

TUOLUMNE COUNTY  
LOCAL AGENCY FORMATION  
COMMISSION

**POLICY AND PROCEDURE  
MANUAL**

Adopted 11/16/01  
Amendments Noted In Text  
6/27/05  
3/23/09  
8/9/10  
3/14/11

## **PREFACE**

Since the establishment of Local Agency Formation Commissions in 1963, various acts of the State Legislature have defined, amended, and expanded the role of LAFCOs in the State of California. This manual is, therefore, a dynamic document which must change as State directions, State mandates, and local needs change.

This manual is divided into five sections: Section One presents, a background of statewide problems which led to the creation of LAFCOs in every county in the State (except the city and county of San Francisco) to place the current LAFCO role within an historical context. This section includes an outline of the current organization, structure, and processing procedures of the Tuolumne County LAFCO.

Section Two provides an overview of the statutes that govern and provide direction to LAFCOs. The statutes outlined herein are not exhaustive, but they reflect the scope of LAFCO responsibilities and the elements of LAFCO decision-making.

Section Three lists the locally adopted Rules of Order by which the Commission conducts its hearings. Rules, which are not directly required by State law, are subject to change by a majority vote of the Commission members.

Section Four lists the adopted policies of the Tuolumne County LAFCO. Recognizing that the needs of one county may be substantially different from another county, the State allows significant flexibility to each Commission, authorizing the LAFCO in many cases to apply the statutes "based on local conditions and circumstances". These local policies are therefore the catalyst for implementation of State laws designed to "discourage urban sprawl and encourage the logical and orderly formation and development of local agencies".

## **SECTION 1: BACKGROUND**

During the postwar 1940s and 1950s, California experienced a tremendous population increase. Along with this came land speculation and a development boom never before witnessed any place in the nation. Prime agricultural, ranch, and orchard lands were converted into sprawling residential tracts almost overnight.

As a result of this era of growth, the traditional purpose and structure of local government in California also underwent significant change. The demand for housing and municipal services mushroomed and the speculative nature of development caused developers to seek the most expeditious and economical means of providing basic services such as water, roads, fire protection, and sewers. During this period special district after special district was formed - many of them overlapping each other and providing like services to whoever asked for them without consideration of future development, land use, and long-range service financing.

Special districts became the local government of suburbia and municipalities suffered. With development moving away, cities experienced a deteriorating revenue base and a residual population of lower income residents. To counteract this, cities began annexing whatever territory they could. However, because of existing annexation statutes, cities were able to annex only the undeveloped land beyond or around developing suburbia. This type of annexation led to premature, unplanned development and irregular city boundaries.

By the late 1950s, California's agricultural industry dwindled and cities began seeking State assistance to correct their blighted conditions. In 1958, Governor Edmund G. Brown, Sr., appointed a blue-ribbon Commission to look into the cause and effect of these related happenings and to formulate solutions for restraining and correcting the situation.

As a result of these studies, the Legislature formed the California Boundary Commission. This Commission was organized at the State level and given review and comment authority over the boundaries of city annexations and incorporations.

The functioning of the Boundary Commission proved unsatisfactory from the beginning. It could offer no controlling solution to the creation of multiple special districts, and it did not have the authority to change the trend.

During 1961 and 1962, the Assembly Committee on Municipal and County Government held several lengthy hearings. All elements of local government participated. It was decided that the problems facing the areas had to be dealt with on a local county level; that whatever institution was formed had to have decisive regulatory power. Local answers to problems of urban sprawl and growth of local agencies required equal participation by the county and the cities to arrive at practical, workable solutions.

These principles became the cornerstone of the Knox-Nisbet Act, enacted in 1963, which created a local agency formation Commission in each county in the State and charged them with the responsibility to discourage urban sprawl and encourage orderly growth and development of cities, districts, and communities. It is the regulatory body which sits between the citizens and various governmental agencies that provide municipal services.

In 2000, the Cortese-Knox-Hertzberg Reorganization Act was enacted. This Act was a comprehensive revision of the Cortese-Knox Local Government Reorganization act of 1985. This 1985 act was a consolidation of the following three laws:

- The Knox-Nisbet Act of 1963, which established local agency formation Commissions (LAFCOs) with regulatory authority over local agency boundary changes.
- The District Reorganization Act of 1965 (DRA), which combined separate laws governing special district boundaries into a single law.
- The Municipal Organization Act of 1977 (MORAGA), which consolidated laws on city incorporation and annexation into one law.

Assembly Speaker Robert M. Hertzberg introduced AB 2838 in 2000 to comprehensively revise the Cortese-Knox Act. His bill incorporated many of the recommendations made by the Commission on Local Governance for the 21<sup>st</sup> Century in its report. "Growth Within Bounds." The extent of the revisions resulting from AB 2838 is reflected in the Act's title, Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This act provided LAFCO with more authority over special districts, by transferring the conducting authority proceedings to LAFCO and granting the authority to LAFCOs to initiate various changes in organization of special districts. (Amended 8/9/10)

### LAFCO STRUCTURE AND ORGANIZATION

The Tuolumne County Local Agency Formation Commission consists of the following members:

- Two members of the County Board of Supervisors and one alternate, appointed by the Board from its own members;
- Two City Council members and one alternate, appointed by the City of Sonora;

- One Public Member and one alternate, appointed by the other four Commission members after review of applications.
- There is no independent special district representation on Tuolumne County LAFCO as the districts have not chosen to be represented on LAFCO.

The Tuolumne County LAFCO is an independent body responsible for selecting its staff and establishing personnel rules and regulations. LAFCO staffing is provided by the County of Tuolumne Staff who serve as:

- An Executive Officer, who is required by State law to administer the day by-day activities of the Commission and the staff, prepare the annual budget, prepare and/or approve the staff reports which are circulated in advance for all items being considered by the Commission, and represent LAFCO in most matters in relationship with the public and other governmental bodies;
- An Assistant Executive Officer, who assists by processing applications, prepares draft reports for proposals submitted to the Commission for consideration, provides information to the public and attends LAFCO related meetings.
- A Legal Counsel, who interprets the law and gives legal advice to the Commission and staff on matters relating to LAFCO proceedings and decisions; and
- A Department Support Technician who prepares LAFCO agendas, and minutes, publishes legal notices, maintains records of proposals submitted, maintains the record of the official proceedings of the Commission, sends information and notices to people and agencies and performs other clerical and secretarial duties.

In addition, the County Assessor, Registrar of Voters, Surveyor, Planning staff, other County staff members, and when appropriate many independent special districts and the City of Sonora, contribute to make up the background information contained in LAFCO staff reports.

### BUDGET REQUIREMENTS AND PROCEDURES

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 establishes the funding relationships between the County, the cities, the independent special districts, and LAFCO. As there is no independent special district representation on Tuolumne County LAFCO, the funding for LAFCO is shared by the City of Sonora and the County of Tuolumne, pursuant to the

provisions for LAFCO funding in Government Code Section 56381, summarized as follows:

- Annually in the month of April, the Commission will adopt a “preliminary” budget and will forward that document to the County, City and to each independent special district. (Amended 8/9/10)
- The County, City and each independent special district will have an opportunity to review and comment on the preliminary budget, and they may present their recommendations to the Commission at its public hearing scheduled in May or June. At the conclusion of this public hearing process, the Commission adopts a budget. Pursuant to Section 56381, “the proposed and final budget shall be equal to the budget adopted for the previous fiscal year, unless the Commission finds that reduced staffing or program costs will nevertheless allow the Commission to fulfill the purposes and programs of this chapter.” (Amended 8/9/10)
- By law, the Commission is required to adopt its final budget annually by June 15<sup>th</sup>, and then the budget is forwarded to the County, City, each independent special district and County Auditor/Controller. The County Auditor/ Controller divides the cost between the City and County. The County and City negotiated what share of the budget the City and County are responsible to fund. Pursuant to a Memorandum of Understanding (MOU) between the City and the County, the Local Transportation Fund (LTF) per capita percentage is used to determine the City’s and the County’s respective share of the LAFCO budget. Tuolumne County pays for LAFCO expenses and then the County Auditor/Controller bills the City on a quarterly basis for its share of the costs. (Amended 8/9/10)

