

**FRESNO LOCAL AGENCY FORMATION COMMISSION**

**COMMISSION POLICIES, STANDARDS AND  
PROCEDURES MANUAL**

(Adopted April 3, 1986)

**REVISED NOVEMBER 3, 2010**

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

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

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

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

**Incorporated  
December 19, 2001**

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

# COMMISSION POLICIES AND PROCEDURES MANUAL

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## **INTRODUCTION**

### **SECTION - 000**

#### 001 **PURPOSE:**

Fresno County contains some 6,005 square miles of territory populated by approximately 786,779 residents. In addition to federal, state and county agencies, there are fifteen cities and 132 special districts which provide a varying type, level, and range of services to the residents and landowners of Fresno County.

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

#### 002 **ISSUES:**

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

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

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

002 **ISSUES:** (Continued)

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

003 **DOCUMENT AUTHORITY AND ORGANIZATION:**

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

005 **DEFINITIONS**

The following definitions shall be used:

01 Agricultural Lands

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

02 Conducting Authority

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

03 Development

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

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

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

04 Open Space Lands

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

05 Policy

A specific statement guiding action and implying clear commitment.

06 Prime Agricultural Lands

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

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

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

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

07 Standard

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

08 Substantial Development

Development of a majority of the territory.

09 Substantially Surrounded

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

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

10 Urban Service

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

11 Urban Service Area

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

## 12 Urban Sprawl

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

Revised: December 19, 2001

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

## **COMMISSION POLICIES**

### **SECTION - 100**

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

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

Revised: February 26, 1992

Revised: December 19, 2001

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

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

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

Revised: December 19, 2001

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

- 01 All proposals reviewed by the Commission, including changes of organization or reorganization, shall be consistent with the agency adopted spheres of influence and Commission policies. Within the sphere of influence each agency should implement an orderly, phased annexation program. A proposal should not be approved solely because the area falls within the sphere of influence of an agency. The sphere of influence is one factor among several considered in reviewing proposals.
- 02 Provision of urban services by an agency outside its sphere of influence shall be discouraged. In some instances, the Commission encourages agreements for service among agencies where efficiencies will be achieved and the public will benefit. Such agreements should be consistent with the agencies sphere of influence.
- 03 Within their sphere of influence cities should be the provider of urban services due to their higher visibility, their substantially broader sources of revenue, and their historical and legal right to provide services and controls to citizens within their boundaries, particularly land use planning services and controls. Consequently, landowners and residents within a city's sphere of influence

should look to the city for the provision of urban services and controls through annexation or formal agreement.

## **TRANSITION AGREEMENTS**

- 04 The Commission is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended (Gov. Code, secs. 56000, the “Act”). The Act provides that it shall be liberally construed to effectuate its purposes. (Gov. Code, sec. 56107).

Under the Act, 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. (Gov. Code, sec. 56001). The Commission’s primary purpose under the Act is to discourage urban sprawl and to encourage orderly formation and development of local agencies based on local conditions and circumstances. (Gov. Code, secs. 56001, 56301, 56425(a)). The State of California Supreme Court described the Commission as an agency with “large discretionary powers.” (*Bozung v. Local Agency Formation Commission of Ventura County* (1975) 13 Cal.3d 263, 288 interpreting a prior Act).

The Commission has both the power and duty to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the Commission. (Gov. Code, sec. 56375). The Commission may adopt standards for any of the factors enumerated in Government Code, section 56668. (Gov. Code, sec. 56375). In approving or disapproving a proposed change in organization or reorganization, one of the factors that the Commission shall consider is 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. (Gov. Code, sec. 56668(c)).

Since the late 1980s, the Commission, based on local conditions and circumstances, has had the long-standing practice of imposing transition agreements (discussed below) between cities and affected fire protection districts as a condition of approving reorganizations where there are annexations to the cities and detachments from the affected fire protection districts, and such reorganizations significantly and adversely affect such fire protection districts. Several cities and fire protection districts have such transition agreements in place, and continue to keep them in force and effect.

At its hearings on the adoption of these amendments, testimony was presented before the Commission that these reorganizations may not only affect fire protection districts, but also annexing cities. In this regard, fire protection districts and cities may have close relationships where they assist each other in providing fire protection services, based on agreement (“mutual aid”), or based on immediate need (“instant aid”). If, because of a reorganization, a fire protection district cannot continue to provide fire protection services in its own service area near a city (e.g., fire protection

district must close a fire station and thereby lengthen response times to its service area near the affected territory), it is possible that the fire protection district cannot continue to be available to the city for mutual aid or instant aid in times of significant emergency or crises where the city's own fire department cannot adequately respond to a major fire incident.

Therefore, the Commission adopts the following amendments to its policies and standards for review in furtherance of carrying out the Commission's purpose under the Act.

Districts within a city's sphere of influence should develop plans for orderly detachment of territory from the district or merger of the district as district territory is annexed to the city and should plan their long-term expenditures (e.g., facilities, equipment) accordingly, except where the type of district services provided are not provided by the city.

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

041 When a proposed reorganization includes annexation of territory to a city and detachment from a fire protection district (hereinafter, a "City/Fire Protection District Reorganization"), a transition agreement shall be required to provide for the orderly transition of services from the district to the city except as provided in section 102-041A, below.

