

CHAPTER 6. ISLAND ANNEXATION POLICIES

6.1 INTRODUCTION

In Santa Clara County, unincorporated land that is located within a city's Urban Service Area (USA) is considered an island. Over time, the cities have largely annexed most of the lands now within the USAs, through a combination of resident-initiated efforts, County and city programmatic efforts to annex whole islands, or on a parcel-by-parcel basis as a prerequisite to new development or new land uses. However, some islands persist, large and small, which continue to be the subject of ongoing policy matters and annexation efforts.

The Countywide Urban Development Policies (CUDPs) stipulate that urban unincorporated islands within USAs should ultimately be annexed into their surrounding cities, so that cities have responsibility for urban services and land use authority over all lands within their USA boundaries. LAFCO has adopted USAs for cities, that include lands currently urbanized and annexed to cities and provided with urban services, as well as unincorporated lands (i.e. unincorporated urban islands) that a city intends to annex in order to develop those lands and provide them with urban services within five years.

6.2 HISTORY OF UNINCORPORATED URBAN ISLANDS

The USAs of many cities contain unincorporated islands. These islands are largely a result of development that occurred in the County in the 1950s and 1960s (prior to the adoption of the CUDPs). Immediately after World War II, most of the North Valley was unincorporated, agricultural, and cities had just begun to expand and develop. During this time, rapid urban development was often scattered, discontinuous, and not necessarily required to be within cities. This resulted in some unincorporated areas being developed, while city boundaries became more sprawling and irregular. Furthermore, as urban development and city annexation continued outward, some unincorporated areas were leapfrogged over and left under County jurisdiction, some remaining agricultural, some partly developed.

Historically, it has not been the role of the County government to provide urban services and infrastructure. As a result, the County has few mechanisms or resources for providing and maintaining urban infrastructure and services. The issue is further complicated by the inefficiencies of having to ensure that services are provided for many small, widely scattered developed areas that are surrounded or substantially surrounded by cities.

Specific services in some unincorporated urban islands are provided by special districts. Residents of these areas generally receive urban levels of service for the specialized services that are provided by the districts. However, the districts do not provide a full range of services, and it is similarly inefficient to have multiple special districts providing one or two specific services to small, scattered areas.

In other cases, residents of urban unincorporated islands may utilize city-provided services for which they pay no property taxes to the city. To minimize the complexities and inequities of urban service provision and to provide more regular and logical city boundaries, the islands within USAs should be annexed to cities. In fulfillment of that fundamental policy, over the past 50 years, the vast majority of the urban unincorporated

islands that existed in the 1970s have been annexed into cities, with the assistance of LAFCO and the County.

Nonetheless, at present, there still remain many unincorporated islands in the county, the majority of which are 150 acres or smaller. They are scattered across the county, from Gilroy to Mountain View, and from Los Gatos to the eastern edges of San Jose.

6.3 LEGISLATIVE HISTORY

LAFCO law includes various provisions that encourage the annexation of existing islands and discourage the creation of new islands. Moreover, since the late 1970s, State law has been amended numerous times to create additional provisions to encourage and facilitate the annexation of unincorporated islands into cities. In so doing, the state legislature has progressively and increasingly recognized the importance of island annexation to well-functioning urban areas and the relationship of such policies to other related planning goals of the state, such as curbing sprawl and preserving farmland.

In 2001, the State Legislature enacted the Cortese Knox Hertzberg Local Government Reorganization Act. One of the provisions of the Act allowed island annexations to occur through a streamlined process that does not require protest proceedings or elections, provided that the island meets specific criteria. In 2001, this provision applied to unincorporated islands up to 75 acres in size. In 2004 this provision was further amended to apply to islands up to 150 acres in size. This provision was originally set to expire on December 31, 2014. However, effective January 1, 2014, the State legislature removed the sunset date and made the streamlined island annexation provision permanent.

Currently, State law requires LAFCO to approve island annexations and waive protest proceedings, after notice and hearing, if the island annexation meets all the criteria outlined in Government Code (GC) §56375.3. This provision is limited to islands that do not exceed 150 acres in size as of January 1, 2014 pursuant to GC §56375.4. However, in Santa Clara County, pursuant to GC §56757, city annexations, including island annexations, are not decided by LAFCO, but by the City Council of the applicable city, as explained in LAFCO Policy #4.2.1 (Annexation, Detachment, and Reorganization Policies).

6.4 ISLAND ANNEXATION POLICIES

In order to fulfill the intent of the State Legislature, implement the CUDPs, and encourage efficient service provision and orderly growth and development, LAFCO supports and encourages cities to annex unincorporated islands within their USAs.

LAFCO has adopted the following policies to encourage the timely annexation of islands:

1. **Encourage Island Annexation.** LAFCO will encourage island annexations to cities and collaborate with the cities and the County in facilitating annexation of islands.
2. **Annex Entire Islands.** Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than to conduct single parcel annexations.

3. **Streamlined Island Annexations.** State law provides a streamlined process for annexation of entire islands that do not exceed 150 acres in size (as of January 1, 2014) and that meet all of the criteria outlined in GC §56375.3.
4. **LAFCO Island Annexation Program.** In order to encourage cities to annex entire islands, LAFCO offers the following assistance:
 - a. LAFCO will provide a fee waiver for annexations that result in elimination of entire unincorporated islands. This fee waiver will remain effective until rescinded by the commission.
 - b. LAFCO will provide information and expertise on the island annexation procedures to cities. LAFCO will develop and provide process flow charts, and templates for public hearing notices and annexation resolutions to cities. LAFCO staff will conduct workshops for cities staff or meet with individual cities to provide information on the island annexation process.
 - c. LAFCO will work with the County, the cities and other interested parties / agencies to find ways to reduce or share the cost of processing island annexations.
5. **Island Annexations Before Seeking USA Expansion.** In the interest of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs, before seeking to add new lands to their USAs.

Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:

 - a. Initiate and complete annexation proceedings pursuant to GC §56375.3(a)(1), for all unincorporated islands that meet the provisions of GC §56375.3, unless the island constitutes publicly owned land, and
 - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for each of the islands after holding community meetings, to apply pre-zoning designation(s); and to adopt resolutions to initiate annexation, as appropriate.
6. **Align Development Standards.** LAFCO encourages the cities and the County to ameliorate differences between major development standards that potentially affect or hinder island annexation efforts. The County should consider efforts to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
7. **Status Report to Commission.** LAFCO staff will report to the Commission on the status of each city's island annexation efforts, as necessary.