

Senate Engrossed
incorporation; urbanized areas

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 41
SENATE BILL 1299

AN ACT

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

(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; definition

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

16 B. ~~When~~ IF ten ~~per cent~~ PERCENT of the qualified electors residing
17 in a community containing a population of fifteen hundred or more persons
18 or in a community within ten miles of the boundary of a national park or
19 monument that contains a population of five hundred or more persons
20 petition the board of supervisors in the manner prescribed in subsection A
21 of this section, praying for the calling of an election ~~for the purpose~~
22 ~~provided in this section,~~ WITH THE EXPRESS INTENT TO INCORPORATE THE
23 COMMUNITY AS A CITY OR TOWN, the board, ~~shall~~ within sixty days after
24 ~~filing the petition~~ THE MAP AND PETITION, COMPLETE WITH SIGNATURES, ARE
25 FILED WITH THE BOARD, SHALL call the election. THE MAP AND PETITION SHALL
26 BE FILED SIMULTANEOUSLY OR WITHIN TWENTY-FOUR HOURS OF EACH OTHER. ~~, and~~
27 The election shall take place on a date prescribed by section 16-204 but
28 not more than one hundred eighty days after the petition ~~is filed,~~ HAS
29 BEEN FILED WITH THE BOARD, COMPLETE WITH SIGNATURES, except that ~~no such~~
30 AN election shall NOT be called within twelve months ~~from~~ AFTER the date
31 of a previous election for incorporation of substantially the same
32 territory. Only qualified electors of the community shall vote on this
33 question. If a majority of qualified electors voting thereon votes for
34 incorporation, then the board ~~of supervisors shall,~~ by an order entered of
35 record, SHALL declare the community incorporated as a city or town.

36 C. ~~Prior to~~ BEFORE obtaining any signatures on a petition required
37 by subsection A or B of this section, THE PETITIONERS SHALL DO THE
38 FOLLOWING:

39 1. PUBLISH A COPY OF THE PETITION, SETTING FORTH THE METES AND
40 BOUNDS OF THE COMMUNITY TO BE INCORPORATED, IN A NEWSPAPER OF GENERAL
41 CIRCULATION IN THE AREA TO BE AFFECTED FOR TWO CONSECUTIVE WEEKS. MEMBERS
42 OF THE PUBLIC MAY REQUEST MODIFICATIONS TO THE METES AND BOUNDS OF THE
43 COMMUNITY BY PRESENTING ALTERNATIVES TO THE PETITIONERS.

44 2. NOT LESS THAN SIXTY DAYS AFTER PUBLISHING THE NOTICE PURSUANT TO
45 PARAGRAPH 1 OF THIS SUBSECTION, SUBMIT a copy of ~~such~~ THE petition ~~shall~~

1 ~~be filed with TO~~ the county recorder or, ~~in a county having an elections~~
2 ~~department, with~~ the county elections department. The petition shall
3 state its purpose clearly and concisely and shall be in the form and
4 signed and verified as generally provided for initiative
5 petitions. ~~Petitioners shall have one hundred eighty days from the date~~
6 ~~of such filing to obtain the required number of signatures.~~ THE PETITION
7 SHALL SET FORTH THE METES AND BOUNDS OF THE COMMUNITY AND SHALL STATE THAT
8 PETITION SIGNERS DESIRE FOR THE COMMUNITY TO BECOME INCORPORATED AS A CITY
9 OR TOWN. THE PETITIONERS SHALL ALSO SUBMIT A COPY OF THE NOTICE PUBLISHED
10 PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION.

11 D. NOT LATER THAN THE NEXT REGULARLY SCHEDULED BOARD MEETING
12 FOLLOWING THE SUBMISSION OF THE PROPER AND LEGAL PETITION TO THE COUNTY
13 RECORDER OR COUNTY ELECTIONS DEPARTMENT BUT WITHIN THIRTY DAYS AFTER
14 SUBMISSION OF THE PETITION, THE BOARD SHALL AUTHORIZE THE CIRCULATION OF
15 THE PETITION. PETITIONS HAVE ONE HUNDRED EIGHTY DAYS AFTER THE DATE OF
16 THE MEETING AT WHICH THE CIRCULATION OF THE PETITION IS APPROVED TO OBTAIN
17 THE REQUIRED NUMBER OF SIGNATURES.

18 ~~E.~~ E. By whichever proceeding the incorporation of a city or town
19 is accomplished, the order shall designate the name of the city or town,
20 and its metes and bounds, and thereafter the inhabitants within the area
21 so defined shall be a body politic and corporate by the name designated.

22 F. An area to be incorporated shall not include large areas of
23 uninhabited, rural or farm lands, but it shall be urban in nature.

