

LOCAL AGENCY FORMATION COMMISSION
POLICIES, GUIDELINES AND PROCEDURES

Section 3. POLICIES, REQUIREMENTS & CRITERIA FOR APPLICATIONS

This section includes general policies, requirements and criteria that apply to all LAFCO actions.

There may be cases when the Commission must use its discretion in the application of these policies so that potential or real conflicts among policies are balanced and resolved, based on project specifics and so that these policies remain consistent with the requirements of the Cortese-Knox-Hertzberg Act of 2000.

3.1. APPLICATIONS, GENERAL (Adopted 2/28/07)

3.1.1 All applications to the Commission are to be submitted on LAFCO application forms (§56652).

3.1.2 Applications shall be processed in an efficient and orderly manner that reduces hardship upon the applicant while ensuring consistency with the Cortese-Knox-Hertzberg Act of 2000. Applicant or the applicant's representative shall be required to attend a pre-application meeting to receive information, direction and advice regarding the processing needs and requirements of the specific action proposed.

3.1.3 Any application submitted to LAFCO is considered preliminary and will not be deemed filed, until all required information, fees and materials are received and reviewed by the Executive Officer.

3.1.4 Applicants will be required to provide information adequate to permit LAFCO to fully consider all factors required by law including, but not limited to those areas described in Government Code §56668, and §56375:

(a) Population; population density; land area and land use; per capita assessed evaluation; topography; natural boundaries and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and_unincorporated areas, during the next ten years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

(c) Effect of the proposed action and of alternate actions, on adjacent areas, on mutual economic or social interests, and on the local governmental structure of the county.

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(d) Conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the open space conservation policies and priorities set forth in Section 56377.

(e) Effect of the proposal on maintaining the physical and economic integrity of agricultural lands as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

(l) The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.

(m) Any information or comments from the landowner or owners.

(n) Any information relating to existing land use designations.

3.1.5 No application shall be deemed filed until resolutions providing for an agreement for redistribution of property tax are received (§56810, §56815). Once property tax exchange negotiations have been initiated by transmittal of the schedules prepared by the County Auditor/Controller, time requirements of the Revenue and Taxation Code will apply (R&T §99 (b)(6), §99.01 (4)).

3.1.6 No application shall be deemed filed until the Executive Officer makes an environmental determination pursuant to the requirements of the California Environmental Quality Act. When LAFCO is not the lead agency, The Certificate of Filing (CoF) will be issued following completion of the environmental review by the lead

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agency. When LAFCO is the lead agency, the application may be deemed filed and the CoF issued when environmental documentation has progressed sufficiently to set a hearing date (56658 (d)).

3.1.7 Planning and pre-zoning: All territory proposed for annexation must be specifically planned and/or pre-zoned by the appropriate planning agency. The planning or pre-zoning of the territory must be consistent with the applicable General or Specific Plan and sufficiently specific to determine the likely intended use of the property.

3.1.8 Incomplete or additional application requirements including maps, fees, signed application forms, etc. must be completed within six months following transmittal of the schedules prepared by the County Auditor's for property tax redistribution. If the application remains incomplete after six months, the project will be closed and the proposal will be terminated.

3.1.9 Immediately after receiving an application and before issuing a certificate of filing, LAFCO shall notify the appropriate agencies pursuant to §56658(b), provide relevant application related information, and request review and comment on the proposal.

3.2 PLANS OF SERVICE (Adopted 2/28/07)

An evaluation of a local agency's plan of service is essential to the consideration of any change of organization or reorganization (§56375) that will expand or diminish a service provider's responsibilities. Descriptive plans of service are submitted with an application to ensure that the capacity, cost and adequacy of services within the district or city will be part of the LAFCO review and the service effects of the proposal will be identified and included in the decision-making process (§56668).

3.2.1 General

(a) All applications shall include a plan for providing services (§56653) which describes the project specific services to be extended and takes into account the services, capacity, cost and adequacy of services provided by an agency and how those services would be affected by the proposed LAFCO action. The Plan of Service includes information needed to render an informed decision on the proposed project.

(b) Plan of Service submittals are required to contain, but are not limited to, the following information: (1) an enumeration and description of the service to be extended to the affected territory; (2) service units needed for the proposal and a capacity analysis, including capacity expansion plans and alternatives; (3) proposed infrastructure and capital improvements; (4) the estimated time frame for service delivery; (5) arrangements for financing (6) conditions of service extension; (§56653).

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(c) No application shall be deemed filed until plan of service information is received and accepted as complete by the Executive Officer.

3.2.2 Agency Review of Plan of Service

(a) The Plan of Service submittal shall include a written statement by the annexing agency of its intent to provide services within the estimated timeframe, including a description of the applicant's requirements to fund infrastructure or take other measures. The agency statement shall demonstrate that areas within the city or district can be served, or will continue to be served, at the same or higher level of service and will not result in significant negative fiscal, service, capacity or other impacts (within the special district or city).

