

# **FRESNO LOCAL AGENCY FORMATION COMMISSION**

## **COMMISSION POLICIES, STANDARDS AND PROCEDURES MANUAL**

**Adopted April 3, 1986;  
Last revised March 14, 2018**

### **LAFCo COMMISSIONERS**

**Chairman Robert Silva, City of Mendota  
Chairman Pro Tem Sal Quintero, Fresno County Supervisor  
Daniel Parra, City of Fowler  
Nathan Magsig, Fresno County Supervisor  
Mario Santoyo, Public Member**

### **ALTERNATE LAFCo COMMISSIONERS**

**Scott Robertson, Mayor, City of Selma  
Mike Lopez, Public Member**

### **COMMISSION STAFF**

**David E. Fey, Executive Officer  
George Uc, LAFCo Senior Analyst  
Juan Lara, Analyst I  
Amanda Graham, Office Assistant I  
Kenneth Price, LAFCo Counsel**

**FRESNO LOCAL AGENCY FORMATION COMMISSION OFFICE  
2607 Fresno Street, Suite B, Fresno, CA 93721 - (559) 600-0604**

**AMENDED PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000 (Gov. Code,<sup>1</sup> secs. 56000 et seq.)**

All procedures, regulations, and requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Act") have been incorporated by reference into this Manual.

Notwithstanding the policies, standards and procedures previously adopted by the Commission, amendments were incorporated into this Manual pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("Act") on December 19, 2001.

Amendments pursuant to the "Act" concerning specific sections of this Manual supercede existing Commission policies, standards and procedures.

**Incorporated  
December 19, 2001**

---

<sup>1</sup> All statutory references are to the Government Code.

# COMMISSION POLICIES AND PROCEDURES MANUAL

## TABLE OF CONTENTS

### SECTION TITLE

000 **INTRODUCTION**

001 PURPOSE

002 ISSUES

003 DOCUMENT AUTHORITY AND ORGANIZATION

005 DEFINITIONS

100 **COMMISSION POLICIES**

101 ENCOURAGING ORDERLY FORMATION AND DEVELOPMENT OF AGENCIES

102 ENCOURAGING CONSISTENCY WITH SPHERES OF INFLUENCE AND RECOMMENDED REORGANIZATION OF AGENCIES

103 ENCOURAGING ORDERLY URBAN DEVELOPMENT AND PRESERVATION OPEN SPACE PATTERNS

104 ENCOURAGING CONSERVATION OF PRIME AGRICULTURAL LANDS AND OPEN SPACE AREAS

105 PROVIDING PUBLIC ACCESS TO THE COMMISSION VIA THE INTERNET

106 DISADVANTAGED COMMUNITIES

107 MUNICIPAL SERVICE REVIEW POLICY

200 **COMMISSION STANDARDS FOR CHANGES OF ORGANIZATION**

210 STANDARDS FOR ANNEXATION TO CITIES AND URBAN SERVICE DISTRICTS

220 STANDARDS FOR DISTRICT ANNEXATION FOR RURAL OR REGIONAL SERVICES

230 STANDARDS FOR DISTRICT FORMATION

SECTION TITLE

300 **PROCEDURES FOR EVALUATION OF PROPOSALS**

301 PRE-APPLICATION REVIEW

302 ENVIRONMENTAL REVIEW

303 SCHOOL DISTRICT REVIEW FOR RESIDENTIAL DEVELOPMENT

304 MEETING AND NOTICE REQUIREMENT

305 AFFECTED AGENCIES AND INTERESTED PARTIES REVIEW

310 COMMISSION REVIEW

311 REVISION OF PROPOSAL BOUNDARIES

312 AMENDMENTS TO/RECONSIDERATION OF COMMISSION RESOLUTION

315 EXTENSION OF TIME TO COMPLETE PROCEEDINGS

318 URBAN SERVICE AREA

320 EXTENDED SERVICE PROCEDURES

330 SPHERE OF INFLUENCE UPDATES AND REVISIONS

350 **COMMISSION FEE SCHEDULE**

400 **PROCEDURES FOR EVALUATION OF SERVICE PLANS**

401 GENERAL

402 MASTER SERVICE PLANS

403 INDIVIDUAL SERVICE PLANS

450 **REGULATIONS AFFECTING SPECIAL DISTRICTS**

SECTION TITLE

500 **REGULATIONS FOR CONDUCT OF HEARING AND COMMISSION BUSINESS**

501 MEETINGS

502 CHAIRMAN

503 CHAIRMAN PRO TEMPORE

504 CALL TO ORDER

505 ROLL CALL

506 QUORUM

507 MINUTES

508 RESOLUTIONS

509 ORDER OF PROCEDURE

510 RULES OF DEBATE

513 RULES OF ORDER

514 VOTING

515 ADDRESSING THE COMMISSION

516 DECORUM

517 COMMISSION DIRECTIVES

518 REIMBURSEMENT OF EXPENSES

519 RETIREMENT AWARD

520 SELECTION OF PUBLIC MEMBER

521 PROCEDURES FOR PUBLIC COMMENT

525 **CONFLICT OF INTEREST CODE**

526 EXHIBIT A

527 EXHIBIT B

SECTION TITLE

- 540 **PROCEDURES TO IMPLEMENT THE POLITICAL REFORM ACT**
- 541 PROCEDURES REQUIRING THE DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES MADE FOR THE PURPOSE OF ACCECTING OR INFLUENCING CHANGES OF ORGANIZATION, REORGANIZATIONS, AND PROTEST HEARINGS
- 550 **REGULATIONS AND PROCEDURES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970**
- 551 SUPPLEMENTAL DEFINITIONS
- 552 FEES FOR ENVIRONMENTAL REVIEW
- 553 APPLICATION OF REGULATIONS TO PROJECTS SUBJECT TO DISCRETIONARY ACTION BY LAFCO
- 554 PROCEDURE FOR CATEGORICAL EXEMPTION IMPLEMENTATION
- 555 PROCEDURES FOR ENVIRONMENTAL ASSESSMENT (INITIAL STUDY)
- 556 PROCEDURE FOR PREPARATION OF ENVIRONMENTAL IMPACT REPORTS (EIR)
- 557 LIMITS FOR PROJECT ACTION
- 558 LIST OF PROJECTS DETERMINED TO BE EXEMPT
- 600 **CONDUCTING AUTHORITY PROCEEDINGS**
- 700 **COMMISSION ADMINISTRATION**
- 710 **PERSONNEL AND FACILITIES**
- 720 **BUDGETARY MATTERS**
- 730 DESTRUCTION OF RECORDS (Code Section 56382)
- Appendix A FRESNO LAFCO ANNEXATION PROGRAM GUIDELINES
- Appendix B FRESNO LAFCO DISADVANTAGED UNINCORPORATED COMMUNITY DATABASE DEVELOPMENT GUIDELINES
- Appendix C FRESNO LAFCO DISADVANTAGED UNINCORPORATED COMMUNITY POLICY IMPLEMENTATION GUIDELINES

## **INTRODUCTION**

### **SECTION - 000**

#### 001 **PURPOSE:**

Fresno County contains some 5,958 square miles of territory populated by approximately 930,450 residents. In addition to federal, state and county agencies, there are fifteen cities and 117 special districts which provide a varying type, level, and range of services to the residents and landowners of Fresno County.

State law has established since 1963 a Local Agency Formation Commission in each county in order to oversee the formation and development of cities and special districts. Since 1963, the Fresno Local Agency Formation Commission has progressively developed policies and procedures in six different resolutions, but now sees the need to develop a more comprehensive document. This document has been developed and adopted by the Commission in order to provide a framework that complies with the requirements and intent of state law, from which the Commission will conduct any necessary review or make any determination.

#### 002 **ISSUES:**

When the Commission was created in 1963, the intent of the state legislature was to discourage certain problems from recurring, such as urban sprawl, disorderly agency boundaries, and proliferation of overlapping and competing local agencies. They desired to provide for other public needs, such as formation of agencies to provide an adequate level and range of services and preservation of agricultural land and open space lands.

In Fresno County the Commission has identified the following list of problems and needs locally, which pertain to the Commission's responsibilities, and have developed policies, standards, and procedures in this document in order to help resolve the problems and meet needs within the Commission's jurisdiction.

- \* Proliferation of overlapping and competing local agencies
- \* Need for more cooperation/coordination among local agencies
- \* Inadequate level or range of services in county/community
- \* Inadequate revenue base or adverse fiscal impacts for local agencies
- \* Illogical, gerrymandered agency boundaries, islands, surrounded areas
- \* Illogical agency service areas
- \* Conflicts between urban and rural/agricultural land uses

002 **ISSUES:** (Continued)

- \* Premature proposals and lack of development proposals
- \* Phasing of agency expansion/growth
- \* Determining environmental effects of proposals
- \* Determining consistency with city or county general plans
- \* Urban sprawl and leap frog urban development
- \* Guiding urban growth away from prime agricultural lands
- \* Defining agricultural lands and open space lands
- \* Opposition of proposals by residents and popularity of proposals by landowners/developers
- \* Provision of adequate noticing of LAFCO hearing and conducting authority hearing

003 **DOCUMENT AUTHORITY AND ORGANIZATION:**

State law provides for the basic purposes of the Commission powers and duties, establishment of policies, procedures, and regulations, in the “Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Code Secs. 56000 et seq., the ‘Act’), as amended. Other sections of the Government Code also give the Commission responsibilities. Some of the pertinent sections are cited to give the authority for the policies, standards, and procedures that are developed in this document, and have been listed under each heading.

005 **DEFINITIONS**

The following definitions shall be used:

01 Agricultural Lands

Land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotation program, or land enrolled in an agricultural subsidy or set-aside program (See Section 56016 Government Code).

02 Conducting Authority

The Commission, unless another conducting authority is specified by law.



03 Development

The placement or construction of an urban use (commercial, industrial, or urban density residential).

Indication of future development for annexation application includes the filing of a preliminary or pre-application, or of a development application for a discretionary or ministerial entitlement, or amendment to the zoning ordinance.

Assurance of development (by LAFCo condition) includes filing of final tract map, application for site plan or building permit, with the city.

04 Open Space Lands

Lands which are in public parks use, river bottom lands subject to flooding, storm drainage ponds, or other permanent open space use, as opposed to vacant parcels planned for other urban development.

05 Policy

A specific statement guiding action and implying clear commitment.

06 Prime Agricultural Lands

Section 56064 of State Law defines prime agricultural land for purposes of changes of organization. The commission defines prime agricultural land for purposes of any changes of organization or to a sphere of influence as being a parcel of land which is:

- A. Five acres or greater in area, and
- B. Located in an irrigation or water district having a sufficient water allocation; or the ground water is of sufficient quality and quantity and available for irrigation, and
- C. Has not been developed for a use other than agricultural, and which meets any of the following qualifications:
  - 1. Land which qualifies for rating as Class I or Class II in the Soil Conservation Service Land Use Capability Classification.
  - 2. For the following agricultural land use criteria, consideration of agricultural product value will give priority to preservation of lands with higher value products than those of lower value.
    - a. Land planted with fruit or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will return during the commercial bearing period on an annual basis from the

production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre, or

- b Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five calendar years, or
- c. Land which supports livestock used for the production of food and fiber and which 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 Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935, or
- d. Land which is used to maintain livestock for commercial purposes.

07 Standard

A specific, often quantified guideline defining the relationship between two or more variables.

08 Substantial Development

Development of a majority of the territory.

09 Substantially Surrounded

In determining whether an area is substantially surrounded, at least one of two criteria must exist:

A. The proposal must have at least three sides contiguous with city boundaries.

B. The proposal must have at least 75% of its perimeter contiguous with city boundaries.

10 Urban Service

Service provided to urban communities as opposed to rural areas, such as community water or sewer service.

11 Urban Service Area

Section 56080 of the State Government Code defines Urban Service Area which shall also meet all criteria established by LAFCo in Sec. 318 of the Commission Procedures.

## 12 Urban Sprawl

Development pattern where residential and commercial development is significantly separated from the rest of the community by vacant or agricultural land resulting in an increase in cost of providing urban services. Urban sprawl may differ in impact in smaller communities than a large metropolitan area; criteria for defining urban sprawl may vary from community to community.

Revised: December 19, 2001

**SECTION 100**  
**COMMISSION POLICIES**

## **COMMISSION POLICIES**

### **SECTION - 100**

State law requires the Commission to review and make determination on all changes of organization or reorganization, determinations of spheres of influence, city protests to land conservation contracts; review general plans for cities and county; and to do studies of local agencies, recommending governmental reorganizations. The following policies have been adopted by the Commission to assist in the review of proposals and plans, and preparation of studies as necessary. The policies are addressed by issue topic.

The Commission has existing policies, standards and procedures. Therefore, to the extent that the Act requires the Commission to adopt policies and procedures, the Commission already is in compliance with the Act. In furtherance of the Act, these policies, standards and procedures have been further amended as provided herein to allow the Commission to continue to exercise its powers in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns (Code sec. 56300(a)(b)).

Revised: February 26, 1992

Revised: December 19, 2001

### **101 ENCOURAGING ORDERLY FORMATION AND DEVELOPMENT OF AGENCIES: (Government Code Section 56301)**

- 01 The sphere of influence determined by the Commission shall take into account the provision of an adequate level and range of services to each community within the county. Likewise any governmental reorganization recommended by the Commission shall encourage the provision of adequate services to each community. The sphere of influence shall give consideration of those areas of the county which currently do not have adequate services, and recommendations for governmental reorganization or formation of new agencies shall be made by the Commission where justified.
- 02 Any proposal for a change of organization or reorganization shall contain sufficient information to determine that adequate services, facilities, and improvements can be provided and financed by the agencies responsible for the provision of such services, facilities, and improvements.
- 03 Reorganization of overlapping and competing agencies or illogical boundaries dividing agency service areas is recommended. The Commission encourages implementation of reorganizations, such as consolidations, mergers, dissolutions, where the result will be better service, reduced cost, and/or more efficient and visible administration of services to the citizens.

- 04 In order to reduce and minimize the number of agencies providing services, proposals for formation of new agencies shall be discouraged unless there is evidenced a clear need for the agency's services from the landowners and/or residents; there are no other existing agencies that are able to annex and provide similar services; and there is an ability of the new agency to provide for and finance the needed new services.
- 05 Among the purposes of the Commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances (Code sec. 56301).
- 06 One of the objects of the Commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in the County and to shape the development of local agencies so as to advantageously provide for the present and future needs of the County and its communities. When the formation of a new government entity is proposed, the Commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the Commission shall consider reorganization with other single-purpose agencies that provide related services (Code sec. 56301).

Revised: December 19, 2001

**102 ENCOURAGING CONSISTENCY WITH SPHERES OF INFLUENCE AND RECOMMENDED REORGANIZATION OF AGENCIES: (Government Code Section 56425)**

- 01 All proposals reviewed by the Commission, including changes of organization or reorganization, shall be consistent with the agency adopted spheres of influence and Commission policies. Within the sphere of influence each agency should implement an orderly, phased annexation program. A proposal should not be approved solely because the area falls within the sphere of influence of an agency. The sphere of influence is one factor among several considered in reviewing proposals.

(Appendix A, Annexation Program Guidelines)

- 02 Provision of urban services by an agency outside its sphere of influence shall be discouraged. In some instances, the Commission encourages agreements for service among agencies where efficiencies will be achieved and the public will benefit. Such agreements should be consistent with the agencies sphere of influence.
- 03 Within their sphere of influence cities should be the provider of urban services due to their higher visibility, their substantially broader sources of revenue, and their historical and legal right to provide services and controls to citizens

within their boundaries, particularly land use planning services and controls. Consequently, landowners and residents within a city's sphere of influence should look to the city for the provision of urban services and controls through annexation or formal agreement.

## 102-04

### TRANSITION AGREEMENTS

Where a special district is within a city's sphere of influence, the city is encouraged to develop annexation policies that will anticipate the total inclusion of the district's territory rather than a portion of its territory so as not to impose an unbearable tax burden upon citizens within the balance of the district's territory. The city's proposed services in the affected territory to be annexed to the city should be of equal or higher quality than the detaching special district's services provided in that territory.

Because the terms of each city's transition agreement may vary, cities are encouraged to include stakeholders, which may include the development community, in the preliminary formulation of agreements.

041 When a proposed reorganization includes annexation of territory to a city and detachment from a fire protection district (hereinafter, a "City/Fire Protection District Reorganization"), a transition agreement shall be required to provide for the orderly transition of services from the district to the city.

If the city and the district are unable to execute a transition agreement, the Commission may impose its own conditions of approval to ensure an orderly transition of services. Such conditions shall be deemed to satisfy this policy.

1. The terms of any fire transition agreement may include, but not be limited to, the length of the agreement, the transfer of stations, personnel, equipment, and property taxes, all as mutually determined by the city and the district. The transition agreement must provide a rationale for the terms contained therein (the "Transition Plan"). The Transition Plan must specify how generally the fire district will use any payments made by the city to the district, what service changes will be made to nearby areas, if any, and how the district will adjust its service plans for the loss of property tax revenues associated with the City/Fire Protection District Reorganization Proposal. In lieu of specific terms specified in the agreement, the Transition Plan may be attached to the transition agreement or incorporated by reference. The Commission recognizes that the negotiation of a transition agreement may be a lengthy and complex process and strongly encourages the city and district to craft an agreement that would last a period of years and cover multiple City/Fire Protection District Reorganizations.

2. The Commission is not a party to these agreements and other than the terms specified in section 1, above, will not dictate the terms of the transition agreement. The intent of the transition agreement is to provide for the orderly transition of services. Therefore, the Commission expects the parties to negotiate the transition agreements in good faith and to obtain terms and conditions in such agreements that are reasonable under the circumstances.
3. Applicants for a City/Fire Protection District Reorganization—whether by application of the city, by a private party, or by petition—shall include a copy of the transition agreement as part of their complete application.

In the case of a City/Fire Protection District Reorganization, the Executive Officer shall request written verification of an existing transition agreement between the city and the district in the mailed notice to the District in accordance with section 56658(b)(1).

4. In the event that the district and the city are not parties to a transition agreement affecting the subject territory, the Executive Officer shall request that the city and the district immediately commence discussions regarding entering into a transition agreement affecting the subject territory and, if possible, future City/Fire Protection District Reorganizations.
5. The city and district shall have thirty (30) days to enter into a transition agreement providing for the requirements contained herein. If, at the end of this period, the parties are unable to agree upon the terms of a transition agreement, the parties shall engage in a mediation process to resolve any outstanding disagreements regarding the transition agreement. The city and district shall immediately agree upon a qualified mediator to assist in and commence negotiations. The cost of the mediator shall be borne equally by the city and district unless the parties agree to alternate arrangements. No less than thirty (30) days after the commencement of mediation, either party may inform the Executive Officer that the city and district are unable to resolve their differences.

