

# **MENDOCINO LOCAL AGENCY FORMATION COMMISSION**



## **POLICIES & PROCEDURES MANUAL**

**ADOPTED NOVEMBER 5, 2018**

**RESOLUTION No. 2018-19-03**

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# **Part 1:**

# **Administrative Policies & Procedures**

# 1 | PREAMBLE

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Actions taken by the Mendocino Local Agency Formation Commission shall be predicated on the following principles.

## 1.1 MISSION

It shall be the mission of the Mendocino Local Agency Formation Commission to:

- a) Consider the present and future needs of the community;
- b) Oversee the logical formation and development of cities and special districts;
- c) Coordinate the efficient and rational delivery of municipal services;
- d) Preserve agricultural and open space resources; and
- e) Discourage urban sprawl.

## 1.2 GENERAL GUIDELINES

- First: Commission decisions will be based on the best interests of those served by LAFCo.
- Second: Commission actions will take into account 'long term' consequences and effects on future generations, seeking the greater good for the citizens.
- Third: In all of its decisions and actions, the Commission's desired result is the most efficient and effective delivery of services by local entities including the County, cities, special districts, and service delivery agencies throughout Mendocino County.
- Fourth: LAFCo Commissioners and staff are dedicated to hearing and responding to community needs through an open and engaged process, and to delivering an excellent level of service emphasizing transparency, efficiency, integrity and fairness in its operations.
- Fifth: Once a decision has been made, the Commission will not deviate from that decision unless new and compelling information is provided.
- Sixth: Preference shall be given to those local agencies which can provide services in the most effective and efficient manner.
- Seventh: Where special district boundaries overlap city limits, the Commission will advocate for district detachments if the city can demonstrate a higher level of service or an equivalent level of service at a lower cost.
- Eighth: Open space and/or undevelopable land will be included within a city sphere of influence only if compelling determinations can be made by the Commission.
- Ninth: Prime agricultural land, commercial timberland, and dedicated open space will generally not be considered for annexation to a city.

## 2 | INTRODUCTION

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### 2.1 AUTHORITY, PURPOSE, JURISDICTION AND GENERAL INTENT

The Mendocino Local Agency Formation Commission (LAFCo) was established by and operates under the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). (California Government Code Sections 56000 *et seq.* and 57000 *et seq.*)

This law establishes LAFCo as an independent public agency within Mendocino County. LAFCo functions under applicable state statutes, and state and local policies relating to the organization of local government; specifically boundary changes for cities and most special districts (including sphere of influence, incorporations, reorganizations, annexations, detachments and other changes of organization). In this capacity, Mendocino LAFCo plans and regulates boundaries for cities and special districts within the County.

The CKH Act requires each LAFCo to adopt written policies and procedures. Other state laws require LAFCo to adopt written policies and guidelines applicable to specialized functions (e.g., California Environmental Quality Act, Political Reform Act, etc.).

This Policies and Procedures Manual is a compilation of written policies and procedures adopted by Mendocino LAFCo. These policies are intended to supplement state law, rather than interpret or reiterate the statute. To fully understand LAFCo processes and procedures, the applicable provisions of state law should be reviewed in conjunction with this document. All citations included in the Manual are from the CKH Act, unless otherwise noted.

Each chapter of the Manual is freestanding and can be amended or changed without amending the entire Manual. The Mendocino LAFCo Executive Officer ensures the Manual is current and up to date and publically available. To the extent that any portion of the Manual conflicts with any provision of law, the applicable law takes precedent.

### 2.2 PROCEDURAL FLEXIBILITY

The Policies and Procedures Manual is a guide. The Commission may, by majority vote, modify procedures and polices set forth in the Manual when the situation warrants, provided the change is not in conflict with statutes governing LAFCo activities; nor inconsistent with other policies and procedures included within the Manual.

### 2.3 AMENDMENT PROCEDURES

The Commission shall approve all amendments to the Policies and Procedures Manual by a majority vote.

## 3 | COMMISSION RULES AND PROCEDURES

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### 3.1 AUTHORITY

These rules are adopted pursuant to the CKH Act and apply to Mendocino LAFCo and proceedings conducted before that Commission.

## **3.2 COMMISSION MEMBERSHIP**

The Commission consists of seven regular and four alternate members, selected as follows:

### **3.2.1 COUNTY**

Two Members and one Alternate Member are members of the Mendocino County Board of Supervisors appointed by the Board of Supervisors.

### **3.2.2 CITY**

Two Members and one Alternate Member are City Council Members appointed by the City Selection Committee consisting of the mayors from the four cities.

### **3.2.3 DISTRICT**

Two Members and one Alternate Member are Special District Board Members appointed by the Special District Selection Committee consisting of Presidents or Chairpersons from the Independent Special Districts in the County. If it is determined that a meeting of the special district selection committee is not feasible, the LAFCo Executive Officer shall conduct a nomination and election process by mailed ballot in accordance with G.G. §56332(f).

### **3.2.4 PUBLIC**

One Member and one Alternate Member from the general public are appointed by the six other members of the Commission. Public Members cannot be a current officer (elected or appointed) or employee the County of Mendocino or of any city of special district located within the county.

Commission selection procedures include the following steps:

- a) Advertisement of the position(s) in newspapers of general circulation in the county.
- b) Interviews of the candidates by the full Commission. If appropriate, the Commission may appoint a screening committee to screen applications to reduce the number to be interviewed to a manageable number.
- c) Selection by majority vote subject to the affirmative votes of at least one city, county, and district member seated on LAFCo.

## **3.3 RESPONSIBILITIES OF COMMISSIONERS**

LAFCo Commissioners sit as independent decision-makers and are required by law to exercise their independent judgment on behalf of the general public within Mendocino County. Commissioners shall exercise their responsibilities to consider their decisions within a regional or county-wide perspective without regard to a specific interest group or government agency.

## **3.4 COMMISSIONER TERMS OF OFFICE**

- a) All Commissioner terms of office shall be for four years. Any new appointments made during the four-year term shall be for the purpose of completing the remainder of the four-year term.
- b) The expiration date of the term of office for all Commissioners shall be December 31<sup>st</sup> of the year in which their term expires as allowed by Section 56334. New Commissioner terms of office shall begin on the date of the first Commission meeting in January of the year in which they are appointed, or as soon thereafter as is practical.

## **3.5 OFFICERS**

### **3.5.1 SELECTION OF CHAIR AND VICE CHAIR**

The Members of the Commission shall elect a Chair, a Vice Chair, and a Treasurer at the first meeting of the Commission held in January of each year or as soon thereafter as possible. The Chair, Vice Chair, and Treasurer shall serve for one-year terms, or until their successors are elected, whichever occurs later. Should the Chair, Vice-Chair, or Treasurer cease to be a member of the Commission, the Commission shall at the first available meeting select a successor to fill the position for the balance of the year.

### **3.5.2 CHAIR**

The Chair shall preside at all meetings of the Commission and shall conduct the business of the Commission in the manner prescribed by State Law and by these rules. The Chair shall preserve order and decorum and decide all questions of order, subject to the action of a majority of the Commission.

In the absence of an objection, the Chair may order a motion unanimously approved by the members present, however any Commissioner may call for a roll call vote on any item.

The Chair shall be permitted to participate in debate and vote, move or second a motion without surrender of the Chair.

The Chair shall have the authority to sign all resolutions, directives and contracts approved by the Commission. The Chair shall also have authority to sign any documents necessary for the operation of the Commission and to authorize budget transactions.

The chair shall have the authority to appoint members to Committees.

### **3.5.3 VICE CHAIR**

In the event that the Chair is absent or unable to act, the Vice Chair shall act as Chair and exercise all the powers and duties of the Chair.

### **3.5.4 TREASURER**

The Treasurer shall review monthly revenues and expenditures for consistency with the adopted budget and shall monitor invoices to be paid.

### **3.5.5 CHAIR PRO TEM**

If both the Chair and Vice Chair are absent, or for any reason unable to act, the members of the Commission present shall select one of the members to act as Chair Pro Tem, said selection to be entered into the minutes. The Chair Pro Tem shall have all of the powers and duties of the Chair while the Chair and Vice Chair are absent or for any reason unable to act.

## **3.6 PARTICIPATION OF ALTERNATE MEMBERS**

- a) Alternate Members shall be seated and entitled to vote if a Regular Member in their category is absent, or has been disqualified on any matter. If both Regular Members in their category are absent or disqualified, the Alternate Member who is authorized to serve shall only have one vote.
- b) Alternate Members are encouraged to take an active role in LAFCo matters including Commission discussions, policy development, working groups, workshops, committees, and CALAFCO activities.

- c) Because Alternate Members may at any time be called upon to vote in place of a Regular Member, the Mendocino LAFCo encourages Alternate Members to participate in and to attend closed sessions, even when they may not vote. *(Amended by Resolution No. 2017-18-09)*

## 3.7 COMMISSIONER COMPENSATION

- a) Special District, Public Members and their Alternates shall be eligible to receive a meeting per Diem of \$50.00 for Regular Commission meetings.
- b) Commission Members and Alternates are eligible for and may request mileage reimbursement at the standard federal rate for Regular Commission meetings.
- c) Commissioner Members and Alternates are eligible for reimbursement of actual costs associated with approved out-of-county travel, lodging, meals, and registration fees, and other necessary and reasonable expenses. The standard federal mileage rate and meal allowances as established by the California Department of Human Resources shall apply.  
*(Amended by Resolution No. 2018-19-02)*

## 3.8 MEETINGS

### 3.8.1 GENERAL

All meetings conducted by Mendocino LAFCo, including posting and publication of notices and agendas, shall adhere to the provisions of the Ralph M. Brown Act (54950 *et seq.*).

#### 3.8.1.1 Commissioner Teleconferencing

Regular meetings of the Commission shall adhere to the provisions of the Ralph M. Brown Act (GOV §54950 *et seq.*) and the provisions of [GOV §54953](#) and/or [§54953.8.3](#), which allow for teleconferencing under specific conditions.

To promote transparency and public participation, regular meetings of the Commission will be held in a hybrid format provided the technology to do so is readily available. Commissioners shall participate in-person for all Commission meetings, unless circumstances exist to justify the use of “Expanded Teleconferencing Procedures.” Should a Commissioner request attendance by teleconference for “just cause” or “emergency circumstances,” as defined in GOV§ 54953.8.3(c), the requirements set forth in the statute shall apply.

Commissioners may attend regular Commission meetings by teleconference not to exceed two times per year under the “just cause” provisions of GOV §54953.8.3. Commissioners must make such requests of the Commission prior to or at the start of a regular meeting, stating the reason (“just cause” or “emergency circumstances”) and a brief description of the circumstances relating to the need to appear remotely. The Commission shall take action on the request at the beginning of the meeting.

##### 3.8.1.1.1 Global Teleconferencing Procedures

At the discretion of the Commission and/or the Executive Officer, any employee, consultant or individual presenting or attending a meeting of the Commission, other than a member of the Commission, shall be permitted to attend via teleconference without compliance or conditions set forth herein.

To the extent a commissioner wishes to attend a meeting via teleconference, the commissioner shall generally be required to comply with the “Standard Teleconferencing Procedures” below, unless the circumstances exist to justify the use of “Expanded Teleconferencing Procedures.”

#### 3.8.1.1.2 Standard Teleconferencing Procedures

Members of the Commission, inclusive of all bodies and committees required to comply with the Brown Act, may attend a meeting via teleconference if the following conditions are satisfied:

1. At least a quorum of commissioners participates in the meeting from locations within the County;
2. The agenda posted for the meeting is posted at all teleconference locations, each of which are identified in the notice and the agenda for the meeting; and
3. Each teleconference location is accessible to the public, and the public is permitted to comment at each teleconference location.

#### 3.8.1.1.3 Expanded Teleconferencing Procedures

A commissioner may attend a regular meeting via videoconference without the need to comply with the Standard Teleconferencing Procedure requirements to notice and post agenda locations or make such locations accessible to the public, only if the following conditions are satisfied:

1. At least a quorum of the commissioners participates in-person from a single physical location accessible to the public and as clearly identified in the posted agenda;
2. The public is permitted to attend the meeting either by teleconference or videoconference in a manner such that the public may participate in real-time during the meeting;
3. Notice of the means by which the public may remotely participate and offer comment during the meeting is included within the posted agenda;
4. Commissioners attending remotely have either “just cause” or “emergency circumstance”, as defined in GOV §54953.8.3, that justifies their attendance via videoconference;
5. A commissioner has not attended a regular meeting remotely on the basis of “just cause” more than two times in a calendar year.

In order to utilize the Expanded Teleconferencing Procedures, a commissioner shall:

1. For “just cause” circumstance, notify the Commission at the earliest opportunity, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstance relating to their need to appear remotely at the given meeting;
2. For “emergency circumstance,” request to participate at a meeting due to an “emergency circumstance” as soon as possible, preferably before the posting of the agenda but up to the start of the meeting, with such request including a general description of the circumstances relating to their need to appear remotely at the given meeting, though any description need not exceed 20 words and need not include any medical information exempt from disclosure by law;
3. The commissioner shall disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the Member’s relationship to such individuals;
4. Participate through videoconferencing, with both visual and audio technology.

Upon request of a commissioner to utilize the Expanded Teleconference Procedures, the Commission shall:

1. Take action by majority vote on a request to participate remotely due to an “emergency circumstance” at its earliest opportunity, which may be taken as a noticed agenda item or as an added item if sufficient time was not provided to place the proposed action on the agenda;
2. In the event of disruption within the power of the Commission that prevents the broadcasting of the meeting to members of the public, or in the event of disruption within LAFCo’s control that prevents

members of the public from offering public comment using the teleconferencing or videoconferencing options, take no further action during a meeting until such access is restored.

#### 3.8.1.1.4 Miscellaneous Provisions

With respect to Standard Teleconferencing Procedures and Expanded Teleconferencing Procedures set forth herein, such are intended to comply with [GOV 54953](#)(b) and (f), and GOV §54953.8.3, respectively, and, as such, in the event of conflict between this Policy and such statutory provisions, the statutory provisions shall control and be implemented as if set forth in this Policy.

