LAFCO *of Monterey County*

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

# POLICIES AND PROCEDURES

Relating to Spheres of Influence
and Changes of Organization and Reorganization

As Adopted
by the Local Agency Formation Commission of Monterey County
on April 25, 2011

LAFCO *of Monterey County*

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

# POLICIES AND PROCEDURES
## RELATING TO SPHERES OF INFLUENCE AND CHANGES OF ORGANIZATION AND REORGANIZATION

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# PART A. INTRODUCTION

This document is intended to guide LAFCO's review and consideration of requests for Sphere of Influence amendments and changes in organization or reorganization.

These policies are based on the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended, which is included in section 56000, et seq., of the California Government Code.

Section 56300 of the Government Code requires that LAFCO establish written policies and procedures and exercise its powers consistent with these policies and procedures. The State Legislature's intent is for these policies and procedures to encourage planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns.

The Policies and Procedures relating to Spheres of Influence and Changes of Organization and Reorganization are a compilation of policies that LAFCO of Monterey County has adopted over the last 25 years. The wording of these policies has been updated in order to be consistent with existing State law and current practices. There are two significant changes to the document: 1) The section on Preliminary Sphere of Influence Reviews (Section C.VI.) was updated to clarify LAFCO's authority to initiate preliminary reviews and 2) a new policy on Housing and Jobs (Part F) was created.

The Policies and Procedures have been divided into six parts:

A. An **Introduction** which is intended to create a context for the document;

B. **Definitions** where the meaning of words used in the Policies and Procedures are listed. Additional definitions related to LAFCO can be found in Government Code section 56010, et seq.;

C. **Sphere of Influence Policies and Criteria** which provides guidance for LAFCO's consideration of applications for Sphere of Influence updates and amendments;

D. **Standards for the Evaluation of Proposals for a Change of Organization or Reorganization**, which provides guidance for LAFCO's consideration of proposals for changes of organization and reorganization, including annexations, city incorporations, district formations, detachments, consolidations, mergers, disincorporation's and dissolutions, and the exercise of new or different functions or classes of services by a special district;

E. **Preservation of Open-Space and Agricultural Lands** which outlines preservation policies applying to LAFCO's review and consideration of both Spheres of Influence and changes of organization and reorganization, and

F. **Housing and Jobs** which outlines policies relating to job availability and creation, housing supply and demand, air quality, greenhouse gas emissions, and local vehicle miles traveled. This part applies to LAFCO's review and consideration of both Spheres of Influence and changes of organization and reorganization.

While it is LAFCO's intent that these Policies and Procedures are consistent with State law, if a conflict exists State law will have precedence.

**Policy Sources**

This policy document is based on, and replaces, the following stand-alone policies:

- LAFCO Adoption of State Guidelines for the California Environmental Quality Act (CEQA) on July 22, 1986 (Resolution 86-9);
- General Policies and Criteria for the Development and Determination of Spheres of Influence, originally adopted on November 30, 1988, and which provide the basis of Parts B and C of these Policies and Procedures;
- Standards for the Evaluation of Proposals, originally adopted on November 25, 1986. This provides the basis for Part D;
- The Fort Ord Policies adopted by minute order on August 25, 1992;
- The Minor Sphere of Influence Amendment Criteria adopted by minute order on March 25, 2002;
- The Preliminary Sphere of Influence Evaluation Program adopted on December 2, 2002 (Resolution 02-19);
- State Incorporation Guidelines adopted on June 24, 2003 (Resolution 03-18);
- The Regional Traffic Impact and Efficient Development Standards adopted on October 23, 2006 (Resolutions 06-15 and 06-16);
- Administrative Procedure for Compliance with Requirement to Update Spheres of Influence by January 1, 2008, adopted by minute order on September 24, 2007;
- The Policy on Preservation of Open-Space and Agricultural Lands, which was adopted on January 25, 2010 (Resolution 10-01), is included as Part E and replaces the "Agricultural Lands Preservation Policy" adopted through Resolution 79-30 on November 27, 1979, and
- Housing and Jobs, a new policy adopted on April 25, 2011, is included in these Policies and Procedures as Part F.

**Statutory References**

Unless otherwise indicated, all statutory references are to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended. (Government Code section 56000, et seq.)

# PART B. DEFINITIONS [1]

1. **Act:** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended (Section 56000, et seq.)

2. **Agricultural Lands**: Land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program. (Section 56016.)

3. **Agricultural Preserve**: Lands subject to an existing land conservation agreement established pursuant to the California Land Conservation Act of 1965. (the Williamson Act, Government Code section 51200, et seq.)

4. **Annexation:** The annexation, inclusion, attachment, or addition of territory to a city or district. (Section 56017.)

5. **Change of Organization:** Any of the following:

    a. A city incorporation.
    b. A district formation.
    c. An annexation to, or detachment from, a city or district.
    d. A disincorporation of a city.
    e. A district dissolution.
    f. A consolidation of cities or special districts.
    g. A merger or establishment of a subsidiary district.
    h. A proposal for the exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district. (Section 56021.)

6. **Consolidation:** The uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. (Section 56030.)

7. **County**: Monterey County.

8. **Detachment:** The detachment, deannexation, exclusion, deletion, or removal from a city or district of any portion of the territory of that city or district. (Section 56033.)

[1] Part B, "Definitions," was previously Section II. of the "Sphere of Influence Policies and Criteria." Additional definitions of relevance to LAFCO are contained in the Act (Section 56010, et seq.)

9. **Disincorporation:** The disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city. (Section 56034.)

10. **Dissolution:** The dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except as the commission may otherwise provide pursuant to Section 56886 or for the purpose of winding up the affairs of the district. (Section 56035.)

11. **Essential Services**: Those basic services necessary to protect the health, safety, and general well-being of a community, including but not limited to police, fire, water, sanitation, etc.

12. **Executive Officer:** The executive officer appointed by a commission. (Section 56038.)

13. **Formation:** The formation, incorporation, organization, or creation of a district. (Section 56039.)

14. **Future Study Area**: Territory outside of an adopted Sphere of Influence that may warrant inclusion in the sphere in future years. Further study would have to be completed prior to inclusion.

15. **General Purpose Government**: A city or county government.

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

17. **LAFCO**: Local Agency Formation Commission of Monterey County.

18. **Local Agency**: A city, county or district. (Section 56054.)

19. **Merger:** The extinguishment, termination, and cessation of the existence of a district of limited powers by the merger of that district with a city as a result of proceedings taken pursuant to this division. (Section 56056.)

20. **Open Space**: Any parcel or area of land or water which is substantially unimproved and devoted to open space use as defined in Government Code section 65560. (Section 56059.)

21. **Planning Concern Area**: An area established by the Local Agency Formation Commission with the assistance of the appropriate cities and the County designating a general area of concern of a city for which planning decisions and other governmental actions of the County may have an impact on the city. A "Planning Concern Area" will usually be larger than the adopted Sphere of Influence boundary and may take into consideration the planning area of the city as identified within their local general plans.

22. **Prime Agricultural Land**: An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than agriculture and that meets any of the following qualifications:

    a. Land that qualifies, if irrigated, for rating as Class I or II in the USDA Natural Resources Conservation Service land-use capacity classification, whether or not the land is actually irrigated, provided that irrigation is feasible;
    b. land that qualifies for rating 80 through100 Storie Index Rating;
    c. land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003;
    d. land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a non-bearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars ($400) per acre; and
    e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars ($400) per acre for three of the previous five calendar years. (Section 56064.)