In the event of an impasse, mediator shall prepare an impartial mediation summary for the Executive Officer, which shall include a summary of each parties' points and the mediator's observations regarding the obstruction to an agreement.

6. Once the Executive Officer receives notice from either the district or the city that the parties are unable to come to terms on a mediated resolution to the transition agreement, the Executive Officer shall then issue certificate of filing for City/Fire Protection



District Reorganization proposal, if all other Commission requirements are complete.

7. Upon issuing the certificate of filing and establishing a date for hearing for the City/Fire Protection District Reorganization Proposal, the Executive Officer shall request in writing the following information from the District and the City, as applicable to each party: (i) whether the parties believe that a transition agreement is necessary, (ii) what the issues are preventing the parties from entering into a transition agreement; (iii) whether the City/Fire Protection District Reorganization Proposal will have any specific adverse effects on the district; (iv) if the fire protection district alleges that the City/Fire Protection District Reorganization Proposal will have specific adverse impacts on the district, a detailed analysis of those specific adverse impacts; (v) a description of any instant/mutual aid agreements between the district and city; and (vi) answers to any other questions by the Executive Officer concerning the proposed reorganization. The Executive Officer may also require local agencies to provide records, information, or studies that may be necessary to prepare the staff report for the Commission hearing on a proposed City/Fire Protection District Reorganization.
8. The Executive Officer shall make reasonable attempts to obtain such information prior to the Commission's consideration of the City/Fire Protection District Reorganization. After reviewing the information, the Executive Officer shall prepare a staff report for the City/Fire Protection District Reorganization proposal, which among other things describes the parties' efforts to negotiate a transition agreement, states that efforts for the parties to enter into a transition agreement have failed, and may include the recommendation to the Commission that it impose certain conditions of approval to provide for the orderly transition of services.
9. The Commission's imposition of conditions shall be consistent with Government Code section 56886 and include, but not be limited to, the transfer of fire stations, personnel, equipment, and/or property tax revenues. The Commission may at its discretion include additional conditions of approval not otherwise contained in the staff report.

The Commission reserves the right to waive the mediation requirements contained herein with respect to any one particular City/Fire Protection District Reorganization, if the Commission determines, in its sole discretion, that it is in the public's interest to waive such requirements for that particular City/Fire Protection District Reorganization.

041-B (Section deleted – May 21, 2003)  
Adopted May 21, 2003

Amended: August 7, 2013  
Amended: September 11, 2013

- 05 All developed urban land inside a city's sphere of influence shall be encouraged to annex to the city. The burden of proof as to why any such areas should not be annexed shall rest with the residents and owners of the property being annexed. Likewise the city shall develop plans to annex such developed urban areas. All islands of unincorporated territory and areas substantially surrounded located within the city sphere of influence shall be encouraged to annex to the city, as the logical provider of services and controls.
- 051 Since unincorporated islands and corridors cause service problems for the county and special district service providers as well as the city, the Commission shall request these agencies be a part of the process of reviewing the proposal and attending information meetings to encourage removal of irregular boundaries and service areas by annexation to the city. In addition the county and special districts should consider transition of service to the city of developed island and substantially surrounded areas by contract or agreement, to allow the city to provide municipal services to developed areas in the city sphere of influence. Such municipal services could include police and fire protection, paramedic service, street sweeping and lighting, street maintenance, landscape or park maintenance.
- 06 A County Service Area, formed to provide a service other than community or domestic water and/or sewer service within an already developed area, including an island or substantially surrounded area in a City sphere of influence, will be considered consistent with the City sphere of influence in those instances where:
- A. The service is desired by at least a majority of voters in the area, as evidenced by a formal petition and in the form required by State law.
  - B. The petition for formation includes a means for financing the district service and substantial evidence of the necessary support of the voters or landowners to finance the service.
  - C. City annexation is not possible because of one of the following:
    - 1. The City has either refused or made no reasonable attempt to annex and provide the desired service, as requested by petitioners, or
    - 2. The petitioners have submitted formal petition of 60 percent or more of voters, requesting formation of a County Service Area as opposed to City annexation.

Section 102.06 added January 24, 1996

**103 ENCOURAGING ORDERLY URBAN DEVELOPMENT AND PRESERVATION OF OPEN SPACE PATTERNS: (Government Code Section 56300)**

- 01 The Commission encourages well-planned, orderly, and compact urban development patterns for all developing areas. Also, the County, cities, and those districts providing urban services, are encouraged to develop and implement plans and policies which will provide for well-planned, orderly and compact urban development patterns, with consideration of preserving permanent open space lands within those urban patterns.
- 02 Development of existing vacant non-open space and non-prime agricultural land within an agency's boundaries is encouraged prior to further annexation and development.
- 03 Annexation proposals to cities or districts providing urban services to undeveloped or agricultural parcels shall show that urban development is imminent for all or a substantial portion of the proposal area; that urban development will be contiguous with existing or proposed development; and that a planned, orderly, and compact urban development pattern will result. Proposals resulting in a leap frog, non-contiguous urban development patterns shall be discouraged.
- 04 Orderly growth of cities is supported by applications for change of organization and reorganization that demonstrate development of the subject projects is imminent.
- 05 The Executive Officer shall record the approved application once he or she has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but not be limited to, whether or not the proposed project is materially similar to the project described in any application before the Commission.

Amended: February 18, 2015

**104 ENCOURAGING CONSERVATION OF PRIME AGRICULTURAL LANDS AND OPEN SPACE AREAS: (Government Code Section 56377)**

- 01 Proposals which would conflict with the goals of maintaining the physical and economic integrity of open space lands, agricultural lands, or agricultural preserve areas in open space uses, as indicated on the City or County general plan, shall be discouraged.
- 02 Annexation and development of existing vacant non-open space lands, and non-prime agriculture land within an agency's sphere of influence should occur prior to development outside of an existing sphere of influence.

- 03 A sphere of influence revision or update for an agency providing urban services where the revision includes prime agricultural land shall be discouraged. Development shall be guided towards areas containing non-prime agricultural lands, unless such action will promote unplanned, disorderly, inefficient development of the community or area.
- 04 Loss of agricultural lands should not be a primary issue for annexation where City or County general plans indicate urban development is appropriate and there is consistency with the agency's sphere of influence.

**105 PROVIDING PUBLIC ACCESS TO THE COMMISSION VIA THE INTERNET  
(Code sec. 56300 (f) (1)( 2)).**

- 01 The Commission has established and will maintain, or otherwise provide access to notices and other Commission information for the public through an Internet website. Notice of all public hearings and Commission meetings shall be made available in electronic format on that site.
- 02 The Commission's web site is <http://www.fresnolafco.org>

Revised: December 19, 2001

**106 LAFCo DISADVANTAGED COMMUNITIES POLICY**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Act") requires LAFCo to make determinations regarding "disadvantaged unincorporated communities" ("DUCs") when considering a change of organization, reorganization, a sphere of influence amendment and municipal service review (an "MSR"). Generally, LAFCo will not approve annexations of territory that is greater than ten (10) acres if there exists a DUC, as further defined below, unless an application to annex the DUC has been filed with the Executive Officer, as specified herein.

**01 DISADVANTAGED UNICORPORATED COMMUNITY**

For the purposes of this policy, a DUC means an inhabited territory with an annual median household income that is less than 80 percent of the statewide annual median household income and as defined in Government Code section 56046 and Water Code section 79505.5, all as amended. LAFCo has determined that, as of the date of the adoption of this policy, there may be a deficiency in census data to accurately assess median income in unincorporated communities. As a result, LAFCo or its designee shall consider various sources of information in order to make a determination that a DUC exists. Such information considered by LAFCo shall result from the following:

- (i) conducting reasonable demographic surveys and studies;
- (ii) (iii) conducting reasonable site investigation, and
- (iv) and considering other materials supplied by government agencies and other interested parties (collectively, the "Information Sources").

A DUC shall have at least 15 dwelling units at a density not less than one unit per acre.

Cities and special districts will be required to identify DUCs within and contiguous to their boundaries; however, LAFCo will verify all information and make independent attempts to identify DUCs using the Information Sources.

02 MUNICIPAL SERVICE REVIEWS

Any MSR conducted by LAFCo for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, shall identify any DUCs within and contiguous to the sphere of influence of that city or special district and describe the present and probable needs and deficiencies for the provision of those public facilities and services within such DUC. In preparing the MSR, LAFCo and its consultants shall use all reasonably available Information Sources. and consider those characteristics LAFCo deems appropriate to determine if such area qualifies as a DUC.

03 SPHERE OF INFLUENCE UPDATES

For any updates to a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the Commission shall consider and prepare written determinations regarding the present and probable needs and deficiencies for those public facilities and services for any DUC within or contiguous to the sphere of influence of the city or special district.

04 CHANGES OF ORGANIZATION & REORGANIZATION FOR CITIES

Except as provided for in the Act, the Commission shall not approve an annexation to a city of any territory greater than 10 acres, where there exists a DUC with 12 or more registered voters that has been identified and evaluated in any MSR or Sphere of Influence Update for that city or has been subsequently identified by staff to be contiguous to the area of the proposed annexation unless an application to annex the DUC to the subject city has been filed with the LAFCo Executive Officer.

Pursuant to Government Code 56375(a)(8)(B), an application to annex a contiguous DUC shall not be required if either of the following facts are present: (i) a prior application for annexation of the same DUC has been made in the preceding five (5) years; or (ii) the Commission finds, based upon written evidence sufficient to the Commission, that a majority of the residents within the affected DUC are opposed to annexation. The Commission will give great weight to a census, prepared independently of any project applicant, of DUC residents to determine opposition the subject annexation.

"Written evidence" may in the form of annexation survey results from residents of the DUC. The Commission shall have a copy of any mailing list used to collect this survey. The survey must be completed no longer than eighteen (18) months before the filing of underlying annexation proposal. The following must be included as part of the survey:

- (1) Survey Cover Letter;
- (2) Survey;
- (3) Map of proposed annexation area and DUC in relation to existing city boundaries;
- (4) Information about city services (a review of the types of services, timing of when the services would be provided and financing of the services), effects of city/zoning/land use and city elections.

If the underlying annexation is contiguous to a DUC that is served by a special district that provides urban services, the provisions listed in this sub-section are only applicable to annexations that are at least one-third the size of the neighboring special district.

All information sent to residents in DUCs should be in English and Spanish, and any other languages reasonably calculated by LAFCo to be understood by a majority of the residents of a household in the area.

05 CONTIGUOUS REQUIREMENTS TO TRIGGER A DUC ANNEXATION APPLICATION

A DUC that is identified to be within 300 feet of the underlying annexation is sufficient to start the annexation proceedings for a DUC.

06 RESPONSIBILITY FOR ENVIRONMENTAL ASSESSMENT

The city or special district filing the application shall be responsible for all associated costs of processing the environmental documents.

07 RESPONSIBILITY FOR FIRE DISTRICT OR OTHER REQUIRED TRANSITION FEES

If provided by a transition agreement, the city or special district will be responsible for transition of funding in effect at the time of the annexation. If the annexation application is filed by a proponent in lieu of the city then the proponent must provide the LAFCo Executive Officer with sufficient evidence that this requirement has been satisfied prior to recordation.

08 NEED FOR SERVICES RELATED TO DUCs

In the event there is a disagreement relative to the need for services (ie. sewer, water, storm drainage), LAFCo staff will consult with Fresno County staff to ascertain levels of services that presently exist. LAFCo staff would also review any independent information submitted by interested parties. LAFCo may use its conditioning authority to make sure water and sewer fees are paid.

09 PAYMENT FOR DUC ANNEXATION

The processing costs for DUC annexation is the responsibility of the city or special district, or in the case of an annexation submitted by petition, the petitioner(s) of the triggering annexation. If the district has a financial hardship, a separate request may be considered by LAFCo for districts with budgets of less than \$500,000 or cities with budgets less than \$2,000,000.

10 DUC PROTEST PROCEEDINGS

The same procedure for a standard annexation shall be followed for a conducting authority hearing related to a DUC.

11 LEGACY COMMUNITY

A legacy community is a geographically isolated community that meets DUC criteria, is at least 50 years old, and is beyond the adopted sphere of influence of any city. When approving any new or updated sphere of influence for a city or special district, the city or special district shall be required to identify any legacy community that is within one mile of the existing or proposed sphere of influence. LAFCo will verify all information and make independent attempts to identify legacy communities. Such attempts may include site investigation and the review of maps, demographic studies, and other materials supplied by governmental agencies and other interested parties.

Adopted January 9, 2013

**107 MUNICIPAL SERVICE REVIEW POLICY (new policy)**

01 BACKGROUND

Pursuant to Government Code (GC) §56430(a)(and as amended), in order to prepare and to update spheres of influence (SOI) in accordance with GC §56425, the Commission shall conduct a service review of the municipal services. A municipal service review (MSR) is a comprehensive study prepared by LAFCo designed to inform local agencies, the community, and LAFCo about municipal services provided by local agencies within a designated geographic area. LAFCo evaluates the municipal services provided by one or more local agencies, makes determinations based upon this information and often recommends actions to promote the efficient provision of those services.

An MSR is required in order to prepare (that is, incorporating a new city or forming a new special district) or update (meaning amending) an SOI. An MSR need not be prepared if no action to prepare or update a SOI is proposed, though LAFCo may choose to prepare a MSR at its discretion.

Pursuant to the Government Code, LAFCo must make the following written determinations regarding the following areas:

- (1) Growth and population projections for the affected area.
- (2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence (see Policy 106, LAFCo DUC Policies).
- (3) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- (4) Financial ability of agencies to provide services.
- (5) Status of, and opportunities for, shared facilities.
- (6) Accountability for community service needs, including governmental structure and operation efficiencies.
- (7) Any other matter related to effective or efficient service delivery, as required by commission policy.

An MSR concludes with adoption of the determinations by the Commission. While the Commission is not required by law to make any changes to a SOI based upon MSRs, the Commission may at its discretion opt to shrink or expand an SOI, or approve, deny, or approve with conditions any change of organization or reorganization impacting the governmental agency as a result of the information contained in the MSR. The Commission's determinations may result in recommendations to the subject local agency regarding the areas specified by the statute. When recommendations are made, they will be conveyed to the local agency for response and/or action.

## 02 MSR GOALS

The goal of the Fresno LAFCo MSR program is to provide cities and special districts with an assessment on their provision of services, make recommendations regarding areas of improvement, and determine whether or not an agency is equipped to effectively provide services within its existing or expanded SOI.

In order to achieve this goal, MSRs will:

- Evaluate a local agency—including, but not limited to, services delivered by the agency or other agencies, the agency's compliance with its principal act, activities of its board of directors, the agency's managerial practices, sufficiency of its annual budget, presence of an agency's long-range plan for services, opportunities for public participation with district board meetings, and the board's compliance with "sunshine" laws, such as the Brown Act—in order to present thoughtful and accurate information in support of Commission determinations;



- Provide recommendations to encourage effective and efficient municipal service delivery; and
- Build and maintain effective relationships between LAFCo and local agencies.

LAFCo actively encourages local agencies affected by these policies to include LAFCo at the beginning of any city planning application that may result in an annexation or SOI amendment or extension of services.

### 03 DISCUSSION

#### **Municipal Services and Local Agencies**

The term “municipal services” relates to services provided by cities and many special districts to relatively dense populations at comparatively high levels of service, including:

- Public safety (police, fire, building inspection, etc.);
- Local streets, roads, transit, and airports;
- Public utilities (usually solid waste, wastewater collection and/or treatment, domestic water and electricity);
- Land use authority including planning, code enforcement, and building code enforcement;
- Parks and recreation;
- Public Facilities;
- Road, Right-of-way maintenance;
- Flood control; and
- Water supply, drainage, storage, and conservation.

In contrast, other types of services are not considered “municipal,” although they relate to necessary services that are provided within a geographic area under the authority of the California Code. These services do not in themselves facilitate or induce growth. These “non-municipal” special districts typically do not frequently request or experience modifications to their district service boundaries or update sphere of influences. Non-municipal special district services include, but are not limited to:

- Cemetery districts;
- Conservation districts;
- Drainage districts;
- Flood Control districts;
- Hospitals districts;
- Irrigation districts;
- Levee districts;
- Memorial districts;
- Mosquito abatement and pest control districts;
- Reclamation; and

- Resource conservation districts

### **SOI Planning Horizon**

As described in Government Code §56076, a "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission. Determining a local agency's SOI is a significant role of the LAFCo. The Commission will determine the probable physical boundaries of the agency using a 20-year planning horizon, meaning the probable expansion of the agency's service area within 20 years of the SOI approval. The Commission will evaluate proposed SOI amendments in light of many of the local agency's own adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, annual budgets, fee structure, and capital improvement plans.

### **Minor Amendments**

Minor amendments to a SOI that are not substantial may at the Commission's sole discretion be approved without an MSR if they meet all of the following criteria:

- The requested amendment is either less than 40 acres or less than 5 percent of the total acreage of the area located within the subject agency's existing SOI, whichever is more, inclusive of incorporated territory;
- There are no objections from other agencies that are authorized to provide the services the subject agency provides and whose SOI underlies or is adjacent to the subject territory; and
- The territory subject to the minor amendment and the LAFCo action on the SOI amendment is within the scope of a previously-approved CEQA document, for which the subject local agency is the lead agency under CEQA; or
- The proposed minor amendment is solely intended to accommodate planned public facilities or public services.

### **Environmental Determination**

Local agencies that request a SOI amendment associated with general or master plan growth projections, that will trigger a MSR will be the lead agency as defined by the California Environmental Quality Act (CEQA) (GC §21067). The lead agency has the principal responsibility for carrying out or approving a project which may have a significant affect upon the environment. The lead agency will conduct all necessary environmental determination as appropriate under CEQA (i.e., notice of exemption, negative declaration, environmental impact report). Under this circumstance, LAFCo will be considered the responsible agency as defined by CEQA guidelines (GC §21069). This relationship should be clearly identified in the lead agency's CEQA documentation, as well as the requested actions (annexations and/or detachments) anticipated by the lead agency.