*(Resolution No. 2025-26-02)*

### 3.8.2 REGULAR MEETINGS

Regular meetings of the Commission shall be held on the first Monday of each month, at the Mendocino County Board of Supervisors Chambers, 501 Low Gap Road, Ukiah, CA, commencing at 9:30 AM unless otherwise noticed. If any regular meeting of the Commission falls on a holiday, the regular meeting of the Commission shall be held on the preceding or succeeding Monday that does not fall on a holiday or on the first available date agreeable to the Commission. *(Resolution No. 2024-25-08)*

### 3.8.3 SPECIAL MEETINGS

Special meetings may be called at any time by the Chair or by a majority of Commissioners in a manner provided for in State Law. The order calling the special meeting shall specify the time and place of the meeting and the business to be transacted at such meeting, and no other business shall be considered at that meeting. The call and notice shall be posted at least 24 hours prior to the special meeting at the Commission's regular place of posting.

### 3.8.4 REQUEST FOR SPECIAL MEETING

Any interested party may request that the Commission hold a special meeting by submitting a written request to the LAFCo Executive Officer indicating the specific reasons for such a meeting. The request will be considered by the Commission at its next regular meeting for which adequate notice can be provided. If the request is granted, the applicant is responsible for all costs associated with the conduct of the special meeting.

### 3.8.5 MAJOR HEARINGS

At the recommendation of the Executive Officer, the Commission shall consider holding meetings in proximity to the affected project area. The determination of what constitutes a major agenda item shall be made by the LAFCo Executive Officer and is subject to verification by the Commission.

## 3.9 COMMITTEES

### 3.9.1 STANDING COMMITTEES

The Executive Committee consists of the Chair, Vice Chair, and Treasurer or a third Commissioner appointed by the Chair. The Executive Committee is responsible for administrative oversight, personnel matters, and budget preparation and review.

The Policies and Procedures Committee is made up of three members appointed at the first Commission meeting of each calendar year, as recommended by the Chair and ratified by the Commission. The Policies and Procedures Committee is responsible for developing and maintaining the Policies and Procedures Manual. Revisions shall be proposed to the full Commission for consideration and adoption.

The two Standing Committees are subject to the requirements of the Brown Act. The two Standing Committees shall meet on an as-needed basis. Recommendations from the two Standing Committees can be made by the Committees and presented to the full Commission for consideration and approval.

### **3.9.2 AD HOC COMMITTEES**

Ad Hoc Committees are formed as necessary to address specific topics, projects, and issues. Examples include Municipal Service Review projects, Sphere of Influence Update projects, Grand Jury Reports, and Commission Workshops and Seminars. Each Ad Hoc Committee is made up of three members as recommended by the Chair and ratified by the Commission.

## **3.10 CONDUCT OF MEETINGS**

### **3.10.1 ORDER OF BUSINESS**

The business of each regular meeting of the Commission shall be transacted to the extent practicable in the following order:

- a) Call to order and roll call
- b) Consent Agenda items
  - i. Minutes of the previous meeting or meetings
  - ii. Claims for Payment
  - iii. Financial Report
- c) Verification of any Resolutions
- d) Public Expression
- e) Matters Set for Hearing
- f) Other Matters for Discussion & Possible Action
- g) Committee Reports
- h) Executive Officer's Report
- i) Commissioner Reports, Comments or Questions
- j) Legislation Report
- k) Adjournment

### **3.10.2 QUORUM**

Four members of the Commission shall constitute a quorum for the transaction of business. In the absence of a quorum, the Executive Officer may adjourn the meeting to a stated time and place in accordance with §54955.

### **3.10.3 MAJORITY VOTE**

Four affirmative votes are required to approve any proposal or other action. A tie vote or any failure to act by at least four affirmative votes shall constitute a denial. An abstention shall not be counted as an affirmative vote.

### **3.10.4 ROLL CALL VOTING**

- a) The roll need not be called in voting upon a motion except when the matter involves the adoption of a Resolution, or a roll call vote is requested by a member of the Commission.
- b) If the roll is not called and no objection is raised by a member of the Commission, the Chair may order the motion unanimously approved.
- c) The Commission Clerk shall determine the voting order, except that the Chair shall be called last.

### **3.10.5 AUTHORIZATION TO VOTE**

- a) A member shall not participate in a final vote on a matter on which a hearing has been held at which such member was not in attendance, until that member is familiar with the substance of such hearing.
- b) This may be done by reviewing the written material presented at the hearing and by listening to the recording of such hearing; or by viewing a video of the hearing; or by reading a transcript of the proceedings if one has been prepared.

### **3.10.6 DISQUALIFICATION AND CONFLICT OF INTEREST**

The representation by a Regular or Alternate Member of a city or district shall not disqualify the member from acting on a proposal affecting that city or district in accordance with §56336.

### **3.10.7 COMMISSION ACTIONS**

The Commission may act by resolution or motion. All final actions of the Commission on application determinations, budget adoption, spheres of influence, and policy considerations shall be made by resolution. When each Commissioner has received a copy of the resolution, the reading of the resolution is automatically waived unless a Commissioner specifically requests that it is read.

### **3.10.8 CONSENT CALENDAR**

Routine matters that do not require a public hearing may be placed on the Commission's consent calendar. Approval of all items on the consent calendar may be made in one motion. Matters placed on the consent calendar may be removed by any Commissioner or a member of the public for discussion purposes and separate action.

### **3.10.9 SUMMARY MINUTES**

Minutes of the Commission meetings shall be Summary Minutes that include the essence of agenda items considered by the Commission, Commission motions and seconds, and votes cast. The minutes shall also reflect the names of the public speakers, reasons for legally required abstentions from voting, and comments noted for the record. Detailed Commission and staff discussion, comments, questions, and answers are not reflected in the minutes. Minutes of the Commission meetings shall be presented to the Commission at its next regularly scheduled meeting.

### **3.10.10 COMMENTS FOR THE RECORD**

If a Commissioner desires that a comment be included in the minutes, it is his or her responsibility to indicate that the statement is 'for the record' before making the comment and/or shall provide the comment in writing.

### **3.10.11 RECORDINGS OF THE MEETINGS**

Regular Commission meetings are typically recorded and all recordings shall be archived for two years. Copies of meeting recordings are available upon request and compensation for the costs borne in producing copies. Meetings may be transcribed upon request and upon receipt of a deposit to cover the transcription costs (§56379). Failure to record a meeting does not negate the results of that meeting.

### **3.10.12 INFORMATIONAL PRESENTATIONS**

Informational presentations will be placed on the Commission agenda by the LAFCo Executive Officer. Time allowed for such presentations may be limited at the discretion of the Chair.

### **3.10.13 PUBLIC COMMENT**

- a) At each regular and special meeting, the Commission shall allow any member of the public to address the Commission on a matter within its jurisdiction.

- b) The Chair may establish reasonable regulations including but not limited to limiting the amount of time allocated for public testimony on particular issues and for each speaker (e.g., three minutes). An allocated time limit of three minutes per speaker may be overridden on a majority vote of Commissioners.
- c) Comments on agenda items are appropriate when the item is being discussed by the Commission. A speaker shall not be heard during the “Public Expression” portion of the meeting on a matter listed on the agenda except as authorized by the Chair.
- d) The Commission shall act only on items appearing on the agenda unless the action is authorized by §54954.2. The Chair may refer matters raised during the “Public Comment” period to the appropriate staff.
- e) Members of the public are encouraged to submit comments in writing in advance to the Commission relating to any items within LAFCo’s subject-matter jurisdiction, whether on the Commission agenda or otherwise. If received in time, staff will provide such written comments to all members of the Commission.

**3.10.14 RULES OF PROCEDURE**

Robert’s Rules of Order shall be used as the general guide for conducting meetings and to resolve points of order, unless otherwise specified herein.

**3.11 COMMISSION REPRESENTATION**

**3.11.1 CHAIR TO ACT AS CEREMONIAL REPRESENTATIVE**

The Chair is delegated to act as the Commission’s ceremonial representative at public events and functions. In the Chair’s absence, the Vice Chair is delegated to assume this responsibility. In both the Chair and the Vice Chair’s absence, the Chair shall appoint another Commission member or alternate to assume this responsibility.

**3.11.2 MINISTERIAL DUTIES**

The Chair is delegated to sign Commission correspondence and resolutions, and perform other ministerial functions as needed.

**3.11.3 SPOKESPERSON**

The Chair is considered to be the official spokesperson to represent the Commission. However, the Commission may, from time to time, designate an alternate spokesperson to represent the Commission on a particular matter.

**3.11.4 COMMISSION MEMBER PARTICIPATION IN COMMUNITY ACTIVITIES**

From time to time, Commission members and alternates may participate in community activities, events and task forces. Unless specifically authorized by the Commission, when a Commission member or alternate participates in such activities, the member or alternate is acting as an interested party rather than acting on behalf of the Commission.

**3.11.5 REPRESENTATION**

LAFCo members shall represent the official policies or positions of Mendocino LAFCo to the best of their ability when designated by the Commission as a delegate and/or spokesperson for this purpose. When presenting their individual opinions and positions, Commissioners shall explicitly state they are doing so as an individual.

### 3.11.6 LEGISLATIVE POLICY

- 1) The Commission shall consider adoption of a legislative platform annually, at the first regular Commission meeting following the CALAFCO publication of their legislative platform, or as needed.
- 2) In situations when proposed legislation affecting LAFCo cannot be considered by the full Commission due to timing, the Executive Officer is authorized to provide written or e-mail correspondence regarding the Commission's position if the position is consistent with the adopted legislative platform of the Commission.
- 3) The Chair (or Vice Chair in the absence of the Chair) shall review and either sign the letter or approve the e-mail prior to it being submitted.
- 4) After submission, the Executive Officer shall forward the signed letter or approved e-mail to the Commission.
- 5) The correspondence will be included on the consent calendar of the next available Commission agenda for ratification. *(Adopted by Commission, August 7, 2017)*

## 4 | STAFFING

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### 4.1 EXECUTIVE OFFICER

The Commission shall appoint an Executive Officer as the chief administrative official to implement the policies and directives established by the Commission. The Executive Officer will also be responsible for the day-to-day operation of LAFCo.

The Executive Officer is an independent contractor appointed under a contract by the Commission. The terms, duties, responsibilities, and work program for the Executive Officer shall be based on a response to a Request for Proposal issued by the Commission, and shall be formalized through a Professional Services Agreement.

Additional staff members may also be included in the Agreement, with duties and responsibilities based on the response to the Request for Proposal and formalized in the Professional Services Agreement. These staff members may include a Commission Clerk, a LAFCo Analyst, or any other specialty personnel required to carry out the adopted work program.

### 4.2 LAFCo COUNSEL

Pursuant to §56384(b), the Commission shall appoint a legal counsel to advise it. The Commission may utilize the services of the Mendocino County Counsel's Office by contract for legal services or may solicit proposals from qualified attorneys to provide such services under contract. In the event of any conflict of interest on a matter before the Commission by the legal counsel, the Commission may appoint an alternate legal counsel pursuant to state law.

## 5 | BUDGET AND FINANCIAL PROCEDURES

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LAFCo encourages an open, collaborative process in the development of its budget, and strives to equitably apportion its expenditures among the member agencies who contribute to the costs of LAFCo.

### 5.1 BUDGET

#### 5.1.1 AUTHORITY TO DEVELOP AND ADOPT THE BUDGET

Each year, following noticed public hearings, the Commission adopts Proposed and Final Budgets in accordance with the CKH Act. The Proposed Budget must be adopted by May 1<sup>st</sup> and the Final Budget by June 15<sup>th</sup>. The budget is based on a July 1 to June 30 fiscal year.

Subsequent to public hearings, consideration of comments, and adoption of a Final Budget by the Commission, the County Auditor is responsible for apportioning the net operating expenses of the Commission to the County, the cities and the independent special districts according to a formula established pursuant to §56381.

If the County, a city or an independent special district does not remit its required payment within 60 days after July 1, the Executive Officer shall request that the County Auditor collect an equivalent amount from the property tax, or any fee or eligible revenue owed to that agency, pursuant to §56381.

#### 5.1.2 PRELIMINARY BUDGET AND PROPOSED ANNUAL WORK PLAN

Prior to March 1<sup>st</sup> of each year, the Executive Officer shall prepare a Preliminary Budget and Work Plan for the ensuing fiscal year. The Preliminary Budget and Work Plan shall be submitted to the Executive Committee during March for their review, input and comment.

The Preliminary Budget shall show anticipated revenues and expected expenditures by line item in sufficient detail to allow for Commission, member agency, and public review. The Work Program shall provide a narrative of the expected work products to be accomplished during the fiscal year, and likewise shall be in sufficient detail to allow for Commission, member agency, and public review.

#### 5.1.3 PROPOSED BUDGET AND WORK PLAN

At the regular Commission meeting in April, the Executive Committee shall present the Proposed Budget and Work Plan for the ensuing fiscal year to the full Commission. The Proposed Budget shall be adopted following a noticed public hearing for which adequate notice has been given to each member agency.

#### 5.1.4 FINAL BUDGET AND WORK PROGRAM

Prior to June 15<sup>th</sup> of each year, the Final Budget and Work Plan for the ensuing Fiscal Year shall be adopted by the Commission. The Final budget shall be adopted following a noticed public hearing for which adequate notice has been given to each member agency.

#### 5.1.5 RESERVES FOR FISCAL STABILITY, CASH FLOW, AND CONTINGENCIES

Mendocino LAFCo will strive to maintain reserves for fiscal stability, unforeseen operating or capital needs, cash flow requirements, revenue source stability from revenue shortfalls, and unanticipated legal fees. The reserves consist of an Operating Reserve of 25 percent of the annual operating budget and a Legal Reserve of \$35,000 and are to be maintained in separate accounts. (*Resolution No. 2018-19-06*)

## **5.1.6 BUDGET ADJUSTMENTS**

- a. The Commission may make adjustments to its budget at any time during the fiscal year as it deems necessary.
- b. Following review and approval by the Chair, the Executive Officer may authorize expenditures exceeding individual account budgets up to \$3,000 provided there are compensating savings available and the transfer does not increase the overall budget. Any budget exceedances will be reported to the Commission at the following regular meeting. (*Resolution No. 2025-26-03*)

## **5.2 FINANCIAL PROCEDURES**

### **5.2.1 YEAR-END FINANCIAL REPORT**

Following the end of each fiscal year, and as soon as year-end financial data is available, a year-end financial report shall be prepared for presentation to the Commission. This report will show revenues and expenditures for the fiscal year, a statement of net assets, and a statement of activities.