23. **Regional Agencies**: Association of Monterey Bay Area Governments (AMBAG), Regional Water Quality Control Board, Monterey Bay Unified Air Pollution Control District, etc.

24. **Reorganization:** Two or more changes of organization initiated in a single proposal. (Section 56073.)

25. **Sphere of Influence**: A plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO. (Section 56076.) The area around a local agency eligible for annexation and extension of urban service within a twenty-year period.

26. **Sphere of Influence Boundary**: Boundary, adopted by the Local Agency Formation Commission, which delineates the limits beyond which a local governmental agency will not annex territory.

27. **Urban Services**: Those services which are provided to an urban area including, but not limited to, police, structural fire protection, non-agricultural water, sewer, drainage, street lighting, streets and roads.

28. **Urban Service Area**: Developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the Sphere of Influence of a city, which is served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services during the first five years of an adopted capital improvement program of the city if the city adopts that type of program for those facilities, utilities, and services. The boundary around an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by LAFCO pursuant to policies adopted by LAFCO in accordance with Sections 56300, 56301, and 56425. (Section 56080.)

29. **Urban Service Districts**: Special districts which are authorized to provide public sanitary sewer services or domestic water distribution services.

30. **Urban Transition Area**: Area within the Sphere of Influence boundary of a city or an urban service district which is not programmed for urban facilities or utility extensions within the next five years. This area will most likely be used for urban expansion within approximately five to twenty years.

# PART C. SPHERE OF INFLUENCE POLICIES AND CRITERIA[2]

## I. LEGISLATIVE AUTHORITY

The State Legislature has provided local agency formation commissions (LAFCO's) with the following directions in the preparation of Spheres of Influence:

1. In creating local agency formation commissions the State Legislature found "that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services" and "that providing housing for persons and families of all incomes is an important factor in promoting orderly development." (Section 56001.) Additionally "one of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities." (Section 56301.)

2. "In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies to advantageously provide for the present and future needs of the County and its communities, the commission shall develop and determine the Sphere of Influence of each local governmental agency within the County and enact policies designed to promote the logical and orderly development of areas within the sphere." (Section 56425 a.)

3. "In determining the Sphere of Influence of each local governmental agency, the commission shall consider and prepare a written statement of its determinations with respect to each of 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 area.
    c. The present capacity of public facilities and the 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." (Section 56425 e.)

[2] Part C of the Policies and Procedures is based on the "General Policies and Criteria for the Development and Determination of Spheres of Influence" originally adopted on November 30, 1988, and subsequently amended. Portions of this Part which were derived from other LAFCO policy documents are referenced as such.

4. "Every determination made by a commission regarding … [proposals for changes of organization or reorganization] … shall be consistent with the Spheres of Influence of the local agencies affected by those determinations." (Section 56375.5.)

5. "The commission may recommend governmental reorganizations to particular agencies in the County, using Spheres of Influence as the basis for those recommendations." (Section 56425 h.)

## II. POLICY GUIDELINES FOR SPHERES OF INFLUENCE[3]

LAFCO will generally apply the following policy guidelines in the Spheres of Influence program, in addition to the local conditions and circumstances of each local agency. The Local Agency Formation Commission of Monterey County will consider the particular local conditions and circumstances of each agency and community.

1. LAFCO intends that its Sphere of Influence determination will serve as a master plan for the future organization of local government within the County. The spheres shall be used to discourage urban sprawl; limit proliferation of local governmental agencies; encourage efficiency, economy and orderly changes in local government; promote compact, community centered urban development; and minimize adverse impacts on lands classified as prime agriculture.

2. The Sphere of Influence lines shall be a declaration of policy which shall be a primary guide to LAFCO in the decision on any proposal under its jurisdiction. Every determination made by LAFCO shall be consistent with the Spheres of Influence of the agencies affected by those determinations.

3. Any proposal which is inconsistent with an agency's adopted Sphere of Influence shall not be approved until LAFCO, at a noticed public hearing, has considered an amendment or revision to that agency's Sphere of Influence.

4. Inclusion within an agency's Sphere of Influence does not assure annexation to that agency. LAFCO shall evaluate boundary change proposals as they relate to all of the relevant factors listed in the Act.

5. When possible, a single larger general purpose agency, rather than a number of adjacent smaller ones, established for a given service in the same general area will be preferred. Where an area could be assigned to the Sphere of Influence of more than

[3] The former Section II ("Definitions") of the "Sphere of Influence Policies and Criteria" has been removed from this document and made into "Part B" of the combined Policies and Procedures.

one agency providing a particular needed service, the following hierarchy shall apply dependent upon ability to serve:

a. Inclusion within a city Sphere of Influence.
b. Inclusion within a multi-purpose district Sphere of Influence.
c. Inclusion within a single-purpose district Sphere of Influence.

In deciding which of two or more equally ranked agencies shall include an area within its Sphere of Influence, LAFCO shall consider the agencies' service and financial capabilities, social and economic interdependence, topographic factors, and the effect that eventual service extension will have on adjacent agencies.

6. Duplication of authority to perform similar functions in the same territory will be avoided. Sphere of Influence boundaries shall not create islands or corridors unless it can be demonstrated that the irregular boundaries represent the most logical and orderly service area of an agency.

7. The adopted Sphere of Influence shall reflect city and County General Plans, plans of regional agencies, growth management policies, annexation policies, resource management policies, and any other policies related to ultimate boundary or service area of an affected agency unless those plans or policies conflict with the legislative intent of the Act.

   Where inconsistencies between plans exist, LAFCO shall rely upon that plan which most closely follows the Legislature's directive to discourage urban sprawl, direct development away from prime agricultural land and open-space lands, and encourage the orderly formation and development of local governmental agencies based upon local conditions and circumstances.

8. Extension of urban type services promotes urban development and such development belongs in cities or areas of development concentration in the unincorporated area of Monterey County. In evaluating proposals involving urban development requiring an urban level of governmental services, LAFCO will discourage the formation of new special districts or premature annexation of territory within existing city Spheres of Influence or logical expansion area. LAFCO will discourage boundary change proposals involving urban development outside adopted city Spheres of Influence that have the potential to negatively impact prime agriculture or open space lands, public service capacity, existing local agencies, or generally represents illogical growth patterns.

9. LAFCO, in recognition of the mandated requirements for considering impacts on open space lands and agricultural lands, will develop and determine Spheres of Influence for Cities and urban service districts in such a manner as to promote the long-term preservation and protection of this County's "Resources." LAFCO believes the public

interest will be best served by considering "Resources" in a broad sense to include open space, recreational opportunities, wildlife, and agricultural land. Sphere of Influence determinations must conform with LAFCO's Policy on Preservation of Open-Space and Agricultural Lands adopted on January 25, 2010 (Section E of this Policy Document).

10. LAFCO recognizes the many inter-relationships and impacts which one agency's land use, planning, and governmental decisions may have on other agencies even though they may be outside of the Sphere of Influence of the secondary agency. Consequently, LAFCO, when necessary, will seek to establish and identify Areas of Planning Concern for each city within the County. The "Planning Concern Area" will seek to identify those areas which in a broad sense affect the city in terms of planning and land use decisions. Such "Planning Concern Areas" will be established with the assistance and guidance of the affected cities and the County. The "Planning Concern Area" normally will extend beyond the adopted Sphere of Influence of the city. Once established, LAFCO will solicit the cooperation and involvement of the affected cities and the County to jointly involve one another in planning decisions for these areas.

## III. PROCEDURAL GUIDELINES

1. LAFCO will designate a Sphere of Influence for each local agency representing the agency's probable physical boundary within a zero to twenty year period.