GENERAL PROCEDURES FOR CHANGES IN BOUNDARIES  
OR ORGANIZATION TO BE PROCESSED BY THE  
LOCAL AGENCY FORMATION COMMISSION

The procedures for proposals considered by the Local Agency Formation Commission (LAFCO) are guided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.), and any proposal submitted must conform to the requirements outlined in the Act. The procedures outlined below represent broad guidelines as to the steps required:

1. INITIATION:

Generally, proposals for changes in boundaries, formations, or changes of organization can be submitted for the consideration of LAFCO by petition of the registered voters or affected landowners; however, prior to the circulation of any petition, a "Notice of Intent to Circulate" must be presented to the LAFCO Executive Officer. A proposal may also be initiated by a resolution adopted by the governing body of any related public body (county, city, or special district). The proposal must be submitted on forms available from the LAFCO staff office, or on the LAFCO website along with the applicable number of maps, and filing fees to cover the proposal submitted. (Amended 8/9/10)

2. LAFCO REVIEW PROCESS:

Upon receipt of a completed application, the LAFCO staff processes the application as follows:

a. Notice of Filing:

Prepares a "Notice of Filing" and mails this to all affected and interested public bodies, including school districts, and sends a copy to the County Assessor and County Auditor/Controller.

This notice alerts the affected agencies of the item proposed, and requests from the Assessor and Auditor/Controller the ad valorem tax information pertinent to the proposal.

When the LAFCO office receives the tax information related to the proposal, staff mails this information to the County Administrative Office and each affected special district, and/or the City of Sonora if it is affected, to negotiate any tax transfer. (Amended 8/9/10)

NOTE: The proposal cannot be considered by the Commission until LAFCO receives from the County Board of Supervisors for itself and affected districts and the City of Sonora if affected, a resolution approving any change in ad valorem tax distribution which is caused by the proposed change.

b. Environmental Review Under The California Environmental Quality Act (CEQA).

The LAFCO review process cannot continue until: (1) a determination is made that the proposal qualifies for an exemption as defined within the California Environmental Quality Act (CEQA) and the Commission's environmental guidelines attached at the end of this section; or (2) a Negative Declaration is provided by the applicant which indicates that, if approved, the project will have no adverse effects; or (3) there is a completed Environmental Impact Report submitted by the applicant for the project. (Amended 8/9/10)

Environmental documents are reviewed and considered by the Commission in conjunction with the Commission's acting on the proposal. The Commission determines if the environmental documents are adequate prior to making a decision on the proposal.

c. Departmental Review Process:

Basic information related to each proposal is mailed to every agency affected by the item and to the County Assessor, Auditor/Controller, County Clerk, Planning, Surveyor, and Public Works Departments.

Each department or agency is requested to comment on the proposal and submit information relating to it. Then all information and concerns are reviewed.

3. The Assistant Executive Officer prepares the Commission meeting legal notice for posting, mailing, publishing in the newspaper and posting on the website at least 21 days prior to the meeting. The Assistant Executive Officer also prepares a draft report making a recommendation to the Commission relating to the proposal. (Amended 8/9/10)
4. The LAFCO Executive Officer reviews, edits, and distributes the report making a recommendation to the Commission.
5. The item is considered by the Commission, and it either approves or denies the proposal.
  - a. If the Commission denies the proposal, then it is legally terminated.
  - b. If the Commission approves the proposal, LAFCO staff will provide a published Notice of Protest Proceeding announcing the date for consideration of protest and the procedure and requirements for a valid written protest to the proposal. The hearing date shall be set for a date following the 30 day request for reconsideration period.



6. After the protest hearing, if protests have been filed, the LAFCO Executive Officer will make a determination of the level of protest submitted. A recommendation for action to approve, deny, or submit the proposal to an election based on the amount of written protest received shall be submitted to the Commission at its next available hearing date.
7. If the proposal is ultimately approved, the Department Support Technician prepares a "Certificate of Completion" for the Executive Officer to sign and date. The date of this Certificate is the effective date of the proposal. Once the "Certificate of Completion" is signed, the Department Support Technician files this Certificate with appropriate bodies.

TUOLUMNE COUNTY LOCAL AGENCY FORMATION COMMISSION

ADOPTING COUNTY GUIDELINES FOR IMPLEMENTATION  
OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE  
GUIDELINES TO IMPLEMENT SAID ACT

RESOLUTION NO. 98

WHEREAS, on May 10, 1980, the State Secretary for Resources adopted Amendments to the State Guidelines for Implementation of the CEQA Guidelines, and

WHEREAS, said Amendments require local agencies to amend their Guidelines accordingly, and

WHEREAS, the Board of Supervisors of the County of Tuolumne adopted Amended County Guidelines for Implementation of CEQA on September 16, 1980, and

WHEREAS, the State Guidelines provide that a local agency may adopt by Resolution another agency's Guidelines when the boundaries of said local agency's jurisdiction fall within, or are coterminous with said other agency.

NOW, THEREFORE BE IT RESOLVED, that the Local Agency Formation Commission of the County of Tuolumne does hereby adopt said County Guidelines for Implementation of CEQA, attached hereto as Exhibit "A", and

BE IT FURTHER RESOLVED that the Commission finds said Guidelines to be in compliance with CEQA and State Guidelines to Implement CEQA, and

BE IT FURTHER RESOLVED that the following terms found within Exhibit "A" are redefined as follows:

1. "County" shall mean LAFCO
2. "Environmental Coordinator" shall mean the LAFCO Executive Officer or his appointed representative.

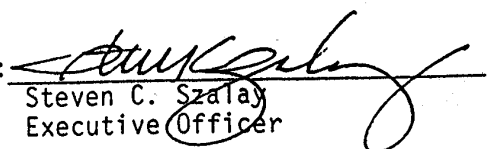
PASSED AND ADOPTED on the 31 day of August, 1981, by the following vote:

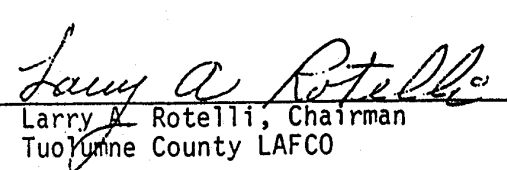
AYES: Commissioners May, Gerber, Bryant, Marr & Rotelli

NOES: None

ABSENT: None

ATTEST:

  
Steven C. Szalay  
Executive Officer

  
Larry A. Rotelli, Chairman  
Tuolumne County LAFCO

## **INTRODUCTION**

### **Exhibit “A”**

In accordance with Title 14, Article 5, Sections 15050 (c) and 15050 (e) of the California Administrative Code, Tuolumne County has adopted the State CEQA Guidelines as amended May 10, 1980, in addition to the following specific provisions:

**Section 1.** Tuolumne County will be responsible for implementing CEQA and the State Guidelines for projects which the County has jurisdiction by law and/or for which the County is Lead Agency.

#### **Section 2. ENVIRONMENTAL COORDINATOR**

- a. The Planning Director (Director of the Community Development Department) shall serve as Environmental Coordinator and may assign specific functions to staff. (Amended 8/9/10)
- b. The Environmental Coordinator is responsible for administering CEQA, the State Guidelines, and these Guidelines for projects the County of Tuolumne is either Lead Agency for or for which the County otherwise has jurisdiction by law.
- c. The Environmental Coordinator shall maintain a list of persons, firms, and organizations qualified to prepare all or portions of environmental documents.
- d. The Environmental Coordinator is responsible for the following tasks on projects for which the County is Lead Agency.
  1. Consultation with reasonable agencies.
  2. Determination of whether a project is exempt from CEQA.
  3. Initial determination of the need for a Negative Declaration or Draft Environmental Impact Report.
  4. Preparation of environmental documents, either directly or by contract.
  5. Conducting of meetings and public hearings regarding environmental documents.
  6. Preparation of responses to public comments.

