

PART IV

THE LAFCO PROCESS

The LAFCO process consists of three steps, the application to LAFCO, the LAFCO hearing, and the protest hearing and completion activities. Each of these is described in some detail in this section of the manual.

It is always advisable to discuss your proposal with the LAFCO staff prior to initiating the proposal process. Staff is able to provide assistance with the application materials and provide advice that may improve the quality of the proposal and reduce the processing time.

THE PROPOSAL APPLICATION

Proposals for annexations, detachments, consolidations, incorporations, formations and other jurisdictional changes may be initiated by landowner or registered voter petition or by resolution of an affected agency. If initiated by resolution of an affected local agency, the resolution shall comply with the requirements of Section 56654 of the Government Code. (A sample initiating resolution is available at the LAFCO office.) Usually a boundary adjustment to a local agency comes at the request of one or more landowners but is actually initiated to LAFCO through resolution of the affected agency. This manner of initiation is generally encouraged since, the local agency is the expert with regards to the services it provides and its ability to extend those services. Furthermore, it encourages the landowner and local agency to work directly with each other at the very earliest stages of the process.

A proposal may also be initiated by petition; however, the process is a bit more onerous. Requirements regarding the form and content of the petition are set forth in Section 56700 of the Government Code. The signature requirements vary based upon the type of proposal. Samples of these documents are available at the LAFCO office. However, before circulating any petition for change of organization, the proponent must file a notice of intention with the LAFCO executive officer. (Government Code, Section 56700.4). If a petition-initiated proposal involves annexation to a special district, upon submission of the proposal to LAFCO, it must be placed on the Commission's next agenda for informational purposes. If the affected district requests termination of the proceedings within 60 days, the proposal is terminated. (Government Code, Section 56857)

THE APPLICATION PACKAGE

Every application for annexation, detachment, reorganization, or a sphere of influence amendment shall include items one through six. Items seven through thirteen will be required as specified.

Proponents for other types of proposals, including incorporations, district formation, and district dissolutions should contact LAFCO staff to discuss application requirements in detail.

CONTENTS OF AN APPLICATION PACKET

- (1) Fifteen copies of the proposal application and justification form, including a plan for services and/or responses to the sphere of influence factors
- (2) Fifteen copies of the map
- (3) Fifteen copies of the legal boundary description
- (4) Two certified copies of the initiating resolution or the original petition of initiation and one copy of the petition
- (5) Filing fees as specified
- (6) An address list of all registered voters and landowners within the proposal and within 300 feet of the proposal.
- (7) Two copies of the voter location list (not required for sphere of influence proposals)
- (8) Two copies of the landowner consent forms if proposal is to be treated as 100% consent (petitions of initiation may be accepted in lieu)
- (9) Two lists of assessor parcel numbers on a separate sheet (not required for sphere of influence proposals)
- (10) Two copies of development plans if development of the proposal area is pending
- (11) For city annexations, two copies of the market absorption study required as per policy #III-C-1.

If LAFCO is the Responsible Agency add

- (12) Two copies of rezoning maps and resolution if the site was rezoned
- (13) Two copies of the Department of Fish and Game receipt from the County Recorder
- (14) At least two copies of the initial study, DEIR, EIR, NOD, findings, statement of overriding consideration, and mitigation monitoring plan or initial study, NOD, and negative declaration

FILING FEES

The application will not be considered complete until the appropriate fees have been submitted. The fees will be determined upon submittal of the application package and will be based upon the guidelines set forth on the fee schedule.

MAP REQUIREMENTS AND STANDARDS

Fifteen copies of a proposal map and of a vicinity or area map shall accompany each application. The County Surveyor has base maps for most of the areas of the County (available at nominal cost) which possibly could satisfy the requirements for the vicinity map.