Transition agreements are to provide for orderly transfer of service from the fire protection district to the city, and may involve transfer of stations, personnel, equipment, property taxes, etc, as mutually determined by the city and fire protection district. The Commission is not a party to these agreements. Therefore, the Commission expects the parties to negotiate their transition agreements in good faith and to obtain terms and conditions in such agreements that are reasonable under the circumstances.

Cities and fire protection districts are encouraged to develop transition agreements before proposals for City/Fire Protection District Reorganizations are submitted to LAFCo. Cities or petitioners, as applicable, shall be required to provide the Executive Officer with a copy of any fully executed transition agreements which they believe are in full force and effect for the affected territory prior to or at the time an application or petition is submitted to LAFCo for City/Fire Protection District Reorganizations. The Executive Officer will maintain a file of all transition agreements that he receives and a record indicating date of execution and expiration for each such agreement.

If the city or petitioner does not provide the Executive Officer a copy of a transition agreement between the city and affected fire protection district for the affected territory, and does not provide the Executive Officer with a written statement from the city that the agreement is in full force and effect, the City or petitioner, as applicable, shall be required to submit the following information to the Executive Officer with the application or petition:

1. A statement explaining why the city does not have a transition agreement in effect with the affected fire protection district (or if one is to be executed, when it will be executed and be in effect); and
2. Reasons, if any, why the city or petitioner believes that a transition agreement is not necessary or is undesirable for the processing of the proposed City/Fire Protection District Reorganization.

During the period that the Executive Officer seeks comments from affected agencies concerning a proposed City/Fire Protection District Reorganization, the Executive Officer shall request affected fire protection districts to provide the Executive Officer, in a timely manner, a written response to the following:

1. If the city or petitioner states in its application or petition that there is a fully-executed transition agreement in full force and effect with the fire protection district for the affected territory, whether the fire protection district agrees that the foregoing transition agreement is in full force and effect for the affected territory; and
2. If the city or petitioner, or fire protection district states that a transition agreement for the affected territory does not exist, or is not in full force and effect, or that one is not expected to be entered into, whether the affected fire protection district believes that a transition agreement is necessary and whether the proposed reorganization will have any specific adverse effects on the district.

If the affected fire protection district responds to paragraph “2”, immediately above, that a proposed City/Fire Protection District Reorganization will have specific adverse effects on the district, and that a transition agreement is necessary, the district should submit to the Executive Officer, in a timely manner, specific written information in response to the following:

- Why there is not a transition agreement in effect.
- What specific adverse effects does the proposed reorganization have on the district?

- Specify whether the specific adverse effects are on the affected territory for the proposed reorganization, are on the fire station serving that affected territory, or are on other areas, such as the entire district's service area.
- If the impact is on a fire station service area or areas is being affected (as opposed to the fire protection district generally).
- Specify the service area being affected (identify the station, provide maps, describe the fire station service area, size, makeup, number of personnel, type of facilities and equipment).
- Specify what portion of the district's total budget is attributable to the fire station service area being affected.
- What is the district's then-current total budget?
- If applicable, what specific services, personnel, capital programs or equipment purchases will the district need to terminate or reduce in the then-current fiscal year because of the proposed reorganization? What is the cost of each of these? What area do they serve?
- If applicable, what specific and immediate threat will the proposed reorganization pose to the public health and safety for the rest of the district's residents and property owners?
- Explain why the district could not have planned its then-current budget and operations to take into account the proposed detachment of the district's affected territory?
- Any other questions asked by the Executive Officer concerning the proposed reorganization.

The Executive Officer may also require local agencies to provide records, or information, or studies that may be necessary to prepare the staff report for the Commission hearing on a proposed City/Fire Protection District Reorganization.

041-A Where an affected fire protection district claims that a City/Fire Protect District Reorganization may cause an adverse impact to the affected fire protection district, the Commission, on a case-by-case basis, may determine not to require a transition agreement if the Commission makes one or more of the following findings, based on the public record presented to the Commission:

1. That any claimed potential negative fiscal impacts on the affected district either are considered "De Minimis" or are not sufficient to warrant a transition agreement.
2. The proponents of the reorganization and the affected district have agreed to other arrangements acceptable to both of those parties and to the Commission.
3. Any other appropriate reason(s) that are in the public interest, as determined by the Commission.

The Commission may use either the procedures in this section 102-041A or the waiver provisions in section 200 of the Commission's Standards of Review, to determine that a transition agreement is not required as a condition of approving a City/Fire Protection District Reorganization, as the Commission deems it appropriate under the circumstances.

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

Adopted May 21, 2003

- 05 All developed urban land inside a city's sphere of influence shall be encouraged to annex to the city. The burden of proof as to why any such areas should not be annexed shall rest with the residents and owners of the property being annexed. Likewise the city shall develop plans to annex such developed urban areas. All islands of unincorporated territory and areas substantially surrounded located within the city sphere of influence shall be encouraged to annex to the city, as the logical provider of services and controls.
- 051 Since unincorporated islands and corridors cause service problems for the county and special district service providers as well as the city, the Commission shall request these agencies be a part of the process of reviewing the proposal and attending information meetings to encourage removal of irregular boundaries and service areas by annexation to the city. In addition the county and special districts should consider transition of service to the city of developed island and substantially surrounded areas by contract or agreement, to allow the city to provide municipal services to developed areas in the city sphere of influence. Such municipal services could include police and fire protection, paramedic service, street sweeping and lighting, street maintenance, landscape or park maintenance.
- 06 A County Service Area, formed to provide a service other than community or domestic water and/or sewer service within an already developed area, including an island or substantially surrounded area in a City sphere of influence, will be considered consistent with the City sphere of influence in those instances where:
- A. The service is desired by at least a majority of voters in the area, as evidenced by a formal petition and in the form required by State law.
  - B. The petition for formation includes a means for financing the district service and substantial evidence of the necessary support of the voters or landowners to finance the service.
  - C. City annexation is not possible because of one of the following:

1. The City has either refused or made no reasonable attempt to annex and provide the desired service, as requested by petitioners, or
2. The petitioners have submitted formal petition of 60 percent or more of voters, requesting formation of a County Service Area as opposed to City annexation.

