

CHAPTER 11
ISLANDS—IDENTIFICATION AND ANNEXATION
[Prior to 12/11/02, 263—Ch 5]

263—11.1(368) Definitions. The following definitions shall be applicable to the rules contained within this chapter:

Island. An “island” is land which is not part of a city and which is completely surrounded by the corporate boundaries of one or more cities. However, land will be treated as an island even though it is not completely surrounded by incorporated territory if it is completely surrounded by the corporate boundaries of one or more cities and a boundary of the state, a river, or similar natural barrier which prevents service access from an adjoining area of land outside the boundaries of a city.

Majority of landowners of an island. A “majority of landowners of an island” equals owners representing more than one-half of the number of parcels of property within the island.

263—11.2(368) Identification of existing islands. Islands are to be identified by the board of supervisors of each county and verified by the city development board.

11.2(1) Board of supervisors’ notification. The board of supervisors of each county shall notify the city development board of the existence of all islands within the county that were not a part of a city by annexation or incorporation as of January 15, 1992. Notification shall include a legal description of the island, a listing of the name and mailing address of all owners of property within the island, and a map showing the island’s location in relationship to the city or cities surrounding the island.

11.2(2) Verification of island status. In order to verify each county’s identification of islands, the city development board shall:

a. Give notice of the island identification and right to contest existence of the island or identify additional islands to each city within whose boundaries an island has been identified. If an identified island is bordered by more than one city, each city whose boundaries border the island shall be notified.

b. Allow each city the opportunity to contest the island designation by providing written objection to the designation to the city development board within 30 days of the date of receipt of the board’s notice and to identify islands omitted from the listing provided by the county board of supervisors. A city’s identification of additional islands shall include all of the information required by subrule 11.2(1).

c. If a city does not contest the island designation, the board will presume the designation is accurate.

d. If a city does contest the designation or identifies additional islands, or if information is presented to the board by a resident of the island, city, or county challenging the island designation, the board shall contact the auditor of the county or counties within which the property is located to verify the current tax status of the territory identified as an island and all contiguous properties. The board will rely upon certification of the status of the territory by the county auditor as conclusive evidence of the nature of the territory and will, in cases where a contest or challenge is raised, base its determination of the existence of the island on this certification.

263—11.3(368) Notice to property owners; protests to annexation of existing islands. Following verification of the status of an island, the board shall initiate proceedings for annexation of the island.

11.3(1) Notice to property owners. Following verification of the existence of an island, the city development board shall provide notice of pending annexation of the island by certified mail to all owners of property within the island, as identified pursuant to subrule 11.2(1) or paragraph 11.2(2) “*b.*” The board’s notice shall include:

- a.* The legal description of the property at issue;
- b.* A map showing the relationship of the island within which the property is contained to the surrounding city or cities;
- c.* Notice that the county or city has identified the property as being within an island;

d. Notice that, pursuant to 1991 Iowa Acts, chapter 187, the city development board has been directed to cause all existing islands to be annexed into the surrounding city or cities unless a majority of the landowners of the island protest the annexation;

e. The number of parcels of land within the island; and

f. An explanation of the procedure and deadline for the filing of a protest to annexation of the island.

11.3(2) *Protest form, content, and timing.* Landowners wishing to protest annexation of an island may file protests to the annexation individually or as a group. Protests must be in writing, must be signed by the record owner(s) of property located within the island, must include the legal description of the property owned and identification of the island within which the property is contained, and must be received by board staff within 30 days of the date of issuance of the board's notice of annexation.

11.3(3) *Lack of protest.* If the board does not receive timely written protests from a majority of the landowners of the island, the board shall proceed with annexation of the island pursuant to rule 11.4(368).

11.3(4) *Notice of protest.* If the board receives timely written protests from a majority of the landowners of the island, the board shall notify all landowners of the island, the city(ies), county(ies) and council of government(s) within which the island is located that the annexation process will be discontinued unless the board finds that residents of the island do not have adequate fire protection, police protection, emergency medical services, and road construction and maintenance services.