In the event that LAFCO initiates the MSR, it will be the lead agency and will prepare the appropriate documentation pursuant to the CEQA. Early coordination between the applicant and LAFCo is essential.

### **MSR Preparation**

The Commission shall conduct a MSR before, or in conjunction with, but no later than the time it is considering an action to establish or update an SOI.

The Executive Officer will assess municipal and non-municipal local agencies' SOI every five years, or as necessary, by reviewing the current MSR, evaluating progress on recommendations, and contacting the city or special district to determine its interest in updating its SOI. These agencies will be asked to verify whether the current SOI is consistent with its general plan and if it is not, will coordinate the schedule to update the MSR and SOI.

If staff determines that an amendment to an SOI may be necessary, it may provide local agencies with an MSR questionnaire for them to complete and may request additional information. Once this information is received, staff will prepare a draft MSR.

The adoption of a MSR is not subject to a statutory public hearing (GC §56430). However, to allow for public participation that demonstrates a transparent decision-making process, the following actions will take place:

- The draft MSR shall be posted on the Commission's website with a minimum 21-day public review period;
- Notice of the public review period will be posted at the office of Fresno LAFCo, Clerk of the Board of Supervisors Office and posted on the Commission's website;
- Notice will be mailed or e-mailed to the subject local agency to be posted in its jurisdiction.

## **04 MSR Policies**

The following policies will assist LAFCo staff in preparing MSRs and complying with the Act. These policies are based on circumstances unique to Fresno LAFCo and as such will ensure that municipal services are evaluated in an orderly, logically, and efficient manner.

**Policy:** The SOI should reflect a 20 to 25 year planning horizon and may include additional areas that may relate to the agency's planning. This boundary shall be reviewed and either affirmed or, if necessary, updated on average of every five years thereafter.

**Policy:** MSRs may be updated independently from an SOI modification, either to facilitate review of an agency's service deficiencies or in response to other LAFCo actions.

**Policy:** The Commission reserves the right to have an MSR prepared by a consultant under contract to the Commission and associated expenses may be borne by the requesting local agency.

**Policy:** An SOI that is not changed may be affirmed by the Commission without an MSR.

Adopted: November 5, 2014

Revised: December 14, 2016

**SECTION 200**

**COMMISSION STANDARDS  
FOR CHANGES OF ORGANIZATION**

## **COMMISSION STANDARDS FOR CHANGES OF ORGANIZATION**

### **SECTION - 200 (Government Code Section 56375 and 56841)**

As authorized by State law, the Commission has adopted the following standards to review proposals. Each standard is developed from the factors to be considered, listed in Section 56668, and the preceding Commission policy statements. Standards are developed for review of proposals for city annexation, district annexation, city incorporation, and district formation.

The purpose of these standards is to give indication of how the staff and Commission will evaluate a proposal and make recommendation and determination.

Proposals meeting all Commission standards will be recommended and determined for approval. Generally proposals should meet all standards to be approved. However, when appropriate, the Commission may waive a standard where evidence of overriding circumstances presented in the application and at the hearing warrant such a waiver.

Revised: February 26, 1992

### **210 STANDARD FOR ANNEXATION TO CITIES AND URBAN SERVICE DISTRICTS (Government Code Section 56375)**

- 01 Proposal is consistent with the adopted spheres of influence and does not conflict with the goals and policies of the Commission.
- 02 Proposal is consistent with the City or County general and specific plans, including adopted goals and policies.
- 03 Proposal shows that there is insufficient available land within the community plan area, consistent with the community plan, to accommodate the proposed development.
- 04 Proposal mitigates any significant adverse affect on continuing agricultural operations on adjacent properties.
- 05 Proposal would result in planned, well ordered, efficient development patterns and service areas, and does not encourage urban sprawl.
- 06 Proposal shows that there is existing substantial development or gives indication of future development, thereby requiring urban services. If no existing substantial development, a condition assuring that substantial development will occur upon annexation shall be made a part of the proposal.

- 07 Proposal shows that development can be provided all urban services and improvement or facilities necessary, as shown by the service plan and application.
- 08 Proposal would not create islands. Boundaries minimize creation of peninsulas and corridors, or other distortion of boundaries, and should include any developed islands or substantially surrounded area with the proposed developing area. (See additional peninsula guidelines)
- 09 The proposal includes mitigation of any adverse affects to subject or affected agencies through a transition agreement or other means. (Amended 5/21/03)

For any of the following special circumstances the above standards shall be used as guidelines:

- 01 Request for annexation is by agency for annexation of its publicly-owned property, used for public purposes.
- 02 Request for annexation is by agency in order to facilitate construction of public improvement or facility which otherwise could not be constructed.
- 03 Request for annexation is to remove an unincorporated island or substantially surrounded area.
- 04 Request for annexation is for an industrial or economic development project for which development application has been made, insufficient land exists within the subject agency to accommodate the project, and no significant adverse environmental or fiscal impact will result that cannot be mitigated.

A condition assuring the financing or completion of necessary development infrastructure before completion of annexation shall be made a part of the proposal.

- 10 The newly formed or receiving entity has the ability 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.
- 11 There is a timely availability of water supplies adequate for projected needs as specified in Code section 65352.5.
- 12 The proposal reasonably assists the receiving entity in achieving its fair share of the regional housing needs as determined by the local council of governments.

(Code sec. 56668).

Revised: December 19, 2001

- 13 The proposal will include the annexation of a disadvantaged unincorporated community to a city of any territory greater than 10 acres that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community has already been filed with the executive officer.

Added: January 11, 2012

### 13 **Prezoning Requirement**

- 01 As a condition to annexation a city is required to prezone the territory to be annexed. Prior to submitting an application to the Commission for a proposed annexation (by the city or petitioners, as the case may be) the city or petitioners must have prezoned the affected territory consistent with that city's general plan, unless the city or petitioners meets one of the exceptions, presented in this sub-section below. Pre-zoning is the legal process of placing a city zoning designation on territory or a portion of territory requested for annexation to the city which is located outside the present city limits. All territory included in a proposed annexation to a city without existing development entitlements on territory that is vested or already at build-out shall be prezoned prior to consideration of the annexation by the Commission.
- 02 If any territory included in a proposed annexation to a city is not prezoned, to qualify for an exemption from required prezoning, the city proponent or petitioners are required to present evidence satisfactory to the Commission that the existing development entitlements on such territory included in the annexation are vested or are already at build-out, and are consistent with the city's general plan (Government Code Section 56375 [a][7]). A "Vesting" Tentative Parcel or Tract Map does not satisfy the aforesaid condition of annexation. The recordation of a "Final Map" is necessary.
- 03 On a case by case basis the Executive Officer shall examine the evidence presented to the Commission by the city proponent or petitioners that territory included in an annexation is exempt from required prezoning to determine if such evidence is acceptable. The results of this analysis shall be included in the Executive Officer's report to the Commission.

The Commission will examine each request for exemption from the prezoning requirement, including evidence presented, on a case by case basis. The Commission may, in its discretion, approve or deny the city or petitioners request to be exempt from the pre-zoning requirement. The Commission's determination is conclusive.



If the Commission rejects a request for exemption from the prezoning requirement, the Commission will still require prezoning before the Commission takes action on the requested annexation. As a result, the Commission will continue its hearing of the matter until the affected territory is prezoned.

When territory included in a proposed annexation has been deemed exempt from the prezoning requirement and is not prezoned, the Executive Officer will issue a 21 day written notice to the subject property owners and registered voters in the affected territory, and to property owners within 300 feet of the territory, of the Commissions' hearing of the proposed annexation.

- 04 When territory has been prezoned, a copy of the enacted Ordinance or Ordinances verifying that required prezoning has been applied to territory included in an annexation proposal shall be submitted to the Executive Officer with other required application materials. An application for annexation to a city will be deemed incomplete without submission of certified copies of the Prezoning Ordinance or Ordinances or a Clerk's Certification indicating the prezoning has occurred.
- 05 The applicant for a proposed annexation must participate in at least one pre-application meeting with LAFCo staff and County personnel (and in the case of land owner petition a representative from the city) prior to submitting an application for annexation to LAFCo. All territory to be included in a proposed annexation shall be determined at the pre-application meeting(s). As a general rule, inclusion of additional territory (if any) by LAFCo staff shall be determined at the conclusion of the pre-application meeting(s).
- 06 The Commission may determine to add additional territory to an organization or reorganization. Territory may be added to an organization or reorganization to prevent the creation of county islands and/or peninsulas of land, to create more logical boundaries, or for any reason necessary to protect the public health, safety, and welfare. Should the Commission determine to add additional territory to an organization or reorganization that involve annexation of territory to a city at any time during the proceedings, consideration of the proposed annexation may be continued to allow time for the city or petitioners to prezone the additional territory or to present evidence satisfactory to the Commission that the existing development entitlements on this territory are vested or are already at build-out, and are consistent with the city's general plan (Government Code Section 56375 [a][7]).

- 07 Pursuant to state law, cities must give public notification required for rezoning. Cities are encouraged to issue public notification of the city's intention to adopt a "Resolution of Intention" announcing the municipalities' intentions to prezone and annex territory into the jurisdiction. Cities are also encouraged to make personal contact with property owners and voters in the affected territory to explain the rezoning and annexation proposal.
- 08 The Commission shall not specify how, or in what manner, territory shall be rezoned nor shall the Commission impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.
- 09 Municipal Codes that allow zoning of property after completion of annexation (i.e., automatic rezoning) shall satisfy the requirement to prezone property if the city proponent or petitioners present evidence satisfactory to the Commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan (Government Code Section 56375 [a][7]). In such circumstances, the Executive Officer will issue the 21-day written notice as provided in 210-13-03 above. All territory included in a proposed annexation to a city without existing development entitlements on territory that is vested or already at build-out shall be rezoned prior to consideration of the annexation by the Commission.
- 10 Concerning the processing of large-scale annexations (e.g., over 160 acres the city or petitioners are responsible for determining how all property in the affected territory will be rezoned or rezoned upon annexation pursuant to state law and LAFCo Policies, Standards and Procedures.
- 11 In the event of a proposed annexation of territory to a city by landowner petition, the chief proponent shall be responsible for processing a required rezoning application at the city for territory proposed for annexation. Required rezoning must take place prior to submission of an application for annexation.
- 12 No subsequent change may be made to the general plan or zoning for territory included in an annexation to a city that has been rezoned or rezoned that is not in conformance with the city's general plan or zoning designations for a period of two years after the completion of the annexation. Changes to the land use designation or zoning can only be made if the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the Commission (Government Code Section 56375 [e]).

Adopted: August 27, 2003

220 **STANDARDS FOR DISTRICT ANNEXATION FOR RURAL OR REGIONAL SERVICES**

- 01 Services can be provided by annexing district as shown by district service plan, and district annexation is the most economical and practical method of supplying the same.
- 02 Proposal is consistent with the adopted general plan of the city or county.
- 03 Proposal is consistent with adopted spheres of influence.
- 04 Boundaries of the proposal include all of the service area.
- 05 Proposal would not have a significant adverse effect on subject or affected agencies, and on adjacent areas.
- 06 Proposal shows a benefit to landowners and residents in the affected territory.
- 07 The newly formed or receiving entity has the ability 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.
- 08 To the extent applicable, there is a timely availability of water supplies adequate for projected needs as specified in Code section 65352.5.

Revised: December 19, 2001

230 **STANDARDS FOR DISTRICT FORMATION**

- 01 If development requires one or more urban-type services, such service can not be provided by the following (in descending order of preference):
  - A. Annexation to an existing city.
  - B. Annexation to a county service area.
  - C. County Service Area formation.
  - D. Annexation to a district.

If proposal is for other than urban type services that these services cannot be provided by an existing district.
- 02 District proposed is the best suited to the purpose and better alternate types are not available.
- 03 Proposal shows a demonstrated need for services and a service plan showing that such services can be adequately provided and financed.

- 04 The proposal shows that the amount of revenue transferred from an agency or agencies currently providing service in the subject territory to the proposed service-providing agency equals the expense which the current service provider bears in providing the services to be transferred.

In the event the expense to the current service provider exceeds the amount of revenue transferred, the current service provider and new service providing agency agree to revenue transfer provisions to compensate for the imbalance. Such provisions may include, but are not limited to tax-sharing, lump-sum payments and payments over a fixed period of time, which may be ensured by proposal conditions.

- 05 Boundaries of the proposal include all of the service area.
- 06 Proposal is consistent with adopted spheres of influence and the adopted general plan of the city and county.
- 07 To the extent applicable, there is a timely availability of water supplies adequate for projected needs as specified in Code section 65352.5.

Revised: December 19, 2001

## 240 **STANDARDS FOR CITY INCORPORATION**

### 01 Definition

"Incorporation" means the incorporation, formation, creation, and establishment of a city with corporate powers. Any area proposed for incorporation as a new city shall have at least 500 registered voters residing within the affected area at the time commission proceedings are initiated (Government Code Section 56043).

### 02 Mandatory Determinations for Approval

In order for LAFCo to approve a proposal to incorporate a new city the Commission must make the following determinations as required by State Law.

- A. The proposed city incorporation is consistent with and has been processed pursuant to the requirements of state law, including, but not limited to, the policies of Government Code Sections 56720, 56001, 56300, 56301, and 56377.
- B. The spheres of influences of the affected local agencies have been reviewed and the proposed incorporation is consistent with those spheres of influences.
- C. The Comprehensive Fiscal Analysis (CFA) prepared pursuant to Government Code Section 56800 has been reviewed and the

Controller's report (if any) prepared pursuant to Government Code Section 56801 has been reviewed.

- D. The Executive Officer's report, findings, and recommendations prepared pursuant to Section 56665 have been reviewed and the testimony presented at public hearings has been reviewed and considered.
- E. The incorporation as proposed or as amended by the Commission complies with the requirements of Government Code Section 56815, specifically LAFCo finds that the following two quantities are substantially equal:
  - (1) Revenues currently received by the local agency transferring the affected territory that, but for the operation of this section, would accrue to the local agency receiving the affected territory.
  - (2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.
- F. Notwithstanding the foregoing, the Commission may approve a proposal that includes an incorporation if it finds either of the following:
  - (1) The county and all of the subject agencies agree to the proposed transfer.
  - (2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

03 Compliance with CEQA

The requirements of the California Environmental Quality Act (CEQA) shall be fulfilled pursuant to Public Resources Code, Section 21000 *et seq.* and the California Environmental Quality Act, CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 *et seq.* The Commission will act as "Lead Agency" in the preparation of required studies and documents. The Commission will consider the information contained in the environmental assessment, written comments reviewed, and public testimony related to the environmental analysis prior to making a decision to approve or deny the proposed city incorporation.

04 Other Determinations Supporting Incorporation.

In addition to the determinations listed above, the following determinations are also necessary for approval of city incorporation:

- A. A finding shall be made that the proposal for city incorporation demonstrates a significant unmet need for urban services or need for improved urban services within the territory for which incorporation is proposed.
- B. The proposal demonstrates a significant unmet need for municipal services or need for improved municipal services within the territory proposed for incorporation.
- C. The resolution making determinations shall include statements accepting or rejecting each of the findings and recommendations made in the Executive Officer's report and the Comprehensive Fiscal Analysis (CFA). Findings shall be made and included in the resolution that present the basis for any rejection (Government Code Section 56803).

05 Principal Factors to be Considered

The principal factors listed below shall be considered in determining a decision on a proposed city incorporation. Findings may be made on any of these factors.

- A. Consistency with adopted spheres of influence.
- B. Consistency with adopted County general plan, specific plan and community plans to the extent the Commission determines they are relevant to the incorporation.
- C. Density of population and well defined, reasonably compact boundaries.
- D. The likelihood of growth within the proposed incorporation area and adjacent areas.
- E. Physical separation from other populated areas or from existing cities to which the proposed incorporation area could be annexed. The extent to which the proposal represents logical agency boundaries.
- F. The extent to which population densities necessitate the provision of a broad spectrum and high degree of community services.
- G. The extent to which the proposed city would be capable of providing efficient municipal services for the subject population.
- H. The creation of unincorporated islands, peninsulas or other boundary issues

## 06 Other Factors to be Considered

Other factors to be considered shall include, but are not limited to; the following (see Government Code 56668):

- A. Current levels of service in the area to be incorporated.
- B. Information about population, population density; current land use, proposed land use, general plan designations and zoning; topography, natural boundaries, proximity to and effect on other populated areas.
- C. The potential effect of the proposed incorporation on communities of interest, social and economic interests in the area, and on local governmental structure of the county.
- D. The 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 policies and standards set forth in Government Code Section 56377.
- E. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Government Code Section 56016.
- F. The comments and information of any affected local agency, landowner or owners, interested citizens, and registered voters in the affected territory.
- G. The timely availability of water supplies adequate for projected needs as specified in Section 65352.5, and the provision of a sanitary sewage system.
- H. The extent to which the proposed incorporation will address the issue of affordable housing and/or will contribute to regional housing needs as determined by the Council of Fresno County Governments.
- I. Consideration of the regional growth goals and policies as established by a collaboration of elected officials (Government Code Section 56668.5, if any).
- J. The potential effects of the incorporation on existing service providers including the County and special districts."
- K. Expressed preferences of those residing within or owning property within the area proposed to be incorporated.

07 Determining a Sphere of Influence

The Commission shall determine the sphere of influence for any newly incorporated city within one year of the effective date of incorporation. At the time a proposal for an incorporation is approved the Commission may, at its discretion, determine the sphere of influence for the proposed new city (Government Code Section 56426.5[a]).

08 Comprehensive Fiscal Analysis

A Comprehensive Fiscal Analysis (CFA) shall be prepared pursuant to state law. The Executive Officer shall prepare, or cause to be prepared by contract, the CFA. The analysis shall review, document, and analyze all the factors required by state law, other factors deemed necessary by the Commission or Executive Officer, and all written and oral comments received related to the analysis (Government Code Sections 56800 and 56815 *et seq.*).

The Executive Officer shall notify all interested parties that the Comprehensive Fiscal Analysis is available for public review by publishing notice in a newspaper of general circulation serving the proposed incorporation area and by mailing notice to all affected agencies, the chief proponents, and all persons who have filed a written request for notification. The notice will specify the locations where the fiscal analysis can be reviewed and the time period in which the State Controller's review can be requested.