### **5.2.2 FINANCIAL AUDITS**

A financial audit shall be conducted on a biennial basis utilizing the services of a qualified Certified Public Accountant. The contract for audit services shall be awarded by the Commission based on proposals solicited for this purpose and may be structured as a biennial contract or a multi-year renewable agreement. (*Resolution No. 2025-26-06*)

### **5.2.3 INTERIM CLAIMS APPROVAL**

The Chair or the Vice-Chair (if the Chair is unavailable) is hereby authorized to approve the Claim forms, authorizing the Executive Officer to issue payments. All such approved payments shall be presented to the Commission at their next meeting for review and ratification. (*Resolution 2016-17-02*)

### **5.2.4 CONFERENCE REIMBURSEMENT FOR CONTRACT EXECUTIVE OFFICER**

Mendocino LAFCo will reimburse the contracted Executive Officer 100 percent of the registration fee for attendance at the annual CALAFCO conference. All other conference related expenses, including travel, meals, and lodging expenses, will be the responsibility of the contracted Executive Officer. (*Resolution 2016-17-03*)

### **5.2.5 PROCESS FOR REQUESTS FOR PROPOSALS OR QUALIFICATIONS**

When the LAFCo elects to issue a Request for Proposals (RFP) or Request for Qualifications (RFQ) to solicit vendors/consultants to provide a service or produce a specialized report for Mendocino LAFCo, the Executive Officer shall develop a rating sheet to assist in the review of all submittals. The rating sheet shall include categories specific to the service or report being requested which comprehensively evaluates the individuals and/or firms competing for the Mendocino LAFCo contractual agreement. The Commission shall, at a public meeting, assign an ad hoc committee or two reviewers to participate with staff in reviewing the prospective vendor/consultant; for complex reports, reviewers may include outside experts, at the discretion of the Commission.

RFPs/RFQs should provide for all of the following:

1. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
2. Requirements which the bidder/offer must fulfill and all other factors to be used in evaluating bids or proposals.

3. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
4. A description of the proper format, if any, in which proposals must be submitted, including the name of the Mendocino LAFCo staff member to whom proposals should be sent.
5. The date and time by which proposals are due.
6. Required delivery or performance dates/schedules.
7. Clear indications of the quantity(ies) requested and unit(s) of measure.

Mendocino LAFCo may confer with other LAFCOs in maintaining a list of qualified vendors/consultants to provide a service or produce a specialized report for Mendocino LAFCo.

Mendocino LAFCo may, but is not required to, consider vendors/consultants to provide a service or produce a specialized report through an RFP/RFQ process. (*Resolution No. 2023-24-03*)

## 6 | CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE

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### 6.1 CONFLICT OF INTEREST

The California Political Reform Act, Government Code §81000 *et seq.*, requires each state and local government agency to adopt and promulgate a Conflict of Interest Code. The Fair Political Practices Commission (FPPC) has adopted a regulation, Title 2, §18730 of California Code of Regulations, which contains the terms of a standard Conflict of Interest Code. This standard Code is hereby incorporated by reference.

Persons serving in Designated Positions must file annual statements of economic interest (Form 700) with the Commission Clerk by April 1 of each year. Statements of economic interest are also required upon appointment to office and upon leaving office.

The following Designated Positions must file statements of economic interest:

- a) Commissioners and Alternate Commissioners
- b) Executive Officer
- c) LAFCo Counsel

### 6.2 FINANCIAL DISCLOSURE

Pursuant to Government Code §56700.1, expenditures for political purposes related to an application must be disclosed. All applicants, including individual property owners and other representatives who are a party to a proceeding, are required to submit a financial disclosure statement as part of any application package [§84308]. Disclosures must be made in the same manner as disclosures for local initiative measures presented to the electorate.

Any applicant or an agent of an applicant who has made business or campaign contributions totaling \$250 or more to any Commissioner (regular or alternate) in the past twelve months, must disclose that fact for the official record of the Commission [§84308(d)]. The disclosure of any such contribution (including amount of contribution and name of recipient Commissioner(s) must be made: (1) in writing and delivered to the Executive Officer prior to the hearing on the matter; or (2) by oral declaration made at the time the hearing on the matter is opened.

Commissioners shall be disqualified and not able to participate in any proceedings within a 12 month period preceding the LAFCo decision if the Commissioner received \$250 or more in campaign contributions from the applicant, an agent of the applicant, or any financially interested person who actively supports or opposes the LAFCo decision on the matter.

### 6.3 DEALING WITH A CONFLICT

Whenever a Commissioner is disqualified or has a conflict of interest, that Commissioner shall not participate in the proceedings. It is recommended that the Commissioner state the basis for the conflict of interest immediately after the Chair announces the item for consideration, and then refrain from participating in the deliberations, abstain from voting, and leave the room in which the meeting is being held.

## 7 | DOCUMENT RETENTION AND DESTRUCTION POLICY

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### 7.1 DOCUMENT RETENTION

Except as otherwise provided herein, and subject to the conditions contained in this policy, all original records and documents maintained by LAFCo will be retained for a period of five (5) years. A true copy of all documents shall be kept in a safe and separate place for security purposes.

As used in this policy, the term “record” (or “record of proceedings”) is defined to mean documents that show decisions or actions taken by the Commission in fulfillment of its statutory responsibilities. Records maintained by the Commission include the following: Records of proceedings (LAFCo application, petition or other initiating documents; statement of property valuation; statement of tax rate area assignment; indemnification and agreements to pay; Certificates of Filing and Completion; copies of public hearing notice; environmental review documents prepared for purposes of complying with the California Environmental Quality Act (“CEQA”); plan for service; map and legal description; staff reports; impartial analysis; order for change of organization/reorganization; documentation of election and results; Statement of Boundary Change; State Board of Equalization acknowledgement letter, LAFCo meeting minutes, Municipal Service Reviews); and Administrative/Financial documents (budgets, accounts payable, accounts receivable, audits, invoices, ledgers, registers, Commissioner reimbursements, Commissioner policies and procedures, agreements, contracts, leases, purchase orders, requisitions, recruitment/selection/resumes, claims).

### 7.2 LIMITED EXCEPTIONS TO FIVE YEAR RETENTION PERIOD

Original statements of economic interest (Form 700) shall be retained by the Commission for a period of seven (7) years. Environmental review documents that are prepared by a lead agency other than LAFCo (i.e., Environmental Impact Reports and other CEQA documents that are approved or adopted by LAFCo but are not prepared by LAFCo as the lead agency for the project), will be retained by the Commission for a period of two (2) years. Environmental review and CEQA documents prepared by LAFCo as the lead agency for the environmental review of the project will be retained for a period of five (5) years.

### 7.3 DESTRUCTION AUTHORIZED FOLLOWING REQUIRED RETENTION PERIOD

At the conclusion of the applicable required retention period, the Executive Officer is authorized to destroy records as needed. If deemed necessary by the Executive Officer, a photographic or electronic copy of the original record may be made and preserved in the manner specified in §56382. Any documents that are preserved must be made as accessible for public reference as the original records were.

## 8 | ELECTRONIC EMAIL AND DEVICES POLICY

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- a) Mendocino LAFCo discourages the use of personal email accounts for LAFCo-related business. All LAFCo related business should be conducted through Commissioners' respective agency-provided email accounts (i.e., county, city, special district), or a personal email account designated specifically for LAFCo business.
- b) Mendocino LAFCo discourages the use of personal electronic devices in the course of LAFCo business as any device used may be subject to search as permitted or required by law. Should Commissioners and staff choose to use personal electronic devices for LAFCo-related business, they are assuming the risk that such communications may be public records and their device may be subject to search for public records.
- c) In order to avoid inadvertent violations of open meeting laws, the Commissioners may not use portable electronic devices to communicate with each other during a meeting of the Commission. Further, consistent with law, a majority of the Commissioners may not communicate with each other, either at the same time or serially, regarding LAFCo matters, outside of noticed Commission meetings.
- d) Use of electronic devices for personal communication during the active portion of LAFCo meetings is discouraged as it creates a public perception of inattention to the LAFCo proceedings.
- e) Commissioners and staff should delete all confidential information from portable or personal electronic devices in conformance with LAFCo Record Retention policies, provided a copy has been stored in LAFCo records and will be available for the required retention period.

*(Resolution 2017-18-10)*

### 8.1 ELECTRONIC SIGNATURE POLICY

This Policy applies to documents requiring a signature of any person where the signature is intended to show authorship, approval, authorization, or certification, as allowed by law. It is the Policy of the Mendocino LAFCo to allow the use of electronic signatures in all internal and external activities, documents, and transactions where it is operationally feasible to do so, where existing technology permits, and where it is otherwise appropriate. In such situations, affixing an electronic signature to the document in a manner consistent with this Policy shall satisfy Mendocino LAFCo's requirements for signing a document.

While the use of electronic signatures is an option, this Policy does not require any staff or Commissioner to use electronic signatures, nor can LAFCo mandate that any third party signing a document use electronic signature.

1. Types of documents. This Policy is intended to broadly permit the use of electronic signatures. Examples of common types of documents are resolutions of the Commission, contracts, legislative support letters, memorandums, and correspondence. The Executive Officer will confirm with Legal Counsel on a case-by-case basis to determine where applicable laws permit an electronic signature to be used.
2. Requirements of eSignature. The use of electronic signatures is permitted and shall have the same force and effect as the use of a "wet" or manual signature if all the following criteria are met:
  1. The electronic signature is unique to the person using it.

2. The electronic signature is capable of verification.
  3. The electronic signature is under the sole control of the person using it.
    - a) Email notifications requesting electronic signatures must not be forwarded.
    - b) These requirements prohibit the use of proxy signatures.
  4. The electronic signature is linked to the data in such a manner that if the data is changed after the electronic signature is affixed, the electronic signature is invalidated.
3. Documents involving other parties. In the case of contracts or transactions which must be signed by outside parties, each party to the agreement must agree in advance to the use of an electronic signature. No party to a contract or other document may be forced to accept an electronic signature; they must be permitted to decide either way. Such consent may be withdrawn by the other party at any time such that future documents must be signed in hardcopy format. When a document is electronically signed by all parties, Mendocino LAFCo will provide a copy of the electronically-signed document to the other parties in an electronic format that is capable of being retained and printed by the other parties.
4. eSignature Solution Providers. Acceptable technologies and eSignature providers shall be consistent with current state legal requirements and industry best practices to ensure the security and integrity of the data and the signature. The eSignature providers shall be on the *Approved List of Digital Signature Certification Authorities* certified by the California Secretary of State for use by public entities. LAFCo may accept other electronic signature methods provided they comply with all other requirements set forth in this policy.

*(Resolution No. 2020-21-06, 5/3/2021)*

# **Part 2:**

## **Boundary Change Policies & Procedures**

## 9 | GENERAL POLICIES AND STANDARDS

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### 9.1 COMMUNICATION AMONG LOCAL AGENCIES

LAFCo considers that an important part of its role is to encourage communication and collaborative planning and studies among public agencies (such as the County, cities, and special districts), members of the public, and private sector service providers.

### 9.2 INTER-LAFCo COORDINATION

Mendocino LAFCo recognizes that special districts may have territory in more than one county and that development patterns similarly do not always follow county boundaries. The Commission also recognizes that decisions made in one county can have significant environmental, economic, or fiscal impacts on another county. Recognizing that sharing information, policies and perspectives with neighboring LAFCos can benefit the public by enhancing and expediting the decision-making process, Mendocino LAFCo seeks to foster such sharing by formalizing its policy on cooperation with other LAFCos. (*Resolution No. 2017-18-13*)

#### 9.2.1 GENERAL

In recognition that the Cortese-Knox-Hertzberg Act vests authority for jurisdictional changes and all other matters with the LAFCo of a district's Principal County, Mendocino LAFCo affirms as policy that activities and decisions affecting independent special districts having territory in more than one county ("multi-county districts") are the sole responsibility of the Principal County LAFCo. This policy applies to:

- a) Conduct and adoption of Municipal Service Reviews ("MSRs");
- b) Adoption, update and amendment of Sphere of Influence Plans ("SOIs"), including adjustments of sphere horizons and changes in the assignment of territory to particular horizons;
- c) Changes of organization such as formation, dissolution, annexation, and detachment;
- d) Actions affecting the provision of services, such as changes in service boundaries and provision of new services.
- e) Notwithstanding the policy stated above, Mendocino LAFCo will share information and engage in joint activities with neighboring LAFCos whenever doing so can reasonably be expected to reduce costs, improve efficiency in performance of LAFCo actions, or enhance the quality of LAFCo decisions and not conflict with provisions of applicable law.

#### 9.2.2 TRANSFERS OF JURISDICTION

When requested by LAFCo of an affected county, Mendocino LAFCo will consider and determine, on a case-by-case basis, whether it is appropriate to transfer jurisdiction to the LAFCo of the affected county.

The Commission has authority pursuant to the provisions of Section 56388 of the Government Code to transfer jurisdiction for certain district proposals to the LAFCo of the county in which the subject territory is wholly or partially located. Mendocino LAFCo recognizes that such transfer of jurisdiction may benefit the public by expediting service or enhancing development of information regarding the subject territory. The Commission hereby delegates to its Executive Officer its authority to transfer jurisdiction for proposals involving a multi-county district and property located wholly outside Mendocino County if those proposals are of minor significance and the transfer would be of benefit to the public.

- a) Proposals for formation or dissolution of agencies, modification of sphere plans, or activation of latent powers may not be transferred without Commission approval.