Section 102.06 added January 24, 1996

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

- 01 The Commission encourages well-planned, orderly, and compact urban development patterns for all developing areas. Also, the County, cities, and those districts providing urban services, are encouraged to develop and implement plans and policies which will provide for well-planned, orderly and compact urban development patterns, with consideration of preserving permanent open space lands within those urban patterns.
- 02 Development of existing vacant non-open space, and non-prime agricultural land within an agency's boundaries is encouraged prior to further annexation and development.
- 03 Annexation proposals to cities or districts providing urban services to undeveloped or agricultural parcels shall show that urban development is imminent for all or a substantial portion of the proposal area; that urban development will be contiguous with existing or proposed development; and that a planned, orderly, and compact urban development pattern will result. Proposals resulting in a leap frog, non-contiguous urban development patterns shall be discouraged.

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

- 01 Proposals which would conflict with the goals of maintaining the physical and economic integrity of open space lands, agricultural lands, or agricultural preserve areas in open space uses, as indicated on the City or County general plan, shall be discouraged.
- 02 Annexation and development of existing vacant non-open space lands, and non-prime agriculture land within an agency's sphere of influence should occur prior to development outside of an existing sphere of influence.
- 03 A sphere of influence revision or update for an agency providing urban services where the revision includes prime agricultural land shall be discouraged. Development shall be guided towards areas containing non-prime agricultural lands, unless such action will promote unplanned, disorderly, inefficient development of the community or area.

04 Loss of agricultural lands should not be a primary issue for annexation where City or County general plans indicate urban development is appropriate and there is consistency with the agency's sphere of influence.

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

01 The Commission has established and will maintain, or otherwise provide access to notices and other Commission information for the public through an Internet website. Notice of all public hearings and Commission meetings shall be made available in electronic format on that site.

02 The Commission's web site is <http://www.fresnolafo.org>

Revised: December 19, 2001

**SECTION 200**

**COMMISSION STANDARDS  
FOR CHANGES OF ORGANIZATION**

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

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

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

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

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

Revised: 2/26/92

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

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

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

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

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

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

- 10 The newly formed or receiving entity has the ability to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- 11 There is a timely availability of water supplies adequate for projected needs as specified in Code section 65352.5.
- 12 The proposal reasonably assists the receiving entity in achieving its fair share of the regional housing needs as determined by the local council of governments.

(Code sec. 56668).

Revised: December 19, 2001

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

Added: January 11, 2012

### 13 **Prezoning Requirement**

- 01 As a condition to annexation a city is required to prezone the territory to be annexed. Prior to submitting an application to the Commission for a proposed annexation (by the city or petitioners, as the case may be) the city or petitioners must have prezoned the affected territory consistent with that city's general plan, unless the city or petitioners meets one of the exceptions, presented in this sub-section below. Pre-zoning is the legal process of placing a city zoning designation on territory or a portion of territory requested for annexation to the city which is located outside the present city limits. All territory included in a proposed annexation to a city without existing development entitlements on territory that is vested or already at build-out shall be prezoned prior to consideration of the annexation by the Commission.
- 02 If any territory included in a proposed annexation to a city is not prezoned, to qualify for an exemption from required prezoning, the city proponent or petitioners are required to present evidence satisfactory to the Commission that the existing development entitlements on such territory included in the annexation are vested or are already at build-out, and are consistent with the city's general plan (Government Code Section 56375 [a][3]). A "Vesting" Tentative Parcel or Tract Map does not satisfy the aforesaid condition of annexation. The recordation of a "Final Map" is necessary.
- 03 On a case by case basis the Executive Officer shall examine the evidence presented to the Commission by the city proponent or petitioners that territory included in an annexation is exempt from required prezoning to determine if such evidence is acceptable. The results of this analysis shall be included in the Executive Officer's report to the Commission.

The Commission will examine each request for exemption from the prezoning requirement, including evidence presented, on a case by case basis. The Commission may, in its discretion, approve or deny

the city or petitioners request to be exempt from the pre-zoning requirement. The Commission's determination is conclusive.

