

**263—7.8 (368) Board proceedings on voluntary annexation requests which include land area without the consent of the landowner(s).**

**7.8(1) General rule.** Territory comprising railway right-of-way or territory comprising not more than 20 percent of the land area may be included without the consent of the owner to avoid creating an island or to create more uniform boundaries.

**7.8(2) Calculation of proportion of land area included without the consent of the owner(s).**

*a.* Only contiguous land area may be considered for purposes of calculating the amount of the land area which may be included without the owner's consent.

*b.* The area of the territory that is public land included without the written consent of the agency with jurisdiction over the public land shall not be used to determine the percentage of territory that is included with the consent of the owner and without the consent of the owner.

**7.8(3) Board action on proposal.** The board shall review the request to determine compliance with the requirements of Iowa Code chapter 368 and these rules.

*a.* If the request is found to be incomplete, the board may request further information from the applicant or the filing city or may dismiss the request.

*b.* If the request is found to be in proper form and to contain all required information, the board will conduct a public hearing on the request, providing notice of the meeting by regular mail sent at least ten days prior to the hearing to all owners of land included in the annexation proposal, 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 containing a portion of the territory, each affected public utility, and the state department of transportation.

The board hearing shall be conducted informally. Representatives of the city requesting the annexation shall be given an opportunity to explain the proposal, the city's reason for including property without the consent of the owner(s), and any other information the city believes will assist the board in acting on the proposal. The county, all owners of property within the territory proposed for annexation, the regional planning authority, affected public utilities, and any other person affected by the annexation will be provided an opportunity to submit information to the board. The board may request additional information from the city, county or other persons, including any of the information required to be included in a petition for involuntary city development action.

*c.* The board shall consider whether the proposal serves the public interest and may consider the criteria for approval of involuntary city development actions, as set forth in Iowa Code sections 368.16 and 368.17, in acting on a request for voluntary annexation which includes the property of nonconsenting owners. The board may not approve a request for voluntary annexation of territory which includes the property of nonconsenting owners unless the board finds that the land of the nonconsenting owners was included in order to (1) avoid creating an island, or (2) create more uniform boundaries.

*d.* A request for voluntary annexation of territory which includes the property of nonconsenting owners shall not be approved unless four members of the board vote in favor of the proposal.

*e.* If the board approves a request for voluntary annexation of territory which includes the property of nonconsenting owners, 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 of record in the board 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).

*f.* If the board denies the request, an order shall be issued setting forth the reasons for the denial, and a copy shall be provided to 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 of record in the board's proceeding.

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