- b) Considerations involved in the determination whether a proposal is of minor significance include, but are not necessarily be limited to, the size of the area involved, the number of property owners, the assessed valuation, and the potential impact of the action on all affected service providers.
- c) The Mendocino LAFCo Executive Officer shall make any such transfer of jurisdiction in writing (or subsequently prepare a written record for a transfer first approved orally or electronically) and promptly inform the Chair. The Chair and Executive Officer shall report such transfers to the Commission in a timely manner.

### **9.2.3 MULTI-COUNTY APPLICATION PROCESSING PROCEDURES**

Mendocino LAFCo recognizes the need to collaborate with the LAFCos of affected counties and when considering a change of organization of a district that is located in more than one county. To further this collaboration and assure thorough and consistent consideration of applications affecting more than one county, the Commission adopts the following procedure for processing applications from multi-county districts.

### **9.2.4 MENDOCINO LAFCO THE PRINCIPAL LAFCO**

The Executive Officer of Mendocino LAFCo will inform neighboring LAFCo Executive Officers whenever Mendocino LAFCo receives a proposal for or initiates action on an MSR, SOI, organizational change, or service change involving a multi-county district for which Mendocino is the Principal County but has territory in the neighboring LAFCo’s county.

- a) Applications affecting the boundaries of a district for which Mendocino LAFCo is the principal LAFCo shall be submitted to Mendocino LAFCo, including instances in which the subject territory is located in another county. Prior to application, applicants should meet with Mendocino LAFCo staff and the staff of the LAFCo in the affected county regarding process and application requirements.
- b) Upon receipt of an application involving territory in another county, Mendocino LAFCo staff shall immediately forward a copy of the application to the LAFCo of the affected county. Mendocino LAFCo staff shall also notify all affected local agencies of any proceedings, action, or reports on the proposed change of organization.
- c) Mendocino LAFCo staff shall consult with the staff of the LAFCo of the affected county and the staffs of affected agencies, to gather data for the Executive Officer’s report and recommendation.
- d) Mendocino LAFCo shall schedule Commission consideration of the application so that the LAFCO of the affected county has had time to review the application and submit a written recommendation to be included in the Executive Officer’s report for Mendocino LAFCo consideration.
- e) During its consideration of the application, the Commission shall consider the Executive Officer’s report, the recommendation of the LAFCo of the affected county, and the comments of interested persons and affected local agencies in making its determination.
- f) Following the Commission’s consideration of the application, the Executive Officer shall forward any resolutions and written report of Commission action to all affected local agencies and the LAFCo of the affected county.

### **9.2.5 MENDOCINO LAFCO NOT PRINCIPAL LAFCO**

Upon receipt by Mendocino LAFCo of a referral from the LAFCo of another county of an application for a change of organization affecting territory in Mendocino County, Mendocino County staff shall place the application and report and recommendation on Mendocino LAFCo’s next possible agenda so that the Commission may consider the application and forward a recommendation to the principal LAFCo. The application will be processed and a staff report will be prepared consistent with Mendocino LAFCo’s Policies and Procedures.

### **9.3 PREMATURE EXTENSION OF URBAN SERVICES**

Prior to the Commission's consideration of a sphere of influence expansion request or a change of organization involving annexation of territory to a city or district, the applicant shall provide a plan for services including written evidence from the affected agency that it has the service capacity and fiscal capability to adequately serve the subject territory.

The Commission discourages the extension of urban services (i.e., water and sewer service) in the absence of either existing development or plans for imminent development. Unless exceptional circumstances exist, no application for a change of organization or reorganization will be accepted until all discretionary approvals for any pending application for land use entitlements, including land divisions pertaining to the subject territory, are granted.

### **9.4 DISCOURAGING URBAN SPRAWL**

LAFCo has been directed by the State Legislature to discourage urban sprawl, and the Commission will generally deny proposals that can reasonably be expected to result in sprawl. Sprawl is characterized by irregular, dispersed, and/or disorganized urban or suburban growth patterns occurring at a relatively low density and in a manner that precludes or hinders efficient delivery of municipal services, especially roads, sewer, and water.

### **9.5 ENVIRONMENTAL REVIEW (CEQA)**

LAFCo shall operate in accordance with the CEQA and the regulations of the California Resources Agency, which establishes the guidelines for its implementation. Furthermore, whenever an agency other than the Commission is involved in the approval of a project, the Commission prefers that the other agency be designated as the "Lead Agency." For annexations and/or reorganizations involving annexation to a city, the city shall act as the Lead Agency under CEQA for the proposal.

### **9.6 COMPACT URBAN FORM AND INFILL DEVELOPMENT ENCOURAGED**

When reviewing proposals that would result in urban development, LAFCo will consider whether the proposed development is timely, compact in form, and contiguous to existing urbanized areas. LAFCo will favor development of vacant or underutilized parcels already within a city or other urbanized area prior to annexation of new territory.

### **9.7 PUBLIC ACCESSIBILITY AND ACCOUNTABILITY**

LAFCo recognizes that the public's ability to participate in the local governance process is improved when the government structure is clear and accessible and when decision-makers are accountable to the public. The Commission shall consider this principle when it evaluates proposals for changes of organization or reorganization.

### **9.8 ADEQUATE SERVICES**

LAFCo shall consider the ability of an agency to effectively and efficiently deliver adequate, reliable, and sustainable services and shall not approve a proposal that has significant potential to diminish the level of service in the agency's current jurisdiction. The agency will be required to provide satisfactory documentation of capacity to provide service within a reasonable period of time.

## **9.9 EFFICIENT SERVICES**

Community needs are typically met most effectively and efficiently by proposals that:

- a) utilize existing public agencies rather than create new ones;
- b) consolidate the activities and services of public agencies in order to obtain economies from the provision of consolidated services; and
- c) restructure agency boundaries and service areas to provide more logical, effective, and efficient local government services.

## **9.10 COMMUNITY IMPACTS**

LAFCo shall consider the impacts of a proposal and any alternative proposals on adjacent areas, on social and economic interests, and on the local government structures of the County. The Commission may deny a proposal if adverse impacts are not mitigated to an acceptable level.

## **9.11 CONFORMANCE WITH GENERAL AND SPECIFIC PLANS**

### **9.11.1 CONSISTENCY WITH GENERAL AND SPECIFIC PLANS**

LAFCo shall approve changes of organization or reorganization only if the proposal is consistent with the applicable General Plan and any applicable Specific Plan. LAFCo shall discourage proposals that promote urban development in areas not planned for urban uses.

### **9.11.2 CONSISTENCY FOUND ADEQUATE**

The proposal shall be deemed consistent if the proposed use is consistent with the applicable General Plan designation and the anticipated types of services to be provided are appropriate to the land use designated for the area.

### **9.11.3 PRE-ZONING OR PLANNING**

All territory proposed for city annexation must be specifically planned and/or pre-zoned. The pre-zoning of the territory must be consistent with the applicable General Plan and sufficiently specific to determine the likely intended use of the property. Subsequent change to the zoning by a city is prohibited by state law for a period of two years under most circumstances.

## **9.12 BOUNDARIES**

### **9.12.1 DEFINITE BOUNDARIES REQUIRED**

LAFCo shall not accept as complete any application unless it includes boundaries that are definite, certain, and fully described.

### **9.12.2 BOUNDARY CRITERIA**

LAFCo will generally favor applications with boundaries that do the following:

- a) create logical boundaries within the affected agency's sphere of influence, and where possible, eliminate previously existing islands or other illogical boundaries;
- b) follow natural or man-made features and include logical service areas where appropriate; and
- c) place all streets and rights-of-way within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and rights-of-way are intended.

### **9.12.3 BOUNDARY ADJUSTMENTS**

LAFCo will generally amend proposals with boundaries which:

- a) Split neighborhoods or divide existing identifiable communities, commercial districts, or other areas having a social or economic identity.
- b) Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries.
- c) Are drawn for the primary purpose of encompassing revenue-producing territories.
- d) Create areas where it is difficult to provide services.

### **9.12.4 BOUNDARY DISAPPROVALS**

If LAFCo, in consultation with the applicant, cannot suitably adjust the proposed boundaries to meet the criteria established above, it will generally deny the proposal.

## **9.13 AGRICULTURAL AND OPEN SPACE LAND**

### **9.13.1 AGRICULTURAL POLICIES**

- a) LAFCo's decisions shall reflect its legislated responsibility to work to maximize the retention of prime agricultural land and open space while facilitating the logical and orderly expansion of urban areas.
- b) Urban growth shall be guided away from existing prime agricultural lands unless that action would not promote planned, orderly, and efficient development of an area.
- c) The Commission shall not approve a change of organization or reorganization that would result in the annexation of territory that is subject to a Williamson Act contract unless the facilities or services proposed benefit the uses that are allowed under the contract.
- d) Development of existing vacant lands for urban uses within the jurisdictional boundaries of a local agency shall be encouraged before any annexation proposal or change to a sphere of influence is approved which would lead to, or allow, the development of prime agricultural or open space lands outside the existing jurisdiction of any local agency.
- e) Spheres of influence should reflect consideration for existing and/or potential agricultural use or resource land use and should not be extended into such areas for purposes of allowing urban development.

### **9.13.2 FACTORS TO CONSIDER IN REVIEW OF A PROPOSAL**

A proposal which includes agricultural or open-space designated land shall be evaluated in light of the existence of the following factors:

- a) "prime agricultural land" as defined in G.C. §56064;
- b) "open space" as defined in G.C. §56059;
- c) land that is under contract to remain in agricultural or open-space use, such as a Williamson Act Contract or Agricultural/Open-Space Easement;
- d) land which has an agricultural or open-space designation;
- e) the adopted General Plan policies of the County and the affected city;
- f) the physical and economic integrity of both agricultural lands proposed for conversion to urban use and adjoining land in agricultural use;
- g) the potential for the premature conversion of agricultural or open-space designated land to urban use; and
- h) the policies and priorities in G.C. §56377.

### 9.13.3 CONDITIONS FOR APPROVAL OF PRIME AG/OPEN SPACE LAND CONVERSION

LAFCo will apply a heightened level of review when considering proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of prime agricultural land or open space uses to other uses and will approve such proposals only when the Commission finds that the proposal will lead to planned, orderly, and efficient development and/or provision of services. For purposes of this standard, a proposal leads to planned, orderly, and efficient development only if all of the following criteria have been considered:

- a) the land subject to the change of organization or reorganization is contiguous either to lands developed with an urban use or to lands which have received all discretionary approvals for urban development;
- b) the proposed development of the subject lands is consistent with the sphere of influence plan(s) of the affected agency or agencies;
- c) the land subject to the change of organization is likely to be developed within five years. For large development projects, annexation should be phased wherever feasible. If the Commission finds phasing infeasible for specific reasons, it may approve annexation if all or a substantial portion of the subject land is likely to develop within a reasonable period of time;
- d) insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable sphere boundaries that is planned and developable for the same general type of use; and
- e) The proposal will have no significant adverse effect on the physical and economic integrity of other ag/open space lands.

## 9.14 DISADVANTAGED UNINCORPORATED COMMUNITIES

### 9.14.1 DEFINITION

A Disadvantaged Unincorporated Community (DUC) is defined as a developed area that has been identified as such by LAFCo, the County or applicable city; or one that meets all the following standards:

- a) is substantially developed with primarily residential uses;
- b) does not have reliable public water, sewer, or structural fire protection service available;
- c) contains at least 12 registered voters; and
- d) has a median household income level of 80% or less than the statewide median household income.

### 9.14.2 REQUEST FOR DETERMINATION

In addition to those DUCs identified by LAFCo or other agencies, residents or property owners may request that LAFCo determine whether a specific area meets the definition listed above to be treated as a DUC. The review shall be conducted by LAFCo staff and shall, if appropriate, be submitted for consideration and approval by the Commission.

### 9.14.3 IDENTIFICATION OF DUCS

The Commission will identify DUCs, for the purpose of:

- a) Municipal Service Reviews. Water, Wastewater, and Fire Protection Municipal Service Reviews will identify opportunities for the provision of those services to DUCs.
- b) City and District Annexations. DUCs located adjacent to areas proposed for annexation to a city or special district shall be included in the annexation or reorganization proposal or be separately proposed for annexation unless the Commission has determined that the disadvantaged community would not benefit by annexation, or if at least 50% of the registered voters within the affected territory have indicated opposition to annexation.

## **9.15 UNINCORPORATED ISLANDS**

The Commission acknowledges that unincorporated islands are generally costly for county government to serve and often have service impacts on the surrounding city. Cities should be encouraged to annex unincorporated islands or land that is substantially surrounded by a city (G.C. §56375.3 and 56744). LAFCo discourages the formation of special districts within unincorporated islands for services that are readily available from the surrounding city.

## **9.16 EXCEPTIONS**

LAFCo may make exceptions to any of the standards in this chapter if it determines that such exceptions can be justified upon one or more of the following grounds:

- a) the project has a unique physical constraint which is so unusual and inconsistent with other similar locations that granting an exception would not be a grant of a special privilege;
- b) exceptions are required to resolve conflicts between standards of these policies;
- c) the project will result in significantly improved quality or substantially lower cost of service available;  
and
- d) no feasible or logical alternative exists.

# 10| SPHERES, MSRS, AND SPECIAL STUDIES

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## 10.1 SPHERES OF INFLUENCE

### 10.1.1 LEGISLATIVE AUTHORITY AND INTENT

A sphere of influence is the probable 20-year growth boundary for a jurisdiction's physical development. The Commission shall use spheres of influence to:

- a) promote orderly growth and development within and adjacent to communities;
- b) promote cooperative planning efforts among cities, the County, and special districts to address concerns regarding land use and development standards, premature conversion of agriculture and open space lands, and efficient provision of public services;
- c) guide future local government reorganization that encourages efficiency, economy, and orderly changes in local government; and
- d) assist property owners in anticipating the availability of public services in planning for the use of their property.

### 10.1.2 DEFINITIONS

The Commission incorporates the following definitions:

- a) an "establishment" refers to the initial development and determination of a sphere of influence by the Commission;
- b) an "amendment" refers to a limited change to an established sphere of influence typically initiated by a landowner, resident, or agency; and
- c) an "update" refers to a comprehensive change to an established sphere of influence typically initiated by the Commission.