7. Filing of Notices
  8. Certification that the decision-making body had reviewed and considered an Environmental Impact report or Negative Declaration.
- e. The Environmental Coordinator shall perform the following tasks on projects for which the County is a Responsible Agency or for which the County otherwise has jurisdiction by law:
1. Consultation with Lead Agencies.
  2. Reviewing and commenting on Draft Environmental Impact Reports and Negative Declarations.
  3. Making recommendations in the decision making body on alternatives or mitigation measures delineated in the environmental document.
  4. Filing of notices.
  5. Certification that the decision making body has reviewed and considered an Environmental Impact Report of Negative Declaration.

### **Section 3. ENVIRONMENTAL IMPACT REPORTS (EIR)**

- a. Determination. If a reviewing body determines that the project may have a significant effect on the environment, the Environmental Coordinator shall cause an EIR to be prepared.
1. Upon reaching such a determination, the Environmental Coordinator shall notify the applicant in writing of the reasons for such determination.
  2. The applicant or property owner involved with the project may appeal such determination to the Board of Supervisors unless said Board made the determination. The appeal must be submitted in writing, with the reasons for the appeal specified, to the County Clerk within 10 days of the determination of significant effect by the reviewing body. If the appeal is successful, the Environmental Coordinator shall prepare, and the Reviewing Body shall approve a Negative Declaration, with the specific reasons why the appeal was granted by the Board of Supervisors listed in detail.

#### **Section 4. EIR PREPARATION**

- a. Following the determination that an EIR is required, the Environmental Coordinator shall determine whether said Coordinator's staff will conduct the analyses and inventory work necessary to prepare the EIR or whether the EIR will be contracted to an Environmental Consultant.
- b. The Environmental Coordinator will prepare the EIR, if the following findings are made:
  - 1. The proposed project would be of primary benefit to the general public.
  - 2. The Environmental Coordinator has on staff the necessary expertise to adequately prepare the EIR.
  - 3. The preparation of the EIR will not conflict with the progress of other projects which are of primary benefit to the general public.
- c. If any of the above findings cannot be made, or if the project prefers, the applicant shall select an individual or firm to prepare the EIR, who is on the County's approved list of Environmental Consultants and whose particular expertise is relevant to the information required for the EIR, provided, that said individual or firm is not otherwise engaged in the design, construction, sale, or use of the proposed project.
- d. The applicant's Consultant shall contract directly with the County to prepare the EIR.
- e. The applicant shall pay the total cost of the EIR preparation, including consultant fees, reproduction and distribution of Draft, and Final EIR's, and County processing fees, by depositing a Certified Check equal to such costs with the Environmental Coordinator, made payable to the County of Tuolumne, prior to the County's entering into any contract with the Consultant for EIR preparation.

#### **Section 5. APPEAL**

- a. Within 10 days of the filing of the Notice of Determination any person who is not satisfied that the EIR complies with the requirements of CEQA may appeal to the Board of Supervisors unless said Board was the Decision making Body on the project. The appeal shall be submitted in writing to the County Clerk and will state the reason(s) why the EIR is not felt to be in compliance with CEQA.

## **SECTION 2: CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT**

The statutes governing the activities of the Local Agency Formation Commission are found under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The declared State policy for LAFCO is found in Section 56301 of the Government Code:

"Among the purposes of a Local Agency Formation Commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances."

"One of the objectives of the Local Agency Formation Commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for present and future needs of each county and its communities."

The Cortese-Knox-Hertzberg Act gives LAFCO the authority to "approve or disapprove, with or without amendment, wholly, partially, or conditionally" a wide variety of proposals for jurisdictional change. These include, but are not limited to, proposals for:

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- the consolidation of two or more cities or two or more special districts formed under the same principal act.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- Review and approval or denial of city or special district contracts for service outside their boundaries.

In addition to these review powers, the Commission has the authority to initiate and make studies of existing governmental agencies, which may include inventorying such agencies.

The Act provides the following powers and duties, among others, to LAFCO:

1. To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for the incorporation of cities, for changes of organization of cities, and municipal reorganizations, consistent with written policies, procedures, and guidelines adopted by the Commission.
2. To determine whether territory proposed for annexation or detachment, or municipal reorganization is inhabited or uninhabited. "Inhabited" means an area that contains twelve (12) or more registered voters.
3. To approve the annexation of unincorporated, noncontiguous territory not exceeding 300 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purpose and to authorize the annexation of such territory without notice or hearing. In addition, the Commission has the authority to approve the annexation of noncontiguous territory that is used as a State correctional facility, with no acreage limitation.
4. To determine the successor district or city.
5. To establish spheres of influence for all cities and special districts within the County, and to review those spheres of influence at least once every five years, or as necessary, as determined by the Commission. (Amended 8/9/10)
6. To conduct "service reviews" on a regional or subregional basis, evaluating infrastructure needs or deficiencies, growth and population projections, financing constraints and opportunities, and other issues. These reviews can occur in conjunction with sphere of influence studies, and must be conducted at least once every five years or as necessary, as determined by the Commission. (Amended 8/9/10)

#### FACTORS LAFCO MUST CONSIDER:

State law provides a wide variety of factors that the Commission must consider in the review of a proposal. These are specified in Government Code Section 56668, and include, but are not limited to the following:

- Land area and land use.
- Topography, natural boundaries, and drainage basins.

- Population, population density, proximity to other populated areas, and per capita assessed valuation.
- ☐The likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next ten years.
- ☐ 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.
- ☐The need for organized community services.
- ☐The present cost and adequacy of governmental services and controls in the area, and probable future needs for such services and controls.
- ☐The probable effects of the proposal and of alternatives on the cost and adequacy of services and controls in the area and adjacent areas. As used, "services" refers to governmental services, including necessary public facilities, whether or not the services would be provided by local agencies under LAFCO's jurisdiction, such as, educational services.
- ☐Conformity with appropriate city or county general and specific plans.
- The "sphere of influence" of any local agency which may be applicable to the proposal being reviewed.
- ☐The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.
- ☐The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory and other similar matters affecting the proposed boundary.
- ☐The conformity of the proposal and its anticipated effects with adopted Commission policies on providing planned, orderly, efficient patterns of urban development.
- The ability of the newly formed or annexing agency to provide the services which are identified in the application and consideration of whether the revenues for those services will be sufficient.
- The timely availability of water supplies adequate for projected needs.
- 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.

- Any information or comments from the landowner or owners, and residents of the study area.

#### CONDITIONS WHICH MAY BE IMPOSED:

In the approval of boundary change proposals, LAFCOs have strong powers to attach conditions. Government Code Section 56885.5 through Section 56890 provides a broad range of conditions that the Commission may impose in approving an application. Those conditions range from the authority to impose special assessments to the transfer of employees among districts in a consolidation. The reader is referred to the specific Code Sections for the complete conditions authorized by statute.

The following are a few examples of LAFCO's authority to impose conditions:

- Require as a condition of approval, that the territory being annexed shall be responsible for payment of existing fees, charges, or assessments currently in place by the annexing agency.
- Require as a condition of its approval that another change of organization for a related or overlapping agency be initiated, conducted, and completed. For example, if a proposal is for annexation of territory to a city, LAFCO can require that the territory also be annexed to or detached from special districts.
- Require establishment of special assessment or improvement districts to finance capital facilities or improvements needed in affected territory.
- Impose conditions related to the distribution of assets, financial contracts or obligations among affected agencies.
- Impose conditions related to a local agency's employee salaries, benefits, and other personnel rights.
- Impose a condition designating the method for selection of the Board of Directors and the number of Directors for a consolidated district.
- ☐ Impose a condition that establishes the effective date for a change of organization.
- ☐ Impose a condition that designates the agency to succeed to the rights,

duties and obligations of an agency that is dissolved.