- (1) Proposal maps shall be of large enough scale to clearly and accurately show all pertinent details of the proposal boundaries and parcels.
- (2) The proposal map must clearly show the relationship of the territory included in the proposal to the agency's entire existing boundaries if scale and size will permit it without losing the detail of the territory included in the proposal. Show as much of the agency's existing boundary as is practical within this criterion. The map must be capable of being legible when microfilmed and reproduced to half scale.
- (3) The proposal map shall be 11" X 17" in size, with one-half inch border and capable of being legibly reduced to 8 ½" x 11". If more than one sheet is used, provide a small scale key map showing the relationship of sheets.
- (4) All parcels within the proposal must be shown, as well as all properties contiguous to the proposal boundaries.
- (5) All parcels inside the proposal that are contiguous to the new boundary must be identified by tract name, lot/parcel number and the Official Record book page and number.
- (6) The proposal map must show the point of beginning, bearings, courses and calls used in the proposal description and enable the person reading the description to follow the traverse on the map.
- (7) The proposal map must also show the following:
 - North point (north area up)
 - Date prepared
 - A bar scale
 - Name of person or firm who prepared map
- (8) Show all pertinent physical and topographic features such as roads, railroads, airports, creeks and rivers, and other recognizable landmarks.
- (9) Show all government survey lines (township, range, and section lines)
- (10) Show all government agency boundary lines within or proximate to the proposal.
- (11) If the report of the County Surveyor indicates that the boundary is unclear, the applicant shall submit a corrected map.
- (12) If the Commission amends a proposed boundary as part of its approval, the applicant shall submit two copies of a revised map in accordance with these standards within 15 days after the adoption of the resolution approving revised proposal.
- (13) The conducting agency shall use the map approved by the County Surveyor and referenced or included in the LAFCO resolution in all future proceedings related to the proposal. (The map must show the County Surveyor's stamp of approval and signature.)
- (14) The proposal map must also comply with the State Board of Equalization requirements.

PROPOSAL BOUNDARY DESCRIPTION STANDARDS

The applicant is required to furnish fifteen copies of the proposal's legal description which describes in detail the boundaries of the proposal.

LAFCO proposal description requirements are based on primary calls that recognize existing agency boundaries and property ownerships rather than on metes and bound (which serve as secondary calls). The purpose of this prime call method is to prevent boundary and taxing problems, which might otherwise arise as a result of resurveys.

- (1) Descriptions shall include in the preamble the townships, ranges and sections in which the subject territory lies and must be adequately tied to known points of record.
- (2) All boundary lines must be given a "prime call" based on the existing agency boundaries (if an annexation or detachment) and the property ownership (giving Official Record references).
- (3) As the first secondary call name all proposal boundaries contiguous with those of other governmental agencies.
- (4) As an additional secondary calls, name the following:
 - (a) All boundaries contiguous with range, township or section lines.
 - (b) All boundaries along public or railroad rights-of-way or waterways.
 - (c) Bearings and distances for each course of the boundary shall be given to the nearest degree and foot more or less shown by plus or minus or give the course and distance as shown on the official record of prime call.
- (5) Where possible the point of beginning shall be on the boundary of the existing agency (for annexation) and shall traverse the area in a clockwise direction. The point of beginning shall be referenced to a point of commencement, which can be located from existing recorded or filed information, which shall be named.
- (6) The description shall be definite and not ambiguous with regard to which properties are included within the area described. The boundary shall be plotable on a base map which contains only the township, range, and section lines, the existing agency boundaries, and roads and railroad rights-of-way.
- (7) Descriptions shall show the date, address and name of the person or firm preparing it and shall state whether the description is compiled from records of survey.
- (8) Description must also comply with the State Board of Equalization requirements.
- (9) If the commission amends the proposal boundaries, the applicant shall within 15 days
after the adoption of the resolution approving the revised proposal, the applicant shall
submit two copies of a revised map in accordance with these standards within 15 days
after the public hearing..

ENVIRONMENTAL REVIEW

LAFCO'S ROLE AS LEAD AGENCY

When acting as Lead Agency for CEQA review, LAFCO will complete any required environmental review in accordance with the procedures set out in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. The applicant shall be charged for all costs associated with this review and the Fish and Game fees.

LAFCO'S ROLE AS AN INTERESTED AGENCY

The executive officer will review and, if necessary, comment on all environmental documents as submitted by a Lead Agency involving projects/decisions relating to and/or affecting LAFCO projects or policies.

LAFCO'S ROLE AS A RESPONSIBLE AGENCY

Responsible Agency status occurs when LAFCO is not the primary agency (Lead Agency) overseeing a project but, nevertheless, has discretionary approval authority over one or more aspects of the project. Common examples of this would occur when a city is reviewing a development project that may require annexation to the city. A city will also be the Lead Agency when it prezones an area in anticipation of annexation.

When acting as Lead Agency the city or special district shall include in its initial study/negative declaration/EIR information necessary to allow its subsequent use by LAFCO for its considerations. Such documents shall reference on the title page and in the project description any boundary changes or other such actions requiring discretionary action by LAFCO.

The Lead Agency shall send the draft document to LAFCO as part of the public review process required by CEQA. The LAFCO executive officer will, within the allotted period, send comments to the Lead Agency in writing, all of which should be incorporated and assessed in the final document. These comments must be confined to project aspects or environmental effects germane to LAFCO's subsequent discretionary action.