### 10.1.3 SPHERE UPDATES

In updating spheres of influence, the Commission's general policies are as follows:

- a) The Commission will review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, police, and fire protection services.
- b) Sphere of influence changes initiated by any agency providing a municipal service shall generally require either an updated or new service review unless LAFCo determines that a prior service review is adequate.
- c) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.

### 10.1.4 REDUCED SPHERES

The Commission shall endeavor to maintain and expand, as needed, spheres of influence to accommodate planned and orderly urban development. The Commission shall, however, consider removal of land from an agency's sphere of influence if either of the following two conditions apply:

- a) the land is outside the affected agency's jurisdictional boundary but has been within the sphere of influence for 10 or more years; or

- b) the land is inside the affected agency’s jurisdictional boundary but is not expected to be developed for urban uses or require urban-type services within the next 10 years.

### **10.1.5 ZERO SPHERES**

LAFCo may adopt a “zero” sphere of influence encompassing no territory for an agency. This occurs if LAFCo determines that the public service functions of the agency are either nonexistent, no longer needed, or should be reallocated to some other agency (e.g., mergers, consolidations). The local agency which has been assigned a zero sphere should ultimately be dissolved.

### **10.1.6 SERVICE SPECIFIC SPHERES**

If territory within the proposed sphere boundary of a local agency does not need all of the services of the agency, a “service specific” sphere of influence may be designated.

### **10.1.7 AGRICULTURE AND OPEN SPACE LANDS**

Territory not in need of urban services, including open space, agriculture, recreational, rural lands, or residential rural areas shall not be assigned to an agency’s sphere of influence unless the area’s exclusion would impede the planned, orderly and efficient development of the area. In addition, LAFCo may adopt a sphere of influence that excludes territory currently within that agency’s boundaries. This may occur when LAFCo determines that the territory consists of agricultural lands, open space lands, or agricultural preserves whose preservation would be jeopardized by inclusion within an agency’s sphere. Exclusion of these areas from an agency’s sphere of influence indicates that detachment is appropriate.

### **10.1.8 ANNEXATIONS ARE NOT MANDATORY**

Before territory can be annexed to a city or district, it must be within the agency’s sphere of influence (G.G. §56375.5). However, territory within an agency’s sphere will not necessarily be annexed. A sphere is only one of several factors that are considered by LAFCo when evaluating changes of organization or reorganization.

### **10.1.9 ISLANDS OR CORRIDORS**

Sphere of influence boundaries shall not create islands or corridors unless it can be demonstrated that the irregular boundaries represent the most logical and orderly service area of an agency.

### **10.1.10 OVERLAPPING SPHERES**

LAFCo encourages the reduction of overlapping spheres of influence to avoid unnecessary and inefficient duplication of services or facilities. In deciding which of two or more equally capable agencies shall include an area within its sphere of influence, LAFCo shall consider the agencies’ service and financial capabilities, social and economic interdependencies, topographic factors, and the effect that eventual service extension will have on adjacent agencies. Where an area could be assigned to the sphere of influence of more than one agency, the following hierarchy typically applies:

- a) Inclusion within a city’s sphere
- b) Inclusion within a multi-purpose district’s sphere
- c) Inclusion within a single-purpose district’s sphere

Territory placed within a city’s sphere indicates that the city is the most logical provider of urban services. LAFCo encourages annexation of developing territory (i.e., area not currently receiving services) that is currently within a city’s sphere to that city rather than to one or more single-purpose special districts. LAFCo discourages the formation of special districts within a city’s sphere. To promote efficient and coordinated planning among the county’s various agencies, districts that provide the same type of service shall not have overlapping spheres.

### **10.1.11 MEMORANDUM OF AGREEMENTS (FOR CITY SPHERE AMENDMENTS AND UPDATES)**

Prior to submitting an application to LAFCo for a new city sphere of influence or a city sphere of influence update, the city shall meet with the County to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements as contained in G.C. §56425. If an agreement is reached between the city and County the agreement shall be forwarded to LAFCo. The Commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by LAFCo and the County, and LAFCo shall give great weight to the agreement to the extent that it is consistent with LAFCo policies in its final determination of the city sphere.

### **10.1.12 AREAS OF INTEREST**

LAFCo may, at its discretion, designate a geographic area beyond the sphere of influence as an Area of Interest to any local agency. (*Resolution No. 2018-19-01*)

- a) An Area of Interest is a geographic area beyond the sphere of influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency (the "Interested Agency"). For example, approval of a housing project developed to urban densities on septic tanks outside the city limits of a city and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city in such a situation would be the Interested Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the city.
- b) When LAFCo receives notice of a proposal from another agency relating to the Area of Interest, LAFCo will notify the Interested Agency and will consider its comments.
- c) LAFCo will encourage Acting and Interested Agencies to establish Joint Powers Agreements or other commitments as appropriate.

## **10.2 MUNICIPAL SERVICE REVIEWS**

- a) A service review will be prepared prior to, or in conjunction with each sphere of influence establishment, update, or amendment unless LAFCo determines that a prior service review is adequate (i.e., there are no significant changes in existing or anticipated circumstances). A minor sphere of influence amendment will not require a service review. A minor sphere of influence amendment is one that does not have any adverse regional, planning, economic, or environmental impacts.
- b) LAFCo will consider service review determinations and recommendations when rendering sphere of influence findings.

## **10.3 SPECIAL STUDIES**

The Commission may undertake special studies or service reviews when requested by an agency or initiated by the Commission.

# 11| GENERAL APPLICATION REQUIREMENTS

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## 11.1 LAFCo JURISDICTION

### 11.1.1 SPECIFIC AUTHORITY

LAFCo has the specific authority to review and approve or disapprove:

- a) Annexations to, or detachments from, cities or districts;
- b) Formation or dissolution of districts;
- c) Incorporation or disincorporation of cities;
- d) Consolidation or reorganization of cities or districts;
- e) Merger of a city and a district;
- f) Establishment of subsidiary districts;
- g) The establishment of, and amendments to, spheres of influence;
- h) Extensions of service beyond an agency's jurisdictional boundaries; and
- i) Provision of new or different services by districts.

### 11.1.2 LIMITED AUTHORITY TO INITIATE PROPOSALS

Under specific circumstances, LAFCo may initiate proposals resulting in the formation, dissolution, or consolidation of districts; merger of a city and district; establishment of a subsidiary district; or reorganizations that include any of the aforementioned changes of organization.

### 11.1.3 LIMITATION OF AUTHORITY RELATING TO LAND USE CONDITIONS

In order to carry out the legislative policies identified above, LAFCo has the power to approve or disapprove applications, or to impose reasonable conditions of approval. However, while LAFCo is charged with consideration of the impacts of land use in its determination, it is prohibited from directing specific land use or zoning actions. LAFCo can deny an application where the land use that would result violates the statutory policies of CKH Act.

## 11.2 NOTICE AND PUBLIC PARTICIPATION

### 11.2.1 PUBLIC PARTICIPATION ENCOURAGED

LAFCo encourages participation in its decision-making process. The CKH Act provides for a wide dissemination of notice. LAFCo shall not necessarily be limited to the minimum requirements by law and policy. The Commission will provide opportunity for the public to be heard at LAFCo meetings in accordance with the procedures set forth in its Administrative Policies.

### 11.2.2 UNNECESSARY PUBLIC HEARINGS ELIMINATED

Where LAFCo is authorized by CKH Act to consider a proposal without public hearing, the proposal will be considered by the Commission without a public hearing, unless the Executive Officer or the Commission determines that the matter is of sufficient public interest or controversy to warrant a public hearing (G.C. §56662, 56664).

## **11.3 APPLICATION BY RESOLUTION OF APPLICATION PREFERRED**

- a) While the CKH Act permits initiation of applications to LAFCo either by resolution of an affected agency or by direct landowner/voter petition, LAFCo prefers that the resolution procedure be utilized wherever feasible. Use of the resolution of application procedure is preferred because (1) it involves the affected public agency early in the process to assure that the agency's concerns are considered and (2) it better integrates CEQA processing by the affected public agency as Lead Agency. Each applicant shall be advised of this policy at the earliest possible time.
- b) Prior to accepting a petition-initiated application (other than for sphere updates, district formations, and city incorporations), the LAFCo Executive Officer will require the proponent(s) to demonstrate that they have attempted to initiate proceedings by a resolution of application or otherwise obtain the sponsorship of the affected public agency.
- c) If the proposal will require a public hearing and is submitted by resolution of application, prior to adopting the resolution, the initiating agency may notify registered voters and property owners and affected/interested agencies (G.C. §56654). A resolution of application must contain the same information as a petition, except for signatures (G.C. §56700).

## **11.4 APPLICATION REQUIREMENTS**

### **11.4.1 PRE-APPLICATION**

LAFCo encourages a pre-application discussion between the proponent and LAFCo staff, which can save the prospective applicant substantial time once the process has begun. LAFCo staff will review procedures, applicable spheres of influence, information requirements, environmental review requirements, processing fees, and provide application forms.

### **11.4.2 APPLICATION MATERIALS**

Applications to the Commission must contain all the information and materials required by the Applications to the Commission must contain all the information and materials required by the CKH Act (G.C. §56652 and 56653), including a plan for services, as well as the applicable fees or deposit toward fees as specified by the LAFCo Fee Schedule. Except when the Commission is the Lead Agency pursuant to the CEQA (as defined in Public Resources Code §21067), an application must also contain complete documentation of the Lead Agency's environmental determination. No application for a change of organization or reorganization will be deemed complete and scheduled for public hearing until proof of a property tax exchange agreement, in the form of adopted resolutions, is provided by the local agencies whose service area or service responsibility will be altered by the proposed jurisdictional change pursuant to Revenue and Taxation Code Section 99(b)(6). To facilitate the tax exchange process, upon receipt of applications requiring the tax exchange agreement, LAFCo staff will provide notification of the application to the County CEO, Auditor and Assessor, the Board of Supervisors, and all affected agencies with a copy also provided to the Supervisor in whose district the change of organization is proposed. (*Resolution No. 2017-18-02*)

### **11.4.3 AGREEMENT TO PAY FEES**

The application shall also include an agreement to pay costs. The agreement to pay costs must be signed by the applicant for the application to be deemed complete. (*Resolution No. 2020-21-05, 5/3/2021*)

### **11.4.4 DEPOSITS**

Where indicated in the Fee Schedule, deposits toward the actual cost of processing proposals must be paid at the time an application is submitted. All deposits are initial payments toward the actual costs of processing

proposals, including staff time and materials (e.g., noticing, postage, copying). Applicants must sign an At-Cost Fee Agreement, consenting to reimburse LAFCo for all costs incurred in processing, including pre-application assistance.

#### **11.4.5 BILLING PROCEDURE**

Staff's work on applications, which includes overhead costs, is tracked on an hourly basis. LAFCo will provide monthly invoices to the applicant. If actual costs exceed the deposit amount, LAFCo will invoice the applicant for the additional costs. Processing of the application may be suspended until payment is received. All final invoices must be paid by the applicant prior to filing the Certificate of Completion. Any portion of the deposit not used for processing is refunded.

#### **11.4.6 OUTSIDE ASSISTANCE FEES**

The Commission may, at its sole discretion, contract for outside assistance in processing and review of an application. The types of assistance include, but are not limited to, legal, engineering, environmental, and planning. The estimated or actual costs, as determined by the Commission for such assistance shall be deposited with the Executive Officer before an application will be processed further.

#### **11.4.7 LEGAL COUNSEL FEES**

Applicants will be charged the actual costs of fees associated with legal consultation or review. While most applications do not require legal review, occasionally a proposal will develop significant legal issues that require considerable legal counsel involvement. Legal fees must be paid in full prior the final processing of an application.

#### **11.4.8 VOLUNTARY INDEMNIFICATION AGREEMENT**

As part of the application, applicant shall be asked to sign and submit the voluntary indemnification agreement approved by the Commission concurrent with the adoption of this policy for all reasonable expenses and attorney fees incurred from proceedings brought by a third party in connection with the application. While LAFCo retains the discretion in all cases to decide whether to defend an action, the Applicant's voluntary agreement to indemnify LAFCo will have a significant bearing on LAFCo's decision whether to defend its decision. *(Resolution No. 2020-21-05, 5/3/2021)*

#### **11.4.9 REFUNDS OF FEES**

Except for unused portions of deposits, all fees paid to LAFCo are non-refundable. If an application is withdrawn by the applicant prior to the time that the application has been publicly noticed for hearing by the Commission, all unexpended funds shall be returned to the applicant. Otherwise, payment of fees is not a guarantee of approval of the submitted proposal.

#### **11.4.10 WAIVER OF FEES**

The Commission may waive a fee in special circumstances or if it finds that payment would be detrimental or contrary to the public interest. Fees may be waived or reduced for applications filed in response to a condition imposed by or a recommendation made by the Commission. A request for waiver, including an explanation for the request, must be submitted in writing to the Commission. Staff will present the request to the Commission, along with analysis and recommendation, for its determination.

#### **11.4.11 AUTHORIZED OFFICER**

Where the application is by resolution of application from an agency, the application and related agreements must be signed by an authorized officer of the agency.