### POWERS AND DUTIES OF THE COMMISSION IN CONDUCTING PROTEST PROCEEDINGS

Government Code Section 57000 requires the Commission or the Executive Officer, through delegation of responsibility to conduct “protest proceedings” to determine (1) whether the proposal can be ultimately approved without an election, (2) whether an election should be held, (3) whether the proposal must be terminated due to majority protest. This is purely a ministerial process, where the Commission simply counts the submitted written protest to an action, determines the percentage that the landowner or voter protest bears to the total number of landowners and/or voters, and takes action based on that level of protest.

The purpose of the protest proceedings is to provide a forum wherein the popularity of the issue is tested. Depending on the results of that test, the proposal is either approved or denied, as shown in the following outline:

#### 1. INITIATION OF PROCEEDINGS:

Within thirty-five (35) days of the adoption of a resolution of approval by LAFCO, the formal protest proceedings must be initiated by providing legal notices of the protest hearing. The final protest hearing must be set for a date not less than fifteen (15) or more than sixty (60) days after the notice is given. The Commission may waive protest proceedings if the proposal contains 100% landowner consent, is uninhabited, and the affected agencies who would gain or lose territory as a result of the proposed jurisdictional change have provided written consent to the waiver of these proceedings, as authorized by Government Code Section 56663. That section also authorizes the Commission to waive protest proceedings for inhabited areas if none of the registered voters and none of the landowners have indicated opposition to the proposed annexation.

#### 2. NOTICE:

The LAFCO Executive Officer must publish the notice of hearing to be held on the proposal in a newspaper of general circulation. It must send individual notices to everyone who has formally requested such notice, and to other local agencies as outlined by statute.

#### 3. FINAL HEARING:

The following is an example of the voter threshold to approve or require an election: (Amended 8/9/10)

The LAFCO Executive Officer shall conduct the final hearing and make findings related to the level of written protest received. A recommendation shall be made to the Commission to take one of the following actions:

- a. Approval. If less than 25% of the voters in an "inhabited" proposal (legally defined as an area containing 12 or more voters), or if less than 50% of the landowners in an "uninhabited" proposal submitted written protest to the action, then the proposal must be approved, without an election.
- b. Call for Election. If written protests are filed by at least 25% and less than 50% of the voters, or 25% - 100% of the landowners in an inhabited area, then an election must be called and held, so the voters may decide the issue.
- c. Denial. If written protests are filed by 50% or more of the voters in an inhabited area, or if landowners representing 50% or more of the assessed value of an uninhabited annexation area have filed written protest, then the proposal must be denied.

NOTE: If the proposal is for city detachment or district annexation, the proposal shall be terminated if the detaching city or annexing district files an objection to that action, regardless of the level of consent or protest from affected landowners and voters.

#### 4. COMPLETION:

If the proposal is approved, LAFCO issues a Certificate of Completion and notifies the State and other agencies of the successful jurisdictional change. If LAFCO has waived the protest proceedings, the resolution adopted by LAFCO is considered the final resolution and becomes part of the completion package.

#### VALUE OF WRITTEN PROTEST

Briefly outlined below are examples of the levels of protest which require the Commission or the Executive Officer, through delegation of responsibility, to call an election or terminate proceedings. (Amended 8/9/10)

At the conclusion of the protest period, the written protest received will be counted, and one of the following actions will be taken:

1. For **uninhabited** annexations (defined in Government Code Section 56046 as those annexations which contain less than 12 registered voters):
  - (a) Terminate the annexation if protest is received from landowners who

represent 50% or more of the assessed value of land (improvement values are not counted) within the annexation area; or

- (b) Approve the annexation if written protest is submitted by landowners who own less than 50% of the assessed value of the annexation area. NOTE: In uninhabited annexations, the issue is decided solely on the basis of landowner protest.

2. For **inhabited** annexations (those annexations which contain 12 or more registered voters):

- (a) Terminate the annexation if protest is received from 50% or more of the registered voters in the annexation area;
- (b) Call an election on the annexation issue if protest is received from at least 25% but less than 50% of the total number of voters in the annexation area, or if 25% to 100% of the number of landowners--representing at least 25% of the total land value--submit written protest; or,
- (c) Approve the annexation without an election if written protest is received from less than 25% of the voters and less than 25% of the landowners (who represent less than 25% of the land value).

NOTE: Although both landowners and registered voters may submit a protest against annexation, the ultimate outcome of an inhabited annexation is decided on the basis of registered voter protest or votes in a special annexation election. Thus, the most that can be accomplished through landowner protest in an inhabited annexation is the scheduling of an election wherein the voters, whether they own land or not, will decide the issue.

Further information concerning the annexation protest procedures can be obtained through review of the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.). Specifically, Sections 57025, 57051, and 57075 will be the most relevant to review.

### **SECTION 3: COMMISSION RULES OF ORDER**

The Rules of Order were adopted on March 30, 1981 for the conduct of business by the Local Agency Formation Commission of Tuolumne County and the holding of regular meetings by such Commission. Said Rules of Order are hereby repealed and superseded by the following:

#### **RULE 1 - REGULAR MEETING DATE**

Regular meetings of the Local Agency Formation Commission shall be held on the second Monday of each month when there are matters to consider. Whenever a

legal holiday falls on a regular meeting date, an alternate meeting date will be selected. All regular meetings of the Local Agency Formation Commission shall be called to order at four o'clock p.m., unless advertised differently. (Amended 8/9/10, 4/11/05)

## RULE 2 - CALLING OF EMERGENCY OR SPECIAL MEETINGS

An emergency or special meeting may be called at any time by the Chairman of the Commission, or by a majority of the members of the Commission. Notice of such meeting must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such special meeting.

## RULE 3 - PUBLIC MEETINGS

All meetings of the Local Agency Formation Commission shall be open to the public, and all persons shall be permitted to attend any meeting of the Commission, except as otherwise provided herein.

## RULE 4 – AGENDAS

An agenda shall be prepared by the Commission staff for each meeting of the Commission and shall be distributed in accordance with the Government Code.

## RULE 5 - ORDER OF BUSINESS

The regular order of business of the Local Agency Formation Commission shall be:

- a. Call to Order by the Chairman
- b. Salute to the Flag
- c. Approve Minutes of Previous Meeting
- d. Approve Resolutions of Previous Actions, As Necessary
- e. Presentation of Consent Items
- f. Public Hearing on Continued Items
- g. Public Hearing on New Items
- h. Reports,  
Staff,  
Commission (Amended 3/23/09)
- i. Adjournment

## RULE 6 - ELECTION OF CHAIR AND VICE CHAIR (Amended 8/9/10)

The Chair shall be elected each year, during the meeting in the month of May, or the next meeting held if there is no meeting in May. The Chair shall be elected by a majority of the Commission. The Vice Chair is also elected at this meeting. (Amended 8/9/10)

#### RULE 7 - CHAIR'S ROLE (Amended 8/9/10)

The Chair, or in the Chair's absence, the Vice Chair shall be the presiding officer of the Commission at all meetings and shall: (Amended 8/9/10)

- a. Preserve order and decorum.
- b. Determine the order of business to be transacted at a meeting including establishing a time limit for speakers when deemed appropriate.
- c. State the questions coming before the Commission.
- d. Call the vote on all questions.
- e. Announce the Commission's decisions.
- f. Decide all questions of order, subject however, to appeals to the Commission as a whole, in which event a majority vote shall govern.
- g. Sign all resolutions, directives and contracts approved by the Commission, which signature shall be attested by the Executive Officer or the Assistant Executive Officer.

#### RULE 8 - CHAIR'S VOTING PRIVILEGES (Amended 8/9/10)

The Chair of the Commission shall, in voting procedures, have all the rights and obligations of other members. (Amended 8/9/10)

#### RULE 9 - PARTICIPATION OF ALTERNATE MEMBERS IN OPEN AND CLOSED SESSIONS AND DISCUSSIONS OF PROPOSALS

Only regular members of the Commission may participate in the discussion and vote on a proposal before the Commission. Alternates may vote only when sitting in the place of a regular member who is absent or is disqualified for a particular action. (Amended 8/9/10)

#### RULE 10 - REFERRAL TO COMMITTEES

Any matter coming before the Commission may, if deemed necessary, be referred to staff or a committee of the Commission for additional information. The Commission shall appoint standing and special committees, as it may deem necessary.

