

REFERENCE TITLE: **incorporation; urban areas**

State of Arizona
House of Representatives
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HB 2455

Introduced by
Representatives Carter: Biasiucci, Dunn, Fillmore, Finchem, Kavanagh,
Martinez, Nguyen

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; definition

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. Publish a copy of the petition, setting forth the metes and
37 bounds of the community to be incorporated, in a newspaper of general
38 circulation in the area to be affected for two consecutive weeks. Members
39 of the public may request modifications to the metes and bounds of the
40 community by presenting alternatives to the petitioners.

41 2. Not less than sixty days after publishing the notice pursuant to
42 paragraph 1 of this subsection, submit a copy of the petition to the
43 county recorder or the county elections department. The petition shall
44 state its purpose clearly and concisely and shall be in the form and
45 signed and verified as generally provided for initiative petitions. The

petition shall set forth the metes and bounds of the community and shall state that petition signers desire for the community to become incorporated as a city or town. The petitioners shall also submit a copy of the notice published pursuant to paragraph 1 of this subsection.

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

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

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

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

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

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

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

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

J. For the purposes of this section, "community" means a locality in which a body of people resides in more or less proximity having common interests in such services as public health, public protection, fire protection and water that bind together the people of the area, and where

1 the people are acquainted and mingle in business, social, educational and
2 recreational activities.

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

5 9-101.01. Incorporation; urbanized area

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

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

18 1. The petitioners for incorporation submit to the board of
19 supervisors, before the petitioners obtain signatures, a resolution
20 adopted by the city or town causing the urbanized area to exist approving
21 the proposed incorporation.

22 2. The petitioners for incorporation submit to the board of
23 supervisors, before the petitioners obtain signatures, an affidavit
24 stating that a proper and legal petition has been presented to the city or
25 town causing the urbanized area to exist requesting annexation of the area
26 proposed for incorporation and the petition has not been approved by a
27 valid ordinance of annexation within one hundred twenty days after its
28 presentation.

29 C. If a resolution or affidavit is submitted to the board of
30 supervisors pursuant to subsection B of this section, the board shall take
31 action on the petition pursuant to section 9-101 to incorporate the
32 proposed area.

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

40 E. Notwithstanding any other provisions of this section, a portion
41 of the territory of any city or town incorporated before June 20, 1968
42 shall not be declared to be an urbanized area. If any such city or town
43 is declared to have been unlawfully incorporated by the final judgment of
44 a court of competent jurisdiction after June 20, 1968, all or any portion
45 of the territory of the city or town may be incorporated without regard to

1 this section if petitions praying for the incorporation thereof or
2 petitions praying for the calling of an election for such purpose are
3 filed with the board of supervisors within one year after the date on
4 which the judgment becomes final.

5 ~~F. Subsection B of this section does not apply to an area or a~~
6 ~~portion of an area covered by a planned community association as defined~~
7 ~~in section 33-1802 during the period of declarant control unless the~~
8 ~~declarant grants permission to the party seeking to submit a petition to~~
9 ~~incorporate pursuant to subsection B of this section. Before obtaining~~
10 ~~signatures, the petitioner shall:~~

11 ~~1. Notify the principals of all planned community associations~~
12 ~~located within the boundaries of the proposed incorporation regarding the~~
13 ~~proposed incorporation.~~

14 ~~2. Submit the declarants' written permission to the county recorder~~
15 ~~or county elections department.~~

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

19 ~~(a) The name of the owner of the property within the boundaries of~~
20 ~~the proposed incorporation or developer of each subdivision within the~~
21 ~~boundaries of the proposed incorporation.~~

22 ~~(b) The mailing address of the owner of the property within the~~
23 ~~boundaries of the proposed incorporation or developer of each subdivision~~
24 ~~within the boundaries of the proposed incorporation.~~

25 ~~(c) The date the owner of the property within the boundaries of the~~
26 ~~proposed incorporation or developer of each subdivision within the~~
27 ~~boundaries of the proposed incorporation was notified by the petitioners~~
28 ~~about the proposed incorporation.~~