In making its determination on boundary change proposals, LAFCO will use the environmental document prepared by the Lead Agency if it is deemed adequate and if the procedures outlined. Prior to project approval, the Commission will certify that it has reviewed and considered the information contained in the Lead Agency's document.

LAFCO shall not approve a proposed project with significant impacts if it can adopt feasible alternatives or mitigation measures within its powers that would substantially lessen the magnitude of such effects, unless it adopts a Statement of Overriding Consideration.

Upon approval of the project, LAFCO shall file a Notice of Determination with the County Clerk.

In cases where LAFCO is the responsible agency but must do additional environmental work, the applicant will be responsible for all costs associated with the preparation of these documents and for the Fish and Game fees. A \$500 deposit will be required at the time of application submittal. The applicant will then be billed as the work progresses. Should the final cost be less than \$500, the applicant will be refunded the unused portion of the deposit.

The applicant shall also be held responsible for the State Board of Equalization fees. Following the LAFCO hearing and any required conducting authority proceedings, the applicant will be notified regarding the appropriate SBE fees. LAFCO will not issue a Certificate of Completion or record the proposal until these fees have been received.

APPLICATION SUBMISSION

Completed application packets should be delivered or mailed to:

**Local Agency Formation Commission
110 Maple Street
Auburn, California 95603**

LAFCO STAFF REVIEW OF THE PROPOSAL

Applications will not be accepted unless complete as provided in this manual. Immediately upon receipt of the application package, LAFCO staff will review the documents and determine the appropriate fee level. The applicant will then be notified in writing as to any missing information and the required fee. Further processing of the application will cease until these items are submitted.

LAFCO staff will then give notice of the proposal to all affected agencies and various county departments. Upon receipt of these comments, additional information or map corrections may be required of the applicant.

Upon completion of the environmental review (if required) and the tax exchange negotiations (as per the Tax and Revenue Code, Sections 99 et seq.), and upon certification of the map and legal description, the application will be considered complete. A Certificate of Filing shall be issued and the proposal shall be set for hearing.

The Executive Office shall review and analyze the proposal and shall prepare a written staff report with recommendations for consideration by the Commission. This report shall be available not less than five days prior to the hearing.

COMMISSION HEARING

The hearings shall be scheduled not more than 90 days after the Certificate of Filing has been issued. The applicant, all affected agencies, landowners and registered voters within the proposal and within a 300-foot perimeter of the proposal, and those requesting notice will receive written notification of the date, time and place of the hearing.

At the hearing the Commission will consider the staff report and the recommendations. The Commission will then open the hearing for public comment. At this time the Commission will consider comments from the applicant or any other affected or interested agency or individual. It should be noted that this is not intended to be a protest hearing. The Commission's task is to determine if the proposal is appropriate based upon legislative mandates, local policies, and existing circumstances. The Commission must determine if the proposal is logical and supportable with respect to service provision, governmental efficiency, and the protection of agricultural open space lands.

Since the Commission's hearing is not designed to measure support or opposition to the proposal, public comment at the Commission hearing is most effective if it is germane to the those items that must be considered by the Commission. If the Commission approves the proposal, the proposal proceeds to the conducting authority. It is during the conducting authority proceedings that the level of opposition measured.

FACTORS OF CONSIDERATION

As provided in Section 56668 of the Government Code, the factors to be considered by the Commission in reviewing proposals shall include, but not be limited to, the following:

- a. Population, population density, land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- b. Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and in adjacent areas.
- c. The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the 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 priorities set forth in Section 56377.
- e. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.
- f. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of island or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- g. Consistency with city or county general and specific plans.
- h. The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- i. The comments of any affected local agency.
- j. The ability of newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for such services following the proposed boundary change.
- k. Timely availability of water supplies adequate for projected needs including, but not limited to, the projected needs as specified in Section 65352.5.
- l. The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.
- m. Any information or comments from the landowner or owners.
- n. Any information relation to existing land use designations.

In addition when the Commission is considering a sphere of influence, it must address four additional factors. These are listed in Section 54625 and include the following:

- a. The present and planned land uses in the area, including agricultural and open-space lands.
- b. The present and probable need for public facilities and services in the are.
- c. The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
- d. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

In addition to the factors identified within the statutes, Placer LAFCO has adopted its own policies and guidelines. These are listed in Part III of this Manual.