#### RULE 11 - CONTINUATION OF PROPOSALS

Actions pending before the Commission may not be continued beyond seventy (70) days from the date specified in the original Notice of Hearing except under special circumstances as determined by the Commission.

## RULE 12 - CONTINUANCE OF COMMISSION MEETINGS

The Commission may continue a meeting to a time and place specified if an insufficient number of Commissioners are present to constitute a quorum. A majority of the members of the Commission (three) constitutes a quorum.

If all members are absent from any regular or continued regular meeting, the Executive Officer or Assistant Executive Officer may declare the meeting continued to a stated time and place, without additional written notice of the continuance.

## RULE 13 - CLOSED SESSIONS OF COMMISSION

The Commission may hold Closed Sessions during a regular or special meeting to consider pending or potential litigation. (Amended 8/9/10)

## RULE 14 - QUORUM AND VOTING (Amended 8/9/10)

A majority of all members of the Commission (three) shall constitute a quorum for the conduct of business, No action of the Commission shall be valid unless it receives the affirmative vote of not less than three members of the Commission. (Amended 8/9/10)

## RULE 15 - DISQUALIFICATION OF MEMBERS ON VOTING

The representation by a member or alternate of the City of Sonora shall not disqualify, or be cause for disqualification of, the member or alternate from acting on a proposal affecting the City, as provided by Government Code Section 56336.

## RULE 16 - ABSTENTION OF VOTING

The determination by a Commissioner to abstain from voting on any action before the Commission does not indicate, and shall not be counted as, either an "aye" or "no" vote on that count.

## RULE 17 – ROLL CALL

The roll need not be called upon the vote on any motion, unless requested by a Commissioner. Any Commissioner not voting in an audible voice shall be recorded as voting "aye". Any roll call of the Commission shall be in alphabetical order by last name, except that the Chairman shall be called last.

## RULE 18 - TIE VOTES OF COMMISSION

Three votes are necessary to approve a proposal or a motion. A proposal which receives a tie vote may be discussed further and then a second vote taken. If the tie is not broken, the proposal or motion shall automatically be continued to the next Commission hearing. A subsequent tie vote at the next hearing of the proposal

indicates automatic denial without prejudice.

#### RULE 19 – DISQUALIFICATION OF MEMBERS FROM VOTING

No member of the Commission is disqualified from voting on any item being considered by the Commission, except in those instances in which the member has a financial conflict of interest. In any situation in which the member disqualifies himself or herself for whatever reason or is absent, the Alternate member will vote.

#### RULE 20 – PUBLIC COMMENT PORTION OF THE COMMISSION'S AGENDA

The Commission encourages the public to attend its hearings and address the Commission during the “public comment” item on the agenda. Comments must be limited to issues which are under the jurisdiction of the Commission. Oral and written comments may be presented; however, the length of oral comments may be limited by the Chair.

#### RULE 21 – RETENTION OF MATERIALS UTILIZED DURING COMMISSION HEARINGS

Any person utilizing or presenting any audio, visual, or written materials at the LAFCO public hearing must be prepared to provide a copy of every item to the staff of the Commission at the time the presentation is made.

#### RULE 22 - SUSPENSION OR CHANGE TO RULES OF ORDER

Subject first to posting notice and following the Commission's discussion at a regular meeting, any of the within rules not required by law may be suspended or changed by a majority of the members of the Commission. (Amended 8/9/10)

#### RULE 23 - QUESTIONS OF LAW

Questions of law may be referred to Commission Counsel for opinion.

#### RULE 24 – FORMS AND APPLICATIONS

The Executive Officer is delegated to create and add forms and applications to the Policy and Procedure Manual.

### **SECTION 4: GENERAL POWERS AND POLICY GUIDELINES**

The Local Agency Formation Commission is a State-mandated entity, established for each county in the State and is independent of local county, city or district governmental jurisdiction. Recognizing that the needs of one county may be



substantially different from another county, the State allows significant flexibility to each Commission, authorizing the LAFCO in many cases to apply the statutes “based on local conditions and circumstances”. These local policies are therefore the catalyst for implementation of State laws designed to “discourage urban sprawl and encourage the logical and orderly development of local agencies.

#### POLICY # 1 - PURPOSE

The purposes of the Local Agency Formation Commission are provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and include the following:

- Discourage urban sprawl;
- ☐ Encourage orderly formation and development of local governmental agencies, based on local conditions and circumstances;
- ☐ Initiate and make studies of governmental agencies;
- Develop spheres of influence for each local governmental agency.

#### POLICY # 2 - ENCOURAGE ORDERLY URBAN DEVELOPMENT AND PRESERVATION OF OPEN SPACE

1. The Commission encourages will planned, orderly, and efficient 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 provided for well-planned, orderly and efficient urban development patterns, with consideration of preserving permanent open space lands within those urban patterns.
2. Development of existing vacant non open space, and nonprime agricultural land within an agency's boundaries is encouraged prior to further annexation and development. However, where open land adjacent to the agencies are of low agricultural, scenic, or biological value, annexation of those lands may be considered over development of prime agricultural land already existing within an agency's jurisdiction.
3. Proposals to annex undeveloped or agricultural parcels to cities or districts providing urban services shall demonstrate 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 efficient urban development pattern will result. Proposals resulting in a leapfrog, non-contiguous urban pattern will be discouraged.

Consideration shall be given to permitting sufficient vacant land within each city and/or agency in order to encourage economic development, reduce the cost of housing, and allow timing options for physical and orderly development.

### POLICY # 3 - ENCOURAGE CONSERVATION OF PRIME AGRICULTURAL LANDS AND OPEN SPACE AREAS

1. 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.
2. Annexation and development of existing vacant non-open space lands, and nonprime agricultural land within an agency's sphere of influence is encouraged to occur prior to development outside of an existing sphere of influence.
3. A sphere of influence revision or update for an agency providing urban services where the revision includes prior agricultural land shall be discouraged. Development shall be guided towards areas containing nonprime agricultural lands, unless such action will promote disorderly, inefficient development of the community or area.

Loss of agricultural lands should not be a primary issue for annexation where city and county general plans both indicate that urban development is appropriate and where there is consistency with the agency's sphere of influence. However, the loss of any primer agricultural soils should be balanced against other LAFCO policies and a LAFCO goal of conserving such lands.

### POLICY #4 - PRIORITIES FOR ANNEXATION AND FORMATION

The Commission will consider the following priorities or guidelines for annexation and formation with the provision that overriding circumstances must be stated in exceptions:

- a. Annexation to the City of Sonora or district instead of formation of a new agency.
- b. Annexation to a multi-purpose district in preference to annexation to a single purpose district.
- c. Formation of a new political entity as the last and least desirable alternative.
- d. Boundaries should follow existing political boundaries, and natural or man-made features such as rivers, lakes, railroad tracks and highways. Where boundaries do not meet this standard, the proponent shall justify the reason for non-conformance.

- e. Boundaries should not be drawn so as to create an island, corridor, or strip either within the proposed territory or immediately adjacent to it. Where boundaries do not meet this standard, the proponent shall justify the reason for non-conformance.
- f. Whenever practicable, boundary lines of areas to be annexed to the City of Sonora and/or special districts shall be so located that all streets and rights-of-ways will be placed within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and right-of-ways are intended.
- g. The creation of boundaries that divide assessment parcels should be avoided, whenever possible. Where boundaries do not meet this standard, the proponent shall justify the reason for non-conformance.

Boundaries should avoid dividing an existing identifiable community, commercial district, or any other area having social or economic homogeneity. Where boundaries do not meet this standard, the proponent shall justify the reason for non-conformance

#### POLICY #5 – CONCURRENT DISTRICT ANNEXATION

For any annexation within a community served by a variety of community-based local agencies, the Commission shall require concurrent annexation to all of the local agencies serving the community (concurrent district annexations) with the provision that overriding circumstances must be stated in any exception.