24 G. Territory shall not be incorporated if, as a result of such
25 incorporation, unincorporated territory is completely surrounded by
26 incorporated areas nor shall an area to be incorporated exclude interior
27 county streets and roads, unless the board of supervisors approves the
28 exclusion of such territory, streets and roads.

29 H. The board ~~of supervisors~~ shall exclude from the community
30 proposed to be incorporated pursuant to subsection A or B of this section
31 any territory ~~which~~ THAT has been included in an annexation ordinance
32 adopted by a city or town pursuant to law after the incorporation petition
33 has been ~~filed~~ SUBMITTED pursuant to subsection C of this section. If the
34 remaining community fails to meet the qualifications for incorporation,
35 the board of supervisors shall reject the petition.

36 I. FOR THE PURPOSES OF THIS SECTION, METES AND BOUNDS MAY BE
37 DESCRIBED BY ROADS THAT MAKE UP THE BOUNDARIES OF THE COMMUNITY.

38 ~~E.~~ J. For the purposes of this section, "community" means a
39 locality in which a body of people resides in more or less proximity
40 having common interests in such services as public health, public
41 protection, fire protection and water ~~which~~ THAT bind together the people
42 of the area, and where the people are acquainted and mingle in business,
43 social, educational and recreational activities.

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

3 9-101.01. Incorporation; urbanized area

4 A. Notwithstanding any other law, all territory within six miles of
5 an incorporated city or town, as the same now exists or may hereafter be
6 established, having a population of five thousand or more persons, and all
7 territory within three miles of any incorporated city or town, as the same
8 now exists or may hereafter be established, having a population of less
9 than five thousand persons is declared to be an urbanized area.

10 ~~B. Through December 31, 2020, if the city or town causing the~~
11 ~~urbanized area to exist is in a county in which more than sixty percent of~~
12 ~~the population but less than sixty-five percent of the population lives in~~
13 ~~an incorporated city or town and does not approve a legal and proper~~
14 ~~petition requesting annexation of the area proposed for incorporation by a~~
15 ~~valid ordinance of annexation within one hundred twenty days after its~~
16 ~~presentation:~~

17 ~~1. Within one year after the date of the initial annexation causing~~
18 ~~the urbanized area to exist, all territory within five miles of an~~
19 ~~incorporated city or town, as the same now exists or may hereafter be~~
20 ~~established, having a population of five thousand or more persons is~~
21 ~~declared to be an urbanized area.~~

22 ~~2. Within two years after the date of the initial annexation~~
23 ~~causing the urbanized area to exist, all territory within four miles of an~~
24 ~~incorporated city or town, as the same now exists or may hereafter be~~
25 ~~established, having a population of five thousand or more persons is~~
26 ~~declared to be an urbanized area.~~

27 ~~3. Within three years after the date of the initial annexation~~
28 ~~causing the urbanized area to exist, all territory within three miles of~~
29 ~~an incorporated city or town, as the same now exists or may hereafter be~~
30 ~~established, having a population of five thousand or more persons is~~
31 ~~declared to be an urbanized area.~~

32 ~~4. Within four years after the date of the initial annexation~~
33 ~~causing the urbanized area to exist, all territory within two miles of an~~
34 ~~incorporated city or town, as the same now exists or may hereafter be~~
35 ~~established, having a population of five thousand or more persons is~~
36 ~~declared to be an urbanized area.~~

37 ~~5. Within five years after the date of the initial annexation~~
38 ~~causing the urbanized area to exist, all territory within one mile of an~~
39 ~~incorporated city or town, as the same now exists or may hereafter be~~
40 ~~established, having a population of five thousand or more persons is~~
41 ~~declared to be an urbanized area.~~

42 ~~6. Within six years after the date of the initial annexation~~
43 ~~causing the urbanized area to exist, no territory bordering the~~
44 ~~incorporated city or town having a population of five thousand or more~~
45 ~~persons may be declared to be an urbanized area.~~

1 ~~C.~~ B. Except as provided in subsection ~~E or F~~ D of this section,
2 territory within an urbanized area shall not hereafter be incorporated as
3 a city or town, and the board of supervisors does not have jurisdiction to
4 take any action on a petition pursuant to section 9-101 to incorporate a
5 city or town within such area, unless either:

6 1. ~~There is submitted with the petition for incorporation~~ THE
7 PETITIONERS FOR INCORPORATION SUBMIT TO THE BOARD OF SUPERVISORS, BEFORE
8 THE PETITIONERS OBTAIN SIGNATURES, a resolution adopted by the city or
9 town causing the urbanized area to exist approving the proposed
10 incorporation.

11 2. ~~There is filed with the board of supervisors~~ THE PETITIONERS FOR
12 INCORPORATION SUBMIT TO THE BOARD OF SUPERVISORS, BEFORE THE PETITIONERS
13 OBTAIN SIGNATURES, an affidavit stating that a proper and legal petition
14 has been presented to the city or town causing the urbanized area to exist
15 requesting annexation of the area proposed for incorporation and the
16 petition has not been approved by a valid ordinance of annexation within
17 one hundred twenty days after its presentation.