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

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

- 04 When territory has been pre-zoned, a copy of the enacted Ordinance or Ordinances verifying that required pre-zoning has been applied to territory included in an annexation proposal shall be submitted to the Executive Officer with other required application materials. An application for annexation to a city will be deemed incomplete without submission of certified copies of the Pre-zoning Ordinance or Ordinances or a Clerk's Certification indicating the pre-zoning has occurred.
- 05 The applicant for a proposed annexation must participate in at least one pre-application meeting with LAFCo staff and County personnel (and in the case of land owner petition a representative from the city) prior to submitting an application for annexation to LAFCo. All territory to be included in a proposed annexation shall be determined at the pre-application meeting(s). As a general rule, inclusion of additional territory (if any) by LAFCo staff shall be determined at the conclusion of the pre-application meeting(s).
- 06 The Commission may determine to add additional territory to an organization or reorganization. Territory may be added to an organization or reorganization to prevent the creation of county islands and/or peninsulas of land, to create more logical boundaries, or for any reason necessary to protect the public health, safety, and welfare. Should the Commission determine to add additional territory to an organization or reorganization that involve annexation of territory to a city at any time during the proceedings, consideration of the proposed annexation may be continued to allow time for the city or petitioners to prezone the additional territory or to present evidence satisfactory to the Commission that the existing development entitlements on this territory are vested or are already at build-out, and are consistent with the city's general plan (Government Code Section 56375 [a3]).

- 07 Pursuant to state law, cities must give public notification required for rezoning. Cities are encouraged to issue public notification of the city's intention to adopt a "Resolution of Intention" announcing the municipalities' intentions to rezone and annex territory into the jurisdiction. Cities are also encouraged to make personal contact with property owners and voters in the affected territory to explain the rezoning and annexation proposal.
- 08 The Commission shall not specify how, or in what manner, territory shall be rezoned nor shall the Commission impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.
- 09 Municipal Codes that allow zoning of property after completion of annexation (i.e., automatic rezoning) shall satisfy the requirement to rezone property if the city proponent or petitioners present evidence satisfactory to the Commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan (Government Code Section 56375 [a][3]). In such circumstances, the Executive Officer will issue the 21-day written notice as provided in 210-13-03 above. All territory included in a proposed annexation to a city without existing development entitlements on territory that is vested or already at build-out shall be rezoned prior to consideration of the annexation by the Commission.
- 10 Concerning the processing of large-scale annexations (e.g., over 160 acres the city or petitioners are responsible for determining how all property in the affected territory will be rezoned or rezoned upon annexation pursuant to state law and LAFCo Policies, Standards and Procedures.
- 11 In the event of a proposed annexation of territory to a city by landowner petition, the chief proponent shall be responsible for processing a required rezoning application at the city for territory proposed for annexation. Required rezoning must take place prior to submission of an application for annexation.
- 12 No subsequent change may be made to the general plan or zoning for territory included in an annexation to a city that has been rezoned or rezoned that is not in conformance with the city's general plan or zoning designations for a period of two years after the completion of the annexation. Changes to the land use designation or zoning can only be made if the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that

necessitate a departure from the rezoning in the application to the Commission (Government Code Section 56375 [a][3][e]).

Adopted: August 27, 2003

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

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

Revised: December 19, 2001

230 **STANDARDS FOR DISTRICT FORMATION**

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

If proposal is for other than urban type services that these services cannot be provided by an existing district.

- 02 District proposed is the best suited to the purpose and better alternate types are not available.

- 03 Proposal shows a demonstrated need for services and a service plan showing that such services can be adequately provided and financed.
- 04 The proposal shows that the amount of revenue transferred from an agency or agencies currently providing service in the subject territory to the proposed service-providing agency equals the expense which the current service provider bears in providing the services to be transferred.  
  
In the event the expense to the current service provider exceeds the amount of revenue transferred, the current service provider and new service providing agency agree to revenue transfer provisions to compensate for the imbalance. Such provisions may include, but are not limited to tax-sharing, lump-sum payments and payments over a fixed period of time, which may be ensured by proposal conditions.
- 05 Boundaries of the proposal include all of the service area.
- 06 Proposal is consistent with adopted spheres of influence and the adopted general plan of the city and county.
- 07 To the extent applicable, there is a timely availability of water supplies adequate for projected needs as specified in Code section 65352.5.

Revised: December 19, 2001

240 **STANDARDS FOR CITY INCORPORATION**

01 Definition

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

02 Mandatory Determinations for Approval

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

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

- C. The Comprehensive Fiscal Analysis (CFA) prepared pursuant to Government Code Section 56800 has been reviewed and the Controller's report (if any) prepared pursuant to Government Code Section 56801 has been reviewed.
- D. The Executive Officer's report, findings, and recommendations prepared pursuant to Section 56665 has been reviewed and the testimony presented at public hearings has been reviewed and considered.
- E. The incorporation as proposed or as amended by the Commission complies with the requirements of Government Code Section 56815, specifically LAFCo finds that the following two quantities are substantially equal:
  - (1) Revenues currently received by the local agency transferring the affected territory that, but for the operation of this section, would accrue to the local agency receiving the affected territory.
  - (2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.
- F. Notwithstanding the foregoing, the Commission may approve a proposal that includes an incorporation if it finds either of the following:
  - (1) The county and all of the subject agencies agree to the proposed transfer.
  - (2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.

03 Compliance with CEQA

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

04 Other Determinations Supporting Incorporation.

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

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

05 Principal Factors to be Considered

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

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

## 06 Other Factors to be Considered

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

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

## 07 Determining a Sphere of Influence

The Commission shall determine the sphere of influence for any newly incorporated city within one year of the effective date of incorporation. At the

time a proposal for an incorporation is approved the Commission may, at its discretion, determine the sphere of influence for the proposed new city (Government Code Section 56426.5[a]).