#### POLICY # 6– PRE-ZONING FOR CITY OF SONORA ANNEXATIONS

- a. No City of Sonora annexation application will be deemed complete unless the pre-zoning process has been completed.
- b. Such pre-zoning shall also require that the City of Sonora become the lead agency for environmental review for the proposed change and shall prepare and submit to LAFCO the environmental analysis document in sufficient time for LAFCO's staff to comment before a determination of environmental effects is made.

#### POLICY # 7 - INCORPORATION POLICIES

The following are the policy statements to assist in the guidance of unincorporated communities in their review of governmental options.

- a. Incorporation proposals involving land within the existing City of Sonora sphere of influence will not be accepted for filing. If a city incorporation proposal would conflict with an established City of Sonora sphere of

influence, the incorporation proponents must first initiate, and the Commission must approve, a sphere of influence amendment to exclude the study area from that sphere prior to circulation of formal incorporation petitions.

- b. The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels, with sufficient resources to provide a municipal-level law enforcement service consistent with the recommendations of the County Sheriff.
- c. In determining feasibility, the Commission will consider only those revenues that are currently available to all general law cities. It will not consider revenues derived through special taxes or assessments, nor will it consider hypothetical revenues available through possible actions of a future city council, such as utility users taxes in the determination of financial feasibility.
- d. In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities or those cities which have the most comparable population within Tuolumne, Stanislaus and Calaveras Counties.
- e. In determining compliance with Government Code Section 56720, the Commission finds that a "reasonable reserve" is a contingency fund equal to 10% of the projected general and special funds of the new city.
- f. The Commission requires that a new city shall assume jurisdiction over all community-based special districts serving the incorporation area. A clear and compelling rationale must be provided if the continued overlay of a community-based district is proposed.
- g. In order to qualify for incorporation such as the sales tax revenues attributable to the study area must at least cover the expected administrative and legislative costs of the new city.

#### POLICY # 8 - REQUESTS FOR RECONSIDERATION

Requests for reconsideration will be granted only when the petitioner can present some compelling new evidence, or show that significant factors relative to the situation were overlooked or have changed. The request shall be submitted in writing to the Executive Officer within thirty (30) days of the Commission's decision.

No request shall be deemed filed unless appropriate filing fees if in effect, are submitted. In the event multiple requests for reconsideration are filed, the Executive Officer will divide a single reconsideration fee among the various petitioners for reconsideration.

The procedure for reconsideration requests is as follows:

Upon receipt of a legally filed request for reconsideration, the Executive Officer shall place the request on the agenda of the next Commission meeting for which notice can be provided. At the hearing, the Executive Officer will present the staff report and recommendations to the Commission and respond to questions. The Commission will then allow submission of any oral or written testimony on the issue; however, at the Chair's discretion, time limits may be placed on those wishing to provide an oral presentation. At the close of the hearing, the Commission may take one of the following actions:

1. The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;
2. The Commission may deny the request; or
3. The Commission may continue the hearing for a maximum of seventy (70) days.

#### POLICY # 9 - PROTEST HEARINGS

The Commission has authorized the Executive Officer to conduct Protest Hearing, if needed, is as follows:

Upon completion of the request for reconsideration process, the Executive Officer will set the hearing date, provide notice and solicit protests. At the hearing, the Executive Officer will summarize the resolution making determinations to persons in attendance and respond to questions. The Executive Officer will then allow submission of any oral or written protests on the issue; however, at the Executive Officer's discretion, time limits may be placed on those wishing to provide an oral presentation. After the hearing is closed, the Executive Officer shall determine the value of the protests. The Executive Officer shall submit a recommendation for action to approve, deny or submit the proposal for election to the Commission at its next available hearing to adopt the final resolution that completes the action based upon the level of protest.

#### POLICY #10 - SUFFICIENCY OF SIGNATURES ON PETITIONS AND NUMBER OF REGISTERED VOTERS

The Commission recognizes that through the review and approval process for many proposals, the boundaries may be changed, and the number of registered voters affected:

- a. For proposals which require petitions to be circulated after LAFCO approval, the number of registered voters residing in an area on the date of LAFCO approval is the number of registered voters on which the sufficiency of any

petition is based.

- b. For proposals in which petitions are circulated prior to LAFCO approval and for the determination of inhabited or uninhabited actions, the date of the Notice of Filing issued by LAFCO shall be the determining date for the number of registered voters residing within the affected area.

#### POLICY #11 - EFFECTIVE DATE AS A FUNCTION OF THE CERTIFICATE OF COMPLETION

Unless otherwise specified by the Commission, the effective date for all proposals shall be the date of issuance of the Certificate of Completion for any proposal.

#### POLICY # 12 – CONFLICT WITH PRINCIPAL ACT

In the event that the proceedings for the formation of a district as authorized by the principal act of the district conflicts with the procedural requirements of Government Code Section 56000 et. seq., the procedural requirements of the Government Code 56000 et. seq. shall be followed by LAFCO.

#### POLICY #13 - OUT-OF-AGENCY SERVICE CONTRACTS OR AGREEMENTS

The Commission has determined that the Executive Officer shall have the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries in cases where the service extension is proposed to remedy a clear health and safety concern. In addition, the Executive Officer shall have the authority to approve or conditionally approve service extensions where the services in question will not facilitate development, such as an inter-agency contract for fire protection services. In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the next Commission agenda for which notice can be provided. After the public hearing, the Commission may approve, conditionally approve, or deny the contract.

#### POLICY #14 - POWERS

The powers of LAFCO include the following:

- a. Review and Approve or Disapprove Proposals with or without amendment, wholly, partially, or conditionally:

■ ☐ Annexation of territory to cities or special districts.

■ ☐ Exclusion of land from cities or special districts.

■ ☐ The consolidation of two or more cities, or two or more special districts

formed under the same principal act.

- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- □ Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- Review of city or special district contracts for service outside of their boundaries.
- Review and approve proposals that would extend services into previously unserved territory within unincorporated areas.
- Conduct service reviews of the municipal services provided in the county on a regional or subregional basis, and provide written Statements with respect to infrastructure needs, growth and population projections, financing constraints, cost avoidance opportunities, opportunities for shared facilities, and other factors in Government Code Section 56430.
- □ Initiate and make studies of existing governmental agencies, which may include inventorying such agencies.
- Initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization which includes any of these outlined changes.

b. ADOPT EVALUATION STANDARDS and procedures for the evaluation of proposals which shall include, but are not limited to, the following factors identified in Government Code Section 56668:

- Conformity of the proposal and its anticipated effects on Commission policies on providing planned, orderly, efficient patterns of urban development and priorities.
- Conformance with local city or county general plans.

- The sphere of influence of any local agency which might be affected.
- ☐ Effect of the proposed action and of alternative actions on adjacent areas, mutual social and economic interests, and local governmental structure of the county.
- ☐ Land area and land use.
- ☐ Population and population density.
- ☐ Determine if the area is inhabited or uninhabited.
- ☐ Proximity to other populated areas.
- Likelihood of significant growth during the next ten years.
- Effect of proposal on maintaining physical and economic integrity of lands in agricultural preserves and open space uses.
- The proposed boundaries in relation to lines of assessment or ownership; the creation of islands or corridors of unincorporated territory.
- Natural boundaries and drainage basins.
- Assessed value.

- c. PLAN FOR SERVICE : The plan for service shall be prepared and submitted by each local agency affected by a proposed change of organization, regardless whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must demonstrate that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, the plan for service shall also be required for each affected agency.
- d. SPHERES OF INFLUENCE: Government Code Section 56425 requires that LAFCO establish spheres of influence for each city and special district in the County.