09 Request for State Controller Review of the CFA

Any interested person, agency or appellant may request a review of the CFA by the Office of the State Controller within 30 days of the Commission's acceptance of the CFA as complete. Upon receipt of a request, the Executive Officer shall, in consultation with the State Controller's office, prepare an estimate of the cost of such a review and deliver the estimate to the requesting party. The party will be required to submit an initial deposit of 5,000.00. The Executive Officer will provide the full estimated cost of the analysis within 15 days after receiving the estimate, and execute an agreement to pay any additional cost over the estimate.

Only upon payment of the deposits and execution of the payment agreement will the request be considered complete and forwarded to the Controller's office. Failure to timely deposit the estimated cost and execute the payment agreement will be deemed a withdrawal of the request. The Controller has 45 days from receipt of request to submit a report on the questions raised in the request for analysis. Any time lines contained in an incorporation process are to be "tolled" (extended) by the amount of time necessary to obtain this report.



## 10 Revenue Neutrality

Pursuant to the requirements of State law the Commission will not approve a proposal for the incorporation of a city unless it determines that the statutory requirements for revenue neutrality are present or can be achieved by specific terms and conditions. The proposed city incorporation shall result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies.

The Commission shall not approve a proposal for city incorporation unless it finds that revenues currently received by the County would accrue to the new city will be substantially equal, to expenditures currently made by the County for those services which will be assumed by the new city.

Implementation of Revenue Neutrality provisions shall insure adequate protection of the financial stability of the county and other affected agencies while at the same time permitting the incorporation of communities demonstrating the necessary resources and capacities for self-governance. The legislative mandates for achieving Revenue Neutrality shall be implemented through a rational and predictable process for gathering information, determining the appropriate content of Revenue Neutrality Terms and Conditions and providing for such revision of those Terms and Conditions as may be appropriate. (Government Code Section 56815 *et seq*).

## 11 Determining Revenue Neutrality

The CFA shall provide the basis for determining the need for Revenue Neutrality. Basic objectives of negotiations between the proponents of incorporation and affected entities shall include, but are not limited to the following:

- A. Determining a process to analyze and mitigate the fiscal impacts of incorporation on the county resulting in stable, predictable financial outcomes for both the county and the new city.
- B. Defining the terms and budget items to be negotiated under Revenue Neutrality requirements (Government Code Section 56815 *et seq*).
- C. Mitigating potential fiscal losses to the county without making incorporation impossible for local communities or precluding an adequate fiscal base for new cities.
- D. Specifying how participants in the incorporation process can develop proposed Terms and Conditions of incorporation that will meet Revenue Neutrality criteria and the standards of this Commission in making the findings required by Government Code Sections 56815 and 56375.

## 12 Revenue Neutrality Negotiations

The proponents of incorporation and affected entities may convene Revenue Neutrality negotiations independently, subject to specific timeframes set down by the Commission. The progress of the negotiations will be monitored by the Executive Officer and periodically reported to the Commission. At the Commission's discretion, the Executive Officer may be directed to organize, convene, and serve as facilitator of a Revenue Neutrality negotiating "committee" composed of representatives of the county, other affected agencies, the chief petitioners or their representatives, and other parties as deemed appropriate by the Executive Officer.

Negotiations, whether executed independently or by committee, will have an initial period to be determined by the Commission of not more than 60 days to negotiate an agreement to meet the requirements of Government Code Section 56815 *et seq.* At the conclusion of negotiations or the end of the prescribed negotiating period, the Executive Officer will certify that an agreement has been reached or has not been reached. If an agreement is reached, ratification by resolution of the County Board of Supervisors and by written documentation of the parties would be included in the CFA and staff report findings and recommendations. The Executive Officer will determine a deadline at which Revenue Neutrality Negotiations will end.

If the negotiating parties do not reach agreement, the status of the negotiations will be referred to the Commission for discussion of outstanding issues at the first available meeting as determined by the Executive Officer. If revenue neutrality issues are not resolved during the course of the meeting, the Commission may direct the individual parties or the negotiating committee to resume negotiations for an additional period of time to be determined by the Commission.

If no agreement is reached within the time period determined by the parties or the negotiating committee (not more than 120 days), the Commission may, at its discretion, direct the Executive Officer to draft proposed Terms and Conditions to achieve revenue neutrality for inclusion in the CFA based on the recommendations of the CFA and all other relevant information.

The Commission will consider the Revenue Neutrality agreement, and/or the prepared Terms and Conditions, when determining a decision on the proposed city incorporation.

## 13 Terms and Conditions

Terms and Conditions for mitigation of negative fiscal effects and to achieve revenue neutrality may include the provisions of any tax sharing agreements reached by the parties, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted under, but subject to the limitations of, Government Code Sections 56815 and 56886. Any Terms and Conditions that mitigate the negative fiscal effect of a proposal for city incorporation shall be included in

the Commission resolution making determinations adopted pursuant to Section 56880 and the Terms and Conditions specified in the questions pursuant to Section 57134 (see Government Code Section 56815[e]). The term of mitigation payments may be ongoing or limited to a specific number of years. Ongoing Revenue Neutrality Terms and Conditions may provide for the temporary and/or permanent sharing of revenues between the new city and affected agencies.

#### 14 Commission Proceedings

The Commission shall conduct a public hearing or hearings to consider the proposed city incorporation pursuant to state law. The Executive Officer's report and recommendations and public testimony shall be considered (Government Code Section 56840) at the hearing(s). The Commission shall adopt a resolution making mandatory and appropriate findings and approve, modify, or disapprove the proposed city incorporation (Government Code Section 56851).

If the incorporation is approved, the Commission shall determine the final boundaries, the base property tax, the provisional appropriations limit for the proposed city (Government Code Section 56810) any Terms and Conditions of approval and any other factors required or allowed by state law.

If the Commission disapproves the proposed city incorporation, no new proposal involving the same or substantially the same territory shall be initiated for one year after the date of the Commission's resolution unless this provision is waived by the Commission (Government Code 56884). Should the proposed city incorporation be approved, a protest hearing shall be held pursuant to state law. The Commission shall be the Conducting Authority for the protest proceedings. If the value of written protests received and not withdrawn pursuant to state law fail to terminate the proceedings an election shall be called on the question of incorporation. All expenses incurred in conducting elections for incorporation shall be paid, unless otherwise provided by agreement between the conducting authority and the proponents, by the newly incorporated city, if successful, or by the county if the incorporation proceedings are terminated (Government Code Section 57150 [b]).

Section 240 Revised June 26, 2002

**SECTION 300**  
**PROCEDURES FOR EVALUATION OF PROPOSALS**

## **SECTION - 300**

In order to fairly evaluate proposals to be reviewed by the Commission for changes of organization or reorganization, or review of sphere of influence, the Commission has adopted the following procedures in compliance with Section 56375(g).

To further good government practices and policies of the Commission, and protect the Commission from the costs associated with legal challenges, the Commission requires that:

1. All applicants shall sign a standard short-form legal indemnity agreement before an application is certified for filing by the Executive Officer. This agreement shall provide that the applicant shall indemnify, defend, and hold harmless the Commission, its agents, officers, attorneys, and employees from any legal challenges or appeals brought to challenge the review or approval as a result of the application.
2. At the discretion of the Executive Officer, the Commission may also require the applicant to enter into a comprehensive legal indemnity agreement providing for the terms of such indemnification and the reasonable costs incurred by the Commission associated with the preparation of such agreement shall be borne by the applicant. The comprehensive legal indemnity agreement shall be approved by the Executive Officer in consultation with LAFCo counsel.
3. In the event that a lawsuit has been filed, or Executive Officer has reasonable grounds to believe that a lawsuit will soon be filed, with the court to challenge the Commission's review or approval of a proposal, the Executive Officer shall submit an invoice to the applicant for a deposit to be held by the Commission to offset its litigation-related expenses. The amount of the deposit will range between \$5,000 to \$20,000 depending upon the complexity of the matter as reasonably determined by the Executive Officer in consultation with LAFCo counsel.
4. The Executive Officer shall not issue a Certificate of Filing for an application unless a short-form or comprehensive indemnification agreement, as the case may be, is executed by the applicant and all preparation fees have been paid.

Revised: August 13, 2008

Revised: August 8, 2012

301 **PRE-APPLICATION REVIEW**

- 01 Applicants including Cities, the County, Special Districts, and members of the public initiating applications shall be responsible for complying with all LAFCo laws, policies, standards, and procedures, including, but not limited to, ensuring that each application contains logical boundaries and promotes orderly development. To that end, the Commission highly recommends that each applicant participate in a Pre-Application Review with LAFCo staff, which is intended to provide applicants with information related to LAFCo laws, adopted policies, standards, and procedures, and shall provide a preliminary evaluation of the applicant's proposal as it relates to LAFCo laws, adopted policies, standards, and procedures. Prior to filing a formal application with the Commission, applicants shall be informed about, and encouraged to request the Pre-Application Review. The Commission highly recommends that such review occur at the outset of, or as early as feasible, in the County's and cities' respective application review process which would result in a change of organization, reorganization, or other proposal requiring LAFCo approval. LAFCo staff is directed to place notices regarding the Pre-Application Review on the Commission's website and on all applications for a change of organization or reorganization.

Any Pre-Application Review, or any staff comments associated therewith, shall not bind the Commission in its consideration of any such proposal. A LAFCo processing fee shall be paid in accordance with Section 350 and such fee shall be credited towards payment of the formal application, should one be filed. The Pre-Application Review fee shall not be credited towards payment of the formal application fee if the application is not submitted to the Commission within one year.

- 02 All proposals initiated by either petition or resolution shall not be considered as complete until submitted to the Commission office together with the appropriate application requirements in the form required by the Commission and Executive Officer, and as provided by Section 56652.

Added August 13, 2008

302 **ENVIRONMENTAL REVIEW**

- 01 Environmental review by lead and responsible agencies is required for all proposals, with consultation of affected agencies, County, and agencies having special expertise. A determination of exemption, negative declaration, or significant impact is made by the lead agency. Where LAFCo is a responsible agency, the executive officer shall be consulted and respond for the Commission in the review process, as required by adopted Commission guidelines.
- 02 The Commission has adopted Regulations and Procedures for the Implementation of the CEQA of 1970 which specify in more detail the environmental process (refer to Sec. 550).

303 **SCHOOL DISTRICT REVIEW FOR RESIDENTIAL DEVELOPMENT**

- 01 During the environmental review process, the lead agency should include consideration of school service and should consult with the affected school district(s), and the environmental document should include the district's comments. The determination of overcrowding should include consideration of existing and planned development within and outside the annexation agency boundary. The environmental document should discuss the extent of overcrowding, and conditions included in the proposal that mitigate overcrowding. Comments of the school district and the environmental document discussion should be included in the application for a change of organization, such as annexation.
- 02 Where existing or potential problems of overcrowding are identified, the annexing agency should work with the school district and any landowners to develop a means to ensure adequate school facilities will be available as development occurs.
- 03 In the consideration of whether changes of organization or reorganization should be approved, the Commission will consider whether school overcrowding has been considered in the environmental review process or in a service delivery plan. The Commission will consider whether school overcrowding has been identified as a significant environmental impact and if so, whether there have been attempts made to mitigate the overcrowding. If a significant impact has been identified but not mitigated or is found to be unavoidable, the Commission will consider whether other social, economic, or environmental concerns justify the organization or reorganization.

304 **MEETING AND NOTICE REQUIREMENT**

- 01 For all inhabited proposals a meeting conducted by the proponents is required for the affected landowners and residents giving information and providing for responses. For uninhabited proposals, similar information may be provided by mail. Notice of the meeting shall be provided to landowners and residents, also giving information of the LAFCo hearing.

The Commission may make an exception for the mailed notice to affected landowners and residents where the proposal does not appear to be controversial, no tax or charge is proposed, and the required mailings would involve a large area and number of mailings so as to impose a financial burden on the agency. Reasons for an exception should be presented with the application.

In addition to the legally required notice, where an exception for mailing is made, proposals shall be noticed by the proponents in local newspapers circulating in the affected area.

For inhabited or uninhabited proposals within a city's urban service area notice required by the Commission shall be only as required by State law.

- 02 When the city is required by the Commission's Standards to initiate annexation of a developed substantially surrounded area, along with the development proposal, the city and developer should meet with the residents as many times as necessary to:
- A. Review the benefits and affect of city annexation.
  - B. Review the development proposed.
  - C. Hear the concerns of the residents.
  - D. Respond to each of the concerns.

The city may request the developer to assist in responding to and mitigating some of the concerns, and can also require the developer to show how adjacent rural residential parcels could be developed and a circulation system to provide access to these parcels. A potential increase in property value because of potential for development could change resident attitudes towards annexation.

A written documentation of the concerns and responses will be included in the LAFCo staff report to the Commission, with alternative boundaries and/or conditions, which will respond to the concerns and/or protests of residents.

Revised: June 16, 1993

305 **AFFECTED AGENCIES AND INTERESTED PARTIES REVIEW**

Agencies whose boundaries or sphere of influence are affected, county departments and other reviewing agencies will be requested to provide review and comment by the executive officer.

310 **COMMISSION REVIEW**

- 01 A report and recommendation shall be prepared and mailed to Commission by the executive officer at least five days prior to hearing. The report includes relevant information, comments of reviewing and affected agencies, factors and policies of Commission related to proposal, and comment of affected landowners and residents as available.
- 02 The Commission in its review of the proposal shall consider:
- A. The executive officer report, including attachments and documents.
  - B. The testimony of the proponents.
  - C. The testimony of any opponents.
  - D. Any other testimony or relevant documents.



- 03 The Commission may make a determination at the hearing, or may continue the proposal for additional information or testimony.

311 **REVISION OF PROPOSAL BOUNDARIES**

- 01 Request for Revision. Any request by an agency, landowner, or interested party to revise the boundaries of any proposal to add adjacent territory must be received by the Executive Officer at least 15 days prior to the hearing and shall clearly justify and give reasons for the requested revision and include a map of the revision. Requests for territory not adjacent will not be considered for such revision by the Commission.
- 02 Review of Revision. Affected agencies and landowners shall be mailed a notice by LAFCO of the revision at least ten days prior to the hearing, unless their consent is provided. Requests or revisions shall be reviewed in the same manner as the original proposal by the Executive Officer and the Commission and may be continued by the Commission if information or adequate notice has not been provided. Any revision shall be subject to a fee, in accordance with the LAFCO Fee Schedule.
- 03 Approval of Revision. When the Commission approves revision of the boundaries from those proposed by the petition or resolution of initiation, a revised map and description shall be prepared and submitted to the Executive Officer, subject to approval by the County Assessor.

Revised: January 24, 1990

312 **AMENDMENTS TO/RECONSIDERATION OF COMMISSION RESOLUTION**

In accordance with the Commission's authority under Code section 56895, a request to amend or reconsider a Commission resolution shall comply with the provisions of this section.

- 01 When the Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Code section 56658, the Commission shall consider that request at a public hearing.
- 02 Notwithstanding Code section 56106, the deadlines set by Code section 56895 are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the Commission making determinations. If no person or agency files a timely

request, the Commission shall not take any action pursuant to Code section 56895.

- 03 Upon receipt of a timely request, the Executive Officer shall not take any further action until the Commission acts on the request.
- 04 The Executive Officer shall place the request on the agenda of the next meeting of the Commission for which notice can be given as follows. The Executive Officer shall give notice of the consideration of the request by the Commission in the same manner as for the original proposal. The Executive Officer may give notice in any other manner as he or she deems necessary or desirable.
- 05 At that meeting, the Commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 70 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the Commission.
- 06 At the conclusion of its consideration, the Commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the Commission disapproves the request, it shall not adopt a new resolution making determinations. If the Commission approves the request, with or without amendment, wholly, partially, or conditionally, the Commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.
- 07 The determinations of the Commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the Commission.
- 08 Notwithstanding section 07, above, clerical errors or mistakes may be corrected pursuant to section 09, below.
- 09 The Executive Officer may, before the completion of a proceeding, on good cause being shown, correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the resolution adopted by the Commission making determinations, upon written request by any member of the Commission, by the Executive Officer, or by any affected agency. A correction made pursuant to this section shall not be cause for filing a request for reconsideration.

Revised: December 19, 2001

315 **EXTENSION OF TIME TO COMPLETE PROCEEDINGS**

Please note that extensions of time are generally disfavored by the Commission.

- 01 Prior to the date of expiration, staff shall notify the proponent of the pending termination of the proceedings.
- 02 The proponent may request an extension of time to be considered by the Commission at a public hearing. The request for an extension of time shall be comprised of the following, including any additional information deemed necessary by the executive officer:
  - a. Written request for an extension of time, including the requested period of time and appropriate fee as described in Commission fee schedule section 350.
  - b. Description of the changed circumstances of the project that have delayed completion of proceedings.
  - c. An explanation of the project's feasibility and what progress will be made to complete conditions of approval and all necessary prerequisite actions by any party.
  - d. Written confirmation from the city or district representative to which annexation is proposed supporting the extension request; a district located within the unincorporated area, written correspondence in support of the extension request shall also be provided from the County of Fresno.
- 03 A copy of the Commission agenda and the Executive Officer report on the request for an extension shall be conveyed via US Mail at least five days prior to the hearing to the Commission and alternates, the persons named in the original application, each affected agency, and any person or landowner requesting notice of hearing for the application.
- 04 The Executive Officer's report shall indicate when the application was initially approved, how many previous extensions have been granted, and discuss any other factors that bear on the viability of the proposal.
- 05 No more than one extension of time may be authorized by the Commission. Notwithstanding, any project in furtherance of the provision of governmental services on property owned by a governmental agency shall be eligible for additional extensions at the discretion of the Commission.

Adopted: June 16, 1993  
Revised: April 5, 1995  
June 23, 1999  
January 9, 2008  
April 15, 2009

November 3, 2010

February 18, 2015

318 **URBAN SERVICE AREA**

All cities are determined to have an Urban Service Area which shall include all territory that is within a city sphere of influence that also is found to be consistent with LAFCO Standards by the Executive Officer and Commission, that is consistent with the standards within the city/county memorandum of understanding, that is determined to be surrounded or substantially surrounded, and that meets all criteria in state law. Annexations within an Urban Service Area shall be noticed as required by law and may be placed on the Consent Calendar of the commission's agenda. Any proposal can be removed from the Consent Calendar by any member of the commission or any person requesting removal, and opportunity given for testimony relative to the proposal.

The Commission shall not have the power to disapprove an annexation to a city within an urban service area that is initiated by resolution and is contiguous territory, which the commission finds is not prime ag land (Section 56064) and is designated for urban growth on the city general plan (Section 56375[a][4]).