#### 08 Comprehensive Fiscal Analysis

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

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

#### 09 Request for State Controller Review of the CFA

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

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

#### 10 Revenue Neutrality

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

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

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

#### 11 Determining Revenue Neutrality

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

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

#### 12 Revenue Neutrality Negotiations

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

agencies, the chief petitioners or their representatives, and other parties as deemed appropriate by the Executive Officer.

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

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

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

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

### 13 Terms and Conditions

Terms and Conditions for mitigation of negative fiscal effects and to achieve revenue neutrality may include the provisions of any tax sharing agreements reached by the parties, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted under, but subject to the limitations of, Government Code Sections 56815 and 56886. Any Terms and Conditions that mitigate the negative fiscal effect of a proposal for city incorporation shall be included in the Commission resolution making determinations adopted pursuant to Section 56880 and the Terms and Conditions specified in the questions pursuant to Section 57134 (see Government Code Section 56815[e]). The term of mitigation payments may be ongoing or limited to a specific number of years. Ongoing Revenue Neutrality Terms and Conditions may provide for the temporary and/or permanent sharing of revenues between the new city and affected agencies.

## 14 Commission Proceedings

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

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

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

Section 240 Revised June 26, 2002

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

# **PROCEDURES FOR EVALUATION OF PROPOSALS**

## **SECTION - 300**

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

### **301 PRE-APPLICATION REVIEW**

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

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

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

Revised: August 13, 2008

### **302 ENVIRONMENTAL REVIEW**

- 01 Environmental review by lead and responsible agencies is required for all proposals, with consultation of affected agencies, County, and agencies

having special expertise. A determination of exemption, negative declaration, or significant impact is made by the lead agency. Where LAFCo is a responsible agency, the executive officer shall be consulted and respond for the Commission in the review process, as required by adopted Commission guidelines.

- 02 The Commission has adopted Regulations and Procedures for the Implementation of the CEQA of 1970 which specify in more detail the environmental process (refer to Sec. 550).

### 303 **SCHOOL DISTRICT REVIEW FOR RESIDENTIAL DEVELOPMENT**

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

### 304 **MEETING AND NOTICE REQUIREMENT**

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

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

burden on the agency. Reasons for an exception should be presented with the application.

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

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

02 When the city is required by the Commission's Standards to initiate annexation of a developed substantially surrounded area, along with the development proposal, the city and developer should meet with the residents as many times as necessary to:

- A. Review the benefits and affect of city annexation.
- B. Review the development proposed.
- C. Hear the concerns of the residents.
- D. Respond to each of the concerns.

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

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

Revised: 6/16/93

305 **AFFECTED AGENCIES AND INTERESTED PARTIES REVIEW**

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

310 **COMMISSION REVIEW**

01 A report and recommendation shall be prepared and mailed to Commission by the executive officer at least five days prior to hearing. The report includes relevant information, comments of reviewing and affected agencies, factors and policies of Commission related to proposal, and comment of affected landowners and residents as available.

- 02 The Commission in its review of the proposal shall consider:
  - A. The executive officer report, including attachments and documents.
  - B. The testimony of the proponents.
  - C. The testimony of any opponents.
  - D. Any other testimony or relevant documents.
- 03 The Commission may make a determination at the hearing, or may continue the proposal for additional information or testimony.

311 **REVISION OF PROPOSAL BOUNDARIES**

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

Revised: 1/24/90

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

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

- 01 When the Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to

Code section 56658, the Commission shall consider that request at a public hearing.

- 02 Notwithstanding Code section 56106, the deadlines set by Code section 56895 are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the Commission making determinations. If no person or agency files a timely request, the Commission shall not take any action pursuant to Code section 56895.
- 03 Upon receipt of a timely request, the Executive Officer shall not take any further action until the Commission acts on the request.
- 04 The Executive Officer shall place the request on the agenda of the next meeting of the Commission for which notice can be given as follows. The Executive Officer shall give notice of the consideration of the request by the Commission in the same manner as for the original proposal. The Executive Officer may give notice in any other manner as he or she deems necessary or desirable.
- 05 At that meeting, the Commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 70 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the Commission.
- 06 At the conclusion of its consideration, the Commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the Commission disapproves the request, it shall not adopt a new resolution making determinations. If the Commission approves the request, with or without amendment, wholly, partially, or conditionally, the Commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.
- 07 The determinations of the Commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the Commission.
- 08 Notwithstanding section 07, above, clerical errors or mistakes may be corrected pursuant to section 09, below.
- 09 The Executive Officer may, before the completion of a proceeding, on good cause being shown, correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the resolution adopted by the Commission making determinations, upon written request by any member of the Commission, by the Executive Officer, or by any affected agency. A correction made pursuant to this section shall not be cause for filing a request for reconsideration.

Revised: December 19, 2001

315 **EXTENSION OF ONE YEAR TO COMPLETE PROCEEDINGS**

01 A notice of the one-year expiration of the Commission resolution will be sent to the proponent, with the option to request a one-year extension of time (57001). Any proposal requested by a public agency for public agency purposes may be extended for a five-year period. However, the public agency shall annually give to the Commission office a letter of intent as to the continued purpose of the annexation being for public purpose.

A copy of the Commission agenda and the Executive Officer report on the request for one-year extension shall be mailed at least 5 days prior to the hearing to the following: the Commission, the persons named in the application, each subject agency, and any person or landowner requesting notice of hearing for the application.