(See Sphere of Influence Policy Statement and the Commission's Guidelines for Spheres of Influence at the end of this Section for further policy definition)

- e. TWO OR MORE PROPOSALS FOR THE SAME AREA: If two or more proposals pending before the Commission shall conflict or be inconsistent with each other, the Commission may determine the relative priority for conducting further proceedings on these proposals. In the absence of any such determination, priority shall be given to that action which was first filed with the Executive Officer.
- f. REORGANIZATION COMMITTEE: The Commission may require the establishment of a reorganization committee for reorganization proposals and to adopt standards and procedures for the evaluation of any plan of reorganization or alternate plan reported on by such committee.
- g. CONDUCT SPECIAL STUDIES: The Commission may initiate and make studies of existing governmental agencies including, but not limited to, inventorying such agencies and determining their maximum service area and service capacities.
- h. OPEN SPACE: It is the intent of the Legislature that Commissions establish policies and exercise their powers so as to encourage and provide planned, well ordered, efficient urban development patterns with appropriate consideration of preserving open space lands within such patterns.
- i. CONDUCTING AUTHORITY: The Commission has the responsibility of conducting protest hearings and may delegate this responsibility to the Executive Officer.
- j. NONCONTIGUOUS TERRITORY ANNEXATION: The Commission has the authority to approve the annexation of unincorporated noncontiguous territory, not exceeding 300 acres in area, located in the same County, and which is owned by the annexing city and used for municipal purposes and to authorize this annexation without notice or hearing.
- k. INHABITED ANNEXATION: In an inhabited annexation to a city, where the area to be annexed equals 50% or more of the assessed value of the city, or the number of registered voters in the area to be annexed is 50% or more than the number of registered voters in the city, the reorganization (annexation) shall be subject to the confirmation of the voters in the area to be annexed and the voters of the city.
- l. DISTRIBUTION OF ASSETS AND LIABILITIES: The Commission may determine the distribution of all assets and liabilities, including recommendations for retaining employees, for all consolidations, mergers, dissolutions, and creations of subsidiary districts, or any other proposal, and

shall note such distribution in its resolutions.

- m. SERVICE OUTSIDE BOUNDARIES: The Commission or the Executive Officer when authorized may authorize the City of Sonora or a district to provide new or extended services outside its jurisdictional boundaries pursuant to Government Code Section 56133.
- n. FINANCIAL ASSISTANCE: The Commission, or the Board of Supervisors or City of Sonora on behalf of and on approval of the Commission, is authorized to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the State and federal governments or from a local government.

#### POLICY #15 - COUNTY RULES AND REGULATIONS

In Tuolumne County, the Commission has determined that for purposes of economy and convenience it chooses to use the rules and regulations of the County as those relate to working rules of staff and to allocation of space and supporting equipment and facilities necessary to accomplish its purpose, except as the Commission may determine otherwise.

#### POLICY # 16 - STIPEND AND TRAVEL ALLOWANCE

The Commission has no meeting stipend or per diem. The Commission annually allocates funding for travel, training and seminars.

#### POLICY #17 – APPLICATION PROCESSING FEES

LAFCO shall establish a schedule of application processing fees through adoption of a resolution.

Unless otherwise authorized by LAFCO, application processing fees shall be established to recover their full cost of processing. Fees shall be established on a full cost recovery basis or based upon the average cost to process a specific type of application on a time and materials basis.

There shall be an automatic increase or decrease in the application processing fees adopted by LAFCO, based upon the “San Francisco Consumer Price Index, All Items, All Urban Consumers,” published by the U.S. Department of Labor, for the preceding 12-month period.

There shall be no waivers of application processing fees.

(Amended March 14, 2011)

#### POLICY #18 - NOTICE OF VACANCY FOR PUBLIC MEMBER

Upon announcement that a vacancy for the public member or alternate public member will exist, the Executive Officer shall:

- a. Post a vacancy notice inviting all interested citizens of Tuolumne County to apply within thirty (30) days of posting. The Notice shall be posted at the following locations:
  - 1) On the bulletin board in the foyer on the 4<sup>th</sup> floor in the A.N. Francisco Building;
  - 2) On the bulletin board in the foyer on the 2<sup>nd</sup> floor (main entry) of the County Administration building;
  - 3) Any other location as directed by the Commission;
  - 4) Provide a Notice of Vacancy to the City of Sonora Clerk and the Clerk of the Board of Supervisors; and,
  - 5) Issue a press release to local newspaper and radio stations for the purpose of further advertising the vacancy.
  - 6) Place an advertisement in the Union Democrat inviting applicants to apply for the vacant position.
  - 7) Provide a Notice of Vacancy to the clerk or secretary of each local agency within the County. (Amended 8/9/10)
- b. The Executive Officer shall accept no application after the expiration of the thirty (30) days, and shall forward all applications to the members of the Commission. Only applications received by the Executive Officer may be considered for appointment. A review period of not less than ten (10) days shall follow the thirty-day application period.
- c. The Commission may select a personnel committee from among its membership for the purpose of reviewing applications and bringing its recommendations to the full Commission.
- d. The Public and Alternate Public Member candidates receiving a majority of the votes cast by eligible Commission members will be appointed to the vacant position for either the unexpired or full term and/or until appointment and qualification of a successor. At such time as independent special districts are seated on the Commission, the Public and Alternate Public Member candidates must receive an affirmative vote from at least one County Member, one City Member, and one Special District member for appointment to that position.

## POLICY #19 - SPECIAL DISTRICT REPRESENTATION

The Commission will initiate proceedings for representation of independent special districts on the Commission if requested pursuant to Section 56332.5 of the California Government Code

## POLICY #20 - RESOLUTIONS OF APPRECIATION

The Commission authorizes expenditure for mounting and framing of resolutions of appreciation for retiring LAFCO Commissioners and LAFCO staff personnel who have rendered outstanding service.

In respect to retiring Commissioners, the public purpose being served by such expenditure is that through publicly adopted resolutions of appreciation, appropriately framed, other members of the public will also be encouraged to render public service by becoming members of various public agencies and Commissions.

The public purpose of the framed resolutions of appreciation for the LAFCO staff is to give recognition for outstanding services rendered, with the purpose of maintaining high morale while at the same time providing further incentive for efficiency and productivity.

## POLICY #21 - LEGAL DEFENSE FEE RESPONSIBILITY

It is the policy of this Commission that the costs for legal defense of an issue which has been approved by the Commission, is the primary responsibility of the agency or person seeking that approval. Therefore, as a condition of approval for any action taken by the Local Agency Formation Commission, the Commission shall impose a condition within its resolution of approval that requires the applicant to defend, indemnify, hold harmless, and provide for reimbursement or assumption of all legal costs in connection with that approval.

The adopted procedure for the Legal Defense Policy is as follows:

1. The Commission shall impose a condition of approval which requires the applicant to defend, indemnify, and hold harmless the Commission, its agents, and its employees from any claim, action or proceedings against them to attack, set aside, void, or annul such approval.
2. The Executive Officer shall promptly notify the applicant and LAFCO Counsel of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.
3. Commission Counsel shall have the absolute right to approve any and all counsel employed to defend the Commission. To the extent the Commission

uses any of its resources to respond to such claim, action or proceeding, or to assist the defense, the above described person or entity will reimburse the Commission upon demand. Such resources include, but are not limited to, staff time, court costs, Commission Counsel's time at its regular rate for non-County agencies, or any other direct or indirect cost associated with responding to, or assisting in defense of, the claim, action, or proceedings. The Executive Officer may require a deposit of funds sufficient to cover the anticipated expenses of the litigation.

## POLICY #22 – NOTICE TO ADJACENT LANDOWNERS

In addition to the notice requirements of the Cortese-Knox-Hertzberg Act of 2000, the LAFCO Staff shall notify landowners of applications for Changes of Organization as follows:

### 1. County Service Area

#### a. Formation of a county service area

The provisions of the Cortese-Knox-Hertzberg Act of 2000 including amendments regarding notice for formations shall be adhered to.