2. LAFCO may establish an urban service area within an adopted Sphere of Influence to discourage urban sprawl and to promote compact growth patterns. Urban service areas consist of territory now served by urban facilities, utilities and services or proposed to be served within the next five years, and may include the following:

   a. Urbanized Areas. This includes all existing areas, either incorporated or unincorporated, developed to urban densities.
   b. Urban Expansion Areas. This consists of vacant land, either incorporated or unincorporated, which is capable of holding urban growth expected within the next five years.

   The territory included within urban service areas will be considered by LAFCO to be eligible for annexation within five years. Consideration will be given to the capability of a city and special district to provide needed services with related time schedules for planned expansion of services. Cities and special districts are encouraged to develop Capital Improvement Programs and other plans for the phased extension of services to assist LAFCO in determining logical urban service area boundaries.

3. LAFCO may establish urban transition areas within adopted Spheres of Influence to discourage premature pressure for development. Transition areas consist of the

residual lands between designated urban service areas and the ultimate Sphere of Influence boundary. This land will most likely be used for urban expansion within approximately five (5) to twenty (20) years. Territory included within urban transition areas, but not within urban service areas, generally will not be considered eligible for annexation to receive urban services within five years.

4. LAFCO may adopt a zero Sphere of Influence encompassing no territory for an agency. This occurs where LAFCO determines that the public service functions of the agency are either non-existent, no longer needed, or should be reallocated to some other agency of government.

   The local agency which has been assigned a zero Sphere of Influence should ultimately be dissolved. Special districts that lie substantially within the boundary or Sphere of Influence of a general purpose government which is capable of assuming the public service responsibilities and functions of that special district may be allocated a zero Sphere of Influence designation.

5. Territory not in need of urban services, including open space, agriculture, recreational, rural lands or residential rural areas, shall not be assigned to an agency's Sphere of Influence unless the area's exclusion would impede the planned, orderly and efficient development of an area.

6. LAFCO may adopt a Sphere of Influence that excludes territory currently within that agency's boundaries. This occurs where LAFCO determines that the territory consists of agricultural lands, open space lands or agricultural preserves whose preservation would be jeopardized by inclusion within the agency's Sphere of Influence. Exclusion of these areas from an agency's Sphere of Influence indicates that detachment is appropriate.

7. Two or more local agencies providing the same service(s) may be allocated a consolidated Sphere of Influence to include the areas served by both agencies. This would be the case where LAFCO determines that the particular service(s) should be provided to the entire area by a single local agency.

8. LAFCO may establish future study areas outside of adopted Spheres of Influence. These areas indicate territory which may ultimately be appropriate for inclusion within an agency's sphere upon future study or modified conditions.

## IV. SPHERE OF INFLUENCE UPDATE, AMENDMENT AND SERVICE REVIEW

1. LAFCO shall adopt, update, amend or revise Sphere of Influence determinations following the procedural steps set forth in the Act.

2. LAFCO shall review Sphere of Influence determinations not less than every five years. If a local agency or the County desires amendment or revision of an adopted Sphere of Influence, the local agency by resolution may file such a request with the Executive Officer. The request shall state the nature of the proposed amendment and the reasons for the request, include a map of the proposed amendment, and contain additional data and information as may be required by the Executive Officer.

3. LAFCO encourages any private individual desiring a revision of an adopted Sphere of Influence to request that the affected local agency initiate sphere reconsideration by resolution to promote consultation between the parties.

4. Prior to submitting an application to LAFCO for a determination of a new Sphere of Influence, or to update an existing Sphere of Influence for a city, the city shall complete the requirement to meet with the County to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements as contained in Section 56425. If an agreement is reached between the city and county the agreement shall be forwarded to LAFCO. LAFCO shall consider and adopt a Sphere of Influence for the city consistent with the policies adopted by LAFCO, and LAFCO shall give great weight to the agreement, to the extent that it is consistent with LAFCO policies, in its final determination of the city sphere.

5. When adopting, amending, or updating a Sphere of Influence for a special district, LAFCO shall do all of the following:

    a. Require existing districts to file written statements with LAFCO specifying the functions or classes of services provided by those districts.
    b. Establish the nature, location, and extent of any functions or classes of services provided by existing districts. (Section 56425 i.)

6. In order to prepare and to update Spheres of Influence in accordance with Section 56425, LAFCO shall conduct a service review of the municipal services provided in the county or other appropriate area designated by LAFCO. (Section 56430.)

7. In conducting a service review, LAFCO shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. (Section 56430 b.)

8. LAFCO shall conduct a service review before, or in conjunction with, but no later than, the time it is considering an action to establish a Sphere of Influence in accordance with Section 56425 or Section 56426.5 or to update a Sphere of Influence pursuant to Section 56425.

9. Individuals desiring LAFCO to initiate revision or amendment of an existing sphere of influence shall file a written request with the Executive Officer. The request shall state the nature of the proposed amendment and the reasons for the request, include a map of the proposed amendment area, and contain additional data and information as may be required by the Executive Officer.

10. The Executive Officer shall review each request for amendment, prepare a report and recommendation, and place the request on the agenda of the next meeting of LAFCO for which notice can be given after determining conformance with the California Environmental Quality Act. Copies of the Executive Officer report shall be provided to the person(s) making the request, each affected local agency, and each person who has filed a request for a report.

11. Any local agency or private individual making such a request shall reimburse LAFCO for the actual and direct costs incurred by LAFCO. LAFCO may waive such requirement if it finds that the request may be considered as part of its periodic review of Spheres of Influence.

12. The Local Agency Formation Commission shall adopt, amend, or revise Spheres of Influence after a public hearing called and held for that purpose. At least 15 days prior to the date of any such hearing, the Executive Officer shall give mailed notice of the hearing to each affected local agency and the County, and to any interested party who has filed a written request for such notice with the Executive Officer. In addition, at least 15 days prior to the date of any such hearing, the Executive Officer shall cause notice of the hearing to be published in a newspaper of general circulation which is circulated within the territory affected by the Sphere of Influence proposed to be adopted or amended.

    LAFCO may continue from time to time any Sphere of Influence hearing. At any Sphere of Influence hearing, LAFCO shall hear and consider oral or written testimony presented by any affected local agency or any interested person who wishes to appear.

13. On the date and time set for hearing and provided in the notice, LAFCO may, without further notice, consider the amendments to a Sphere of Influence or set a future date for the hearing on the request.

14. For annexations and Sphere of Influence applications, Monterey County LAFCO shall consider as part of its decision whether the proposal mitigates its regional traffic

impacts by, for example, monetary contribution to a regional transportation improvement fund as established by the Transportation Agency of Monterey County or otherwise.[4]

15. For annexations and Sphere of Influence applications, Monterey County LAFCO shall consider as part of its decision whether the city in which the annexation or Sphere of Influence amendment is proposed has included certain goals, policies, and objectives into its General Plan that encourage mixed uses, mixed densities, and development patterns that will result in increased efficiency of land use, and that encourages and provides planned, well-ordered, efficient urban development patterns.[5]

16. Except as allowed in Section VI (below) for Minor Sphere of Influence Amendments, as part of the package of LAFCO forms and procedures given to every applicant, LAFCO will screen each application for an annexation change to ensure that there is a current Sphere of Influence (within the last five years), or that the application includes a concurrent Sphere update for affirmation by LAFCO. If the screening process identifies that a Sphere update is needed, the application package already identifies the information needed for the four standard determinations by LAFCO, and informs the applicant of the City-County consultation process required by State law. This administrative procedure will result in a current Sphere of Influence for every annexation change. This procedure does not change or affect other LAFCO procedures and policies that encourage comprehensive Sphere updates with 20-year horizons, and the staggering of Sphere and annexation proposals[6]

## V. MINOR SPHERE OF INFLUENCE AMENDMENT

1. LAFCO shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a Sphere of Influence in accordance with Section 56425 or Section 56426.5 or to update a Sphere of Influence pursuant to Section 56425. (Section 56430 c.) The only exceptions [7] to the need for a service review are for the approval of the following minor sphere amendments:

    a. An amendment that would be necessary to correct an immediate health and safety problem, as supported by the Monterey County Division of Environmental Health. *(LAFCO has often annexed territory to districts or cities to correct failing septic or water systems. In some of those cases, a sphere amendment was necessary. This*

[4] Subsection IV.14 was added through Resolution 06-15, October 23, 2006.
[5] Subsection IV.15 was added through Resolution 06-16, October 23, 2006.
[6] This section was added by Commission Minute Order on September 24, 2007.
[7] Consistent with the Municipal Service Review Guidelines prepared by the State Office of Planning and Research, these exceptions were approved by the Commission by Minute Order on March 25, 2002.

