town, the board, within sixty days
22 after the map and petition, complete with signatures, are filed with the
23 board, shall call the election. The map and petition shall be filed
24 simultaneously or within twenty-four hours of each other. The election
25 shall take place on a date prescribed by section 16-204 but not more than
26 one hundred eighty days after the petition has been filed with the board,
27 complete with signatures, except that an election shall not be called
28 within twelve months after the date of a previous election for
29 incorporation of substantially the same territory. Only qualified
30 electors of the community shall vote on this question. If a majority of
31 qualified electors voting thereon votes for incorporation, then the board,
32 by an order entered of record, shall declare the community incorporated as
33 a city or town.

34 C. Before obtaining any signatures on a petition required by
35 subsection A or B of this section, the petitioners shall do the following:

36 1. AT LEAST SIX MONTHS BEFORE PUBLISHING A COPY OF THE PETITION FOR
37 INCORPORATION OF A COMMUNITY PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION,
38 PROVIDE TO THE BOARD WRITTEN NOTICE OF THEIR INTENTION TO PUBLISH A COPY
39 OF THE PETITION FOR INCORPORATION OF THE COMMUNITY. THE WRITTEN NOTICE
40 SHALL ALSO BE PUBLISHED FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF
41 GENERAL CIRCULATION IN THE AREA TO BE AFFECTED.

1 ~~1.~~ 2. Publish a copy of the petition, setting forth the metes and
2 bounds of the community to be incorporated, in a newspaper of general
3 circulation in the area to be affected for two consecutive weeks **AT LEAST**
4 **SIX MONTHS AFTER PROVIDING WRITTEN NOTICE TO THE BOARD PURSUANT TO**
5 **PARAGRAPH 1 OF THIS SUBSECTION.** Members of the public may request
6 modifications to the metes and bounds of the community by presenting
7 alternatives to the petitioners.

8 ~~2.~~ 3. Not less than sixty days after publishing the notice
9 pursuant to paragraph ~~1~~ 2 of this subsection, submit a copy of the
10 petition to the county recorder or the county elections department. The
11 petition shall state its purpose clearly and concisely and shall be in the
12 form and signed and verified as generally provided for initiative
13 petitions. The petition shall set forth the metes and bounds of the
14 community and shall state that petition signers desire for the community
15 to become incorporated as a city or town. The petitioners shall also
16 submit a copy of the notice published pursuant to paragraph ~~1~~ 2 of this
17 subsection.

18 D. Not later than the next regularly scheduled board meeting
19 following the submission of the proper and legal petition to the county
20 recorder or county elections department but within thirty days after
21 submission of the petition, the board shall authorize the circulation of
22 the petition. ~~Petitions~~ **PETITIONERS** have one hundred eighty days after
23 the date of the meeting at which the circulation of the petition is
24 approved to obtain the required number of signatures.

25 E. By whichever proceeding the incorporation of a city or town is
26 accomplished, the order shall designate the name of the city or town, and
27 its metes and bounds, and thereafter the inhabitants within the area so
28 defined shall be a body politic and corporate by the name designated.

29 F. An area to be incorporated shall not include large areas of
30 uninhabited, rural or farm lands, but it shall be urban in nature. ~~UNLESS~~
31 **EITHER:**

32 1. **THE UNINHABITED, RURAL OR FARM LANDS HAVE BEEN PLATTED AND**
33 **APPROVED BY THE BOARD OF SUPERVISORS FOR HOUSING OR COMMERCIAL DEVELOPMENT**
34 **BEFORE FILING A PETITION PURSUANT TO SUBSECTION A OR B OF THIS SECTION.**

35 2. **THE CURRENT OWNER OF THE UNINHABITED, RURAL OR FARM LANDS AGREES**
36 **TO INCLUDE THE PROPERTY IN THE PROPOSED INCORPORATION AREA AND PROVIDES TO**
37 **THE PETITIONERS A WRITTEN, NOTARIZED STATEMENT SUPPORTING INCLUDING THE**
38 **PROPERTY IN THE PROPOSED INCORPORATION AREA WITH AN ATTACHED COPY OF A MAP**
39 **OF THE PROPOSED INCORPORATION AREA.**

40 G. Territory shall not be incorporated if, as a result of such
41 incorporation, unincorporated territory is completely surrounded by
42 incorporated areas nor shall an area to be incorporated exclude interior
43 county streets and roads, unless the board of supervisors approves the
44 exclusion of such territory, streets and roads.

1 H. The board shall exclude from the community proposed to be
2 incorporated pursuant to subsection A or B of this section any territory
3 that has been included in an annexation ordinance adopted by a city or
4 town pursuant to law after the incorporation petition has been submitted
5 pursuant to subsection C of this section. If the remaining community
6 fails to meet the qualifications for incorporation, the board of
7 supervisors shall reject the petition.

8 I. For the purposes of this section, metes and bounds may be
9 described by roads that make up the boundaries of the community.

10 J. For the purposes of this section: ~~;~~

11 1. "Community" means a locality in which a body of people resides
12 in more or less proximity having common interests in such services as
13 public health, public protection, fire protection and water that bind
14 together the people of the area, and where the people are acquainted and
15 mingle in business, social, educational and recreational activities.

16 2. "UNINHABITED" INCLUDES LAND OWNED BY A MINING OR METALLURGICAL
17 COMPANY.