For any proposal, which does not come with consent of all landowners, the Board of Supervisors may be designated as the conducting authority, when requested by the county.

320 **EXTENDED SERVICE PROCEDURES**

Pursuant to Section 56133 of the Government Code, a City or District principally in Fresno County may provide new or extended services by contract or agreement outside its boundaries only if it requests and receives approval from the Commission.

Requests for approval of extended service shall be by application in the form provided by the Commission. All requests will be reviewed for consistency with Commission Policies, Standards, and Spheres of Influence.

Pursuant to section 56133(e), contracts or agreement solely involving two or more public agencies are exempt from these procedures.

The following policies shall be used to evaluate applications for extended services.

- 01 "Extended service" is defined as a new extension of infrastructure (service mains or facilities), or the new provision of one or more a municipal services (including but not limited to domestic water, wastewater collection, solid waste, or enhanced levels of fire or police services) by a public agency to members of the public or private property that is outside of the agency's LAFCo-approved city limit, service area or sphere of influence.
- 02 The Commission delegates the Executive Officer the authority to approve, disapprove, or approve with conditions applications for extended service.

- 03 The Executive Officer may deny applications for extended service if, in his/her opinion, the service is more appropriately provided through annexation or some other reasonable solution rather than by extended service.

The following procedure shall apply to applications for extended services:

- 04 The Executive Officer, within 30 days of receipt of an application for extended service, shall determine whether the application is complete and acceptable for filing or whether the application is incomplete.
- 05 If the application is determined to be incomplete, the Executive Officer shall immediately transmit that determination to the applicant, specifying those parts of the application that are incomplete and the elements necessary to make the application complete.
- 06 Applications for extended service outside the sphere of influence shall include documentation of the actual impending threat to public health and safety of the residents of the affected territory. Upon receipt of such an application, the executive officer shall notify any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code that has filed a map and a statement of its service capabilities with the Commission.
- 07 When the application is deemed complete by the Executive Officer, the Executive Officer shall, within 90 days, approve, disapprove, or approve with conditions the contract for extended services.
- 08 The Executive Officer may require as part of his or her conditioning authority a condition of approval that the property owner benefitting from the extended service shall covenant to not protest future annexation of the subject property.
- 09 The Executive Officer's decision regarding an application for extended service shall be conveyed by letter to the applicant in a timely manner.
- 10 If the application is disapproved or approved with conditions, the applicant may request reconsideration pursuant to the criteria and time requirements specified in Government Code Section 56895, citing the reasons for reconsideration.
- 11 The Executive Officer shall provide a summary report to the Commission at the next available meeting.

Adopted: August 24, 1994

Revised: December 19, 2001; October 1, 2014

- 01 In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities, the Commission shall develop and determine the sphere of influence of each local governmental agency within the County pursuant to these policies. This will promote the logical and orderly development of areas within the sphere (Code section 56425).
- 02 Under the Act, prior to a city submitting an application to the Commission to update its sphere of influence, representatives from the city and representatives from the County shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on, development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and County, the city shall forward the agreement in writing to the Commission, along with the application to update the sphere of influence. The Commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the Commission pursuant to this section, and the Commission shall give great weight to the agreement to the extent that it is consistent with Commission policies in its final determination of the city sphere.
- 03 If the Commission's final determination is consistent with the agreement reached between the city and County, the Act provides that the agreement shall be adopted by both the city and County after a noticed public hearing.
- 04 If no agreement is reached between the city and County, the application may be submitted to the Commission and the Commission shall consider a sphere of influence for the city consistent with the policies adopted by the Commission pursuant to this section.
- 05 In determining the sphere of influence of each local agency, the Commission shall consider and prepare a written statement of its determinations with respect to those specific items set forth in existing policy section 330 (which are hereby reaffirmed and incorporated by such reference into this amendment), which are summarized as follows:
  1. The present and planned land uses in the area, including agricultural and open-space lands.
  2. The present and probable need for public facilities and services in the area.
  3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

4. The existence of any social or economic communities of interest in the area.
  5. For a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.
- 06 Upon determination of a sphere of influence, the Commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.
- 07 For any sphere of influence or a sphere of influence that includes a special district, the Commission shall do all of the following:
1. Require existing districts to file written statements with the Commission specifying the functions or classes of services provided by those districts.
  2. Establish the nature, location, and extent of any functions or classes of services provided by existing districts.
  3. Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the Commission.
- 08 The Commission requests that a sphere of influence update be comprehensive and based on historical growth patterns, using a twenty to twenty-five year projection, prepared with a city and county general plan update for the community. The following should be included in addition to any other matters:
- The present and planned land uses in the area, including agricultural and open-space lands.
1. Community Land Use Plan(s)
  2. Growth projection (population and area)
  3. Growth Policies and Annexation Policies
  4. Vacant Land Inventory
  5. Urban Infill Policies
  6. Agricultural and Open Space Conservation Plan/Policies
  7. The present and probable need for public facilities and services in the area.

8. Urban Service and Public Facility Inventory
  9. Service agencies providing services to community
  10. The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
  11. Master Service Plan update
  12. Capital Facility Element
  13. Cost/Revenue Studies
  14. Service Transition Plan for affected agencies
  15. The existence of any social or economic communities of interest in the area.
  16. Identity of community of interest and needs
  17. Impediments to annexation and mitigation of impediments
- 09 The lead planning agency should develop the sphere of influence update with the responsible agencies. The city should be the lead agency in developing the general plan/sphere of influence update; LAFCo and the county would be reviewing, responsible agencies. For unincorporated communities, the county should be the lead agency. The three agencies should develop information and consult together. Each legislative body should participate in the development of the issues and recommendations.
- 10 The Commission recommends a study area for the sphere of influence be requested during the preliminary review with LAFCo staff in order to focus the process of updating. The study area determined would give consideration to service constraints, population projection/land demand, agricultural lands and other land uses, and effect on other agencies. A briefing report will be prepared by LAFCo staff to the Commission after there is agreement on a study area.
- 11 Comprehensive Service Reviews (Code sec. 56430).

In order to prepare and to update spheres of influence in accordance with this policy, the Commission shall conduct a service review of the municipal services provided in the County or other appropriate area designated by the Commission. The Commission shall include in the area designated for service review the County, the region, the sub region, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

1. Growth and population projections for the affected area.



2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

In conducting a service review, the Commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

The Commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish or update a sphere of influence.

Revised: June 16, 1993  
August 24, 1994  
December 19, 2001  
March 5, 2008

**SECTION 350**  
**COMMISSION FEE**  
**SCHEDULE**

**FRESNO LOCAL AGENCY FORMATION COMMISSION**  
**FEE SCHEDULE**

**Effective July 1, 2011**

**SECTION - 350**

01     Application Processing

Change of Organization, Reorganization- acreage shall be determined by rounding to nearest whole number the combined net parcel area shown on the Assessor's Map.

Under 3 acres	\$ 1,200.00
3 to 5 acres	2,400.00
6 to 10 acres	4,800.00
11 to 20 acre	7,200.00
21 to 40 acres	9,600.00
41 to 80 acres	12,000.00
81 to 160 acres	14,400.00
Over 160 acres	16,800.00
Dissolution of District	2,400.00
Merger or Subsidiary District	2,400.00
Consolidation	8,000.00

**Incorporations, Formations, Disincorporations, Dissolution**

\$10,000.00 Deposit and will be billed at cost for staff's time including legal services, government fees and charges, and for any consultant(s) that may be required, plus 9% administration fee.

**Reorganization**

If a reorganization consists of annexations and detachment only, use fee schedule for one change of organization only, whichever is larger. If other types of changes of reorganization are included, fee for each other change may be added.

### Sphere of Influence Revision

The fee for a proposed SOI revision is either:

1. Equivalent to the application processing fee for an equivalent change or organization or reorganization; or
2. 35% of the fee of the concurrent, and coterminous, proposed change of the organization or reorganization

### Request for Inclusion

Use fee schedule for annexation, where request for inclusion is made in accordance with Section 311 of the Commission's Procedures for Evaluation of Proposals

### Request for added Special District Powers, Service, or Function.

	requested additional Power or Service	Each \$2,000.00
	Maximum	\$5,600.00
	Maximum fee for change of organization in an adopted urban service area or for changes not providing an urban service.	\$3,500.00
02	<u>Petition Check</u>	\$40.00
	Plus signature check, per signature	\$ .65
03	<u>Environmental Assessment and Environmental Impact Report</u>	Deposit of Estimated Amount Required
04	<u>Financial Feasibility Report</u>	Deposit of Estimated Amount Required
	Applies only when the Commission is requested to study the feasibility of incorporation, formation, etc.	
05	<u>Property Tax Report</u>	Deposit of Estimated Amount Required
	Applies only when the Commission is requested data for purposes of negotiating property tax exchange under Revenue & Taxation Code Sec. 99 and 99.1.	
06	<u>Copies of Papers on File</u>	
	Any request for copies of any documents on file in the office of the Commission will be pages subject to a fee as necessary to recover costs of making such copies and any mailing costs.	\$1.00 each page \$ .75 after 10

07 Exceptions to Required Fees

The Commission may waive any processing fee by a four-fifths affirmative vote if the imposition of such fee would be detrimental to the public interest, as determined by the Commission. Any change specifically recommended by the Commission in a study approved by Commission may not require a fee.

08 Deferment of Fees

The Commission may defer the payment of a processing fee for any district change until the time the district receives its first revenue, or if terminated, until 30 days after receipt of the resolution of termination or disapproval. The deferment shall only be granted where the fee payment and no single landowner or developer project will benefit from the proposal. The Commission shall determine the deferment to be in the public interest.

09 Cost of Mailed Notice

Any proponent may request the executive officer to conduct the required mailed notice to affected landowners and residents. The actual cost of mailing shall be paid by the proponent at the time of billing plus a 9% administration fee. A deposit to cover estimated costs may be required by the executive officer at the time the application is submitted.

10 Request for Commission Review

Request for extension of the one year time for completion of proceedings; request to reconsider Commission Resolution; request for Commission review of services outside agency boundaries (Sec. 56133).	10% of annexation fee schedule to a maximum of \$750.00
--	---

11 <u>Proposal Map and Metes and Bounds Description Check</u>	* Deposit of Estimated Amount Required
---	--

12 <u>Legal Fees for Proposal Processing</u>	* Deposit of Estimated Amount Required
--	--

13 <u>Pre-Application Review</u>	\$500.00
----------------------------------	----------

14 Municipal Service Reviews

15 Use of Consultants

In the event that staff finds it necessary to hire a consultant to assist with the analysis of a proposal, the applicant will be responsible for depositing the expenses associated with the consultant's work, plus 15% of the total consulting fee for administration of the contract, with the Commission prior to approval of the contract. The contract will be approved in accordance with Fresno LAFCo's Financial and Accounting Procedures. If actual expenses exceed the original deposit, those additional funds plus the 15% administrative fee shall be paid to LAFCo prior to final consideration of the proposal by the Commission.

Adopted: December 1, 1978  
Revised: July 1, 1984  
February 19, 1987  
April 16, 1987  
December 10, 1987  
July 1, 1991  
July 1, 1992  
June 16, 1993  
May 25, 1994  
June 28, 1995  
July 1, 1995  
August 23, 1995  
September 1, 1998  
August 13, 2008  
August 11, 2010  
November 2, 2011  
December 14, 2016  
March 14, 2018

**SECTION 400**

**PROCEDURES FOR  
EVALUATION OF SERVICE PLANS**

**PROCEDURE FOR EVALUATION OF  
SERVICE PLANS REQUIRED BY SEC. 56653**

**SECTION - 400**

The Commission has adopted the following procedures for evaluating city and district service plans, as required by Sec. 56375[h].

401 **GENERAL**

- 01 In compliance with state law, each service plan shall list and describe the services extended, give the level and range of services, indicate when they can be provided and any improvement or upgrading of structure or facilities that will occur, indicate any condition imposed within affected area, provide information as to how each service and improvement will be financed.
- 02 The Commission may establish other standards for the provision of municipal or district services and improvements.

402 **MASTER SERVICE PLANS**

- 01 A master service plan shall be prepared by each city, in cooperation with the Commission staff. This master service plan shall comply with all requirements of state law and the Commission, and shall be evaluated and approved by the affected city and the Commission. This plan shall be on file with the affected city and Commission, and be made available to any interested person or agency upon request.
- 02 The master service plan shall be considered to meet the requirement of state law for a service plan for each proposal submitted thereafter with the following exceptions:
  - A. Specific service, improvement, and financial data may be requested by the executive officer for specific applications.
  - B. The affected city shall indicate for each application when the master service plan is not current and needs revision.
  - C. The master service plan shall be reviewed annually and updated as necessary by the staff of the affected city in cooperation with the executive officer of the Commission. Any changes shall be evaluated and approved by the city and Commission.
- 03 Any district may choose to prepare and adopt a master service plan in the same manner as provided for cities.

403 **INDIVIDUAL SERVICE PLANS**

A separate service plan shall be required for each change of organization or reorganization where no current master service plan has been adopted by the agency and Commission.



**SECTION 450**  
**REGULATIONS AFFECTING SPECIAL DISTRICTS**

**SECTION 500**

**REGULATIONS FOR  
CONDUCT OF HEARING AND COMMISSION BUSINESS**

**REGULATIONS FOR  
CONDUCT OF HEARING AND COMMISSION BUSINESS**

**SECTION - 500**

The following regulations have been adopted by the Commission to comply with state law Section 56375[i]-[k] and establish procedures for Commission hearings, selection of officers and public member, and other Commission business.

501 **MEETINGS**

- 01 **Regular Meetings.** The Commission shall adopt a schedule of regular meetings for the forthcoming calendar year at such time as sufficient information is available to do so. The schedule shall indicate the time, date, and location for the meetings. However, whenever the Commission, at a regular meeting sets a different time and place for its meeting, such meeting shall constitute a regular meeting for all purposes.
- 02 **Special Meetings.** Special meetings may be called at any time by the Chairman of the Commission or by a majority of the members of the Commission by serving notice of the time, place, and purpose of the meeting upon each member of the Commission. Such notice shall be served at least 24 hours before the time set for the hearing, and such service shall be deemed to be completed with respect to a member upon any of the following:
- A. Personal service upon the member.
  - B. Delivery to the last known residence or business address of the member.
  - C. The expiration of 24 hours after the deposit of said notice in the United States mail, postage prepaid, addressed to the last known residence or business address of the member.

No other business shall be considered at a special meeting other than that set forth in the notice of the meeting. (Note, more than one item may be considered at a special meeting, and other items may be added, provided the above requirements are met for each item.)

- 03 **Adjourned Meeting.** Any regular or special meeting may be adjourned to a time and place specified in the order of adjournment. Less than a quorum may make an order for adjournment.

**Adopted: April 3, 1986**  
**Amended: October 20, 1999**

502 **CHAIR**

- 01 Election. The Chair of the Commission shall be elected by the members thereof by a majority vote of all the members.
- 02 Term. The term of office of the Chair shall be one calendar year beginning each May and shall be succeeded annually by the chair pro tempore.
- 03 Eligibility. All members of the commission are eligible to serve as chair.
- 04 Duties. The Chair shall be the presiding officer of the Commission. He shall preserve strict order and decorum at all meetings of the Commission, state questions coming before the Commission, announce the Commission's decision on all subjects, and decide all questions of order subject, however, to an appeal to the Commission as a whole, in which event a majority vote shall govern and conclusively determine such questions of order. He shall vote on all questions, and on roll call his name shall be called last. He shall sign all directives and contracts approved by the Commission, and may sign Commission resolutions in the absence of the executive officer.

503 **CHAIR PRO TEMPORE**

- 01 Term and Duties. There shall be a Chair Pro Tempore, whose term of office shall coincide with that of the Chair and who shall, in the absence of the Chair, perform all of the functions and duties of the Chair.
- 02 Election. The Chair Pro Tempore of the Commission shall be elected by the members thereof by a majority vote of all the members.
- 03 Eligibility. All members not representing the appointing authority of the chair may be nominated and serve as chair pro tempore.

Amended: March 14, 2018

504 **CALL TO ORDER**

The Chairman shall take the chair at the time and place appointed for the meeting and shall call the Commission to order. In the absence of the Chairman and the Chairman Pro Tempore, the Executive Officer of the Commission shall call the Commission to order, whereupon a temporary chairman shall be elected by the members present. Upon the arrival of the Chairman or the Chairman Pro Tempore, the temporary chairman shall relinquish the chair at the conclusion of the business then before the Commission.

505 **ROLL CALL**

Before proceeding with the business of the Commission, the Executive Officer or Secretary of the Commission shall call the roll of the members, and the names of those present shall be entered in the minutes.

506 **QUORUM**

A majority of the Commission shall constitute a quorum for the transaction of business; however, unless specifically otherwise provided, the Commission shall take no action except upon the affirmative vote of at least three members. Less than a quorum may adjourn from time-to-time.

507 **MINUTES**

01 **Preparation.** The minutes of the Commission shall be kept by the Executive Officer or such other person as he may designate and shall be neatly typewritten in a book kept for that purpose, with a record of each particular type of business transacted set off in paragraphs with proper subheads; however, the Executive Officer shall be required to make a record only of such business as was actually passed upon by a vote of the Commission and shall not be required to record any remarks of members or any other person, except at the special request of a member.

02 **Distribution.** As soon as possible after each meeting, the Executive Officer shall cause a copy of the minutes thereof to be forwarded to each member.

03 **Reading.** Unless the reading of the minutes of a meeting is requested by a member, such minutes may be approved without reading if each member has previously been furnished a copy thereof.

508 **RESOLUTIONS**

A resolution shall be prepared for each proposal indicating the action and determination of the Commission as required by law. The resolution shall be signed and certified by the Executive Officer.

509 **ORDER OF PROCEDURE**

The order of procedure in conducting a hearing shall be as follows:

01 The Chairman shall request the Executive Officer to inform the Commission of the nature of the matter pending, the notice provided, a summary of the report and recommendation, any new information or correspondence not in the staff report, and other pertinent matters.

02 All proponents shall be heard.

03 All opponents shall be heard.

- 04 Proponents shall be afforded an opportunity to a rebuttal. New matter may not be introduced except by specific permission of the chairman, in which event opponents shall, again, be given an opportunity to rebut.
- 05 The Chairman shall ask for any additional information of the Executive Officer.
- 06 The hearing shall be closed and the matter referred to the Commission for discussion and debate.