## **11.5 COMMISSION PROCEEDINGS**

- a) Upon submittal of an application, the Executive Officer shall review the proposal and within 30 days of its receipt either:
  - i. Determine that the application is complete and issues a Certificate of Filing, setting the Commission hearing within 90 days. After receiving an application and before issuance of a Certificate of Filing, the Executive Officer shall give mailed notice to affected agencies, county departments, school districts, and other affected counties' LAFcos pursuant to G.C. §56658(b), unless the subject agency has already given notice pursuant to G.C. §56654(c); or
  - ii. Determine that the application is not complete and notifies the proponent pursuant to G.C. §56658(g).
- b) If a proposal involves a district annexation that is not initiated by the annexing district, or a proposal involving the detachment of territory from a city, the proposal shall be scheduled as an informational item for the next Commission meeting and the annexing district or detaching city shall be notified that the proposal has been submitted. No later than 60 days after the date the proposal is on the Commission's agenda as an informational item the annexing district or detaching city may transmit a resolution terminating the proceedings (G.C. §56751, 56857).
- c) The Executive Officer, at least 21 days prior to the date set for hearing, shall give notice by publication, posting, website, and mailed notice to landowners and registered voters pursuant to G.C. §56660 and 56661. Some Commission actions can be made without notice and hearing, such as annexations and detachments with written consent of all landowners. Notice and opportunity to request a public hearing must be given to agencies whose boundaries are affected (G.C. §56662).
- d) The Executive Officer shall review the application and any comment received, and shall prepare a written report and recommendation. The report reviews pertinent factors and policies, procedures, spheres of influence, and general and specific plans.
- e) The Executive Officer shall mail the report at least five days prior to the hearing to each commissioner, each person named in the application to receive a report, each affected local agency requesting a report, each agency whose boundaries or sphere of influence will be changed, and the LAFco executive officer of any other affected county (G.C. §56665).
- f) The Commission shall hear the proposal on the noticed date and time. The hearing may be continued for up to 70 days (G.C. §56666). The Commission must consider a number of factors and policies in compliance with G.C. §56668 and 56668.3.

## **11.6 COMMISSION ADOPTION OF A RESOLUTION**

- a) In its actions, the Commission may:
  - i. approve the proposal as submitted;
  - ii. approve the proposal with an amendment;
  - iii. approve the proposal with conditions; or
  - iv. deny the proposal.
- b) Within 35 days after the conclusion of the hearing, the Commission shall adopt a resolution approving, approving conditionally, or disapproving the proposal (G.C. §56880). Upon execution of the resolution, copies shall be mailed to the chief petitioners, if any, and the affected agencies whose boundaries would be changed by the proposal. (G.C. §56882)
- c) If the proposal is approved, a protest hearing shall be scheduled unless it has been waived in accordance with G.C. §56663. If the proposal is approved with conditions, the resolution of approval shall include a description of the required terms and conditions for approval. If the proposal is denied, no further

proceedings shall be taken on that proposal and no similar proposal involving the same territory may be initiated for one year unless the Commission waives that stipulation as detrimental to the public interest (G.C. §56884).

## **11.7 RECONSIDERATION OF LAFCo DECISIONS**

### **11.7.1 REQUEST AND FEES**

A request for reconsideration shall be made in accordance with G.C. §56895 within 30 days of the Commission's determination and shall be accompanied by the appropriate reconsideration fee deposit as established in the LAFCo Fee Schedule. If the request does not specify the required grounds for reconsideration or does not otherwise comply with statutory requirements, the Executive Officer shall return the incomplete request to the requesting party, along with a statement of the deficiency. A request will be placed on the Commission's agenda only if the requesting party supplies the missing information before the end of the 30 day reconsideration period.

### **11.7.2 GROUNDS FOR RECONSIDERATION**

LAFCo will consider changing its previous determination only under one or more of the following circumstances:

- a) compelling new evidence about the proposal, which was previously unavailable is brought to the Commission's attention;
- b) factors significant to the Commission decision were overlooked or have changed, such as a change in an applicable federal, state, or local law; or
- c) a significant, prejudicial error in procedure is found.

## **11.8 CONDUCTING AUTHORITY PROCEEDINGS**

### **11.8.1 WAIVER OF CONDUCTING AUTHORITY PROCEEDINGS**

The Commission may waive final Conducting Authority proceedings in accordance with G.C. §56662 and 56663, and otherwise authorize the Executive Officer to file a Certificate of Completion upon approval of a change of organization or reorganization and satisfaction of all terms and conditions pursuant to G.G. §57200.

### **11.8.2 SETTING THE MATTER FOR HEARING**

Within 35 days of final LAFCo action, the Executive Officer shall set the matter for hearing and cause a notice thereof to be published in accordance with G.C. §57025. The date of the hearing shall not be less than 21 nor more than 60 days, after the date the notice is given. The hearing may be continued for up to 60 days.

### **11.8.3 CONCLUSION OF HEARING**

Within thirty (30) days of the protest hearing, the Executive Officer shall, based on the value of written protests filed, either order the change, order the change subject to an election, or terminate the proposal. The Executive Officer shall report to the Commission at its next meeting the outcome of any protest hearing that is conducted.

### **11.8.4 DELEGATION OF AUTHORITY TO CONDUCT PROTEST HEARING**

The Commission shall delegate to the Executive Officer the authority to conduct protest hearings unless it specifies otherwise. The purpose of delegating certain duties to the Executive Officer is to increase scheduling flexibility, to avoid extending Commission meetings to conduct non-discretionary procedures, and to expedite the boundary change process. If the Commission chooses to retain such authority, this decision shall be stated

in the terms and conditions for approval of the subject proposal. The Executive Officer shall have the authority to issue the appropriate order upon completion of the protest proceedings.

## **11.9 FINAL FILING**

*(Resolution No. 2016-17-05)*

### **11.9.1 BOUNDARY MAPS**

The Executive Officer shall ensure final boundary maps comply with the following:

- a) LAFCo resolution approving a proposal;
- b) LAFCo, County, and Board of Equalization mapping requirements;
- c) All conditions of approval have been met; and
- d) All application fees have been paid prior to filing the Certificate of Completion.

A Final Filing Checklist is included as Appendix B.

### **11.9.2 EFFECTIVE DATE OF CHANGE**

The effective date of the change of organization or reorganization is the date the signed Certificate of Completion is filed at the County Recorder's office unless otherwise specified by the Commission (G.C. 57202). If the Certificate of Completion has not been filed within one year after the Commission approves a proposal, the proceeding is deemed abandoned unless the Commission authorizes an extension prior the expiration of that year (G.C. 56895).

### **11.9.3 CERTIFICATE OF COMPLETION**

The Certificate of Completion, including the recording numbers affixed by the County recorder, will be distributed to affected agencies, County surveyor, County assessor, County auditor, and the State Board of Equalization. The State Board of Equalization will distribute relevant information to the Department of Finance, the Controller, and to the Secretary of State, as appropriate (G.C. 57203, 57204).

## **11.10 INACTIVE APPLICATIONS**

If an application has not, in the opinion of the Executive Officer, seen substantial activity for a period of 18 months, a letter shall be sent to the applicant notifying them that unless documents or other requested information needed to process the application are received within 30 days, the application shall be deemed terminated and placed on inactive status, and the Commission shall be so notified at the next regularly scheduled meeting of LAFCo. If the applicant responds within the initial 30-day notice period and represents that the requested documents or other information will be available shortly, the applicant, at the discretion of the Executive Officer, shall be granted an additional six (6) months from date of submission (for a total of 24 months) to submit said documents. If said documents or information are not received within the 24-month period, the application shall be deemed terminated and the Executive Director shall so notify the applicant and the Commission. Any application remaining inactive for a period of three (3) years shall automatically be deemed terminated. Information on applications that have been terminated and placed on inactive status shall be retained in conformance to LAFCo's document retention policy. A new application with the required fee and/or deposit shall be required to re-activate the process for said terminated/inactive project. *(Resolution No. 2020-21-02)*

## 12| SPECIFIC APPLICATION REQUIREMENTS

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### 12.1 PROVISION OF NEW SERVICES BY DISTRICTS

- a) The Commission is responsible for determining latent powers for special districts under the Commission's jurisdiction. Towards this end, the Commission shall periodically review and update the functions and services established for each special district as part of its periodic review of municipal services pursuant to G.C. §56430. In conducting a municipal service review, the Commission may require the special districts to provide current information concerning established functions and services. The Commission may remove any function or service established for a special district if the Commission determines that the function of service is not currently being provided by the district.
- b) Any special district desiring to undertake the provision of any new or different function or class of service, or divest an existing power within its boundaries, shall adopt a resolution of application for filing with LAFCo pursuant to G.C. §56824.12. In addition, applications for provision of new or different functions or classes of service must be accompanied by a plan for providing service consistent with G.C. §56653.

### 12.2 OUTSIDE AGENCY SERVICES

#### 12.2.1 COMMISSION APPROVAL REQUIRED

A city or district, individually or as a member agency of a joint powers authority (JPA), shall not provide new or extended services to any party or property outside its jurisdictional boundaries unless it has obtained written approval from LAFCo, consistent with the CKH Act (G.C. §56133) and the policies described herein.

LAFCo prefers that this type of application be made by the local agency; however, if the city or district has declined to serve as the applicant, the affected landowner(s) may submit the application based on current (e.g. within 3 months) written proof from the local agency confirming both willingness and capacity to serve (e.g. will serve letter) the affected territory.

#### 12.2.2 REQUIREMENT FOR EXEMPTIONS TO COMMISSION APPROVAL

Commission approval may not be required for cities or special districts to provide new or extended services outside their jurisdictional boundaries in accordance with the provisions of G.C. §56133(e).

Agency self-exemption under G.C. §56133(e) is not recommended due to the complexity involved and the potential for a difficult and/or costly process to unwind unauthorized services. Outside agency services may be allowed to address unique circumstances and are not intended to circumvent the LAFCo process by providing services by contract instead of through the annexation of territory. Agency self-determinations of exemption can lead to a communication breakdown and can prevent LAFCo from effectively fulfilling its mandates, such as conducting meaningful studies.

LAFCo strongly encourages advance notice and coordination with agencies in determining whether specific situations are exempted by G.C. §56133(e) to support LAFCo in efficiently performing its functions and to support agencies in providing valid outside agency services.

For outside agency services that a city or district was providing on or before January 1, 2001 under G.C. §56133(e)(4), LAFCo encourages the city or district to request an Annexation Consent Agreement from each landowner, unless it is not logical and orderly for the city or district to ever annex the subject property or area.

### 12.2.3 DEFINITIONS

**Services** – any municipal services provided by a city or special district.

**Outside Agency Services** – municipal services provided outside the jurisdictional boundary of a local government agency (city or special district) by contract or agreement.

**New** – the provision of municipal services to a previously unserved property or use.

**Extended** – the expansion or intensification of municipal services currently provided to a property or use.

**In anticipation of a later change of organization** – a reliable commitment from the serving agency and/or landowner(s) that outside agency services will become inside agency services within a near-term timeframe or based on a foreseeable event or change in circumstance.

**An existing threat to health or safety** – the non-functioning or failure of existing private utilities (e.g. on-site septic system or well), which cannot be readily remedied, and have resulted in a health hazard from inadequately treated wastewater or the loss of access to safe and reliable drinking water. The lack of fire protection and/or emergency medical services to existing development may also qualify as an existing safety threat.

**An impending threat to health or safety** – the stage before an existing threat to health or safety in which there is a known and measurable high risk that will result in a threat to health or safety (e.g. within 6 months).

### 12.2.4 NEW OR EXTENDED SERVICES

Annexation to cities and special districts involving territory located within the affected agency's sphere of influence (SOI) is preferred to providing outside agency services by contract or agreement, in support of logical and orderly growth and development. The Commission recognizes, however, that there may be special circumstances that justify approval of outside agency services by contract or agreement prior to annexation.

Such special circumstances most frequently involve the need for municipal services to address an existing threat to health or safety. A properly documented threat to health or safety for consideration in those cases is strongly encouraged, regardless of whether located within or outside the agency's SOI.

In reviewing requests for outside agency services, LAFCo will apply the same general substantive policies as for annexation proposals. The following will be addressed in the Executive Officer's written report:

- a) The ability of the agency to provide the subject service(s) to the affected territory, without detracting from current service levels.
- b) Documentation with substantial evidence to support a finding by the Commission of an existing or impending threat to the health or safety of the public or the affected residents.
- c) Consistency with the policies and general plans of all affected local agencies.
- d) Effect on growth and development within and adjacent to the affected territory.
- e) Potential impacts on prime agricultural or open space lands.
- f) Consistency with the Commission's adopted municipal service review determinations and recommendations.
- g) The applicant's statement, with specificity, of the nature and timing of the anticipated later change of organization for the affected territory.

#### 12.2.4.1 Within SOI

The Commission strongly discourages the use of outside agency services for the purpose of providing municipal services to new development, which can result in unintended consequences, such as inducing growth or

resulting in the premature conversion of agricultural or open space lands to urban use. The Commission will approve such requests only under extraordinary circumstances and will apply strict limitations on such services.

G.C. §56133(b) authorizes the Commission to approve outside agency services “in anticipation of a later change of organization”. The standard condition for landowners to record a LAFCo Annexation Consent Agreement may not necessarily satisfy the qualification for an anticipated later change of organization. Further, the inclusion of the land to be served within the SOI of the serving agency also may not be sufficient because the SOI boundary can change over time, and placing territory within a sphere does not guarantee that annexation will occur (Policy 10.1.8). The Commission may include a condition to address this component of the CKH Act, such as requiring that an annexation application be submitted prior to, or within a specified timeframe (e.g. 1-2 years) of, the outside agency services approval.

Any outside agency services approved by the Commission prior to the date this policy is approved by the Commission shall not be subject to this policy, but the policy in effect at the time said application is approved by the Commission.

#### **12.2.4.2 Outside SOI**

The Commission recognizes the importance of promptly addressing threats to public health and safety, especially in considering outside agency services related to water and sewer services.

The Commission shall authorize a city or special district’s request to provide new or extended services outside their jurisdictional boundary and outside their SOI only in response to an existing or impending threat to the health or safety of the public or affected residents in accordance with G.C. §56133(c).

For water and sewer services, the affected agency and/or landowner(s) shall provide the Commission with documentation consistent with the public health and safety criteria for water and sewer services below.

An existing on-site sewage disposal system may be deemed a threat to the health and safety of the public or the affected residents if it meets one or more of the following criteria, as determined by Mendocino County Environmental Health or another qualified professional:

- i. There is ponding or accumulation of wastewater or septic tank effluent at or above the surface of the ground.
- ii. There is a lack of an unsaturated vertical soil separation between the bottom of a disposal field and seasonal high groundwater.
- iii. There is a failure of the disposal field or septic tank to accept, treat, and dispose of wastewater in quantities discharged by the structure served, and additional capacity cannot adequately or reasonably be developed.
- iv. Any other condition associated with the operation or use of an on-site sewage system that could permit the exposure, either directly or indirectly, of individuals or domestic animals to inadequately treated wastewater.