Prior to a proposal's expiration, the extension request will be placed on the agenda for Commission action as a Consent Agenda item. The item may be pulled from the Consent Agenda at any time by the Commission for further consideration. Notwithstanding this, the extension request may be placed on the Commission's agenda as a "Public Hearing" item should circumstances warrant such as determined by the Executive Officer.

02 Extensions of time shall only be granted when it can be shown that the imminent need for the proposal still exists, the project is still viable, and progress is being made toward completion. The Commission may consider economic hardships beyond the control of the proponents as appropriate justification supporting the extension request.

To enable the Commission to make these determinations, the proponent shall be requested to provide the following information, which shall be addressed in the Executive Officer's report:

- Any circumstances that have changed in the vicinity of the project since the proposal was approved that could affect its suitability for annexation.
- Actions that have been taken by the proponent to ensure that the conducting authority proceedings can be completed within the requested extension period.
- If the proponent has been unable to satisfy a condition subsequent to the Commission's approval due to adversarial market and/or economic conditions, such condition(s) shall be identified and supporting documentation provided. In addition, the applicant as a part of the extension request shall submit to LAFCo written confirmation from the city or district representative to which annexation is proposed supporting the extension request and validating the presence of the adversarial market or economic conditions justifying the extension. If the proposal is to annex to a district located within the unincorporated area, written correspondence in support of the extension request shall also be provided from the County of Fresno.

The Executive Officer's report shall also indicate when the application was initially approved, how many previous extensions have been granted, and discuss any other factors that bear on the viability of the proposal.

Adopted: June 16, 1993  
Revised: April 5, 1995  
Revised: June 23, 1999  
Revised: January 9, 2008  
Revised: April 15, 2009  
Revised: November 3, 2010

### 318 **URBAN SERVICE AREA**

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

The Commission shall not have the power to disapprove an annexation to a city within an urban service area that is initiated by resolution and is contiguous territory, which the commission finds is not prime ag land (Section 56064) and is designated for urban growth on the city general plan (Section 56375a,2).

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

### 320 **EXTENDED SERVICE PROCEDURES**

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

Requests for approval of Extended Service shall be by application in the form provided by the Commission. Except for emergency extensions, an application shall receive similar review as a change of organization. All requests will be reviewed for consistency with Commission Policies, Standards, and Spheres of Influence. Contracts or agreement solely involving two or more public agencies are exempt from these procedures.

The following rules shall apply to requests:

- 01 The Executive Officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the Executive Officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete by the Executive Officer, the Executive Officer shall place the request on the agenda of the next Commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete by the Executive Officer. The Commission shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

The Commission may review and approve a proposal that extends services into previously unserved territory within unincorporated areas and may review the creation of new service providers to extend urban type development into previously unserved territory within unincorporated areas to ensure that the proposed extension is consistent with the policies of Code sections 56001, 56300, 56301, and the adopted policies of the Commission implementing these sections, which shall include the review of the following:

- A. Promotion of orderly development.
- B. Discouragement of urban sprawl.
- C. Preservation of open space and prime agricultural lands.
- D. Provision of housing for persons and families of all incomes.
- E. The efficient extension of governmental services

(Code section 56434(a)). [Note: those provisions of the Act referred to in this sections shall become inoperative as of January 1, 2007, unless a later enacted statute deletes or extends that date].

- 02 The decision of the Commission on a request for Extended Service shall be by minute order.
- 03 Requests for Extended Service for urban growth and development should be by annexation rather than Extended Service approval.
- 04 Requests for Extended Service outside the sphere of influence should be made only for urgent health and safety reasons, e.g. public water service in water contaminated area, or fire protection in a wildfire crisis.
- 05 Where an annexation will result in a service extended outside agency boundaries, an application for Extended Services should accompany the application for annexation.

- 06 An emergency service extension required to protect health and safety of existing development may be approved by the Executive Officer, who shall report such approval to the Commission at the next meeting.
- 07 Requests for extension shall be approved with a condition that the parcel(s) annex when feasible, and landowner consent or petition be filed.
- 08 New or extended service shall be defined as a new extension of service mains or facilities outside agency boundaries. A new single service connection by lateral or branch from an existing main shall not be considered new or extended service.

Adopted: 8/24/94

Amended: December 19, 2001

330 **SPHERE OF INFLUENCE UPDATES AND REVISIONS (Govt. Code Sec. 56425)**

- 01 In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities, the Commission shall develop and determine the sphere of influence of each local governmental agency within the County pursuant to these policies. This will promote the logical and orderly development of areas within the sphere (Code section 56425).
- 02 Under the Act, prior to a city submitting an application to the Commission to update its sphere of influence, representatives from the city and representatives from the County shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on, development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and County, the city shall forward the agreement in writing to the Commission, along with the application to update the sphere of influence. The Commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the Commission pursuant to this section, and the Commission shall give great weight to the agreement to the extent that it is consistent with Commission policies in its final determination of the city sphere.
- 03 If the Commission's final determination is consistent with the agreement reached between the city and County, the Act provides that the agreement shall be adopted by both the city and County after a noticed public hearing.
- 04 If no agreement is reached between the city and County, the application may be submitted to the Commission and the Commission shall consider a sphere of influence for the city consistent with the policies adopted by the Commission pursuant to this section.