*provision would allow LAFCO to continue to process these types of applications without conducting an extensive service review.)*

b. An amendment that would be necessary for any project that meets the provisions of the Categorical Exemptions in section 15319 in the California Environmental Quality Act Guidelines (CEQA) for annexations of existing facilities and lots for exempt facilities. (*The Guidelines contain exceptions for the construction of small structures and existing facilities. LAFCO has processed small annexations and sphere amendments for such projects and the use of this provision would shorten the process for those types of proposals that do not have area-wide service implications.)*

c. An amendment to add any small portion of territory to a request, otherwise located wholly in the existing Sphere of Influence, in order to maintain logical boundaries. (*Some sphere boundaries around cities and districts do not necessarily conform to existing natural or parcel boundaries. This provision would be used in those cases where it makes sense to include a small portion of additional territory to make a more logical boundary. The amendment would proceed without the need to complete a service review.)*

d. Any request for a Sphere of Influence amendment that appears to be beyond the scope of the criteria or has area-wide service impacts will be brought to LAFCO for a determination. If the staff and the applicant have agreed to process the amendment with a service review this determination will not be necessary.

## VI. PRELIMINARY SPHERE OF INFLUENCE REVIEWS[8]

1. **INTRODUCTION:** The State Legislature, through the Cortese – Knox – Hertzberg Local Government Reorganization Act (the "Act"), California Government Code section 56000, et seq., has declared that it is the policy of the State to "encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the State." Government Code section 56001 (unless otherwise indicated, all statutory references are to the Government Code). In the Act, the Legislature further finds that the policy of orderly growth and development "should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for person and families of all incomes in the most efficient manner feasible." *Id.*

[8] Section VI was originally added through Resolution 94-04 on February 22, 1994 and expanded to apply to cities as well as special districts through Resolution 02-19, December 2, 2002. It was further amended on April 25, 2011.

In order to carry out its duties with respect to orderly growth and development, a local agency formation commission is charged with the responsibility to, amongst other things, "develop and determine the Sphere of Influence of each local agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere" (a Sphere of Influence being defined as "a plan for the probably physical boundaries and service area of a local agency"). Sections 56076 and 56425 (a). A local agency formation commission is charged with reviewing and updating spheres of influence as necessary every five (5) years. Section 56425 (g).

One of the purposes of a 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 agencies . . . and to shape the development of local agencies so as to advantageously provide for the present and future needs of [the] county and its communities." Section 56301. In addition to its other powers and duties, a local agency formation commission may undertake studies of existing local agencies. Section 56378. The authority to conduct studies is broad, and all local, regional and State agencies, and their officers and employees are required to cooperate in the undertaking of the study, and to provide land use information, studies and plans. In addition, officers and employees of local, regional, and State agencies shall provide the executive officer any records or information in their possession that are necessary to assist the local agency formation commission or its executive officer. Section 56386.

The Local Agency Formation Commission of Monterey County ("LAFCO") believes that it is beneficial for a city or special district undertaking or contemplating certain actions affecting its Sphere of Influence to receive from LAFCO preliminary guidance on the state of that Sphere of Influence without the formality of a formal review, update or modification of the Sphere of Influence. Such actions could include when a city is considering an update to a general plan, or prior to a formal application for a change to a Sphere of Influence. LAFCO believes that preliminary guidance will assist the local agency in the timely and efficient completion of the actions for which such preliminary guidance is appropriate. LAFCO further believes that the appropriateness of such preliminary guidance need not result in a comprehensive review or study, and that any review be conducted accordingly.

In order to implement the intent and purposes of the Act with respect to the development and determination of spheres of influence, and to provide public agencies within its jurisdiction with guidance from time to time concerning the state of an agency's Sphere of Influence, LAFCO adopts the following policy.

2. **POLICY:** It is the policy of LAFCO that, consistent with sections 56300 (a), 56301, 56378, and 56425 (a) of the Act, LAFCO may initiate preliminary Sphere of Influence reviews ("Preliminary Review") for any local agency. Such Preliminary Reviews shall be in addition to, and not a substitute for, the periodic Sphere of Influence reviews authorized in section 56425 (g) of the Act. Preliminary Reviews shall be designed to provide guidance to affected public agencies with respect to issues affecting spheres of

influence, and shall not be comprehensive in nature. A Preliminary Review may be initiated, without limitation, when a city is updating or amending its general plan in a manner that may affect the city's current Sphere of Influence; a district is providing, or considering providing, services outside its jurisdictional boundaries; or, a local agency is contemplating an application to change its Sphere of Influence, and guidance from LAFCO would be beneficial.

A Preliminary Review may be initiated by LAFCO and performed as follows:

a. Any local agency may request a Preliminary Review of its Sphere of Influence by providing a written request to the Executive Officer. The Executive Officer shall place the initiation of the Preliminary Review on the next available agenda for LAFCO to consider, and the Executive Officer shall make a recommendation with respect to the initiation of the Preliminary Review. Written notice of the item shall be provided to the affected local agency including the recommendation of the Executive Officer.

b. In the alternative, the Executive Officer may determine in the first instance that a Preliminary Review is appropriate where the Executive Officer is informed or believes that a local agency may undertake an action that is likely to affect its existing sphere of influence, or that an action by a different local agency is likely to affect the existing sphere of influence. Prior to determining that a Preliminary Review is appropriate, the Executive Officer shall confer informally with the affected local agency about the matter. If, following such conference, the Executive Officer determines that a Preliminary Review is appropriate, the Executive Officer shall place the initiation of a Preliminary Review on the next available agenda for LAFCO to consider, and the Executive Officer shall make a recommendation with respect to the initiation of the Preliminary Review. Written notice of the item shall be provided to the affected local agency no later than fifteen days prior to the date of the meeting, and shall include the recommendation of the Executive Officer. If a Preliminary Review of a city's sphere of influence is initiated by LAFCO, the review shall be conducted at a joint public meeting with the City Council at a location within the City limits.

c. LAFCO shall determine whether to initiate a Preliminary Review after considering a report from the Executive Officer, the position of the local agency subject to the Preliminary Review, and such other testimony and evidence as may be presented at the hearing on the item.

d. Upon initiation of a Preliminary Review, the Executive Officer shall undertake the review and make a report to LAFCO. The review shall not be comprehensive in nature, and shall be designed to provide initial observations on the state of the local agency Sphere of Influence and guidance to the local agency accordingly. The

review shall consider any factors the Executive Officer deems appropriate, consistent with the factors applicable to a periodic review and update of a Sphere of Influence pursuant to section 56425 (g) of the Act, and a municipal service review pursuant to section 56430 of the Act. Public agencies, their officers and employees shall cooperate in the conduct of the Preliminary Review as provided in sections 56378 and 56386 of the Act.

e. Upon completion of the Preliminary Review, the Executive Officer shall set the matter for the next available LAFCO meeting for consideration, and shall provide the Executive Officer's report to the affected local agency. LAFCO shall consider the report, the position of the affected local agency with respect to the report, and such other testimony and evidence as may be presented at the hearing. LAFCO may accept, reject, or modify the report in its discretion. If accepted or modified, the report shall not be considered a directive of LAFCO, but, consistent with the intent and purposes of this policy, shall be considered guidance to the affected local agency concerning the state of the agency's Sphere of Influence.

f. A Preliminary Review for a local agency shall generally not be initiated within two (2) years following a review and update of a Sphere of Influence for that agency pursuant to section 56425 (g) of the Act, unless the Preliminary Review is requested by the local agency. Not more than one (1) Preliminary Review for a local agency shall be performed within any five (5) year period, unless additional Preliminary Reviews are requested by the local agency.