510 **RULES OF DEBATE**

- 01 Chairman May Debate and Vote. The Chairman may move, second, and debate from the chair; subject only to limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a member by reason of his acting as Chairman.
- 02 Getting the Floor: Improper References. Every member desiring to speak shall address the chair and, upon recognition by the Chairman, shall confine himself to the question under debate, avoiding all personalities and indecorous language.
- 03 Interruptions. A member once recognized shall not be interrupted when speaking unless it shall be to call him to order or as otherwise specifically provided. If a member, while speaking, shall be called to order, he shall cease speaking until the question of order has been determined and, if in order, he shall be permitted to proceed.
- 04 Motion to Reconsider. A motion to reconsider any action taken by the Commission at a meeting may be made only on the day such action was taken and must be made while the interested parties, if any, are present. Such motion shall be made by one of the prevailing sides, but may be seconded by any member and may be made at any time and have precedent over all other motions.

513 **RULES OF ORDER**

Except as otherwise specifically provided in this resolution, Robert's Rules of Order as last revised shall govern the proceedings of the Commission in the conduct of meetings thereof.

514 **VOTING**

- 01 While serving on the Commission, all Commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of the Act.
- 02 Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing

authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person (Code sec. 56325.1).

Roll Call Vote. A roll call vote shall be taken and recorded. Whenever a roll call vote is in order, the Secretary or Executive Officer shall call the names of the members in the following order: the mover, the second, other members, providing that the name of the Chairman shall be called last except where the Chairman has made or seconded the motion.

Revised: December 19, 2001

## 515 **ADDRESSING THE COMMISSION**

- 01 General. Any person desiring to address the Commission shall first secure the permission of the Chairman to do so. He shall step up to the microphone and give his name and address in an audible tone of voice.
- 02 Time. Unless further time is granted by a majority of the Commission, each person addressing the Commission shall limit his address to a reasonable time as may be limited by the Chairman.
- 03 Spokesman for Groups. Whenever any group of persons wishes to address the Commission on the same subject matter, it shall be proper for the Chairman to request that a spokesman be chosen by the group to address the Commission and in the event additional matters are to be presented by other persons in the group, to limit the number of persons so addressing the Commission so as to avoid unnecessary repetitions.
- 04 Discussions. No person, other than a member and the person addressing the Commission shall be permitted to enter into any discussion with the person addressing the Commission without the permission of the Chairman.

## 516 **DECORUM**

- 01 By Members. When the Commission is in meeting, the members shall preserve order and decorum and no member shall, by conversation otherwise, delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or the Chairman, except as provided in this resolution.
- 02 By Other Persons. Any person making personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Commission shall be forthwith, by the Chairman, barred from further audience at such meeting, unless permission to continue shall be granted by majority vote of the Commission.

## 517 **COMMISSION DIRECTIVES**

The Commission shall, from time-to-time, by directives issued by it, establish procedures for the processing of the business of the Commission. Such directive

shall be binding upon the staff of the Commission and all persons having business before the Commission.

518     **REIMBURSEMENT OF EXPENSES**

The members of the Commission shall be reimbursed \$100.00 for their necessary expenses incurred in connection with their attendance at meetings of the Commission and in connection with other official Commission business.

Revised: June 6, 2012

519     **RETIREMENT AWARD**

The Executive Officer shall upon the retirement of a member of the Commission, cause to be prepared one of the following, and transmit same to the Chairman for presentation at the next meeting.

- 01     Retiring Alternates, or Regular Members serving less than two years, shall receive a certificate and letter from the Chairman.
- 02     Retiring Regular Members serving two years or more shall receive an engraved plaque (6" x 8").
- 03     For unusual service an exception to this standard may be made by the Chairman.

Adopted: August 27, 1997

520     **SELECTION OF PUBLIC MEMBER**

The term of public member is set by law to be four years, to expire the first Monday of the month of May. However, his or her term shall continue until the appointment and qualification of his or her successor. Prior to the expiration date, no later than March 20, the Executive Officer shall:

- 01     Publish a notice in a newspaper of general circulation in the County, stating the coming vacancy of the public member position. The notice shall conform to that notice approved by the Commission.
- 02     Post a notice outside the Commission hearing room, being the same notice as published.
- 03     Make available to all applicants an approved application form and a description of the duties and responsibilities of the public member, as described on the application.
- 02     No application shall be accepted if received after April 20, preceding the term expiration. A roster of all applicants and their application shall be mailed to the Commissioners making the selection at least ten days prior to the date of the selection.



- 03 A public hearing shall be held on the regularly scheduled hearing date in May, for the purpose of making the selection.
- 04 Each applicant shall be invited to an interview at the hearing by the Commissioners making the selection. The interview shall be for an approximate duration of five minutes. Each Commissioner may question the applicant directly.

As an alternative to step 06 above, the Commission may, at its sole discretion, form a subcommittee to review all applications received, select the top candidates to be interviewed by the Commission, and make recommendations to the Commission.

The public member and alternate public member shall be selected by the Commission as follows:

- 07 Each Commissioner, other than the public member and alternate public member, shall have the right to nominate one candidate from among the applicants.
- 08 Selection shall be by majority affirmative vote of the Commission (excluding the public member and alternate public member), which shall include an affirmative vote by at least one of the members selected by each of the appointing authorities.
- 09 If no candidate should receive the required votes, one or more additional sets of nominations and votes may be conducted from among the candidates, with nominations and voting being conducted in the same manner as provided above, if such is supported by a majority of the Commissioners authorized to vote. If no candidate should receive the required votes, then a new recruitment shall be conducted.

The new public member and alternate public member shall begin their terms immediately. No public member or alternate public member may serve more than two consecutive terms (eight years).

Revised: February 24, 1988  
December 20, 2000  
July 17, 2013

## 521 **PROCEDURES FOR PUBLIC COMMENT**

- 01 Each person wishing to speak shall file a written request with the Clerk of the Commission in advance of the public comment agenda time. The request shall state the person's name and address, and the subject of the comment. The Commission chairman shall ask the clerk if any requests have been filed. Other public comment may be allowed by the chairman without written request being filed.

- 02 Subject of any comment shall be limited to the purposes and responsibilities of the Commission as provided by state law, or any previous action taken by the Commission or executive officer.
- 03 Time limit for public comment shall be no more than three minutes per person, or as allowed by the chairman. Commissioners shall have opportunity to ask questions of each person giving comment.
- 04 Action taken by the Commission on any matter considered under Public Comment shall be subject to the noticing requirements of state law and the Regulations and Procedures adopted by the Commission.

Adopted: February 19, 1987

**SECTION 525**  
**CONFLICT OF INTEREST CODE**

**CONFLICT OF INTEREST CODE FOR THE  
FRESNO LOCAL AGENCY FORMATION COMMISSION**

**SECTION – 525**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) that contains the terms of a standard conflict-of-interest code and may be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices designating positions and establishing disclosure requirements shall constitute the conflict-of-interest code of the **Fresno Local Agency Formation Commission ("LAFCo")**.

Individuals holding designated positions shall file their statements with the **LAFCo**, which will retain the statements and make the statements available for public inspection and reproduction. (Gov. Code Section 81008.) Upon receipt of the statements for the Commissioners, Alternate Commissioners, and Executive Officer, the **LAFCo** shall make and retain a copy and forward the original of these statements to the Clerk to the County Board of Supervisors. **LAFCo** shall retain originals of all other statements at its office.

The provisions of all Conflict of Interest Codes and amendments thereto previously adopted by the Agency are hereby superseded.

Revised:     August 26, 1998  
              August 23, 2000  
              September 13, 2006  
              August 8, 2012

**APPENDIX A  
DESIGNATED POSITIONS**

**Designated Positions**

**Disclosure Categories**

- |                           |   |
|---------------------------|---|
| • Commissioners           | 1 |
| • Alternate Commissioners | 1 |
| • Executive Officer       | 1 |
| • LAFCo Clerk             | 1 |
| • LAFCo Staff Analyst     | 2 |
| • LAFCo Counsel           | 1 |
| • Consultants*            | 1 |

- \* Consultants shall be included in the list of designated positions and shall disclose pursuant to the disclosure requirements in this code subject to the following limitation:

The Executive Officer may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

Revised: August 23, 2000  
September 13, 2006  
August 13, 2008  
August 11, 2010  
August 8, 2012  
September 14, 2016

## **APPENDIX B DISCLOSURE CATEGORIES**

Individuals holding designated positions must report their interests according to their assigned disclosure category(ies).

### **Disclosure Category 1**

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency; and investments and business positions in business entities, and income, including loans, gifts, and travel payments, from all sources.

### **Disclosure Category 2**

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency.

### **Disclosure Category 3**

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the agency.

### **Disclosure Category 4**

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the designated position's division or department.

### **Disclosure Category 5**

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that filed a claim against the agency during the previous two years, or have a claim pending.

### **Disclosure Category 6**

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources of the type to request an entitlement to use agency property or facilities, including, but not limited to:

- a license
- utility permit
- station vendor permit.

### **Public Officials Who Manage Public Investments**

It has been determined that positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200. These positions are listed for informational purposes only:

- Board Members
- Alternate Board Members
- Executive Director
- Chief Financial Officer
- Consultants involved in the investment of public funds

An individual holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

Revised:           September 13, 2006  
                      August 13, 2008  
                      August 8, 2012  
                      September 14, 2016

## **SECTION 540**

### **PROCEDURES TO IMPLEMENT THE POLITICAL REFORM ACT**



# **PROCEDURES TO IMPLEMENT THE POLITICAL REFORM ACT**

## **SECTION - 540**

The Commission has directed staff to proceed in the following ways to implement the requirements of the Political Reform Act (Government Code Section 84308).

- 01 Informing the public who may apply for or participate in a proceeding, by inserting a notice of the general requirements of the Political Reform Act on the application, consent form, certificate of filing, mailed notice, newspaper notice, staff report, and agenda. The notice requests consultation with staff as to specific requirements of the act.

The wording of the public notice shall be as follows:

“If you are an applicant for, or a participant in, any proceeding on the agenda for a land use entitlement and have made campaign contributions totaling more than \$250.00 to any member or alternative member of the Commission within twelve (12) months prior to the Commission considering your application, please immediately inform the Commission of your contribution. State law disqualifies each Commissioner and Alternative Commissioner from participating in and voting on land use entitlement decisions (which include changes of organization and reorganizations) if the Commissioner or Alternative Commissioner has received campaign contributions from (i) an applicant for a land use entitlement, (ii) someone who lobbies the Commission or LAFCo staff regarding an application for land use entitlement, (iii) someone who testifies in person before the Commission regarding an application for land use entitlement, or (iv) someone who otherwise acts to influence the outcome of an application for land use entitlement. State law also prohibits applicants and participants from making campaign contributions to a Commissioner or Alternate Commissioner within three (3) months after the Commission’s action. If you have any questions regarding these requirements (which are contained in the California Political Reform Act Government Code Section 84308 et seq.) please feel free to contact LAFCo staff at (559) 600-0604.”

- 02 Informing the Commissioners of the general requirements of the act as it applies to the Commission, and then informing them of who the applicants or participants may be in advance. This advance notice will be accomplished by:
  - A. First, sending a copy of the certificate of filing with a list of the landowners or parties of real interest listed on the bottom. This list includes all landowners of uninhabited proposals, and landowners of larger, undeveloped parcels in inhabited proposals. This notice is usually sent out approximately one month prior to the actual hearing.
  - B. Second, a list of the same landowners and real parties of interest on the staff report, received just prior to the hearing.

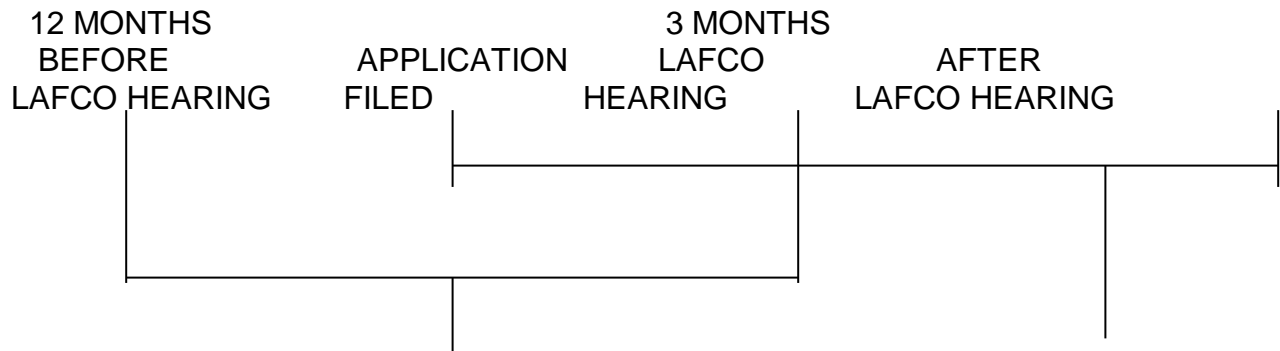
03 For each of the landowner lists received the Commission will be responsible to comply with the law by:

- A. Refusing a contribution of more than \$250 from an applicant or participant from the date of filing (certificate) until 3 months after the hearing; and
- B. Disclosure, non-participation, and disqualification from the proceeding if a contribution of more than \$250 has been received from an applicant or participant up to 12 months prior to the LAFCO hearing.

A time line showing the requirements for each of the two responses (disclosure, etc./no contribution) follows:

Adopted: October 2, 1986  
Revised: September 18, 2002

### TIMELINE SHOWING POLITICAL REFORM ACT PROCEDURE FOR MORE THAN \$250 CONTRIBUTION



Disclosure, non-participation, and disqualification if contribution of more than \$250 made by applicant, any person who actively supports or opposes a decision, or their agent. Contribution may be returned within 30 days of learning of proceedings.

No contribution will be made or solicited of more than \$250 from applicant, any person who actively supports or opposes a decision, or their agent.

Revised: March 26, 1996

## **SECTION 541**

**PROCEDURES REQUIRING THE DISCLOSURE OF  
CONTRIBUTIONS AND EXPENDITURES MADE FOR THE  
PURPOSE OF AFFECTING OR INFLUENCING CHANGES  
OF ORGANIZATION, REORGANIZATIONS, AND  
PROTEST HEARINGS**

**PROCEDURES REQUIRING THE DISCLOSURE OF CONTRIBUTIONS  
AND EXPENDITURES MADE FOR THE PURPOSE OF AFFECTING OR  
INFLUENCING CHANGES OF ORGANIZATION, REORGANIZATIONS,  
AND PROTEST HEARINGS**

**SECTION – 541**

Pursuant to Government Code Sections 56700.1 and 57009, effective January 1, 2008, expenditures for political purposes related to a proposal for a change of organization or reorganization initiated by petition or resolution by application and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process are subject to the reporting and disclosure to the same extent as required for local initiative measures under the Political Reform Act, Government Code Section 81000 et seq., and the regulations of the Fair Political Practices Commission implementing that law.

Fresno LAFCo adopts the following reporting and disclosure requirements to implement Government Code Sections 56700.1 and 57009.

01     Definitions

- A.     “Contribution” as used herein shall have the same definition as provided in Government Code Section 82015, as amended.
  
- B.     “Expenditure” as used herein shall have the same definition as provided in Government Code Section 82025, as amended.
  
- C.     “Independent expenditure” as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term “measure” as used in Section 82031 shall be replaced with the term “proposal for organization or reorganization.”
  
- D.     “Political Purposes” as used herein shall mean for the purpose(s) of:  
      (i) influencing public opinion; (ii) lobbying public officials; and/or,  
      (iii) influencing legislative or administrative action as defined in Government Code § 82032. It shall not include for the purpose(s) of complying with legal requirements and LAFCO rules for the processing of a proposal, including, but not limited to and by way of example only, preparation of a comprehensive fiscal analysis for an incorporation (Government Code Section 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code Section 21000 et seq., such as a mitigated negative declaration or environmental impact report.

02 Disclosure Requirements for Petitions or Resolution of Application for Proposals for Organization or Reorganization

- A. Any person or combination of persons who directly or indirectly makes an expenditure or independent expenditure for political purposes of \$1,000 or more in support of, or in opposition to, a change of organization or reorganization submitted to the commission to which Government Code Sections 56654 or 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
- B. Disclosures made pursuant to this Section shall be filed with the commission's executive officer as designated in Section 5 below.
- C. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled commission hearing on a proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the "election" date for this purpose. The executive officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the commission regarding the proposal, and inform the requestor of that date in writing.
- D. In the event the originally scheduled hearing date for the proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues reports shall be filed on or before the 10<sup>th</sup> day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.

03 Disclosure Requirements for Conducting Authority Proceedings

- A. Any person or combination of persons who directly or indirectly makes an expenditure for political purposes of \$1,000 or more related to conducting authority proceedings for a change of organization or reorganization to which Government Code Section 57009 applies, or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative

measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.

- B. Disclosures made pursuant to this Section shall be filed with the commission's executive officer as designated in Section 5 below.
- C. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the "election" date for this purpose. The executive officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the commission regarding the proposal, and inform the requestor of that date in writing.
- D. In the event the originally scheduled conducting authority hearing date for a proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues and reports shall be filed on or before the 10<sup>th</sup> day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.

#### 04 Other Reports and Disclosures

This policy requires that the persons subject to it disclose via reports to the commission's executive officer contributions, expenditures and independent expenditures with respect to expenditures for political purposes related to a petition or resolution by application to the commission for a proposal for an organization or reorganization.

This policy also requires that the persons subject to it comply with the regulations regarding the names of campaign committees, disclosures of the sources of mass mailings, and disclosures of the source of automated telephone calls under Government Code Sections 84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.

#### 05 Where to File

All reports and disclosures required hereunder shall be filed with the commission's Executive Officer.

06 Reporting Requirements are Non-Exclusive

The disclosure and reporting requirements herein are in addition to any other requirements that may be otherwise applicable under provisions of the Political Reform Act or by local ordinance.

07 Sunset Provision

This policy is intended to implement Government Code Sections 56700.1 and 57009 and shall be of no further force and effect upon the effective date of legislation repealing or amending those sections to transfer responsibility for enforcing disclosure of expenditures for political purposes affecting commission proceedings to the Fair Political Practices Commission or otherwise terminates the responsibility of this commission to adopt and implement this policy.