11.3(5) *Opportunity to provide evidence regarding adequacy of services.*

a. Any person or governmental entity interested in the annexation may, within 30 days of the date of issuance of the board's notice of protest, provide to the board written comments or evidence regarding the adequacy of fire, police, emergency medical, road construction and road maintenance services to the island.

b. Any interested person or governmental entity may request an appearance or hearing before the board to facilitate the receipt of evidence by the board.

11.3(6) *Board consideration of protest.* The board will consider all comments and evidence received in making its finding as to the adequacy of services to residents of the island. The board may, in its discretion, request additional evidence from landowners, the city(ies), county(ies), or council of government(s); may allow or request any person or entity submitting evidence to appear before the board; and may schedule a public hearing to receive further evidence regarding the adequacy of services to the area. If a public hearing is scheduled, notice shall be given and the hearing shall be conducted in the manner as provided in subrule 11.4(2) for islands surrounded by more than one city. The board may, in its discretion, combine hearings conducted pursuant to this rule and subrule 11.4(2).

11.3(7) *Resolution of protest.* Based upon all evidence received, the board shall issue findings of fact regarding the adequacy of fire, police, emergency medical, road construction and road maintenance services to the island. In determining whether the residents of an island are receiving adequate fire, police, emergency medical, road maintenance and road construction services, the board will examine the nature and source of services provided and consider whether the services are reliably delivered in a manner sufficient to protect the health, safety and welfare of the residents of the island. If the services are found to be adequate, annexation of the island will be discontinued. If the services are found to be inadequate, the board will proceed with annexation of the island.

263—11.4(368) Annexation of islands. The board shall proceed with annexation of all islands identified pursuant to rule 11.2(368) for which protests are not received or, in the case of protest, if services are found to be inadequate.

11.4(1) *Islands surrounded by only one city.* Islands within the boundaries of only one city shall be annexed into that city as follows:

a. The board shall verify that the territory is an island pursuant to subrule 11.2(2);

b. The board shall provide notice to all landowners within the island of the impending annexation and their right to protest the annexation pursuant to subrule 11.3(1);

c. Upon expiration of the protest period without receipt of a protest from a majority of the landowners or rejection of a protest upon a finding that services to the area are inadequate pursuant

to subrule 11.3(7), the board shall certify the verification to the city and declare the island annexed to the city. The annexation is completed when the board has filed and recorded copies of the certification pursuant to Iowa Code section 368.20, subsection 2.

11.4(2) Islands surrounded by more than one city. Islands surrounded by the boundaries of more than one city shall be annexed as follows:

a. The board shall verify that the territory is an island pursuant to subrule 11.2(2);

b. The board shall provide notice to all landowners within the island of the impending annexation and their right to protest the annexation pursuant to subrule 11.3(1);

c. Upon expiration of the protest period without receipt of a protest from a majority of the landowners or rejection of a protest upon finding services to the area are inadequate pursuant to subrule 11.3(7), the board shall schedule a hearing to determine to which city the island should be annexed. The board may divide the island among the cities surrounding it.

d. The board shall provide notice of the time, place, and purpose of scheduled hearing by:

(1) Mailing notice to the cities surrounding the island and the county(ies) and council of government(s) containing the island;

(2) Publishing notice pursuant to Iowa Code section 362.3, subsection 2.

e. The hearing shall be conducted informally. Representatives of the cities surrounding the island, county(ies) or council of government(s) containing the island, and members of the public may present evidence or comment regarding appropriate distribution of the island. Written arguments may be submitted to the board within ten days following conclusion of the hearing.

f. In determining appropriate distribution of the island for annexation, the following factors will be considered by the board:

(1) The terms of existing agreements between the surrounding cities which address division of the island among the cities for annexation;

(2) The desires of the affected cities, county(ies), council of government(s), and residents of the island;

(3) The availability of services to the territory;

(4) Geographical or topographical features of the territory affecting the delivery of services; and

(5) The comparative efficiency with which the surrounding cities can provide services to the territory.

g. Within 90 days of the conclusion of the hearing, the board shall certify a declaration of annexation of the island to each surrounding city. The declaration shall indicate whether the island will be divided for annexation and, if so, shall include a description of how the island is divided. The annexation is completed when the board has filed and recorded copies of the certification pursuant to Iowa Code section 368.20, subsection 2.

These rules are intended to implement Iowa Code chapter 368.

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