## VII. ADDITIONAL POLICIES RELATING TO THE FORMER FORT ORD AREA[9]

Specifically applying to Spheres of Influence in the former Fort Ord, LAFCO adopted the following policy statements pursuant to a minute order on August 22, 1992:

1. LAFCO encourages sphere proposals that will facilitate initial development efforts which focus on existing facilities and developed area; locate future urban uses adjacent to existing urban areas; phase development based on the availability of urban services and infrastructure; create a positive jobs/housing balance; provide fiscal resource capabilities; and lead to urban patterns that complement objectives and goals of air quality, transportation, and housing plans of affected local and regional agencies.

2. LAFCO will encourage sphere proposals that consider region-wide goals with local agencies' ability to provide service. LAFCO will encourage sphere proposals that promote equitable distribution of the costs of regional facilities, related benefits, and cover all service impacts.

[9] Policies specific to the area of the former Fort Ord were added by Commission Minute Order on August 25, 1992.

3. LAFCO, in recognition of the mandated requirements for considering impacts on open space lands and agricultural lands, will develop and determine Spheres of Influence for Cities and urban service districts in such a manner as to balance the need to promote cost-effective logical urban expansion and economic recovery with the objective of promoting the long-term preservation and protection of this County's "Resources." LAFCO believes the public interest will be best served by considering "Resources" in a broad sense to include open space, recreational opportunities, wildlife, agricultural land, and fiscal resources.

# PART D. STANDARDS FOR THE EVALUATION OF PROPOSALS FOR A CHANGE OF ORGANIZATION OR REORGANIZATION[10]

## I. INTRODUCTION

The Local Agency Formation Commission (LAFCO) of Monterey County operates pursuant to the Act. Among the purposes of a local agency formation commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local circumstances and conditions. (Section 56301.)

State law provides that LAFCO may adopt standards for the evaluation of proposals. The primary purpose of standards is to identify issues and requirements associated with boundary change proposals to promote achievement of LAFCO goals and objectives. Standards also promote a rational and consistent process of review, which can be applied to all proposals. It should be noted that no one standard is of paramount importance nor is universally absolute. Because local circumstances and conditions vary, LAFCO must consider the facts in evidence as they relate to all standards.

Sections 56375(g) and (h) provide that standards may be based on any of the factors enumerated in Section 56668 as follows:

a. Population and 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 ten years.

b. The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division and includes the public facilities necessary to provide those services.

[10] Part D of the Policies and Procedures is based on the "Standards for the Evaluation of Proposals," originally adopted on 11/25/1986, and subsequently amended. Portions of this Part which were derived from other LAFCO policy documents are referenced as such.

c. The effect of the proposed action and of alternative actions on adjacent areas, on mutual social and economic interest, and on the local governmental structure of the County.

d. The conformity of both the proposal and its anticipated effects with both the adopted LAFCO 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 land, as defined by Section 56016.

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

g. A regional transportation plan adopted pursuant to Section 65080, and 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 or other public agency.

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

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

l. The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

m. Any information or comments from the landowner or owners, voters, or residents of the affected territory.

n. Any information relating to existing land use designations.

o. The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

This report outlines the Local Agency Formation Commission's Standards for the Evaluation of Proposals. The standards have been organized to correspond to the major LAFCO policies including Boundaries, Duplication of Service Functions, Conformance with Planning Documents, Conformance with Spheres of Influence, Environmental Impacts, Economics-Service Delivery-Development Patterns, Phasing, Open Space and Agricultural Land, Groundwater Standards, Regional Traffic Impacts, and Efficient Urban Development patters. The citation following each standard references the related State factor.

## II. DETERMINATION OF BOUNDARIES

1. Definite and certain maps and legal descriptions must be filed as part of an application for boundary change proposal. All maps and written geographic descriptions must comply with State Board of Equalization requirements. (Section 56668 f.) Detailed requirements of the State Board of Equalization are found in the "Change of Jurisdictional Boundary – Requirements for Statements, Boundary Descriptions, Maps and Schedule of Processing Fees" which is included in the LAFCO application packet.

2. To the greatest possible extent, boundaries should follow existing political boundaries and natural or man-made features such as rivers, lakes, railroad tracks, and freeways. Where boundaries do not meet this standard, the proponent shall justify the reasons for non-conformance. (Sections 56668 a and f.)

3. 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 such an island, corridor, or strip is created, the proponent shall justify the reasons for non-conformance with this standard. (Section 56668 d.)

4. Whenever practicable, boundary lines of areas proposed to be annexed to cities and/or districts shall be located so that all streets and rights-of-way will be placed within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and rights-of-way are intended. (Section 56668 d.)

5. The creation of boundaries that divide assessment parcels should be avoided whenever possible. Where such division occurs, the proponents shall justify to LAFCO the necessity for such division. (Section 56668 d.)

6. Boundaries should avoid dividing an existing identifiable community, commercial district, or any other area having social or economic homogeneity. Where such division occurs, the proponents shall justify the reasons for non-conformance to this standard. (Section 56668 c.)

7. The following guidelines related to road right-of-way apply to all proposals submitted to LAFCO. (Section 56668 f.)

   **a. The following should not be allowed:**

   (1) City limits which include a portion of the road right-of-way.

   (2) Road islands of County maintained roads.

   (3) Islands of road caused by annexation on both sides.

   (4) Strip annexation roads.

   *b. In the following cases where the road is the boundary and is a major County arterial, the street or road should be retained by the County. These roads would not have direct access from the property:

   (1) Roads which carry through traffic.

   (2) Planned development by developer or city which provides limited access and protects the capacity of the road.

   ***Note:** Each case should be considered on its own merit.

   c. The following should be annexed to the city. These roads would have direct access to the annexing property and would serve the residents of the property:

   (1) Minor or local roads.

   (2) When the street will be used for the city sewer lines, water lines, or storm drains.

   (3) Piece-meal development by developer causing difficult coordination between two or more agencies.

   (4) Where the annexation will complicate drainage or traffic control.

8. Where feasible, city and related district boundary changes should occur concurrently to avoid an irregular pattern of boundaries. (Section 56668 b.)

9. Should LAFCO modify the boundaries of a proposal, LAFCO may condition the proposal on the proponent preparing a new boundary description which conforms with LAFCO and State Board of Equalization requirements. (Section 56668 f.)

10. Boundaries should reasonably include all territory which would reasonably benefit from agency services. (Section 56668 b.)

