

9-101. Incorporation; definitions

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

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

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

1. At least six months before publishing a copy of the petition for incorporation of a community pursuant to paragraph 2 of this subsection, provide to the board written notice of their intention to publish a copy of the petition for incorporation of the community. The written notice shall also be published for two consecutive weeks in a newspaper of general circulation in the area to be affected.

2. Publish a copy of the petition, setting forth the metes and bounds of the community to be incorporated, in a newspaper of general circulation in the area to be affected for two consecutive weeks at least six months after providing written notice to the board pursuant to paragraph 1 of this subsection. Members of the public may request modifications to the metes and bounds of the community by presenting alternatives to the petitioners.

3. Not less than sixty days after publishing the notice pursuant to paragraph 2 of this subsection, submit a copy of the petition to the county recorder or the county elections department. The petition shall state its purpose clearly and concisely and shall be in the form and 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 2 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. 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:

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

2. "Uninhabited" includes land owned by a mining or metallurgical company.