- 05 In determining the sphere of influence of each local agency, the Commission shall consider and prepare a written statement of its determinations with respect to those specific items set forth in existing policy section 330 (which are hereby reaffirmed and incorporated by such reference into this amendment), which are summarized as follows:
1. The present and planned land uses in the area, including agricultural and open-space lands.
  2. The present and probable need for public facilities and services in the area.
  3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
  4. The existence of any social or economic communities of interest in the area.
- 06 Upon determination of a sphere of influence, the Commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.
- 07 For any sphere of influence or a sphere of influence that includes a special district, the Commission shall do all of the following:
1. Require existing districts to file written statements with the Commission specifying the functions or classes of services provided by those districts.

2. Establish the nature, location, and extent of any functions or classes of services provided by existing districts.
3. Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district, except upon approval by the Commission.

08 The Commission requests that a sphere of influence update be comprehensive and based on historical growth patterns, using a twenty to twenty-five year projection, prepared with a city and county general plan update for the community. The following should be included in addition to any other matters:

The present and planned land uses in the area, including agricultural and open-space lands.

1. Community Land Use Plan(s)
2. Growth projection (population and area)
3. Growth Policies and Annexation Policies
4. Vacant Land Inventory
5. Urban Infill Policies
6. Agricultural and Open Space Conservation Plan/Policies
7. The present and probable need for public facilities and services in the area.
8. Urban Service and Public Facility Inventory
9. Service agencies providing services to community
10. The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
11. Master Service Plan update
12. Capital Facility Element
13. Cost/Revenue Studies
14. Service Transition Plan for affected agencies
15. The existence of any social or economic communities of interest in the area.
16. Identity of community of interest and needs

17. Impediments to annexation and mitigation of impediments

- 09 The lead planning agency should develop the sphere of influence update with the responsible agencies. The city should be the lead agency in developing the general plan/sphere of influence update; LAFCo and the county would be reviewing, responsible agencies. For unincorporated communities, the county should be the lead agency. The three agencies should develop information and consult together. Each legislative body should participate in the development of the issues and recommendations.
- 10 The Commission recommends a study area for the sphere of influence be requested during the preliminary review with LAFCo staff in order to focus the process of updating. The study area determined would give consideration to service constraints, population projection/land demand, agricultural lands and other land uses, and effect on other agencies. A briefing report will be prepared by LAFCo staff to the Commission after there is agreement on a study area.
- 11 Comprehensive Service Reviews (Code sec. 56430).

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

1. Growth and population projections for the affected area.
2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
3. Financial ability of agencies to provide services.
4. Status of, and opportunities for, shared facilities.
5. Accountability for community service needs, including governmental structure and operational efficiencies.
6. Any other matter related to effective or efficient service delivery, as required by commission policy.

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

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

Revised: 6/16/93, 8/24/94, 12/19/01, and 3/5/08

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

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

**Effective July 1, 2011**

**SECTION - 350**

01     Application Processing

Annexation or Detachment - acreage shall be determined by rounding to nearest whole number the combined net parcel area shown on the Assessor's Map.

Under 3 acres	\$ 1,200.00
3 to 5 acres	2,400.00
6 to 10 acres	4,800.00
11 to 20 acre	7,200.00
21 to 40 acres	9,600.00
41 to 80 acres	12,000.00
81 to 160 acres	14,400.00
Over 160 acres	16,800.00
Dissolution of District (for inactivity, no fee)	2,400.00
Merger or Subsidiary District	2,400.00
Consolidation	8,000.00

**Incorporations, Formations, Disincorporations, Dissolution**

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

**Reorganization**

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

**Sphere of Influence Revision**

Use fee schedule for annexations. If annexation is concurrent and boundaries coterminous, add 35% for sphere revision above annexation fee.

**Sphere of Influence Update**

Cities and Urban Service Districts will be billed in accordance with the following schedule based on the most current population estimate of the State Department of Finance.

Over 75,000	\$10,000.00 Deposit (Actual cost for staff time including any consultant’s cost plus a 9% administration fee)
50,000 – 75,000	\$14,400.00
8,000 – 49,999	9,600.00
4,000 – 7,999	4,800.00
2,000 – 3,999	2,400.00
Under 2,000	1,200.00

Urban Service Districts are those districts or types of districts that do or are authorized to provide services of community water and/or sewer service.

**Request for Inclusion**

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

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

	Each
requested additional Power or Service	\$2,000.00
Maximum	\$5,600.00
Maximum fee for change of organization in an adopted urban service area or for changes not providing an urban service.	\$3,500.00
02 <u>Petition Check</u>	\$40.00
Plus signature check, per signature	\$ .65

- |    |   |                                      |
|----|---|--------------------------------------|
| 03 | <u>Environmental Assessment and Environmental Impact Report</u>   | Deposit of Estimated Amount Required |
| 04 | <u>Financial Feasibility Report</u><br><br>Applies only when the Commission is requested to study the feasibility of incorporation, formation, etc.   | Deposit of Estimated Amount Required |
| 05 | <u>Property Tax Report</u><br><br>Applies only when the Commission is requested data for purposes of negotiating property tax exchange under Revenue & Taxation Code Sec. 99 and 99.1.  | Deposit of Estimated Amount Required |
| 06 | <u>Copies of Papers on File</u><br><br>Any request for copies of any documents on file in the office of the Commission will be subject to a fee as necessary to recover costs of making such copies and any mailing costs.  | \$1.00 each page<br>\$ .75 after 10  |
| 07 | <u>Exceptions to Required Fees</u><br><br>The Commission may waive any processing fee by a four-fifths affirmative vote if the imposition of such fee would be detrimental to the public interest, as determined by the Commission. Any change specifically recommended by the Commission in a study approved by Commission may not require a fee.  |                                      |
| 08 | <u>Deferment of Fees</u><br><br>The Commission may defer the payment of a processing fee for any district change until the time the district receives its first revenue, or if terminated, until 30 days after receipt of the resolution of termination or disapproval. The deferment shall only be granted where the fee payment and no single landowner or developer project will benefit from the proposal. The Commission shall determine the deferment to be in the public interest. |                                      |
| 09 | <u>Cost of Mailed Notice</u><br><br>Any proponent may request the executive officer to conduct the required mailed notice to affected landowners and residents. The actual cost of mailing shall be paid by the proponent at the time of billing plus a 9% administration fee. A deposit to cover estimated costs may be required by the executive officer at the time the application is submitted.  |                                      |