## III. DUPLICATION OF AUTHORITY TO PERFORM SIMILAR FUNCTIONS

1. Proposals, where feasible, should minimize the number of local agencies and promote the use of multi-purpose agencies. (Sections 56668 b and c.)

2. The effect of the approval of a proposal which would result in two or more districts or a city and a district possessing any common territory, the authority to perform the same or similar functions shall be considered by LAFCO. The views of the governing body of the city or special district possessing authority to perform the same or similar function in the subject territory should be made known to LAFCO. Proponents must justify the need for boundary change proposals which result in duplication of authority to perform similar functions. (Section 56668 b and c.)

## IV. CONFORMANCE WITH CITY OR COUNTY GENERAL AND SPECIFIC PLANS

1. Each proposal should be consistent with the appropriate city or county general and specific plans. Where the proposal does not abide by these plans, the proponent shall specify the reasons for plan non-conformance. (Section 56668 g.)

2. Pursuant to Section 56375, for proposals involving city annexations, the LAFCO Executive Officer shall not file a Certificate of Filing, which acknowledges that an application is complete, until the city has completed a prezoning process for the subject property in a manner consistent with the city's general or specific plan. (Section 56668 g.)

## V. CONFORMANCE WITH SPHERES OF INFLUENCE

1. Proposals shall be consistent with the Spheres of Influence for the local agencies affected by those determinations. (Sections 56375.5 and 56668 h.)

2. In the case of city incorporations and agency formations, LAFCO shall determine a Sphere of Influence within one year from the effective date of the proposal. (Section 56426.5.)

3. With the exception of city incorporations and agency formations, LAFCO shall adopt a sphere for affected agencies prior to consideration of related boundary change proposals. (Section 56668 h.)

4. When a proposal is inconsistent with the adopted Sphere of Influence, the applicant shall justify reasons for amending the Sphere of Influence. An annexation application for land outside an adopted Sphere of Influence may be considered concurrently with a request for amendment to the Sphere of Influence. (Section 56668 h.)

5. Proposals involving changes of organization or reorganization affecting city boundaries shall comply with the Urban Service Area and Urban Transition Area designations.

6. Pursuant to Section 56375 (a) (4), LAFCO shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory which LAFCO finds is located within an Urban Service Area delineated and adopted by LAFCO, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city. (Section 56668 h.)

## VI. ENVIRONMENTAL IMPACT ASSESSMENT

1. LAFCOs are subject to the terms of the California Environmental Quality Act (CEQA) and the regulations of the California Resources Agency, which establishes the guidelines for its implementation. All environmental factors introduced by the proposal shall be considered as outlined in the Act and the State Guidelines.

2. The potential environmental impacts of proposals involving changes of organization or reorganization shall be reviewed by LAFCO environmental staff and the appropriate environmental determination shall be considered by LAFCO in accordance with state law and the State's "Guidelines for Implementation of the California Environmental Quality Act.[11]

## VII. ECONOMICS, SERVICE DELIVERY AND DEVELOPMENT PATTERNS

1. LAFCO shall discourage proposals that would have adverse financial impacts on the provision of governmental services or would create a relatively low revenue base in

[11] LAFCO officially adopted the State CEQA Guidelines on July 22, 1986 (Resolution 86-9).

relationship to the cost of affected services. Applications shall describe related service and financial impacts (including revenues and expenditures) on the County, cities, and/or special districts and provide feasible measures which would mitigate such adverse impacts. (Section 56668 a, b and c.)

2. Applications must address current and ultimate needs for governmental services and facilities as established by the appropriate land use plans and prezoning. Proposals shall not be approved unless a demonstrated need for additional service exists or will soon exist. In reviewing boundary change proposals, LAFCO shall consider alternative government structure options which may be more appropriate in light of the demonstrated need for service. The formation of, or annexation to, a single governmental agency, rather than several limited purpose agencies, shall be encouraged when possible. (Section 56668 a and b.)

3. Applications must indicate that the affected agencies have the capability to provide service. Territory shall be annexed to a city or special district only if such agency has or soon will have the capability to provide service. (Section 56668 b.)

4. Whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall submit with the resolution of application a plan for providing services within the affected territory. The plan for providing services shall include all of the following information. (Section 56653.):

    a. An enumeration and description of the services to be extended to the affected territory.

    b. The level and range of those services.

    c. An indication of when those services can feasibly be extended to the affected territory.

    d. An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

    e. Any conditions which would be imposed or required within the affected territory such as, but not limited to, improvement or upgrading of structures, roads, and sewer or water facilities.

    f. Information with respect to how those services will be financed.

A plan for providing services may consist of:

a. A master plan for providing services throughout all or a portion of a city or distinct Sphere of Influence for use in evaluating all proposals affecting the area covered in the master plan.

b. A proposal-specific supplement which updates and/or provides a higher level of detail than is contained within the master plan for services. Such supplement may include by reference or in summary form those pertinent sections of the master plan for services which remain valid. The supplement need discuss in detail only that information which is not current or discussed in sufficient detail in the master plan for services.

6. LAFCO discourages proposals which will facilitate development that is not in the public interest due to topography, isolation from existing developments, premature intrusion of urban-type developments into a predominantly agricultural area, or other pertinent economic or social reason. (Section 56668 a.)

7. LAFCO shall consider the testimony from all potentially affected agencies or individuals in reviewing boundary change proposals. Proposals submitted by resolution of application shall include information indicating that landowners in the affected area support the proposal. (Section 56668 i.)

8. An application for incorporation of a new city shall be supplemented by sufficient information to enable LAFCO to determine. (Section 56668 a, b and c.):

   a. The long-term fiscal feasibility of the new city. A five-year service plan including revenue projections shall be required of all incorporation proposals. A service plan extending for longer than five years is acceptable.

   b. The existing and projected population base in the affected area warrants urban-type services.

   c. The service and financial impacts on all potentially affected agencies, including existing cities, districts, and the County.

   d. The proposal territory includes the entire area that would reasonably benefit from city services and would not logically be more appropriate for annexation to an existing city.

9. A city application for annexation of an unincorporated island without an election shall, in addition to the plan for providing services, be supplemented by sufficient information to enable LAFCO to determine within the affected territory:

    a. The total acreage of the unincorporated island and the boundaries of all cities and/or counties and, if applicable, the Pacific Ocean, which border thereon.

    b. The presence or absence of Prime Agricultural Land.

    c. The availability of public utility services.

    d. The presence of public improvements.

    e. The presence or absence of physical improvements upon each parcel.

    f. The benefits from such annexation or the benefits now being received from the annexing city.

10. If a proposal is for the incorporation of a new city or the formation of a new agency, the application shall include a service plan demonstrating the economic feasibility of the proposed formation. (Section 56668 a, b and c.)

## VIII. PHASING

1. LAFCO, in furtherance of its objectives of preserving prime agricultural land, containing urban sprawl, and in providing a reasonable assurance of a city/district's ability to provide services shall consider the appropriateness of phasing annexation proposals which include territory that is not within a city/district's urban service area and has an expected build-out over a period longer than five to seven years. (Sections 56668 a, b, and e.)

2. Change of organization and reorganization proposals which are totally within a city or district's adopted urban service area shall not be considered appropriate for phasing. Urban service areas are, by definition, territory expected to be developed/serviced in the next five years. (Sections 56668 a, b and c.)

3. Proposals which contain territory which is not within a city or district's adopted urban service area and have an expected build-out extending beyond a five- to seven-year period may be considered appropriate for phasing. For the purpose of this policy, "phasing" shall be defined as a planned incremental approval of a project and "building-out" shall be interpreted as 70 to 80 percent developed. When an exception from this policy is desired, the proponent shall justify to LAFCO the reasons why phasing is not

appropriate. Included within the justification for exception, the proponent shall demonstrate the jurisdiction's ability to provide necessary public services. (Sections 56668 a, b and e.)