An existing water source used for domestic purposes may be deemed a threat to the health and safety of the public or the affected residents if it meets one or more of the following criteria, as determined by Mendocino County Environmental Health or another qualified professional:

- i. The water supply is impacted by biological, chemical, or radiological constituents that cannot be adequately or reasonably treated or removed to levels deemed safe for human consumption or contact.

- ii. The quantity of the water supply is constantly or periodically inadequate (less than one gallon per minute) to meet the domestic needs for which its use is intended, and additional quantities cannot adequately or reasonably be developed.
- iii. Any other condition in which the continued use of an existing water supply could result in negative impacts to human health.

*(Resolution No. 2023-24-08)*

### **12.2.5 ADMINISTRATIVE APPROVAL UNDER URGENT CIRCUMSTANCES**

The Commission authorizes the Executive Officer, in accordance with G.C. §56133(d), to administratively approve a city or special district's request for new or extended outside agency services by contract or agreement if there is an existing and urgent public health or safety emergency as identified in writing from the local public health officer and/or environmental health director, or in the case of fire services, the applicable Fire Chief. The Commission shall ratify the Executive Officer's determination at the next regularly scheduled meeting.

### **12.2.6 CONDITIONS OF APPROVAL**

#### **12.2.6.1 Annexation Consent Agreement**

The Commission will condition the approval of all outside agency services upon a requirement that the landowner(s) sign a LAFCo agreement consenting to annexation of the territory to the public service provider, which agreement shall bind current and future owners and registered voters of the property. The standard agreement shall be prepared by LAFCo legal counsel and provided to all landowners for execution and recording. Proof of recordation of the Annexation Consent Agreement will be required before the LAFCo outside agency services approval becomes final and effective.

#### **12.2.6.2 Expiration of LAFCo Approval**

Unless specified otherwise in the Commission's resolution approving a particular outside agency services application, the Commission's approval of outside agency services shall expire within one year of approval unless the agency-landowner contract has been executed and the construction of any needed infrastructure improvements has commenced. A one-time extension may be requested by the applicant, prior to the one-year expiration date, for a period of time that is necessary to complete the Commission's conditions. If the provision of outside agency services has not commenced within three years of the Commission's approval, the approval is terminated and a new application is required.

#### **12.2.6.3 Further LAFCo Review - Expansion or Intensification of Services**

The Commission's approval of outside agency services shall be limited to the existing structures and uses on the subject property, and not to any other properties. Any significant expansion or intensification of the approved services (e.g. upsize the connection for a subdivision or major conversion of use type) shall be considered a new request, subject to LAFCo review.

#### **12.2.7 Temporary Water Hauling During a Local Emergency**

During a city, county, or state issued drought emergency proclamation affecting potable water supply, a city or special district may provide potable water outside its jurisdictional boundaries through water hauling on a temporary basis to address impacts to health and safety arising from dry wells or other temporary limitations on regular water supply. In these situations, LAFCo approval will not be required pursuant to G. C. §56133 due to the temporary and emergency nature of the service.

While LAFCo approval will not be required during the temporary emergency, LAFCo does require notice of and data reporting for the temporary outside agency water service to support LAFCo in efficiently performing its functions. The city/district providing the potable water service should notify LAFCo within 30 days of commencing such service, as feasible under emergency conditions. Notification should include the address and/or assessor's parcel number (APN) for each property receiving water service and reference the emergency proclamation. The city or special district shall cease providing temporary water service outside jurisdictional boundaries within 30 days of termination of the emergency proclamation. Within 90 days of the end of the emergency, the city/district providing the potable water service should provide LAFCo a detailed summary of how much water was provided to each property per month during the emergency water hauling.

Absent a city, county, or state issued emergency proclamation, G. C. §56133 specifies that a city or special district must apply for and obtain LAFCo approval before providing new or extended services outside its jurisdictional boundaries, including potable water hauling.

## **12.3 LAFCo INITIATED PROPOSALS**

### **12.3.1 TYPES OF PROPOSALS**

As provided under G.C. §56375(a), the Commission is authorized to initiate the following specific types of proposals:

- a) Consolidation of two or more special districts.
- b) Dissolution of one or more special districts, where another agency or agencies can assume service responsibilities.
- c) Merger of a special district with a city, where the city encompasses the entire district.
- d) Establishment of a subsidiary district of a city, where at least 70% of the district's territory and population are within the city.
- e) Reorganization which includes two or more of the above changes of organization.

### **12.3.2 CONDITIONS**

The Commission will consider initiation of such proposals in instances in which the following conditions apply:

- a) A sphere of influence, municipal service review, or other governmental study has shown that a proposal may result in lower overall public service costs, greater local government access and accountability, or both.
- b) The Commission can complete the necessary review, analysis, and processing with its own staff resources, or funds are available to pay for additional assistance needed to complete the review and processing of the proposal.

### **12.3.3 PROCEEDINGS**

The Commission reserves its discretion to initiate such proceedings in exceptional circumstances in which there exists a level of public concern about a district's services or governance which, in the Commission's view, warrants initiation of a proposal. The Commission may refer the proposal to a reorganization committee as provided in G.C. §56827. As an alternative, the Commission may refer the proposal to an advisory committee composed of a representative from each affected district and any additional representative the Commission deems appropriate.

## 13| APPENDIX A

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### 13.1 DEFINITION OF TERMS

This glossary presents a listing of key terms that are used in Cortese-Knox-Hertzberg Act of 2000 (CKH), Mendocino County Local Agency Formation Commission Policies and Procedures, Executive Officer reports, or Commission proceedings. These definitions of terms used are taken from CKH, other documents (such as CEQA) and from the Policies and Procedures. Where the definition is taken from CKH, the relevant section is cited. The definition of a word applies to any of that word's variants.

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| <b>Affected city/district/local agency</b> | Any city, district, or local agency that contains or would contain, or whose sphere of influence contains or would contain territory for which a change of organization is proposed or ordered, either singularly or as part of a reorganization. [§56011, §56013, §56014]   |
| <b>Affected county</b>                     | Any county that contains, or would contain, any territory for which a change of organization or reorganization is proposed or ordered, either singularly or as part of a reorganization or that contains all or any part of a district for which a change of organization or reorganization is proposed or ordered with respect to territory outside that county, district, or local agency. [§56012]  |
| <b>Affected territory</b>                  | Any territory for which a change of organization or reorganization, or sphere of influence change is proposed or ordered. [§56015]   |
| <b>Agricultural lands</b>                  | Land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program. [§56016; see also “Prime agricultural land” §56064]  |
| <b>Annexation</b>                          | The inclusion, attachment, or addition of territory to a city or district. [§56017]  |
| <b>Application</b>                         | Applies to any of the following [§56017.2]:<br>(a) A resolution of application or petition initiating a change of organization or reorganization with supporting documentation as required by the commission or executive officer.<br>(b) A request for a sphere of influence amendment or update pursuant to §56425.<br>(c) A request by a city or district for commission approval of an extension of services outside the agency’s jurisdictional boundaries pursuant to §56133.<br>(d) A request by a public agency for commission approval of an extension of serves outside the agency’s jurisdictional boundaries pursuant to §56134. |
| <b>Area of Interest</b>                    | The geographical area beyond the Sphere of Influence of a local agency in which land use decisions, or other governmental actions of the jurisdiction impact directly or indirectly upon the local agency, or for which urbanization may be anticipated in the intermediate or long range planning horizons.   |

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| <b>Board of supervisors</b>       | The legislative body or governing board of a county. [§56020]  |
| <b>Categorical Exemption</b>      | An exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant impact on the environment (14 CCR Section 15300-15331). [§15354]   |
| <b>CEQA</b>                       | The California Environmental Quality Act contained in Public Resources Code §21000 et seq.   |
| <b>Certificate of completion</b>  | The document prepared by the executive officer and recorded with the county recorder that confirms the final successful completion of a change of organization or reorganization. [§56020.5]   |
| <b>Certificate of filing</b>      | The document issued by the executive officer that confirms an application for a change or organization or reorganization has met submission requirements and is accepted for filing. [§56020.6]  |
| <b>Certificate of termination</b> | The document prepared by the executive officer and retained by the commission that indicates that a proposal for a change of organization or reorganization was terminated because of majority written protest, rejection by voters in an election, or the expiration of time prior to completion of proceedings pursuant to §57001 or a court order. [§56020.7]   |
| <b>Change of organization</b>     | Refers to any of the following [§56021]:<br>(a) A city incorporation<br>(b) A district formation<br>(c) An annexation to a city or district.<br>(d) A detachment from a city or district.<br>(e) A disincorporation of a city<br>(f) A district dissolution<br>(g) A consolidation of cities or special districts<br>(h) A merger of a city and a district<br>(i) Establishment of a subsidiary district<br>(j) The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district as provided in Article 1.5 (commencing with §56824.10) of Chapter 5 of Part 3 of this division. |
| <b>City</b>                       | Any incorporated chartered or general law city, including any city the name of which includes the word "town." [§56023]  |
| <b>Clerk</b>                      | The clerk or secretary of a commission, county, city, or district, or the clerk or secretary of the legislative body of a county, city, or district. Where the office of county clerk is separate from the office of the clerk of the board of supervisors, "clerk" means the clerk of the board of supervisors. Where the office of county clerk is separate from the office of the registrar of voters, "clerk" means the registrar of voters with respect to all duties pertaining to   |

the conduct of elections and the county clerk with respect to all other duties. [§56026]

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| <b>Commission</b>                                       | A local agency formation commission. [§56027]  |
| <b>Commission proceedings</b>                           | Proceedings which are taken by a commission pursuant to Part 3 (commencing with §56650). [§56028]  |
| <b>Conducting authority</b>                             | The Commission of the principal county, or the commission’s executive officer when authorized by the commission, when exercising its responsibility to conduct protest proceedings following approval by the commission of a change of organization or reorganization. [§56029]  |
| <b>Consolidation</b>                                    | The uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. [§56030]   |
| <b>Contiguous</b>                                       | (a) Territory that abuts or shares a common boundary with territory within a local agency;<br>(b) Territory is not contiguous if the only contiguity is based upon a strip of land more than 300 feet long and less than 200 feet wide at its narrowest width, that width to be exclusive of highways. [§56031]  |
| <b>Dependent special district or dependent district</b> | Any special district that has a legislative body that consists, in whole or part, of ex officio members who are officers of a county or another local agency, or who are appointees of those officers, and who are not appointed to fixed terms. “Dependent special district” or “dependent district” does not include any district excluded from the definition of district contained in §56036 or §56036.6. [§56032.5] |
| <b>Detachment</b>                                       | The exclusion, deletion, or removal from a city or district of any portion of the territory of that city or district. [§56033]   |
| <b>“Disadvantaged unincorporated community” (DUC)</b>   | Inhabited territory, as defined by §56046, or as determined by commission policy, that constitutes all or a portion of a “disadvantaged community” as defined by Section 79505.5 of the Water Code. [§56033.5]   |
| <b>Disincorporation</b>                                 | The dissolution, extinguishment, or termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city. [§56034]   |
| <b>Dissolution</b>                                      | The disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except as the commission may otherwise provide pursuant to §56886 or for the purpose of winding up the affairs of the district. [§56035]   |

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| <b>District or special district</b>      | <p>(a) "District" or "special district" are synonymous and mean an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside boundaries when authorized by the commission pursuant to §56133.</p> <p>(b) "District" or "special district" includes a county service area, but excludes all of the following:</p> <ol style="list-style-type: none"> <li>1. The state.</li> <li>2. A county.</li> <li>3. A city.</li> <li>4. A school district or community college district.</li> <li>5. A special assessment district or special assessment district.</li> <li>6. An improvement district.</li> <li>7. A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with §53311) of Part 1 of Division 2 of Title 5).</li> <li>8. A permanent road division formed pursuant to Article 3 (commenting with §1160) of Chapter 4 of Division 2 of the Streets and Highways Code.</li> <li>9. An air pollution control district or an air quality maintenance district.</li> <li>10. A zone of any special district. [§56036]</li> </ol> |
| <b>Elections official</b>                | "Elections official" shall have the same meaning as in Section 320 of the Elections Code. [§56037.5]   |
| <b>Environmental Impact Report (EIR)</b> | An environmental impact report is an informational document produced according to CEQA regulations which, when its preparation is required pursuant to Public Resources Code §21000 et seq.) shall be considered by every public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project. [§21061]  |
| <b>Environmental Review</b>              | The process set forth in CEQA (Public Resources Code §21000 et seq.) which involves an assessment of potential significant adverse impacts of an action.   |
| <b>Executive officer</b>                 | The person appointed by a commission pursuant to §56384. [§56038]  |
| <b>Feasible</b>                          | Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors. [§56038.5]  |
| <b>Function</b>                          | Any power granted by law to a local agency to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or property. [§56040]   |

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| <b>Improvement district</b>                                 | An area or zone formed for the sole purpose of designating an area which is to bear a special tax or assessment for an improvement benefiting that area. [§56041]  |
| <b>Inactive District</b>                                    | A special district that meets all of the following: [§56042]<br>(a) The special district is defined in §56036.<br>(b) The special district has had no financial transactions in the previous fiscal year.<br>(c) The special district has no assets and liabilities.<br>(d) The special district has no outstanding debts, judgements, litigation, contracts, liens, or claims.  |
| <b>Incorporation</b>  | The creation or establishment of a city. Any area proposed for incorporation as a city shall have at least 500 registered voters residing within the affected territory at the time the proposal is initiated. [§56043]  |
| <b>Independent district or independent special district</b> | Any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex-officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the definition of district contained in §56036 and §56036.6. [§56044] |
| <b>Infill</b>   | Building within unused and underutilized lands within existing development patterns, typically but not exclusively in urban areas.   |
| <b>Inhabited territory</b>                                  | Territory within which there reside 12 or more registered voters. The number of registered voters as determined by the elections officer, shall be established as of the date a certificate of filing is issued by the executive officer. All other territory shall be deemed "uninhabited." [§56046]  |
| <b>Initiating petition</b>                                  | A document signed either by registered voters or landowners that requests LAFCo to consider a boundary change. The petition must be in a form prescribed by LAFCo.   |
| <b>Interested agency</b>                                    | Each local agency which provides facilities or services in the affected territory. [§56047.5]  |
| <b>Island</b>   | Unincorporated territory substantially surrounded by a city, or territory surrounded by a city on one or more sides and the Pacific Ocean on the remaining side.   |
| <b>Joint powers agency or joint powers authority</b>        | An agency or entity formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with §6500) of Chapter of Division 7 of Title 1) that is formed for the local performance of governmental   |

functions that includes the provisions of municipal services.  
[§56047.7]