Adopted: December 5, 2007

Revised: January 9, 2008

## **SECTION 550**

### **REGULATIONS AND PROCEDURES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970**



**REGULATIONS AND PROCEDURES FOR THE  
IMPLEMENTATION OF THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970**

**SECTION - 550**

**GENERAL**

The California Administrative Code, Title 14, Division 6, Chapter 3, "Guidelines for Implementation of the California Environmental Quality Act," as amended and in effect on August 1, 1983, is adopted by reference. The criteria, purpose, and objectives of the State CEQA Guidelines with regard to the evaluation of projects, the preparation of Initial Studies, Environmental Impact Reports (EIRs), and Negative Declarations, and time limits imposed shall apply to activities undertaken within the County of Fresno subject to CEQA, except those standards, criteria, and procedures relating solely to State agencies.

**PURPOSE**

These regulations are intended to adopt the State CEQA Guidelines by reference and to supplement the State CEQA Guidelines by establishing the necessary procedures, fees, and definitions for the implementation of the California Environmental Quality Act of 1970 in Fresno County.

These regulations are further intended to define the CEQA review process and clarify the roles and responsibilities of the Fresno County Local Agency Formation Commission and the Executive Officer of the Commission.

551 **SUPPLEMENTAL DEFINITIONS**

The list of defined terms in the State CEQA Guidelines is expanded to include definitions unique to Fresno County Local Agency Formation Commission environmental review.

- 01 Executive Officer means the Executive Officer of the Fresno County Local Agency Formation Commission.
- 02 LAFCo means the Fresno County Local Agency Formation Commission.

552 **FEES FOR ENVIRONMENTAL REVIEW**

LAFCo shall collect a fee for the following:

- 01 The Environmental Assessment of a proposed project;
- 02 The actual costs incurred in the preparation or processing of an EIR;
- 03 The actual costs of reproducing an EIR or other environmental document when requested by a member of the public.

553 **APPLICATION OF REGULATIONS TO PROJECTS SUBJECT TO DISCRETIONARY ACTION BY LAFCO**

- 01 When LAFCO proposes to carry out or approve a project which may have a significant adverse impact on the environment, the Executive Officer shall have responsibility for the preparation of environmental documents, as provided for in these regulations.
- 02 Where a project which may have significant adverse impact on the environment is to be carried out by a public agency or person and is subject to initiation, approval, or some other involvement by LAFCO, the Executive Officer shall have responsibility for the preparation of environmental documents through procedures specified in these regulations. These environmental documents are subject to approval by the LAFCO. The Executive Officer may require the proponent to supply data and information to determine whether the project may have a significant adverse impact on the environment prior to acceptance of the application for processing.
- 03 No application will be accepted as complete until environmental information is deemed adequate by the Executive Officer.
- 04 For an application to be considered complete and acceptable for processing, the following information must be submitted:
  - A. An application form determined to be complete by the Executive Officer.
  - B. Any additional maps, plans, drawings, and studies that may be deemed necessary.
- 05 Within 30 days of the receipt of the application, the Executive Officer will make one of the following findings:
  - A. The application is complete and may be accepted for processing.
  - B. The application is not complete and may not be accepted for processing.
- 06 In the event that an application is not accepted as complete, the applicant shall be notified in writing of the determination. The notice shall specify the additional information necessary to make the application complete.
- 07 Applications resubmitted with supplementary information required under Section 553.06 above shall be deemed to be new submittals for the purpose of establishing processing time limits under CEQA. The time limit of Section 553.05 above shall apply.

554 **PROCEDURE FOR CATEGORICAL EXEMPTION IMPLEMENTATION**

The Executive Officer shall grant categorical exemption status where it can be demonstrated that the activity is consistent with one or more of the classes of categorical exemptions enumerated in the State CEQA Guidelines. The determination of categorical exemption status for projects filed by the Executive Officer shall be subject to review in the manner provided for in Section 555.02 (e) of these regulations.

Environmental documents shall not be required for a project which is categorically exempt except as otherwise required in the State CEQA Guidelines.

555 **PROCEDURES FOR ENVIRONMENTAL ASSESSMENT (INITIAL STUDY)**

For the adequate Environmental Assessment and evaluation of projects subject to CEQA (and not otherwise exempt) it is necessary that an Environmental Assessment be prepared at the earliest possible time which will address all phases of project planning, implementation, and operation. The Environmental Assessment shall take into consideration the purpose, objectives, rules, regulations, standards, and criteria set forth in CEQA, the State CEQA Guidelines, and the adopted plans and policies of LAFCO.

01 **Public or Private Projects Subject to Discretionary Action by LAFCO**

The Initial Study shall be prepared in accordance with the provisions of the State CEQA Guidelines. Where LAFCO is not the lead agency on the project, the lead agency shall consult with the Executive Officer on the project prior to final preparation of the Initial Study. Where LAFCO is the lead agency for the project, the following procedure shall also apply:

- A. The Executive Officer shall solicit comments from other departments, agencies, and individuals with appropriate expertise to assist in identifying potential impacts and determining their significance.
- B. After acceptance of the application as complete and during preparation of the Initial Study, the applicant shall submit any subsequent clarification, amplification, or correction of information originally submitted with the application that is necessary to prepare an adequate assessment.
- C. The Executive Officer shall have 30 days after acceptance of a completed application to make an Environmental Assessment.
- D. When the Environmental Assessment is completed, the Executive Officer shall publish a notice of Negative Declaration in a newspaper of general circulation at least ten days prior to the date action has been scheduled for the project. The notice shall:
  - 1. Specify that an Environmental Assessment has been completed and a Negative Declaration has been prepared.

2. Solicit written comments on the Negative Declaration.
  3. Where LAFCO is required to hold a public hearing state the date, time, and place to determine whether a Negative Declaration or an Environmental Impact Report (EIR) is appropriate; at such hearing all written comments and oral testimony will be considered.
  4. When LAFCO is not required to hold a public hearing state the place where written comments on the Negative Declaration may be delivered and the date when LAFCO shall determine whether a Negative Declaration or an Environmental Impact Report is appropriate.
- E. LAFCO shall either approve the Negative Declaration or require an Environmental Impact Report.
  - F. Once the final action has been taken on a project on which a Negative Declaration has been approved, the Executive Officer shall file with the County Clerk a Notice of Determination with a copy of the Negative Declaration attached.

02 Projects Initiated by LAFCO Subject to Discretionary Action

The Initial Study shall be prepared in accordance with the provisions of the State CEQA Guidelines. The following procedure shall apply:

- A. Project information shall be submitted to the Executive Officer at the time the Initial Study is to be performed.
- B. The Executive Officer shall solicit comments from other departments, agencies, and individuals with appropriate expertise to assist in identifying potential impacts and determining their significance.
- C. After acceptance of the project as complete and during preparation of the Initial Study, the public agency submitting the project shall also submit subsequent clarification, amplification, or correction of information originally submitted with the project that is necessary to prepare an adequate assessment.
- D. The Executive Officer shall make one of the following findings after consideration of the Environmental Assessment:
  1. No EIR is required and a Negative Declaration shall be prepared and published once in a newspaper of general circulation at least 10 days prior to initiating or undertaking the project.
  2. An EIR is required and shall be prepared by the Executive Officer or a consultant selected by the Executive Officer.

- E. Any aggrieved person or agency may appeal the decision of the Executive Officer for final determination.

556 **PROCEDURE FOR PREPARATION OF ENVIRONMENTAL IMPACT REPORTS (EIR)**

All draft EIRs pursuant to these regulations shall contain the information required by the State CEQA Guidelines and shall be prepared consistent with criteria set forth therein. The Executive Officer shall maintain a list of consultants to prepare Environmental Impact Reports required by these regulations. A Notice of Preparation shall be distributed in accordance with the State CEQA Guidelines.

01 Draft EIR Process

011 Private Projects

The applicant shall be given the proposal requirements and a copy of the Environmental Assessment. The applicant shall select a consultant to prepare a proposal for staff review. If the proposal is acceptable to staff, the applicant shall be offered an agreement with LAFCo in which the applicant will agree to pay LAFCo for all costs related to the processing of the EIR. The applicant shall be required to deposit such funds with LAFCo. The applicant shall be responsible for the contract with the consultant and all consultant costs.

If the proposal is rejected by staff, the applicant may appeal such decision to LAFCo. LAFCo may allow the original consultant to revise the proposal or require the applicant to select another consultant. As an alternative, LAFCo may select a consultant in the manner described in the following paragraph.

If the applicant does not want to or is unable to select a consultant, the Executive Officer shall select and provide a list of all acceptable proposals to the applicant. The applicant shall be offered an agreement with LAFCo in which the applicant will agree to pay LAFCo for all LAFCo costs related to the processing of the EIR. The applicant shall be required to deposit such funds with the LAFCo. The applicant shall then select a consultant to prepare the EIR. The applicant shall be responsible for the contract with the consultant and all consultant costs.

012 LAFCo Projects

Where the project is initiated by LAFCo, the Executive Officer may prepare the EIR in its entirety or in conjunction with consultants selected by the Executive Officer and approved by LAFCo. LAFCo shall incur the cost of preparation of the EIR except where a project is initiated by LAFCo at the request of a person or agency. In such event, the person or agency requesting the initiation shall incur such cost of preparation as determined by LAFCo.

013 Notice of Completion

A Notice of Completion shall be filed by the Executive Officer with the Secretary of Resources as soon as the Draft EIR is completed.

014 Public Hearing on Draft EIR

Any request for a public hearing on a Draft EIR shall be subject to approval by the Executive Officer. The Executive Officer may require a public hearing on a Draft EIR without any formal request. The decision or determination that a public hearing on a Draft EIR be conducted shall require findings that:

- 1) The project subject to the EIR does not require approval at a public hearing, and
- 2) Such a public hearing is necessary to facilitate the purposes of the CEQA. The reviewing body at such public hearing shall be the LAFCo. All comments made on the Draft EIR at such public hearing shall be summarized and addressed and made part of the Final EIR.

02 Final EIR Process

021 Response to Comments

All comments received during the public review processes shall be responded to in the Final EIR.

022 Use of Final EIR

The Final EIR shall become a part of the project application and shall be taken into consideration when action is taken.

023 Final Action on Applications

Where LAFCo approves a project which allows the occurrence of significant adverse effects identified in the Final EIR without mitigation, the approval must contain a finding that the benefits of the project outweigh unavoidable environmental damage. These overriding considerations must be fully explained in the record of approval of the project.

When LAFCo approves a project for which the potential adverse impacts have been mitigated, the record of approval shall include the changes or alterations which have been required or incorporated into the project.

557 **LIMITS FOR PROJECT ACTION**

Notwithstanding any of the above provisions, a decision shall be made for approval or disapproval of any development project within one year from the date on which an application requesting approval has been received and accepted as complete.

Adopted: March 27, 1974  
Revised: February 2, 1977  
December 21, 1977  
September 28, 1983  
September 24, 1996

558 **LIST OF PROJECTS DETERMINED TO BE EXEMPT**

For any of the following types of discretionary projects, the executive officer can determine with certainty the project will not have a significant effect on the environment, as provided for under Sec. 15061 of Guidelines for Implementation of CEQA.

- 01 The project is to annex an area already developed to urban uses and no change in zoning, subdivision, or development is proposed.
- 02 The project is to annex to the city an area within an unincorporated island, or within an unincorporated corridor over 1/2 miles in length and less than 1/2 mile in width at its narrowest point, and no change in zoning, subdivisions or development is proposed.
- 03 The project is to detach from a city or district where services are no longer provided, are not needed nor contemplated by the agency for future provision.
- 04 The project is to dissolve a district for nonuse of corporate powers.
- 05 The project is similar in nature, scope, and location to other projects for which a negative declaration was issued.
- 06 The project is for an area considered as urban infilling and the proposal conforms to both city and county plans.

All other discretionary not exempted projects must have an environmental assessment. Any of the above projects which appear to the reviewer to need an assessment, though meeting the criteria, should also be assessed if there is a possibility of a significant effect on the environment.

600 **CONDUCTING AUTHORITY PROCEEDINGS (Code secs. 57000 et seq.).**

- 01 Unless the Commission waives the protest proceedings, as provided in Code section 56663, after adoption of a resolution making determinations by the Commission pursuant to Part 3 of the Act (commencing with Code sec. 56650), the Commission will conduct protest proceedings for a change of organization or reorganization pursuant to Part 4, Chapter 1 of the Act (commencing with Code sec. 57000). (Code sec. 57000(a)).

Added: December 19, 2001

700 **COMMISSION ADMINISTRATION (Code Secs. 56380, 56381).**

710 **PERSONNEL AND FACILITIES (Code Sec. 56380).**

The Commission shall make its own provision for necessary quarters, equipment, and supplies as well as personnel. The Commission may choose to contract with any public agency or private party for personnel and facilities.

- 01 The Commission shall appoint an Executive Officer who shall conduct and perform the day-to-day business of the Commission. If the Executive Officer is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint an alternate Executive Officer. The Commission may recover its costs by charging fees pursuant to Code section 56383.
- 02 The Commission shall appoint legal counsel to advise it. If the Commission's counsel is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint alternate legal counsel to advise it. The Commission may recover its costs by charging fees pursuant to Code sec. 56383.
- 03 The Commission may appoint staff as it deems appropriate. If staff for the Commission is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint alternate staff to assist it. The Commission may recover its costs by charging fees pursuant to Code section 56383.
- 04 The term "conflict of interest" shall be defined as it is for the purpose of the Political Reform Act of 1974 and shall also include matters proscribed by Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Code (Code sec. 56384).
- 05 In order to obtain cost-effective services and resources, the Commission currently has an agreement with the County of Fresno to provide personnel and resources to operate the Commission, including the provision of an Executive Officer and staff, and legal counsel.



720 **BUDGETARY MATTERS (Code sec. 56381).**

Code section 56381 sets forth the Commission's budgetary process.

- 01 If the County or a city does not remit its required payment to fund the Commission's net operating expenses, as provided in Code section 56381(c), the Executive Officer is authorized to determine an appropriate method of collecting the required payment, including a request to the County Auditor-Controller/Treasurer-Tax Collector to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the County or city under Code section 56381(c).
- 02 Any action previously taken by the Executive Officer to enforce Code section 56381(c) is hereby ratified and approved.

Added December 19, 2001  
Revised February 13, 2004

730 **DESTRUCTION OF RECORDS (Code Section 56382).**

Code Section 56382 sets forth the Commission's authority for destruction of LAFCo records.

- 01 Original records two years old or less shall be maintained in the LAFCo Office. The Commission may authorize the destruction of original records more than two years old if a photographic or electronic copy of the original record is made and preserved, provided that the following conditions are met:
  - A. Following review by LAFCo Counsel, the Executive Officer places on the Commission's agenda an item that describes the types of records to be destroyed and identifies the years in which they originated, and permission to destroy said records is granted by the Commission.
  - B. The records are reproduced on a medium that does not permit additions, deletions, or changes to the original document, or reproduced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management.
  - C. The device used to reproduce the records is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions or changes to the original document images.
  - D. The reproductions are made as accessible for public reference as the original records were.
  - E. A true copy of archival quality of the reproductions shall be kept in a safe and separate place for security purposes.
- 02 Original signed resolutions may not be destroyed.

- 03 The Executive Officer may destroy any duplicate record, paper, or other document if the original or a photographic or electronic copy of the record, paper, or other document is retained in the files of the Commission.
- 04 At least one copy of all electronic reproductions shall be stored on compact disks, or other appropriate medium as technology allows, in a locked “fireproof” box in the LAFCo offices. A second copy shall be maintained on the County’s “network” drive and/or on compact disks or other medium at an appropriate offsite location, as determined by the Commission.
- 05 In the case of Commission approved changes of organization and reorganizations where recordation is not achieved timely and where extensions of time are granted, the two-year time frame identified in Policy 730-01, shall be tolled from the time the change of organization or reorganization is completed (recorded).
- 06 In cases where a change of organization or reorganization is allowed to expire, the two-year time frame shall be tolled from the original date of approval or the date of the most recent time extension, if such extension(s) was granted.
- 07 Audio recordings of all Commission meetings shall be maintained on compact disks or other appropriate medium as provided by State law and shall be stored in the manner as described in Subsection 04 above. These records are to be maintained as a permanent record of Commission proceedings.

Added: July 9, 2008

## Appendix A

### Fresno LAFCo Annexation Program Guidelines

It is Fresno LAFCo policy (102-01) that “within the sphere of influence each agency should implement an orderly, phased annexation program. A proposal should not be approved solely because the area falls within the sphere of influence of an agency.” LAFCo recommends that each local agency fulfill this policy through the exercise of one or more of the following basic principles and actions. These guidelines are directory and not mandatory.

#### **1. The annexation program is consistent with LAFCo’s Sphere of influence (SOI) for the city.**

Suggested actions:

- City and county shall reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. GC §56425
- City responds to a request to extend service outside of its city limits and SOIs in consultation with GC §56133 and Fresno LAFCo policy.

Background:

LAFCOs have numerous powers under the Act, but those of primary concern are the power to act on local agency boundary changes and to adopt spheres of influence for local agencies:

A "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the commission. GC §56076

The SOI is an important component of a city’s general plan implementation:

Every determination made by a commission regarding the matters provided for by subdivisions (a), (m), and (n) of Section 56375 and by subdivision (a) of Section 56375.3 shall be consistent with the spheres of influence of the local agencies affected by those determinations. GC §56375.5

The annexation program should also anticipate needed updates of the city’s sphere of influence and the appropriate development standards developed in consultation with the County to promote the logical and orderly development of areas within the sphere. GC §56425

Because cities provide multiple municipal services, they occasionally extend service outside of their city limits and SOIs. The statute allows these extensions—with LAFCo authorization—subject to certain conditions, though not as an alternative to annexation or amendment of the SOI. GC §56133.

## **2. The annexation program clearly implements the city's general plan.**

Suggested actions:

- City annexation applications shall describe how the proposal implements the city's general plan, and support these statements with information from other official sources such as the annual budget, capital improvement plan, and so forth.
- A rezoning ordinance shall not be encumbered with conditions that must be satisfied after the date of submission of the annexation application to LAFCo. Once the application for annexation is heard by the LAFCo Commission, all rezoning conditions must be satisfied or the territory is not rezoned.

Background:

The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city rezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned. 56375(a)(7)

## **3. The annexation program emphasizes the use of cities' resolution of application versus property owner petitions.**

Suggested action:

- For the city to consider discouraging property owner petition-initiated reorganizations as these would not have proceeded through the process of city development review and approval, which is an important step in the management of a city's general plan and instead anticipate probable annexations and prepare to process these in a timely manner through resolution-initiated petitions.