4. The Executive Officer shall not issue a certificate of filing pursuant to Section 56658 until the local agencies included in the property tax revenue exchange negotiation, within the 60-day negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of property tax revenues. (California Revenue and Taxation Code section 99 b 6.)

## IX. OPEN SPACE AND AGRICULTURAL LAND

1. It is the policy of LAFCO to encourage and to seek to provide for planned, well-ordered, efficient urban development pattern while at the same time remaining cognizant of the need to give appropriate consideration to the preservation of open space and agricultural land within such patterns. (Section 56300.) Proposals for a change of organization or reorganization will be judged according to LAFCO's adopted Policy on Preservation of Open-Space and Agricultural Lands (Section E of this Policy Document).

## X. GROUNDWATER STANDARDS

### Informational Requirements

1. LAFCO shall encourage the Monterey County Water Resources Agency, the Pajaro Valley Water Management Agency, and the Monterey Peninsula Water Management District to complete water management plans, develop or revise allocation of water supply as necessary, and promote County-wide standards. The LAFCO standards shall be reviewed periodically to reflect changes in information and current water management policy.

2. In considering a proposal which may significantly impact the groundwater basin, as documented by the Lead Agency pursuant to the California Environmental Quality Act (CEQA), LAFCO shall review the following information. This information can be submitted to LAFCO in an environmental document or as a part of the LAFCO application.

    a. The projected water demand of the proposed project based on guidelines provided by the appropriate water resources agency.

    b. The existing water use and historical water use over the past five years.

c. A description of the existing water system including system capacity serving the site.

d. A description of proposed water system improvements.

e. A description of water conservation or reclamation improvements that are to be incorporated into the project.

f. An analysis of the impact that proposed water usage will have on the groundwater basin with respect to water quantity and quality, including cumulative impacts.

g. Evidence of consultation with the appropriate water agency. The agency shall be consulted at the earliest stage of the process, so that applicable recommendations can be included in the environmental document.

h. A description of water conservation measures currently in use and planned for use on the site such as drought tolerant landscaping, water-saving irrigation systems, installation of low-flow plumbing fixtures, retrofitting of plumbing fixtures with low-flow devices, and compliance with local ordinances.

i. A description of how the proposed project complies with adopted water allocation plans.

j. A description of those proposals where the agency has achieved water savings or where new water sources have been developed that will off-set increases in water use on the project site that would be caused by the proposal.

k. A description of how the proposal would contribute to any cumulative adverse impact on the groundwater basin.

l. A description of those boundary change proposals that, when considered individually and after taking into account all mitigation measures to be implemented with the project, still cause a significant adverse impact on the groundwater basin.

3. Any proposal considered by LAFCO that uses water will be referred to the Monterey County Water Resources Agency, the Pajaro Valley Water Management Agency, Monterey Peninsula Water Management District, or any other affected water agency. Recommendations of the agencies will be considered by LAFCO and, where appropriate, should be incorporated into the project design prior to approval of the boundary change proposal.

4. LAFCO recognizes that water usage will vary due to soil type, location of aquifer, characteristics of aquifer, and type of project. Each project must be reviewed on a case-by-case basis.

5. Should an agency adopt similar or more restrictive informational requirements, the LAFCO informational Requirement Nos. 1 through 4 will no longer apply.

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6. LAFCO will encourage boundary change proposals involving projects that use reclaimed wastewater, minimize nitrate contamination, and provide beneficial use of storm waters.

7. LAFCO will encourage proposals which have incorporated water conservation measures. Water conservation measures include drought tolerant landscaping, water-saving irrigation systems, installation of low-flow plumbing fixtures, retrofitting of plumbing fixtures with low-flow devices, and compliance with local ordinances.

8. LAFCO will encourage those proposals which comply with adopted water allocation plans as established by applicable cities or water management agencies.

9. LAFCO will encourage those proposals where the affected jurisdiction has achieved water savings or new water sources elsewhere that will off-set increases in water use in the project site that would be caused by the proposal.

10. LAFCO will discourage those proposals which contribute to the cumulative adverse impact on the groundwater basin unless it can be found that the proposal promotes the planned and orderly development of the area.

11. LAFCO will discourage those boundary change proposals which, when considered individually and after taking into account all mitigation measures to be implemented with the project, still cause a significant adverse impact on the groundwater basin.

## XII. INCORPORATION GUIDELINES[12]

1. LAFCO shall utilize the "Guide to the LAFCO Process for Incorporations" issued by the Governor's Office of Planning and Development as the guideline for processing proposals for city incorporation.

[12] Subsection XI was added through Resolution 03-18, June 24, 2003.

## XII. REGIONAL TRAFFIC IMPACTS [13]

1. For annexations and Sphere of Influence applications, Monterey County LAFCO shall consider as part of its decision whether the proposal mitigates its regional traffic impacts by, for example, monetary contribution to a regional transportation improvement fund as established by the Transportation Agency of Monterey County or otherwise.

## XIII. EFFICIENT URBAN DEVELOPMENT PATTERNS[14]

1. For annexations and Sphere of Influence applications, Monterey County LAFCO shall consider as part of its decision whether the city in which the annexation or Sphere of Influence amendment is proposed has included certain goals, policies, and objectives into its General Plan that encourage mixed uses, mixed densities, and development patterns that will result in increased efficiency of land use, and that encourages and provides planned, well-ordered, efficient urban development patterns.

## XIV. CONTRACT / AGREEMENT SERVICE EXTENSION[15]

1. Requests for Service Extension:
   a. In evaluating requests for service extensions outside an agency's jurisdictional boundary, LAFCO shall consider the Sphere of Influence of the affected agency.
   b. Applicants shall submit an application to LAFCO prior to consideration of the proposal. Within 30 days the Executive Officer shall determine if the application is complete, and transmit the need for additional information immediately. Within 90 days after the application is deemed complete, the request shall be placed before LAFCO for a determination.
   c. LAFCO may authorize a city or district to provide new or extended service outside its jurisdictional boundaries but within its Sphere of Influence in anticipation of a later change of organization. In this instance, LAFCO will consider the factors enumerated in Section 56668 in reviewing the request.
   d. LAFCO may authorize a city of district to provide new or extended services outside its jurisdictional boundaries and Sphere of Influence to respond to a documented existing or impending threat to the public health or safety of the residents of the affected territory if the LAFCO has notified any alternative service provider as outlined in Section 56133.

[13] Subsection XII was added through Resolution 06-15, October 23, 2006.
[14] Subsection XIII was added through Resolution 06-16, October 23, 2006.
[15] Subsection XIV was added through Resolution 94-5, February 25, 1994.

e. The Executive Officer may administratively approve requests for service extension outside an agency's jurisdictional boundary if the applicant has satisfactorily demonstrated the existence of a public health or safety issue exists as identified in writing from the local public health officer. The Executive Officer is required to inform LAFCO at the next available meeting of any administratively approved service agreements.

2. LAFCO authority over contract/agreement service extension does not apply to: (1) contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider; (2) contracts for the transfer of non-potable or non-treated water, and (3) contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or directly support agricultural industries. However, prior to extending surplus water that will support or induce development, the agency must receive written approval from LAFCO. (Section 56133.)