18 Sec. 2. Section 9-101.01, Arizona Revised Statutes, is amended to
19 read:

20 9-101.01. Incorporation; urbanized area

21 A. Notwithstanding any other law, all territory within six miles of
22 an incorporated city or town, as the same now exists or may hereafter be
23 established, having a population of five thousand or more persons, and all
24 territory within three miles of any incorporated city or town, as the same
25 now exists or may hereafter be established, having a population of less
26 than five thousand persons is declared to be an urbanized area.

27 B. Except as provided in subsection D of this section, territory
28 within an urbanized area shall not hereafter be incorporated as a city or
29 town, and the board of supervisors does not have jurisdiction to take any
30 action on a petition pursuant to section 9-101 to incorporate a city or
31 town within such area, unless either:

32 1. The petitioners for incorporation submit to the board of
33 supervisors, before the petitioners obtain signatures, a resolution
34 adopted by the city or town causing the urbanized area to exist approving
35 the proposed incorporation.

36 2. The petitioners for incorporation submit to the board of
37 supervisors, before the petitioners obtain signatures, an affidavit
38 stating that a proper and legal petition has been presented to the city or
39 town causing the urbanized area to exist requesting annexation of the area
40 proposed for incorporation and the petition has not been approved by a
41 valid ordinance of annexation within one hundred twenty days after its
42 presentation.

1 C. If a resolution or affidavit is submitted to the board of
2 supervisors pursuant to subsection B of this section, the board shall take
3 action on the petition pursuant to section 9-101 to incorporate the
4 proposed area.

5 D. If the area proposed for incorporation has a population of
6 fifteen thousand or more persons and that population is more than the
7 population of the city or town that causes the urbanized area to exist and
8 that opposes the proposed incorporation, the board of supervisors shall
9 take action on the petition pursuant to section 9-101 to incorporate the
10 proposed area without a resolution approving the proposed incorporation
11 and adopted by the city or town causing the urbanized area to exist.

12 E. Notwithstanding any other provisions of this section, a portion
13 of the territory of any city or town incorporated before June 20, 1968
14 shall not be declared to be an urbanized area. If any such city or town
15 is declared to have been unlawfully incorporated by the final judgment of
16 a court of competent jurisdiction after June 20, 1968, all or any portion
17 of the territory of the city or town may be incorporated without regard to
18 this section if petitions praying for the incorporation thereof or
19 petitions praying for the calling of an election for such purpose are
20 filed with the board of supervisors within one year after the date on
21 which the judgment becomes final.

22 ~~F. Subsection D of this section does not apply to an area or a~~
23 ~~portion of an area covered by a planned community association as defined~~
24 ~~in section 33-1802 during the period of declarant control unless the~~
25 ~~declarant grants permission to the party seeking to submit a petition to~~
26 ~~incorporate pursuant to subsection B of this section. Before obtaining~~
27 ~~signatures, the petitioner shall:~~

28 ~~1. Notify the principals of all planned community associations~~
29 ~~located within the boundaries of the proposed incorporation regarding the~~
30 ~~proposed incorporation.~~

31 ~~2. Submit the declarants' written permission to the county recorder~~
32 ~~or county elections department.~~

33 ~~3. Submit to the county recorder or elections department a list of~~
34 ~~planned community associations that have been notified. The list shall~~
35 ~~include:~~

36 ~~(a) The name of the owner of the property within the boundaries of~~
37 ~~the proposed incorporation or developer of each subdivision within the~~
38 ~~boundaries of the proposed incorporation.~~

39 ~~(b) The mailing address of the owner of the property within the~~
40 ~~boundaries of the proposed incorporation or developer of each subdivision~~
41 ~~within the boundaries of the proposed incorporation.~~

42 ~~(c) The date the owner of the property within the boundaries of the~~
43 ~~proposed incorporation or developer of each subdivision within the~~
44 ~~boundaries of the proposed incorporation was notified by the petitioners~~
45 ~~about the proposed incorporation.~~

1 F. IF A PLANNED COMMUNITY ASSOCIATION AS DEFINED IN SECTION
2 33-1802, DURING THE PERIOD OF DECLARANT CONTROL, NOTIFIES THE BOARD OF ITS
3 REQUEST TO BE EXCLUDED FROM THE PETITION TO INCORPORATE, THE BOARD SHALL
4 EXCLUDE FROM THE COMMUNITY PROPOSED TO BE INCORPORATED THE AREA OR PORTION
5 OF THE AREA COVERED BY THE PLANNED COMMUNITY ASSOCIATION AFTER THE
6 PETITION HAS BEEN SUBMITTED PURSUANT TO SECTION 9-101, SUBSECTION C,
7 PARAGRAPH 3. THE PETITIONERS ARE NOT REQUIRED TO RESUBMIT A PETITION IF
8 THE REMAINING AREA PROPOSED FOR INCORPORATION MEETS THE POPULATION
9 QUALIFICATIONS FOR INCORPORATION PURSUANT TO THIS SECTION AND SECTION
10 9-101. IF THE REMAINING AREA PROPOSED FOR INCORPORATION FAILS TO MEET THE
11 POPULATION QUALIFICATIONS FOR INCORPORATION PURSUANT TO THIS SECTION OR
12 SECTION 9-101, THE BOARD SHALL REJECT THE PETITION.

APPROVED BY THE GOVERNOR APRIL 6, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2022.