#### b. Annexation to county service area

<u>Total Area of Parcels Subject to Annexation</u>	<u>Distance for notification of landowners</u>
Less than 2 gross acres	300 feet
2 gross acres to less than 10 gross acres	500 feet
10 gross acres or larger	1,000 feet

### 2. All other special district and City of Sonora proposals

<u>Total Area of Parcels Subject to Entitlement</u>	<u>Distance for notification of landowners</u>
Less than 2 gross acres	300 feet
2 gross acres to less than 10 gross acres	500 feet
10 gross acres or larger	1,000 feet

(Amended 6/27/05)

## SPHERE OF INFLUENCE

### PURPOSE

Government Code Section 56076 defines a sphere of influence as “a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission.” It is an area within which a city or district may expand, over an undefined period of time, through the annexation process. In simple terms, a sphere of influence is a planning boundary within which a city or district is expected to grow into over time.

The purpose of a sphere of influence is to encourage the “logical and orderly development and coordination of local government agencies so as to advantageously provide for the present and future needs of the county and its communities.” The following enumerated items comprise the Statement of Purpose adopted by Tuolumne County LAFCO for spheres of influence:

1. To promote orderly growth of communities, whether or not services are provided by a city or district (board governed or independently governed);
2. To promote coordination of cooperative planning efforts among the county, City of Sonora, special districts, and identifiable communities by encouraging compatibility in their respective general plans;
3. To guide timely changes in jurisdiction by approving annexations, reorganizations, etc., within a sphere of influence only when reasonable and feasible provision of adequate services is assured;
4. To encourage economical use and extension of facilities by assisting governmental agencies in planning the logical and economical extension of governmental facilities and services, thereby avoiding duplication of services;
5. To provide assistance to property owners in relating to the proper agency to comprehensively plan for the use of their property;

6. To review, update, and/or change existing spheres of influence periodically to reflect planned, coordinated changes in factors which impact on spheres of influence; and
7. To encourage the establishment of urban-type services only within an adopted sphere of influence.

The Commission emphasizes that a sphere of influence is a planning tool and the establishment of a sphere of influence, or the inclusion of territory within a sphere of influence of an existing governmental entity, does not automatically mean that the area is being proposed for annexation or development.

#### Establishment of a Sphere:

As outlined under State law, the Commission is designated as the public body responsible for determining spheres of influence for each city and district within its jurisdiction.

As a function of incorporation and as outlined in Government Code Section 56426.5, the Commission must establish a sphere of influence for a newly-incorporated city within one year of its incorporation effective date. Usually within six months of a city's effective date, the LAFCO staff notifies the city of the requirement pursuant to State law. The sphere proposal may be initiated by the Commission, the city council, or the County Board of Supervisors, through adoption of a resolution of the governing body. State law also stipulates that a sphere of influence will not be established or changed without specific review and study independent of any action before the Commission at the time. Public hearings are held to review sphere of influence proposals such as establishment, amendment, or in connection with any proposed annexation, which may or may not involve another agency's sphere of influence.

#### Factors of Consideration:

As part of a sphere of influence review and as outlined in Government Code Section 56425, LAFCO is required to review four "factors of consideration" in connection with any sphere of influence proposal. The factors of consideration are as follows:

1. The present and probable land uses within the area, including agricultural and open space lands;
2. The present and probable need for public facilities and services in the study area;
3. The present capacity of public facilities and the adequacy of public services that the agency provides or is authorized to provide; and

4. The existence of any social or economic communities of interest in the study area.

In these categories of review, the City of Sonora or district must show that its planning activities can be beneficial to the area, and that the initiation of those activities is appropriate. None of the above factors by themselves shall be deemed to be a determining factor in the establishment or revision of a sphere of influence for the City of Sonora, district, or community area, but shall be reviewed as part of the total project.

The factors of consideration noted above are addressed individually within the staff's report for each sphere of influence proposal.

Government Code Section 56425 also requires the following for any sphere of influence or a sphere of influence that includes a special district:

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.

#### COMMISSION POLICY GUIDELINES FOR SPHERES OF INFLUENCE

The approaches and/or methods listed below are policies adopted by Tuolumne County LAFCO. The policies guide the Commission's review in its determination of spheres of influence, periodic reviews and/or updates, and any amendments of those sphere boundaries.

##### Concurrent Sphere Reviews:

The Commission may include additional agencies as part of its review of a sphere of influence proposal. In considering the sphere of influence of a community, the Commission will concurrently evaluate all agencies serving that community, and as a policy guideline, it will need to establish a single, coterminous sphere for all such agencies unless the Commission determines it is to the best interest of the area to have differing sphere boundaries.

##### Community-by-Community Approach:

The community approach includes the practice of looking at a total area, which could be considered a community, and defining its boundaries. This approach also considers the existence of inter-related economic, environmental, geographic, and social interests, and attempts to harmonize the conflicting plans and services of the



various service entities. Under this approach, an attempt is made to keep the spheres of influence of the various service districts as nearly the same as possible.

#### Coterminous Boundaries:

The Commission may establish a sphere of influence which is coterminous with existing City of Sonora/district boundaries when it is not feasible for the public agency to expand beyond its present boundaries. However, as outlined in State law, a sphere of influence must be established for each city and district, regardless of whether the sphere boundary is the same as the city or district boundary.

#### Environmental Review for a Sphere:

A sphere of influence proposal requires review of the environmental aspects of the proposed sphere. The environmental review process is a requirement outlined in the California Environmental Quality Act (CEQA) that applies to the review of sphere of influence proposals. In compliance with CEQA and the State CEQA Guidelines, Tuolumne County LAFCO adopted its own Guidelines and Policies Implementing CEQA.

#### Exclusion of Territory:

Under certain circumstances, a sphere of influence may exclude portions of the existing boundaries of a district. The Commission encourages reorganization and special studies in this situation to make final determination of which district should serve.

A sphere of influence study may be initiated to determine which public agency could better serve the area of review. The sphere of influence study would include a review of the possibility of excluding territory from one jurisdiction and the placement of the same territory in another jurisdiction's sphere of influence. The purpose of excluding territory would be an attempt to straighten irregular boundaries, and eliminate confusion arising from multiple jurisdictions.

#### Modification of a Sphere Review Area:

During the review of a sphere of influence proposal, the Commission may modify the area of review by expanding or reducing the area of review. The expansion or reduction of a sphere can be for several reasons, such as to include areas that may be better served by a public agency, or exclude areas that may be better served by another public agency.

#### Periodic Review/Update of a Sphere:

As a function of its duties and responsibilities, LAFCO is required to periodically

review and/or update spheres of influence. Government Code Section 56425 requires the Commission to review and update, if necessary, all spheres of influence for cities and special districts at least once every five years. The periodic sphere review does not preclude a public agency (city or district), or an individual from initiating a sphere proposal. The purpose of the periodic sphere review plan is to keep abreast of changes occurring within the public agencies under the jurisdiction of LAFCO.

Update If Necessary/Municipal Service Review: (Amended 8/9/10)

The spheres of influence of all of the special districts in Tuolumne County have been previously studied with no change to any district's sphere. It will be necessary to update a special districts sphere of influence upon LAFCO's receiving an application to do so, or at the direction of the Commission. Updating municipal service review information will be conducted once every five years. (Amended 8/9/10)

Requirement for a Sphere Review in Relationship to Annexation:

State law precludes the Commission from approving annexation proposals lying outside of current sphere of influence boundaries for the affected city or district. If an annexation proposal lies outside the sphere of influence of a city or district, the annexation proposal must also include a sphere review. The joint sphere and annexation review is to maintain consistency in city or district boundaries and their sphere boundaries, for the extension and provision of services as it relates to proposed annexation sites.

Responsibility/Obligation for a Sphere Area:

When a sphere of influence is assigned, a city or district is required to commence long rangeland use and service planning activities, thereby enabling it to respond to any annexation requests it might receive from landowners or residents within the sphere. By accepting a sphere of influence, a city, or district agrees to plan for the provision of services.

Urban Development within a City Sphere:

LAFCO takes the position that any new urban development which occurs within a city sphere of influence should take place as close to the city's urban area as possible. This position is emphasized for two reasons; first, so that contiguous areas may easily be annexed to the city; and secondly, so that the new urban area can be served by reasonable extension of the city's already developed municipal services.