# PART E. PRESERVATION OF OPEN-SPACE AND AGRICULTURAL LANDS[16]

## I. INTRODUCTION

Significant debate exists concerning the authority of a local agency formation commission to adopt policies, rules, regulations, guidelines, or conditions regarding the establishment of "agricultural buffers" or other methods to address the preservation of open space and agricultural lands. The Cortese – Knox – Hertzberg Local Government Reorganization Act (the "Act"), California Government Code section 56000, et seq., is replete with provisions that grant to a local agency formation commission the authority to consider and provide for the preservation of open space and agricultural lands. "Among the purposes of a [local agency formation commission] are discouraging urban sprawl [and] preserving open-space and prime agricultural lands, . . . ." Section 56301. Furthermore, "[i]t is the intent of the Legislature that each commission, . . . , shall establish written policies and procedures and exercise its powers pursuant to this part in a manner . . . that encourages and provides planned, well-ordered, efficient urban development patterns *with appropriate consideration of preserving open-space and agricultural lands* within those patterns." Section 56300 (a) (emphasis added). The Legislature has also declared that the preservation of open-space and prime agricultural lands is a "state interest" to be balanced against the promotion of orderly development. Section 56001.

A local agency formation commission is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land. Section 56375.3 (b)(5). A local agency formation commission may not approve a change to a Sphere of Influence where the affected territory is subject to a farmland security zone or Williamson Act contract, unless certain conditions exist. Sections 56426 and 56426.5.

In other situations, a local agency formation commission is charged with considering specific circumstances affecting open space or agricultural land when making a decision. For example, when considering a proposal that could reasonably be expected to lead to the conversion of open space lands to non open space uses, a local agency formation commission must consider guiding such conversion away from prime agricultural land towards non prime lands. Section 56377s (a) and 56668 (d). In addition, a local agency formation commission should encourage the conversion of open space lands within the jurisdiction or Sphere of Influence of a local agency before approving any proposal that would lead to such conversion outside the jurisdiction or Sphere of Influence of that agency. Sections 56377 (b) and 56668 (d). Finally, a

[16] Part E of the Policies and Procedures was first adopted on January 25, 2010. This Part replaces the "Agricultural Lands Preservation Policy" adopted on November 27, 1979 (Resolution 79-30).

local agency formation commission must consider the "effect of [a] proposal on maintaining the physical and economic integrity of agricultural lands, . . . ." Section 56668 (e).

While a local agency formation commission has considerable authority to provide for the preservation of open space and agricultural land, it may not directly regulate land use: "A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements." Section 56375. A local agency formation commission may, however, require that property sought to be annexed be prezoned, although it may not specify how it shall be prezoned. *Id.*

In order to implement the intent and purposes of the Act with respect to the preservation of open-space and agricultural lands, the Local Agency Formation Commission of Monterey County ("LAFCO") adopts the following policy.

## II. POLICY

It is the policy of LAFCO that, consistent with section 56300 (a) of the Act, applications or proposals for a change in organization or reorganization, or for the establishment or any change to a Sphere of Influence or urban service area (hereinafter, "Proposal" or "Proposals"), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns. To implement this policy, it is the further policy of LAFCO that:

1. A Proposal must discuss how it balances the state interest in the preservation of open space and prime agricultural lands against the need for orderly development. (Government Code section 56001.) Proposals that fail to discuss this balance, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that the need for orderly development is balanced against the preservation of open space and prime agricultural lands.

2. A Proposal must discuss its effect on maintaining the physical and economic integrity of agricultural lands. (Government Code section 56668 (a).) Proposals that fail to discuss their effect, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that the physical and economic integrity of agricultural lands is maintained.

3. A Proposal must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space land to uses other than open-space uses. (Government Code section 56377.) Proposals that fail to discuss potential conversion, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that: a)

they guide development or use of land for other than open-space uses away from existing prime agricultural lands in open-space use and toward areas containing nonprime agricultural lands (Government Code section 56377 (a)); and b) development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the Sphere of Influence of a local agency will occur prior to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing Sphere of Influence of the local agency (Government Code section 56377 (b)).

4. A Proposal must, if applicable, provide for pre-zoning (Government Code section 56375 (a)), and must demonstrate that it is consistent with the General Plans and Specific Plans of the existing local agency and any immediately adjacent local agency (Government Code sections 56375 (a) and 56668 (g)). Proposals may be denied if they are not consistent with such plans, or, if not pre-zoned, if the Proposal does not demonstrate to the satisfaction of LAFCO that the existing development entitlements are consistent with the local agency's plans.

To further these policies, it is the position of LAFCO that agricultural buffers provide an important means to preserve open-space and agricultural lands and preserve the integrity of planned, well-ordered, efficient urban development patterns. Such buffers may be permanent, temporary, or rolling, and may take many forms; easements, dedications, appropriate zoning, streets, or parks, for example. How agricultural buffers are used to further the state policy of preserving open-space and agricultural lands within patterns of planned, well-ordered, efficient urban development is left to the discretion of each local agency; however, Proposals will be judged on how state-wide policies under the Act, and LAFCO adopted policies, with respect to the preservation of open-space and agricultural lands are furthered. Agreements between neighboring local agencies with regard to the preservation of open-space and agricultural lands are encouraged, and such agreements may be incorporated by LAFCO into a Proposal as a condition of approval, or may be required as a condition precedent to approval.

# PART F. HOUSING AND JOBS[17]

## I. INTRODUCTION

The State Legislature, through the Cortese–Knox–Hertzberg Local Government Reorganization Act (the "Act"), California Government Code section 56000, et seq., has declared that it is the policy of the State to "encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the State." Government Code section 56001 (unless otherwise indicated, all statutory references are to the Government Code). The Act is replete with references for the need to consider housing and residential development in correlation with commercial and industrial development, and the efficient provision of government services. For example, in the Act the Legislature recognizes that "providing housing for persons and families of all incomes is an important factor in promoting orderly development," and further finds that the policy of orderly growth and development "should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for person and families of all incomes in the most efficient manner feasible." *Id.* Furthermore, the Act recognizes that "urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls." *Id.*

One of the purposes of a local agency formation commission is to encourage the "orderly formation and development of local agencies based upon local conditions and circumstances." Section 56301. To further that purpose, and implement the policies of the Act, amongst other things, a local agency formation commission makes determinations concerning changes in organization or reorganization, Spheres of Influence, urban service areas, and municipal service reviews. *See generally,* sections 56080, 56375, 56425, and 56430. Each of these determinations requires a local agency formation commission to consider factors such as population and population density, future growth, land area and land use, mutual social and economic interests, the present and planned capacity of public facilities, and the present and future adequacy of public services. These factors relate in part to job availability and creation, and housing supply and demand.

The Local Agency Formation Commission of Monterey County ("LAFCO") believes that applications or proposals for a change in organization or reorganization, or for the establishment or any change to a Sphere of Influence (hereinafter, "Proposal" or "Proposals") should consider the impact that the Proposal may have, if any, on job availability and creation, and housing supply and demand not only for the local community, but for adjacent communities, whether incorporated or unincorporated, and the region.

[17] This Section was added on April 25, 2011.

In order to implement the intent and purposes of the Act with respect to the matters set forth above, LAFCO adopts the following policy.

## II. POLICY

It is the policy of LAFCO that, consistent with section 56300 (a) of the Act, Proposals must demonstrate through both quantitative and qualitative methods the relationship between the Proposal and the surplus or deficiency of local and county-wide housing supply and demand, and employment availability and creation. Additionally, the Proposal must demonstrate how its pattern of land use and transportation complements local and regional objectives and goals for the improvement of air quality and reduction of greenhouse gas (GHG) emissions and local vehicle miles traveled (VMT). These factors and their impacts, if any, shall be considered by the Commission in acting upon the Proposal.