(b) If the annexing agency cannot provide the latter guarantees, then the applicant or annexing agency shall provide a written justification for project approval despite anticipated negative impacts.

(c) In the event that the annexing agency will provide service by expanding its service capabilities in the future, the Commission will consider plans for such expansion and the agency's progress toward implementation of such plans in its review of the proposal. LAFCO may require a full description of any such plan. The Commission will evaluate such documentation and may make determinations pursuant to §56668. The Commission may also impose conditions related to progress toward completion of any such plans.

3.3 COORDINATION OF APPLICATIONS (Adopted 2/28/07)

3.3.1 LAFCO encourages consolidated applications when related changes of organization are expected for adjacent territories. Applicants are strongly encouraged to include the adjacent territory and combine applications where possible.

(a) If the applicants choose to proceed with separate proposals, each applicant will provide a map that indicates the location, size and boundaries of adjacent applications.

(b) LAFCO will consider related applications at the same hearing when feasible, and may modify boundaries, including the addition of adjacent parcels, to encourage the orderly formation and development of local agencies based upon local conditions and circumstances (§56001, §56300, §56301).

3.3.2 If a project site can be anticipated to require one or more additional changes of organization that are timely and not part of the submitted application, LAFCO shall require that the application be filed as a reorganization.

3.3 Agencies shall comply fully with the Commission's requests for information necessary to prepare studies or process an application (§56378, §56386).

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3.4 SPHERES OF INFLUENCE (Approved LAFCO 5/20/10, 6/24/10, 8/18/11)

3.4.1 Carefully considered, up-to-date sphere of influence determinations are critical to LAFCO's responsibility to assure orderly growth and development and prevent sprawl within their jurisdictions.

3.4.2 Staff shall identify needed updates of spheres of influence each year as part of the annual work plan and budget deliberations. Pursuant to 56425(g) spheres of influence are reviewed and updated as necessary, every 5 years, based on a review of municipal services and changes that have occurred in local conditions since the last review

3.4.3 Definitions

- a) "Sphere of Influence" is defined at Government Code Section 56076 and is the plan for the probable physical boundaries and service area of a local agency, as determined by the commission.
- b) "Coterminous Sphere" is an area identical to the boundaries of a city or district and includes only lands which are within the boundaries of the agency.
- c) "Zero Sphere of Influence" includes no territory and means that no territory will be served by the agency in the future. A zero sphere implies that a change of organization of that agency's services is planned within the time frame of the sphere.
- d) "Update of a sphere" shall mean LAFCO's periodic overall review and modification of the sphere of an agency in light of changes since the last update as required by Section 56425 (g).
- e) "Substantial Sphere Amendment" is a change in the sphere which is characterized by one or more of the following: plans for extension of service into the area with new infrastructure or substantial improvements to existing infrastructure (such as new water transmission or distribution lines, new sewer collection or transmission lines, fire flow, lift stations, etc.), or when a significant change in population is anticipated with annexation.
- f) "Minor sphere amendment" is a sphere amendment limited to small areas or single parcels with a negligible change or no change in population. Re-alignment of an existing sphere to property lines, or certain extensions of service in very limited areas to correct pre-existing health and safety hazards might be considered minor sphere amendments.

3.4.4 Amendments to a sphere of influence shall not be processed concurrently with proceedings for boundary change requests (annexations, etc.).

3.4.5 Spheres of influence shall be consistent with the plans of other relevant service providers, in addition to the plans of the city or district for which the sphere is being amended, updated or adopted.

3.4.6 Individual requests from landowners to be included or excluded from a sphere of influence will be considered in light of overall service plans and the need for the effective and efficient delivery of services.

3.4.7 Sphere Applications or Requests for Amendment of a Sphere of Influence:

- Shall state the time frame for anticipated annexation

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- Shall identify infrastructure needed and/or planned for services and the constraints on developing the infrastructure (e.g. securing water rights, state or federal regulatory processes, permits, etc.)
- Shall generally describe financing plans and potential fiscal considerations related to providing future services
- Shall generally describe the anticipated need for services & facilities, including services provided by agencies other than the agency that will later annex
- Shall describe any provisions for preservation of open space and agriculture lands

3.4.8 Costs for processing a sphere review or any change to a sphere are paid by the party requesting the review or change.

3.4.9 Agreements between neighboring local agencies with regard to preservation of agriculture and open space lands are encouraged by LAFCO. Such agreements may be incorporated by the Commission into its conditions of approval, or may be required as a condition precedent to approval of an application by the Commission.

3.4.10 Agreements between landowners and local agencies with regard to preservation of agricultural and open space lands are encouraged by LAFCO.

