

Arkansas Code Excerpts regarding Incorporation

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*** Legislation is current through the 2014 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** July 2, 2014. ***

Title 14 Local Government
Subtitle 3. Municipal Government
Chapter 38 Incorporation And Organization Of Municipalities

A.C.A. § 14-38-101 (2014)

14-38-101. Petition for incorporation.

(a) (1) When the inhabitants of a part of any county not embraced within the limits of any city or incorporated town shall desire to be organized into a city or incorporated town, they may apply, by a petition in writing, signed by the greater of either two hundred (200) or a majority of the qualified voters residing within the described territory, to the county court of the proper county.

(2) The petition shall:

(A) Describe the territory proposed to be embraced in the incorporated town and have annexed to it an accurate map or plat of the territory;

(B) State the name proposed for the incorporated town; and

(C) Name the persons authorized to act in behalf of the petitioners in prosecuting the petition.

(b) (1) The court shall not approve the incorporation of any municipality if any portion of the territory proposed to be embraced in the incorporated town shall lie within five (5) miles of an existing municipal corporation and within the area in which that existing municipal corporation is exercising its planning territorial jurisdiction, unless the governing body of the municipal corporation has affirmatively consented to the incorporation by written resolution.

(2) The planning territorial jurisdiction limitation shall not apply if the area proposed to be incorporated is land upon which a real estate development by a single developer,

containing not less than four thousand (4,000) acres, has been or is being developed under a comprehensive plan for a community containing streets and other public services, parks, and other recreational facilities for common use by the residents of the community, churches, schools, and commercial and residential facilities, and which has been subdivided into sufficient lots for residential use to accommodate a projected population of not fewer than one thousand (1,000) persons, and for which a statement of record has been filed with the Secretary of the United States Department of Housing and Urban Development under the Interstate Land Sales Full Disclosure Act.

(c) When any petition shall be presented to the court, it shall be filed in the office of the county clerk, to be kept there, subject to the inspection of any persons interested, until the time appointed for the hearing of it.

(d) (1) At or before the time of the filing, the court shall fix and communicate to the petitioners, or their agent, a time and place for the hearing of the petition, which time shall not be less than thirty (30) days after the filing of the petition.

(2) (A) (i) Thereupon, the petitioners or their agent shall cause a notice to be published in some newspaper of general circulation in the county for not less than three (3) consecutive weeks.

(ii) If there is no newspaper of general circulation in the county, a notice shall be posted at some public place within the limits of the proposed incorporated town for at least three (3) weeks before the time of the hearing.

(B) The notice shall contain the substance of the petition and state the time and place appointed for the hearing.

HISTORY: Acts 1875, No. 1, § 35, p. 1; C. & M. Dig., § 7664; Pope's Dig., § 9786; Acts 1975, No. 635, § 1; 1979, No. 606, § 1; 1983, No. 439, § 1; A.S.A. 1947, § 19-101; Acts 2001, No. 1233, §§ 1, 2; 2001, No. 1831, § 1; 2007, No. 118, § 1.

A.C.A. § 14-38-104

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A.C.A. § 14-38-104 (2014)

14-38-104. Order of incorporation -- Transcript.

(a) The county court shall make out and endorse on the petition an order to the effect that the city or incorporated town as named and described in the petition may be organized if the court shall be satisfied after hearing the petition that:

(1) The greater of either two hundred (200) or a majority of the qualified voters residing within the described territory have signed the petition;

(2) The limits have been accurately described and an accurate map or plat of the limits made and filed;

(3) The name proposed for the city or incorporated town is proper and sufficient to distinguish it from others of like kind in the state; and

(4) Moreover, that it shall be deemed right and proper in the judgment and discretion of the court that the petition shall be granted.

(b) (1) The order shall be signed and delivered by the court, together with the petition and the map or plat, to the recorder of the county, whose duty it shall be to record it as soon as possible in the proper book or records and to file and preserve in his or her office the original papers, having certified thereon that it has been properly recorded.

(2) It shall also be the duty of the recorder to make out and certify, under his or her official seal, two (2) transcripts of the record. The recorder shall forward one (1) copy to the Secretary of State and deliver one (1) copy to the agent of the petitioners, with a certificate thereon that a similar transcript has been forwarded to the Secretary of State as provided by this section.

HISTORY: Acts 1875, No. 1, § 37, p. 1; C. & M. Dig., § 7666; Pope's Dig., § 9788; A.S.A. 1947, § 19-103; Acts 1995, No. 299, § 1; 2001, No. 1233, § 3.

A.C.A. § 14-38-106

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A.C.A. § 14-38-106 (2014)

14-38-106. Complaint to prevent organization.

(a) One (1) month shall elapse from the time the transcripts are forwarded and delivered before notice shall be given of an election of officers in the city or incorporated town.

(b) At any time within the one (1) month, any person interested may make complaint in writing, in the nature of an application for an injunction to the circuit court, or the judge in vacation, having given at least five (5) days' notice thereof. He or she shall furnish a copy of the complaint to the agent of the petitioners for the purpose of having the organization of the proposed city or incorporated town prevented.

HISTORY: Acts 1875, No. 1, § 39, p. 1; C. & M. Dig., § 7668; Pope's Dig., § 9790; A.S.A. 1947, § 19-105.