

263—7.9(368) Board proceedings on voluntary applications when one or more voluntary applications or involuntary petitions for annexation of common territory are received within 30 days of the initial filing.

7.9(1) Initial board review. The board shall review the application(s) and petition(s) to determine compliance with the requirements of Iowa Code chapter 368 and these rules.

7.9(2) Dismissal. If an application or petition does not meet the requirements of Iowa Code chapter 368 or these rules, the board may dismiss the application or petition or request additional information from the applicant or petitioner. If only one application or petition remains before the board following such dismissal, the board will proceed on that filing as if no competing application or petition had been filed.

7.9(3) Hearing. If competing application(s) and petition(s) are found to be in proper form, the board will consider the voluntary application(s). The board may appoint a local committee pursuant to Iowa Code section 368.14 and shall conduct a public hearing pursuant to the procedure set forth in paragraph 7.8(3) “b” for hearings on voluntary applications including property without the consent of the owner(s).

7.9(4) Criteria for decision. Within 90 days of receipt of the application, the board or committee shall meet to assess the application and evidence received at the public hearing. If the application meets the applicable requirements of Iowa Code chapter 368, the board or committee shall approve the application unless the board makes one of the following findings by a preponderance of the evidence:

- a. The application was filed in bad faith;
- b. The application as filed is contrary to the best interests of the citizens of the urbanized area; or
- c. The city that received the application cannot, within a reasonable period of time, meet its obligation to provide services to the territory to be annexed sufficient to meet the needs of the territory.

7.9(5) Decision if approved. If the board or committee approves a voluntary application considered under Iowa Code subsection 368.7(4), the board shall issue a written decision and file the decision with the clerk of the annexing city, other cities within two miles of the annexation territory, the board of supervisors of each county containing a portion of the territory, the regional planning authority, each affected public utility, the state department of transportation, and any other party to the board’s proceeding. Upon expiration of the time for appeal, the board shall file with the secretary of state and record with the county recorder of each county containing a portion of the city or territory involved copies of the board’s proceedings, as required by Iowa Code section 368.20(2).

7.9(6) Decision if statutorily barred. If annexation of the territory is statutorily barred under Iowa Code section 368.17, the board or committee shall deny the application, stating in its order the reason(s) for the denial. An annexation request denied pursuant to this rule may not be converted to an involuntary petition, pursuant to subrule 7.9(7).

7.9(7) Action if not approved. If the application is not approved or is denied pursuant to subrule 7.9(6), the board shall issue an order setting forth its reason(s) for failing to approve the application and requiring conversion of the application into an involuntary petition. An application that contains some land without the consent of the owner to avoid the creation of an island or to create more uniform boundaries, that is considered by a committee, shall not be approved unless at least four of the board members and at least one-half of the local representatives vote in favor of the proposal. The city shall within 30 days withdraw its application or convert its application into an involuntary petition containing all information required to be included in such petitions by Iowa Code section 368.11 and these rules.

7.9(8) Following conversion of the application into an involuntary petition, the board shall order appointment of a special local committee to consider the application and all pending petitions for annexation of common territory, pursuant to Iowa Code section 368.14A. Committee appointments shall be made by resolution of the appropriate governing bodies within 45 days of issuance of the board’s order. Each resolution shall state that the local representative selected is a qualified elector of the city or territory represented or, if none of the qualified electors of the territory will accept the appointment or the territory has no resident qualified electors, that the representative owns property within the territory. Copies of the resolutions shall be submitted to the board. In the event a city or county fails to timely notify the board of appointment of its local representative, the committee may conduct its proceedings in the absence of that local representative so long as a quorum is present.

7.9(9) The special local committee shall conduct a public hearing to receive evidence and comment on all applications and petitions pending before it. The order of presentation shall be determined by the committee prior to commencement of the hearing. The hearing shall be conducted in accordance with the rules for committee proceedings set forth in 263—Chapter 9.

7.9(10) The committee shall, within a reasonable time following conclusion of the public hearing, meet to determine appropriate means to resolve the common territory issues among the applications and petitions before it.

a. The committee shall resolve common territory issues by amending or denying one or more of the pending proposals.

b. Upon resolution of the common territory issues, the committee shall proceed with consideration of each remaining petition in accordance with Iowa Code sections 368.16 and 368.17 and these rules.

7.9(11) The committee shall issue a separate decision setting forth its findings and conclusions relating to each of the petitions. The committee shall file its decision with the board and promptly notify the parties of the decision, as required by Iowa Code section 368.19.

7.9(12) Upon receipt of a committee decision approving all or a portion of a petition, the board shall complete the procedural steps set forth within 263—Chapter 10.