18 ~~D.~~ C. If a resolution or affidavit is ~~filed with~~ SUBMITTED TO the
19 board of supervisors pursuant to subsection ~~C~~ B of this section, the
20 board shall take action on the petition pursuant to section 9-101 to
21 incorporate the proposed area.

22 ~~E. Through December 31, 2020, if the area proposed for~~
23 ~~incorporation has a population of fifteen thousand or more persons, is in~~
24 ~~a county in which more than sixty percent of the population but less than~~
25 ~~sixty-five percent of the population lives in an incorporated city or town~~
26 ~~and all of the area proposed for incorporation has a governing board,~~
27 ~~including a planned community board of directors or a special district~~
28 ~~board, the board of supervisors shall take action on the petition pursuant~~
29 ~~to section 9-101 to incorporate the proposed area or proceed with~~
30 ~~annexation of the area without a resolution adopted by the city or town~~
31 ~~causing the urbanized area to exist approving the proposed incorporation~~
32 ~~or an affidavit filed with the board of supervisors stating that a proper~~
33 ~~and legal petition has been presented to the city or town causing the~~
34 ~~urbanized area to exist requesting annexation of the area proposed for~~
35 ~~incorporation.~~

36 ~~F.~~ D. If the area proposed for incorporation has a population of
37 fifteen thousand or more persons and that population is more than the
38 population of the city or town that causes the urbanized area to exist and
39 that opposes the proposed incorporation, the board of supervisors shall
40 take action on the petition pursuant to section 9-101 to incorporate the
41 proposed area without a resolution approving the proposed incorporation
42 and adopted by the city or town causing the urbanized area to exist.

1 ~~E.~~ E. Notwithstanding any other provisions of this section, a
2 portion of the territory of any city or town incorporated before June 20,
3 1968 shall not be declared to be an urbanized area. If any such city or
4 town is declared to have been unlawfully incorporated by the final
5 judgment of a court of competent jurisdiction after June 20, 1968, all or
6 any portion of the territory of the city or town may be incorporated
7 without regard to this section if petitions praying for the incorporation
8 thereof or petitions praying for the calling of an election for such
9 purpose are filed with the board of supervisors within one year after the
10 date on which the judgment becomes final.

11 ~~H. F. Through December 31, 2020, subsections B, E and F~~
12 ~~SUBSECTION D~~ of this section ~~to~~ DOES not apply to an area or a portion of
13 an area covered by a planned community association as defined in section
14 33-1802 during the period of declarant control unless the declarant grants
15 permission to the party seeking to submit a petition to incorporate
16 pursuant to subsection ~~E~~ B of this section. BEFORE OBTAINING SIGNATURES,
17 THE PETITIONER SHALL:

18 1. NOTIFY THE PRINCIPALS OF ALL PLANNED COMMUNITY ASSOCIATIONS
19 LOCATED WITHIN THE BOUNDARIES OF THE PROPOSED INCORPORATION REGARDING THE
20 PROPOSED INCORPORATION.

21 2. SUBMIT THE DECLARANTS' WRITTEN PERMISSION TO THE COUNTY RECORDER
22 OR COUNTY ELECTIONS DEPARTMENT.

23 3. SUBMIT TO THE COUNTY RECORDER OR ELECTIONS DEPARTMENT A LIST OF
24 PLANNED COMMUNITY ASSOCIATIONS THAT HAVE BEEN NOTIFIED. THE LIST SHALL
25 INCLUDE:

26 (a) THE NAME OF THE OWNER OF THE PROPERTY WITHIN THE BOUNDARIES OF
27 THE PROPOSED INCORPORATION OR DEVELOPER OF EACH SUBDIVISION WITHIN THE
28 BOUNDARIES OF THE PROPOSED INCORPORATION.

29 (b) THE MAILING ADDRESS OF THE OWNER OF THE PROPERTY WITHIN THE
30 BOUNDARIES OF THE PROPOSED INCORPORATION OR DEVELOPER OF EACH SUBDIVISION
31 WITHIN THE BOUNDARIES OF THE PROPOSED INCORPORATION.

32 (c) THE DATE THE OWNER OF THE PROPERTY WITHIN THE BOUNDARIES OF THE
33 PROPOSED INCORPORATION OR DEVELOPER OF EACH SUBDIVISION WITHIN THE
34 BOUNDARIES OF THE PROPOSED INCORPORATION WAS NOTIFIED BY THE PETITIONERS
35 ABOUT THE PROPOSED INCORPORATION.

APPROVED BY THE GOVERNOR MARCH 3, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 3, 2021.