Background:

The LAFCo statute permits property owner petition-initiated reorganizations and SOI amendments. While Fresno LAFCo must comply with the statute, in many cases property-owner petitions complicate the process, increase liabilities, and otherwise thwart the orderly completion of LAFCo's responsibilities. Some cities encourage petitions because they don't have the resources to process annexations, or for other reasons. The challenge is that all cities in Fresno County have MOUs with the County to comply with Revenue and Tax Code section 99 regarding property tax revenue transfer upon annexation. These MOUs also include "standards of annexations." The LAFCo is not a party to the MOUs, though it often hosts the MOU section 2.2 Notice of Intent to File meetings and otherwise plays a third-party role as cities and the County coordinate their MOU activities.

Property-owner petitions may actually add inefficiencies to the MOU process. For example, in order to complete an approved annexation, LAFCo staff require certain documents from the city (right-to-farm, addressing, tentative map acceptance, etc.) and the city staff may not be prepared to respond in a timely manner. This could be remedied by earlier coordination between LAFCo and city staff if the staff were assisting with the application.

While it is possible to independently develop solutions for service delivery to a parcel, this practice does not promote the overall planning, construction and integration of facilities into the municipal service delivery network. Proper long-range land use planning must recognize and balance competing interests and the need to provide for future roadways and coordination with other service providers that would be affected by planned growth. There is a civic obligation on the city's part that it assertively manage the implementation of its general plan beginning with the review and approval of planning applications, then make application to LAFCo for annexation, and finally take responsibility for the construction compliance with building and safety codes.

**4. The annexation program supports orderly growth by identifying areas to be annexed, general time frames for growth, and a plan for extension of services to these areas.**

Suggested actions:

- Capital improvement plan and/or facilities plans include all lands within the SOI;
- Development impact fees that fund the extension of services are established and maintained;
- Impacts to service delivery are assessed in the city's EIR or project-specific CEQA documents and appropriately-scaled mitigation is approved and implemented.
- the city coordinates its public policy documents in support of the annexation program.

Background:

The annexation program should coordinate the policies, facilities, funding, and construction of city service infrastructure by linking the general plan land use diagram and policies, capital improvement plans, service delivery plans (such as a fire department's Standards of Cover), and annual budget. The product of this work can serve as the foundation for development policies that direct growth to certain areas whether all or part of the city's sphere, or restrict growth to defined areas until certain actions (funding, studies, etc.) are complete.

LAFCo's interest in cities' growth and development can be summarized by three words: order, logic, and efficiency.

- Order is a state in which all components or elements are arranged logically, comprehensibly.
- Logic describes the use of valid reasoning in some activity. These elements are already in a city's plans, policies, budget, etc.
- Efficiency in general describes the extent to which time, effort or cost is well used for the intended task or purpose, it is measured by a comparison of production with cost (as in energy, time, and money) "Efficiency is doing things right, while Effectiveness is doing the right things."

An official document is created to describe how annexations implement the city's General Plan growth and development policies.

By coordinating the city's plans and policies, the annexation program also supports the efficient delivery of urban services throughout the rest of the city.

**5. The annexation program anticipates changes of organization of existing service districts and service areas in the SOI or adjacent to SOI.**

Suggested action:

- The Program should describe the transition of services that will occur when the city annexes/detaches (CID, NCFPD, FCFPD, KRCD, etc.); inversely, the document describes the status of or continuation of services when annexations do not result in detachment (FID, FMFCD, etc.).

**6. The annexation program anticipates the location of Disadvantaged Unincorporated Communities within a city's sphere of influence.**

Suggested action:

- Cities should become proficient in implementing their responsibilities under Senate Bill 244, should review Fresno LAFCo DUC policy and review Senate Bill 244 Technical Advisory (attached).

Background:

The statute requires LAFCo to make determinations regarding "disadvantaged unincorporated communities" ("DUCs") when considering a change of organization, reorganization, a sphere of influence amendment and municipal service reviews (an "MSR"). Generally, LAFCo will not approve annexations of territory greater than ten (10) acres if there is DUC contiguous to the proposal.

GC §65302.10 defines "Disadvantaged unincorporated community" as a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income and requires that cities identify DUCs in their general plan land use element. GC §56033.5 further refines this definition for the purposes of annexations and Fresno LAFCo policy 106 establishes procedures to evaluate DUCs in light of nearby annexation proposals.

LAFCo is working with the County, the Fresno Council of Governments to establish and update a County-wide map of DUCs. This will be available to cities.

**7. The annexation program informs citizens in annexation areas of their rights, benefits, and changes that will occur on annexation.**

Suggested actions:

- City to establish and maintain on its website a description of the information above, how citizens can engage the process, how the city engages citizens and stakeholders and other information related to annexation. This information should include a description of the SOI, protest processes, and how LAFCo is involved.
- For those portions of a city's SOI that contain a large number of rural residential parcels that are planned for urban uses, the city is strongly encouraged to develop a long-term plan to annex and serve these areas.

**8. The annexation program will be coordinated with LAFCo's MSR for the city.**

Suggested action:

- City applications should include an assessment of current MSR determinations and recommendations.

Background:

Municipal Service Reviews are a major feature of LAFCo's responsibilities. The MSR is essential for the Commission to determine a local agency's sphere of influence. MSRs include 'determinations' based on facts and information provided by the local agencies to advise the Commission's decision on SOI updates. In approving an MSR, the Commission may also make recommendations to a local agency on matters related to the order, logic, and efficiency of that agency's operation. LAFCo staff will evaluate whether progress has been made by a local agency on the MSR recommendations when analyzing annexations and SOI updates.

**9. The annexation program is managed by an assigned and responsible city staff member.**

Suggested action:

- City identifies a staff member to serve as a genuine point of contact with LAFCo, that is, a staff member responsible and accountable for managing applications, knowledgeable of the project and of LAFCo's process, and empowered to facilitate the city's annexation program.

**10. City entitlement analysis is integrated with LAFCo policies.**

Suggested action:

- Local agencies, including Fresno County, are strongly advised to include Fresno LAFCo in their initial request for comments.
- When initial planning applications that will eventually require annexation are submitted to cities, they are encouraged to submit a pre-application to LAFCo so that LAFCo can track the project at its beginning, and provide comments that would facilitate annexation in time for these to be considered in a timely and efficient manner.

Guidelines adopted December 10, 2014

## Appendix B

### Fresno LAFCo DUC Database Development Guidelines

#### Introduction

These guidelines will be used to develop and maintain the database necessary to implement Fresno LAFCo policy 106-01, to conduct reasonable demographic surveys and studies. The database will be augmented by site investigation, and other materials supplied by government agencies and other interested parties (collectively, the "Information Sources").

1. DUCs in Fresno County are initially identified by reviewing US Census information including census tract, block group, or block data to obtain population estimates, economic composition, and demographic information. Census tracts occasionally include both incorporated and unincorporated territories which do not necessarily coincide with city or municipal local agency boundaries. Though a census tract may encompass a large geographic area, the sample data reported therein provides a reasonable assessment of the economic composition among residents within the tract. The smallest geographic units which the US Census collects and tabulates decennial census data are the census block groups and blocks. Census block groups are statistical divisions of a census tract. Census block groups are generally defined between 600-3,000 people. A block group consists of clusters of blocks within the same census tract that have the same first digit of their census block number. Data collected from census block groups and blocks are generally more detailed for areas within a census tract, if available. Most block groups identified by US Census data were delineated by local participants in the Census Bureau's Participant Statistical Areas Program.
2. The definition of a "disadvantaged community" (DAC) per GC §56033.5, WC §79505.5, and PRC §75005(g), is "a community with an annual Median Household Income (MHI) that is less than 80 percent of the statewide annual MHI." For example, the 2010 statewide MHI in California reported by the US Census American Community Survey (ACS) 5-year report is \$60,883; thus, a community with a household income less than 80% of the MHI (\$48,706) would be a "disadvantaged community".
3. The Department of Water Resources (DWR) provides DAC mapping software and downloadable shape file maps are available through the DWR website. DWR's DAC mapping data is created using the ACS five-year period reports between years 2006-2010. The DWR maps identify DACs for different areas using census tracts or block group information. The shape file maps include pre calculated fields for census tracts and block groups that are identified as DAC (per PRC §75005 (g)) with a "Yes or No."



4. Fresno LAFCo Policy 106 definition is more specific and includes two additional DUC indicators aside from the MHI margin:
  - a. the DUC will be inhabited territory (12 or more registered voters); and
  - b. consist of at least 15 dwelling units at a density not less than one unit per acre.

In addition, LAFCo policy 106-05 established that a DUC up to 300 feet distant from a proposed annexation boundary “is sufficient to start the annexation proceedings for a DUC.” This policy also identified “Legacy Communities” which are DUCs within one mile of an existing or proposed sphere of influence.

5. The DAC mapping information available in geographic information systems (GIS) shape files will be employed to develop a “first cut” of maps to identify areas in the County that report a MHI less than 80 percent of the statewide annual MHI. The DAC GIS shape files will be layered with maps available on the County of Fresno’s GIS database. Fresno County’s shape file named “CY\_FRESNO.CENSUS\_BLKGRP” will be utilized to identify all census block groups in the County that meet the DAC threshold. The “CY\_FRESNO\_CITY\_NAMES” shape file will be used to map incorporated and unincorporated community boundaries. The “CY\_FRESNO.PARCEL\_VW” GIS shape file will be employed to identify parcelization patterns that could be compared to aerial photography in identification process of a DUC, per Commission Policy 106.
6. The DAC maps present an initial assessment of the areas based on MHI data at the census tract and block group levels. Further review of land parcelization patterns and identification of DUCs will be focused near city limits and within Municipal Local Agencies with SOI boundaries.<sup>2</sup> The data is selected to only identify DUCs near cities and Municipal Local Agencies that provide services related to sewer, municipal or industrial water, or fire protection. As such, each eligible Municipal Local Agency boundary was surveyed to identify and determine DUC locations that meet the 15 dwelling units at a density not less than one unit per acre.

Guidelines adopted February 11, 2015

---

<sup>2</sup> Fresno LAFCo policy 107-04, “Municipal Local Agencies” include cities and special districts that provide municipal services.

## Appendix C

### Fresno LAFCo Disadvantaged Unincorporated Community Policy Implementation Guidelines

The Cortese-Knox-Hertzberg Local Government Reorganization Act OF 2000 ("CKH") requires LAFCo to make determinations regarding "disadvantaged unincorporated communities" ("DUCs") when considering a change of organization, reorganization, a sphere of influence amendment and municipal service review ("MSR").

LAFCo policy 106 supports the implementation of CKH and provides additional refinement of DUCs. The following directory guidelines may be used by staff to establish logical and predictable actions to implement the Commission's DUC Policy and CKH.

1. When a potential applicant meets with LAFCo staff to discuss a proposed project the probable annexation boundaries will be estimated.
2. Staff will consult Fresno LAFCo policy 106 and Fresno LAFCo's DUC database to determine whether a potential DUC is identified adjacent to or within 300 feet of the proposed project and will convey this determination to the applicant and the subject city/municipal local agency.
3. The applicant is recommended to submit a pre-application. If the LAFCo DUC database indicates that a DUC is involved with the proposed project, a deposit of estimated time and materials expenses will be calculated and required prior to staff conducting additional work on the DUC analysis.
4. Pre-application process for DUC review and verification
  - a. Staff assembles data to determine if DUC exists:
    - i. Acreage of DUC boundary is determined based on LAFCo's DUC database.
    - ii. Number of dwelling units within the DUC is determined, census data is used to assess preliminary MHI for the DUC, and field visits will be conducted.
    - iii. Number of registered voters within the DUC is determined.
    - iv. Identification of present and probable needs for public facilities and services for the DUC is determined.
    - v. Information Sources, as defined in LAFCo policy 106-01, will be used to determine precise annual median household income of the DUC.
    - vi. Verification of any previous applications filed with the Commission for the same DUC within the preceding five years, if applicable, is determined.
    - vii. A mailing list of both property owners and registered voters within the DUC is generated.
    - viii. The affected city/municipal local agency will be contacted to participate in the evaluation of what services will be extended to the DUC if annexed. (service area)

5. Pursuant to LAFCo policy 106-04, “written evidence” shall be obtained in the following manner:

A DUC annexation notice letter, bilingual or multilingual (sample attached) will be sent to registered voters (RVs) in the DUC with a copy sent to DUC property owners to advise registered voters of potential annexation of the DUC, describe the probable changes to services upon annexation, probable fees, taxes, and other assessments resulting from annexation.

6. The letter will request response from residents and registered voters within 21-days of receiving the notice.

In compliance with CKH and LAFCo policy, the letter shall request written opposition to a potential annexation by the registered voters in a DUC. Based on the record of responses, EO will present a recommended finding for the commission action.

7. If EO determines that based on written evidence, less than the majority of the DUC RVs respond to the annexation letter in opposition, or if majority of the RVs in the DUC respond in support of annexation, the applicant and subject local agency will be advised that this territory may be included in the proposed annexation, or may be subject to a subsequent or concurrent annexation.

If EO determines based on written evidence, that a majority of registered voters in the affected territory are in opposition to annexation, the applicant and subject local agency will be advised that this territory will be not included in any subsequent reorganization application pursuant to CKH and LAFCo DUC policy.

It should be noted that this does not preclude a DUC from being annexed by petition or resolution under other circumstances independent of CKH and LAFCo DUC policy.

An annexation application to annex a contiguous DUC shall not be required if either of the following apply:

- If the EO determines that a previous application has been filed for the same DUC in the preceding five years, an application to annex will not be required.
- If the Commission finds, based on written evidence, that a majority of registered voters in the affected territory are in opposition to annex, an annexation applicant will not be required.
- Filing of a DUC annexation application with the EO.

<City Letterhead>  
<Date>

Dear <name of registered voter and/or landowner>

You are receiving this letter because your neighborhood is next to a proposed annexation to the City of <name of City>. The City is proposing to annex <insert description of annexation – size, purpose, etc.>. A map of the proposed annexation area is enclosed. The City would like to know your interest in also being annexed.

You are currently residing or own land in what is called unincorporated Fresno County. This means that the County of Fresno or the <name of special district> is responsible for services to your community. Annexation to the City of <name of City> would mean that the City would become responsible for many of the services to your community which may now be provided by the County or special district. Please see the enclosed information regarding the services that the City provides, how the services are paid for and the timing of when you could expect those services to be provided if your neighborhood is annexed into the City.

Enclosed is an annexation survey and postage paid envelope <or postage paid post card if the survey can fit>. Please return it by <date>. The return of this survey is important because State law requires the City to file an application to annex your neighborhood unless the majority of registered voters are against it. If you have any additional questions or would like more information, please contact <city contact name, phone number, e-mail>. For Spanish translation services for the enclosed City service information, please contact <city contact name, phone number, e-mail>.

<Ending salutation>

Enclosures:

Proposed Annexation Map

City Services and Other Information

City Annexation Survey and Return Envelope <or City Annexation Survey Postcard>

<City Letterhead>

<Date>

Estimado <name of registered voter and/or landowner>

Usted está recibiendo esta carta porque su vecindario está cerca de una anexión propuesta en la Ciudad de <name of City>. La ciudad está proponiendo anexar el territorio localizado <insert description of annexation – size, purpose, etc.>. Un mapa ilustrando el territorio de la anexión propuesta está incluido con esta carta. La ciudad también quiere saber su interés en ser incluido en la anexión.

Actualmente usted está viviendo o es dueño de propiedad en áreas que no son incorporadas en el Condado de Fresno. Por esta razón el Condado de Fresno o el <name of special district> es responsable de proveer servicios municipales a su comunidad. La anexión del territorio a la ciudad de <name of City> resultaría en que la ciudad se haga responsable de muchos de los servicios municipales a su comunidad que actualmente son proveídos por el Condado o el <name of special district>. Por favor mire la información incluida acerca de los servicios que la ciudad pueda proveer y como los servicios son pagados y cuando debe de anticipar los servicios que sean proveídos si su vecindad si el territorio es anexado a la ciudad de <name of City>.

Incluido esta una encuesta de la anexión y un sobre pre pagado <or postage paid post card if the survey can fit>. Por favor devuelva la encuesta antes del <date>. El regreso de esta encuesta es importante porque las leyes del estado de California requieren que la ciudad archive una aplicación para anexar su vecindario al menos que la mayoría de los residentes en su vecindario estén en contra de la anexión propuesta. Si usted tiene preguntas acerca de esta carta o quiere más información, por favor contacte a <city contact name, phone number, e-mail>. Para servicios de traducción en español sobre los servicios de la ciudad, contacte a <city contact name, phone number, e-mail>.

<Ending salutation>

Documentos Incluidos:

Mapa de la Propuesta Anexión

Servicios de la Ciudad y Otra información

Encuesta de Anexión y Sobre de Regreso <or City Annexation Survey Postcard>

### City of X Annexation Survey

Please fill out this survey after reading the enclosed information regarding City services and potential annexation into the City of X.

Would you like to be annexed to the City of X?

**Yes**, I would like my property/residence to be annexed.

**No**, I do not want my property/residence to be annexed.

\_\_\_\_\_ **I don't care**, it doesn't matter to me if my property/residence is in the City or County.

\_\_\_\_\_ **I don't know**, I would like more information regarding annexation.

Would you be interested in attending a public meeting to hear more about what annexation means?

**Yes**

**No**

Contact information of the person(s) filling out this survey:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone or E-mail: \_\_\_\_\_

---

### Ciudad de X Encuesta De Anexión

Por favor llene esta encuesta después de leer la información incluida sobre los servicios de la ciudad y la posibilidad de anexión a la Ciudad de X.

Le gustaría ser anexado a la Ciudad de X?

**Si**, Me gustaría que mi propiedad/residencia sea anexada.

**No**, No me gustaría que mi propiedad/residencia sea anexada.

\_\_\_\_\_ **No me importa**, no me importa que mi propiedad/residencia este en la ciudad o el condado.

\_\_\_\_\_ **No Se**, Me gustaría más información sobre la anexión.

Estará interesado en atender una ausencia publica para aprender mas sobre la anexión?

**Si**

**No**

Cuántas personas (18 años o mayor) residen en su vivienda?

Información de contacto de las persona(s) llenando la encuesta:

Nombre: \_\_\_\_\_

Dirección: \_\_\_\_\_

Teléfono o E-mail: \_\_\_\_\_

Guidelines adopted February 11, 2015