PRESENTING TESTIMONY TO THE COMMISSION

It is the Commission's task to determine if the proposal is logical and supportable with respect to service provision, governmental efficiency, and the protection of agricultural open space lands. It does this through its consideration all relevant factors and its own policies. The Commission's hearing is not designed to measure support or opposition to the proposal. This is done at the conducting authority hearing later in the process.

For this reason, public testimony at the Commission hearing is most effective if it is germane to the factors and policies that must be considered by the Commission. If the Commission approves the proposal, the proposal proceeds to the conducting authority. It is during the conducting authority proceedings that the level of opposition measured.

COMMISSION ACTION

At the close of the hearing, the Commission may take one of four actions. It may continue the proposal for up to 70 days, it may approve the proposal, it may deny the proposal, or it may conditionally approve the proposal. If the Commission denies the proposal the matter cannot be resubmitted to the Commission for at least one year. If the Commission approves the proposal with or without conditions, the proposal then proceeds to the conducting authority (usually the LAFCO that has jurisdiction) for a protest hearing.

The Commission may waive the conducting authority proceedings for an uninhabited proposal (fewer than twelve registered voters), if a proposal meets the conditions specified in Government Code, Section 56663(c); that is

- a. All owners of land within the affected territory have given their written consent to the change of organization or reorganization.
- b. All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.
- c. The commission has provided written notice of commission proceedings to all property owners and registered voters within the subject territory and no opposition is received prior to or during the commission meeting.

The Commission may waive the conducting authority proceedings for an inhabited proposal (twelve or more registered voters), if a proposal meets the conditions specified in Government Code, Section 56663(d); that is

- a. The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no opposition from registered voters or landowners within the affected territory is received prior to or during the commission meeting. The written notice shall disclose to the registered voters and landowners that unless opposition is expressed regarding the proposal or the commission's

intention to waive protest proceedings, that there will be no subsequent protest and election proceedings.

- b. All affected local agencies that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of protest proceedings.

When the conducting authority proceedings are waived, the Certificate of Completion will be issued upon receipt of the State Board of Equalization filing fee and any other outstanding fees and upon the satisfaction of any conditions of approval. Unless otherwise specified in the LAFCO conditions, the date of issuance of the Certificate of Completion is the effective date of the jurisdiction charge.

RECONSIDERATION

After the Commission adopts a resolution making determinations, any person or affected agency may file a written request to reconsider the action or certain aspects of the action. The request must state the specific modification being requested and must state "what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration." (Section 56895) It must also include the requisite fees (see fee schedule included in Part VI of the manual).

The request must be made within 30 days of the initial resolution. The filing of a reconsideration will halt further proceedings on the proposal until the reconsideration request is heard by the Commission. The Commission may disapprove, or approve wholly, partially, or conditionally, the request. If the Commission adopts any changes to the original resolution making determinations, it shall adopt a new resolution.

CONDUCTING AUTHORITY AND COMPLETION

Proposals not meeting the conditions set forth in Government Code, Section 56663(c) and (d) are subject to a noticed protest hearing. The hearing shall be held by the conducting authority (generally Placer LAFCO) within the timeframes set by statute and to the extent possible at a regular hearing of the Commission.

The notice and hearing requirements for the conducting authority are found generally within Sections 57000 et seq. of the Government Code. Although the conducting authority proceedings may vary depending upon the type of proposal and the manner in which it was initiated, the process can generally be described as follows:

1. The conducting authority is required to provide notice of the proposed protest hearing a minimum of fifteen days prior to the hearing. Between the time in which the notice is issued until the close of the public hearing, protest to the proposal may be received and measured. Only written protests from affected landowners or registered voters are measured.

Written protests must contain basic information, including name, date, address, parcel number and signature. Sample protest forms are available from the LAFCO office.

2. Based upon the level of protest, the conducting authority must take one of three actions. If protest is less than 25% of the landowners or 25% of the registered voters, LAFCO will order the proposal completed. If the protest is 25% or more of the landowners or 25% to 50% of the registered voters, LAFCO will forward the proposal to the appropriate entity for election. If the protest is greater than 50% of the registered voters, the proposal is terminated.
3. At the conclusion of the conducting authority proceedings, the conducting authority shall adopt a resolution ordering the change of organization or terminating the proposal.
4. If the change is ordered, the applicant will be required to satisfy any conditions of approval and submit the State Board of Equalization fees and any other outstanding fees prior to the issuance of the Certificate of Completion. Unless otherwise specified in the LAFCO resolution, the date of issuance of the Certificate of Completion is the effective date of the jurisdictional change.