**Landowner, or owner of land, or property owner**

Means all of the following: [§56048]  
(a) Any person or persons shown as the owner of land on the last equalized assessment roll prepared by the county at the time the determination is required to be made pursuant to the requirements of this division. Where that person or persons is no longer the owner, the landowner or owner of land is any person or persons entitled to be shown as owner of land on the next equalized assessment roll.  
(b) Where land is subject to a recorded written agreement of sale, any person shown in the agreement as purchaser.  
(c) Any public agency owning land other than highways, rights-of-way, easements, waterways, or canals

**Landowner-voter**

Any person entitled to vote in a landowner-voter district, or the legal representative of that person or, in the case of an election, the proxy of that person if authorized by the principal act. [§56049]

**Landowner-voter district**

A district whose principal act provides that owners of land within the district are entitled to vote upon the election of district officers, the incurring of bonded indebtedness, or any other district matter. [§56050]

**Latent service or power**

Those services, facilities, functions, or powers authorized by the principal act under which the district is formed, but that are not being exercised, as determined by the commission pursuant to §56425(i). [§56050.5]

**Lead Agency**

Under CEQA, the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment. [§21067]

**Legal representative**

An officer of a corporation, partnership, or limited-liability company duly authorized to sign for, and on behalf of, the entity. Legal representative also includes a guardian, conservator, executor, administrator, trustee or other person holding property in a trust capacity under appointment of a court, when authorized by an order of the court. [§56052]

**Local agency**

A city, county, or district. [§56054]

**Merger**

The termination of the existence of a district when the responsibility for the functions, services, assets, and liabilities of that district are assumed by a city as a result of proceedings taken pursuant to his division. [§56056]

**Municipal services**

The full range of services that a public agency provides or is authorized to provide.

**Municipal service review (MSR)** A comprehensive study designed to better inform LAFCo, local agencies, and the community examining the provision of municipal services for the area.

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| <b>Open space</b>                       | Any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in §65560. [§56059]  |
| <b>Overlap or overlapping territory</b> | Territory which is included within the boundaries of two or more districts or within one or more districts and a city or cities. [56061]  |
| <b>Plan for services</b>                | A plan prepared pursuant to §56653 for purposes of providing sufficient information to assess the proposed provision of services for applications.  |
| <b>Prezoning</b>                        | A zoning designation formally adopted by a city that applies to property outside city limits. Prezoning has no regulatory effect until a property is annexed.   |
| <b>Prime agricultural land</b>          | <p>An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meet any of the following qualifications: [§56064]</p> <ul style="list-style-type: none"> <li>(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible.</li> <li>(b) Land that qualifies for rating 80 through 100 Storie Index Rating.</li> <li>(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.</li> <li>(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.</li> <li>(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.</li> </ul> |
| <b>Principal act</b>                    | In the case of a district, the law under which the district was formed and, in the case of a city, the general laws or the city charter. [§56065]   |
| <b>Proceeding</b>                       | Proceedings taken by the commission for a proposed change for a change of organization or reorganization pursuant to Part 4 (commencing with §57000). [§56067]  |
| <b>Proposal</b>                         | A desired change of organization or reorganization initiated by petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued. [§56069]   |
| <b>Protest proceedings</b>              | Proceedings taken by a commission, or its executive officer when authorized by the commission, as the conducting authority pursuant to Chapter 1 (commencing with §57000), Chapter 2 (commencing with §57025), Chapter 3 (commencing with §57075) of Part 4 of this division. [§56069.5]  |

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| <b>Public agency</b>             | The state or any state agency, board, or commission, any city, county, city and county, special district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision. [§56070]   |
| <b>Reorganization</b>            | Two or more changes of organization contained within a single proposal. [§56073]   |
| <b>Service</b>                   | A specific governmental activity established within, and as a part of, a general function of the special district as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with §56820) of Part 3. [§56074]  |
| <b>Sphere of influence (SOI)</b> | A plan for the probable physical boundaries and service area of a local agency, as determined by the commission. [§56076]  |
| <b>Subject agency</b>            | Each district or city for which a change of organization or reorganization is proposed or provided in a plan of reorganization. [§56077]   |
| <b>Subsidiary district</b>       | A district in which a city council is designated as, and empowered to act as, the ex officio board of directors of the district. [§56078]  |
| <b>Urban service area</b>        | Developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the sphere of influence of a city, which is served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services during the first five years of an adopted capital improvement program of the city if the city adopts that type of program for those facilities, utilities, and services. The boundary around an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by a commission pursuant to policies adopted by the commission in accordance with §56300, §56301 and §56425. [§56080] |
| <b>Zoning</b>                    | The primary regulatory instrument for implementing the general plan. Zoning divides a community into districts or "zones" which specify the permitted and prohibited uses and development standards.   |

## 14| APPENDIX B

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### 14.1 FINAL FILING CHECKLIST

(See Policy 11.9 Final Filing). (*Resolution 2016-17-05*)

| <b>Final Filing Checklist</b> |  |                       |
|-------------------------------|--|-----------------------|
| <b>No.</b>                    | <b>Procedure/Step</b>  | <b>Date Completed</b> |
| <b>Mapping Adequacy</b>       |  |                       |
| 1                             | Staff confirms it has the final boundary map from the applicant.   |                       |
| 2                             | Staff compares the map with the LAFCo Resolution of Approval boundary determinations to assure consistency, with particular attention to whether roads are included or excluded.     |                       |
| 3                             | Staff review the boundaries to make sure they follow parcel lines unless that requirement was specifically waived.   |                       |
| 4                             | Staff reviews the map for SBOE mapping requirements.   |                       |
| 5                             | Staff routes the map and legal description to the County Surveyor for review.  |                       |
| 6                             | Staff routes approved final boundary map and legal description to County GIS staff.  |                       |
| <b>Final Filing</b>           |  |                       |
| 7                             | Staff reviews resolution and final boundary map for compliance; ensures all conditions of approval have been met. If any questions regarding compliance, consult with legal counsel. |                       |
| 8                             | Staff confirms all outstanding fees have been paid in full.  |                       |
| 9                             | Staff prepares Certificate of Completion and submits to County Clerk of the Board for recording.   |                       |
| 10                            | Staff files with State Board of Equalization and County Assessor.  |                       |
| 11                            | Upon notification of BOE acceptance, staff notifies all affected parties.  |                       |

## 15.1 2020 LEGISLATIVE PLATFORM

*Adopted by the Commission March 2, 2020*

### 1. LAFCo Purpose and Authority

- 1.1. Support legislation which enhances LAFCo authority and powers to carry out the legislative findings and authority in Government Code §56000 et seq., and oppose legislation which diminishes LAFCo authority.
- 1.2. Support authority for each LAFCo to establish local policies to apply Government Code §56000 et seq. based on local needs and conditions, and oppose any limitations to that authority.
- 1.3. Oppose additional LAFCo responsibilities, which require expansion of current local funding sources. Oppose unrelated responsibilities which dilute LAFCo ability to meet its primary mission.
- 1.4. Support alignment of responsibilities and authority of LAFCo and regional agencies, which may have overlapping responsibilities in orderly growth, preservation, and service delivery, and oppose legislation or policies which create conflicts or hamper those responsibilities.
- 1.5. Oppose grants of special status to any individual agency or proposal to circumvent the LAFCo process.
- 1.6. Support individual commissioner responsibility that allows each commissioner to independently vote his or her conscience on issues affecting his or her own jurisdiction.

### 2. LAFCo Organization

- 2.1. Support the independence of LAFCo from local agencies.
- 2.2. Oppose the re-composition of any LAFCo to create special seats and recognize the importance of balanced representation provided by cities, the county, the public, and special districts in advancing the public interest.
- 2.3. Support representation of special districts on all LAFCos in counties with independent districts and oppose removal of special districts from any LAFCo.
- 2.4. Support communication and collaborative decision-making among neighboring LAFCos when growth pressures and multicounty agencies extend beyond a LAFCo's boundaries.

### 3. Agricultural and Open Space Protection

- 3.1. Support legislation which clarifies LAFCo authority to identify, encourage and ensure the preservation of agricultural and open space lands.
- 3.2. Encourage a consistent definition of agricultural and open space lands.
- 3.3. Support policies which encourage cities, counties and special districts to direct development away from all types of agricultural lands, including prime agricultural lands and open space lands.
- 3.4. Support policies and tools, which protect all types of agricultural lands, including prime agricultural lands and open space lands.
- 3.5. Support the continuance of the Williamson Act and restoration of program funding through State subvention payments.

#### **4. Orderly Growth**

- 4.1. Support the recognition and use of spheres of influence as a management tool to provide better planning of growth and development, and to preserve agricultural and open space lands.
- 4.2. Support recognition of LAFCo spheres of influence by other agencies involved in determining and developing long-term growth and infrastructure plans.
- 4.3. Support orderly boundaries of local agencies and the elimination of islands within the boundaries of agencies.
- 4.4. Support communication among cities, counties, and special districts through a collaborative process that resolves service, housing, land use, and fiscal issues, prior to application to LAFCo.
- 4.5. Support cooperation between counties, cities, and special districts on decisions related to development within the city's designated sphere of influence.
- 4.6. Support the recognition of extreme fire events and disaster preparedness when considering growth and service delivery issues.

#### **5. Service Delivery and Local Agency Effectiveness**

- 5.1. Support the use of LAFCo resources to review Regional Transportation Plans, including sustainable communities strategies and other growth plans to ensure reliable services, orderly growth, sustainable communities, and conformity with LAFCo's legislative mandates. Support efforts that enhance meaningful collaboration between LAFCo and regional planning agencies.
- 5.2. Support LAFCo authority as the preferred method of local governance. Support the availability of LAFCo tools which provide options for local governance and efficient service delivery, including the authority to impose conditions that assure a proposal's conformity with LAFCo's legislative mandates.
- 5.3. Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed new or successor agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.
- 5.4. Support the availability of tools for LAFCo to insure equitable distribution of revenues to local government agencies consistent with their service delivery responsibilities.
- 5.5. Support collaborative efforts, including consolidation, among agencies and LAFCo that encourage opportunities for sharing of services, staff and facilities to provide more efficient and cost effective services. Support legislation which provides LAFCo with additional opportunities to encourage shared services.

## **15.2 2020 LEGISLATIVE PRIORITIES**

### **15.2.1 Primary Issues**

#### **A. Authority of LAFCo**

Support legislation that maintains or enhances LAFCo's authority to condition proposals to address any or all financial, growth, service delivery, and agricultural and open space preservation issues. Support legislation that maintains or enhances LAFCo's ability to make decisions regarding boundaries and formations, as well as to enact recommendations related to the delivery of services and the agencies providing them, including changes of organization and reorganizations.

#### **B. Agriculture and Open Space Protection**

Support policies, programs and legislation that recognize LAFCo's mission to protect and mitigate the loss of all types of agricultural lands, including prime agricultural lands and open space lands, and that encourage other agencies to coordinate with local LAFCOs on land preservation and orderly growth. Support efforts that encourage the creation of habitat conservation plans.

#### **C. Water Availability**

Support policies, programs and legislation that promote an integrated approach to water availability and management. Promote adequate water supplies and infrastructure planning for current and planned growth as well as to support the sustainability of all types of agricultural lands, including prime agricultural lands and open space lands. Support policies that assist LAFCo in obtaining accurate and reliable water supply information to evaluate current and cumulative water demands for service expansions and boundary changes, including impacts of expanding water company service areas on orderly growth, and the impacts of consolidation or dissolution of water companies providing services.

#### **D. Viability of Local Services**

Support legislation that maintains or enhances LAFCo's ability to review and act to determine the efficient and sustainable delivery of local services and the financial viability of agencies providing those services to meet current and future needs, including those identified in regional planning efforts such as sustainable communities strategies. Support legislation which provides LAFCo and local communities with options for local governance and service delivery to ensure efficient, effective, and quality service delivery. Support efforts that provide tools to local agencies to address aging infrastructure, fiscal challenges, the maintenance of services, and services to disadvantaged communities.

### **15.2.2 Issues of Interest**

#### **A. Housing**

Provision of territory and services to support housing plans consistent with regional land use plans and local LAFCo policies.

#### **B. Transportation**

Effects of Regional Transportation Plans and expansion of transportation systems on future urban growth and service delivery needs, and the ability of local agencies to provide those services.

#### **C. Flood Control**

The ability and effectiveness of local agencies to maintain and improve levees and protect current infrastructure. Carefully consider the value of uninhabited territory, and the impact to public safety of

proposed annexation to urban areas of uninhabited territory which is at risk for flooding. Support legislation that includes assessment of agency viability in decisions involving new funds for levee repair and maintenance. Support efforts that encourage the creation of habitat conservation plans.

#### **D. Adequate Municipal Services in Inhabited Territory**

Expedited processes for inhabited annexations should be consistent with LAFCo law and be fiscally viable. To promote environmental justice for underserved inhabited communities, funding sources should be identified for extension of municipal services, including options for annexation of contiguous disadvantaged unincorporated communities. Support policies, programs, and legislation which would provide municipal services to disadvantaged communities. Promote the delivery of adequate, sustainable, efficient, and effective levels of service through periodic updates of Municipal Service reviews, Spheres of Influence, and other studies.