3.4.11 County land use designations, zoning and other regulations continue to apply to lands within a city's sphere until annexation is completed. Annexation is not complete until the annexation documents are recorded, or on a date after recording the boundary change if so specified by LAFCO.

3.4.12 LAFCO encourages developed land in a city's sphere to annex to the city.

3.4.13 LAFCO has sole discretion to determine the sphere of influence for each local agency, and may initiate sphere review, update, amendment, and other changes. LAFCO may approve, disapprove, modify, amend, and add conditions in its review and determination of spheres of influence.

3.4.14 Each agency subject to a review of its sphere shall be invited to participate/communicate/engage with LAFCO staff to compile information, identify agency goals, discuss options for the sphere update, etc.

(Policies Approved June 24, 2010)

3.4.15 The sphere of influence of each local agency shall include those lands that a city or special district intends to annex and serve in the foreseeable future, i.e. 10 years.

3.4.16 Areas included or excluded from sphere determinations generally follow parcel lines, lines of assessment or lines of ownership.

3.4.17 Determinations of spheres of influence, sphere amendments and updates shall have a 10-year planning horizon and shall be consistent with agency plans for that time frame.

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3.4.19 LAFCO may exclude lands from a sphere of influence that will not need services within a 10-year planning horizon.

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3.4.21 A sphere shall be consistent with the city's or district's plans for providing future public services within ten years.

3.4.22 LAFCO will encourage infill and development within a city or district's existing boundaries and within the existing sphere of influence.

3.4.23 LAFCO may remove land that is open space, agriculture or other areas that may be determined to be inappropriate to receive development-supporting services such as water, sewer, and/or structural fire protection, within 10 years, particularly when the landowner requests removal from the sphere of influence.

3.4.24 LAFCO may remove land from the sphere of influence where the agency is incapable of providing service within a 10-year time frame.

3.4.25 With respect to time frames indicated in these policies, individual sphere applications will be reviewed by LAFCO on a case-by-case basis.

3.4.26 A decision by a local agency to identify land in their planning documents or an Environmental Impact Report as a potential sphere of influence area does not constrain the future actions by the local agency to apply for a sphere amendment for a smaller/different geographic area.

Agriculture

3.4.27 Cities are encouraged to adopt policies to buffer agricultural areas from developing areas or urban uses at the time sphere amendments are proposed. Buffer areas to protect the physical and economic viability of agricultural lands shall be located within the city.

3.4.28 – Policy Related to Protection of Agricultural Lands (Approved August 18, 2011)

Note: This policy supersedes the previously adopted policy #3.4.28 (Approved June 24, 2010, and shown below with strike through. The commission will review both agricultural policies on or before August 2014.

1. In considering an application for a Change of Organization, state law mandates that the Commission "consider the effect of the proposal on maintaining the physical and economic integrity of agricultural lands as defined in Section 56016..." of the Government Code.

2. Section 56016 defines "agricultural lands" as "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".

3. In order to comply with such mandate, it is the policy of the Amador LAFCO to ensure that any change of organization adequately protects the physical and economic integrity of adjacent agricultural lands as defined above.

4. Accordingly, any application for a Change of Organization which consists of lands adjacent to agricultural lands as herein defined shall:

a. Make a good faith effort of reaching contractual agreement with the owners of adjacent agricultural lands. Such agreement shall consider, but not be limited to: i) the provision of set-

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backs and buffers, ii) the maintenance of set-back and buffer areas, iii) the recordation of recordable restrictions relating to such matters as grading, odors, landscaping and the Right to Farm Ordinance.

b. If the parties are successful at reaching agreement, such shall be submitted to the Commission during the course of the consideration of the application. The Commission shall review such contract to determine consistency with the Commission's legal mandates. The Commission may accept the terms of such agreement as full mitigation of agricultural impacts or add additional conditions to the project in its discretion.

c. If the parties are unable to reach agreement as to contractual terms, applicants shall provide evidence to LAFCO of their good faith efforts to reach agreement and the Commission shall condition the project to address the issues noted above.

d. As a condition to the approval of an application for a Change of Organization, the Commission shall require the recordation of deed restrictions on the subject property which restrictions shall contain the conditions imposed to mitigate agricultural impacts. Said restrictions shall be approved as to form by the Commission's legal counsel. Said restrictions may not be amended or modified without the consent of the Commission.

~~3.4.28 (adopted June 24, 2010) An agreement among the city, county and landowners regarding agricultural buffers to protect the physical and economic viability of agricultural lands is required prior to LAFCO approval of proposals for annexation or reorganization.~~

3.4.29 Notice will be given to landowners of unincorporated agricultural lands (§56016), which are contiguous to city annexation proposals being considered by LAFCO.