

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H1/23/07 S2/7/07

A Bill

HOUSE BILL 1179

5 By: Representatives Overbey, T. Baker
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 14-38-101 TO
10 REMOVE REFERENCES TO MAN-MADE STRUCTURES; TO
11 CLARIFY THE MEANING OF NATURAL BARRIER; AND FOR
12 OTHER PURPOSES.

Subtitle

13
14 AN ACT TO AMEND ARKANSAS CODE § 14-38-
15 101 TO REMOVE REFERENCES TO MAN-MADE
16 STRUCTURES AND TO CLARIFY THE MEANING OF
17 NATURAL BARRIER.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 14-38-101 is amended to read as follows:
24 14-38-101. Petition for incorporation.

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

31 (2) The petition shall:

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

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

36 (C) Name the persons authorized to act in behalf of the



1 petitioners in prosecuting the petition.

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

9 ~~(2)(A)(i) The five mile limitation shall not apply if the area~~
10 ~~proposed to be incorporated is separated from the corporate limits of an~~
11 ~~existing municipality by a natural barrier that makes the area to be~~
12 ~~incorporated inaccessible to the existing municipality.~~

13 ~~(ii) If the area proposed to be incorporated is~~
14 ~~accessible only by a bridge or other man made structure, then the area shall~~
15 ~~be considered inaccessible for purposes of this subsection.~~

16 ~~(B)(2) The five mile planning territorial jurisdiction~~
17 ~~limitation shall not apply if the area proposed to be incorporated is land~~
18 ~~upon which a real estate development by a single developer, containing not~~
19 ~~less than four thousand (4,000) acres, has been or is being developed under a~~
20 ~~comprehensive plan for a community containing streets and other public~~
21 ~~services, parks, and other recreational facilities for common use by the~~
22 ~~residents of the community, churches, schools, and commercial and residential~~
23 ~~facilities, and which has been subdivided into sufficient lots for~~
24 ~~residential use to accommodate a projected population of not fewer than one~~
25 ~~thousand (1,000) persons, and for which a statement of record has been filed~~
26 ~~with the Secretary of Housing and Urban Development under the Interstate Land~~
27 ~~Sales Full Disclosure Act.~~

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

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

36 (2)(A)(i) Thereupon, the petitioners or their agent shall cause

1 a notice to be published in some newspaper of general circulation in the
2 county for not less than three (3) consecutive weeks.

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

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

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/s/ Overbey