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

**SECTION 400**

**PROCEDURES FOR  
EVALUATION OF SERVICE PLANS**

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

**SECTION - 400**

The Commission has adopted the following procedures for evaluating city and district service plans, as required by Sec. 56375 (j).

**401 GENERAL**

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

**402 MASTER SERVICE PLANS**

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

403 **INDIVIDUAL SERVICE PLANS**

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

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

**SECTION 500**

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

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

**SECTION - 500**

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

501 **MEETINGS**

- 01 **Regular Meetings.** The Commission shall adopt a schedule of regular meetings for the forthcoming calendar year at such time as sufficient information is available to do so. The schedule shall indicate the time, date, and location for the meetings. However, whenever the Commission, at a regular meeting sets a different time and place for its meeting, such meeting shall constitute a regular meeting for all purposes.
- 02 **Special Meetings.** Special meetings may be called at any time by the Chairman of the Commission or by a majority of the members of the Commission by serving notice of the time, place, and purpose of the meeting upon each member of the Commission. Such notice shall be served at least 24 hours before the time set for the hearing, and such service shall be deemed to be completed with respect to a member upon any of the following:
- A. Personal service upon the member.
  - B. Delivery to the last known residence or business address of the member.
  - C. The expiration of 24 hours after the deposit of said notice in the United States mail, postage prepaid, addressed to the last known residence or business address of the member.
- No other business shall be considered at a special meeting other than that set forth in the notice of the meeting. (Note, more than one item may be considered at a special meeting, and other items may be added, provided the above requirements are met for each item.)
- 03 **Adjourned Meeting.** Any regular or special meeting may be adjourned to a time and place specified in the order of adjournment. Less than a quorum may make an order for adjournment.

**Adopted: April 3, 1986**

**Amended: October 20, 1999**

502 **CHAIRMAN**

- 01 **Election.** The Chairman of the Commission shall be elected by the members thereof by a majority vote of all the members.
- 02 **Term.** The term of office of the Chairman shall be two years and until the election of his successor.
- 03 **Duties.** The Chairman shall be the presiding officer of the Commission. He shall preserve strict order and decorum at all meetings of the Commission, state questions coming before the Commission, announce the Commission's decision on all subjects, and decide all questions of order subject, however, to an appeal to the Commission as a whole, in which event a majority vote shall govern and conclusively determine such questions of order. He shall vote on all questions, and on roll call his name shall be called last. He shall sign all directives and contracts approved by the Commission, and may sign Commission resolutions in the absence of the executive officer.

503 **CHAIRMAN PRO TEMPORE**

- 01 **Term and Duties.** There shall be a Chairman Pro Tempore, whose term of office shall coincide with that of the Chairman and who shall, in the absence of the Chairman, perform all of the functions and duties of the Chairman.
- 02 **Election.** The Chairman Pro Tempore of the Commission shall be elected by the members thereof by a majority vote of all the members.

504 **CALL TO ORDER**

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

505 **ROLL CALL**

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

506 **QUORUM**

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

507 **MINUTES**

- 01 Preparation. The minutes of the Commission shall be kept by the Executive Officer or such other person as he may designate and shall be neatly typewritten in a book kept for that purpose, with a record of each particular type of business transacted set off in paragraphs with proper subheads; however, the Executive Officer shall be required to make a record only of such business as was actually passed upon by a vote of the Commission and shall not be required to record any remarks of members or any other person, except at the special request of a member.
- 02 Distribution. As soon as possible after each meeting, the Executive Officer shall cause a copy of the minutes thereof to be forwarded to each member.
- 03 Reading. Unless the reading of the minutes of a meeting is requested by a member, such minutes may be approved without reading if each member has previously been furnished a copy thereof.

508 **RESOLUTIONS**

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

509 **ORDER OF PROCEDURE**

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

- 01 The Chairman shall request the Executive Officer to inform the Commission of the nature of the matter pending, the notice provided, a summary of the report and recommendation, any new information or correspondence not in the staff report, and other pertinent matters.
- 02 All proponents shall be heard.
- 03 All opponents shall be heard.
- 04 Proponents shall be afforded an opportunity to a rebuttal. New matter may not be introduced except by specific permission of the chairman, in which event opponents shall, again, be given an opportunity to rebut.
- 05 The Chairman shall ask for any additional information of the Executive Officer.
- 06 The hearing shall be closed and the matter referred to the Commission for discussion and debate.

510 **RULES OF DEBATE**

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

513 **RULES OF ORDER**

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

514 **VOTING**

- 01 While serving on the Commission, all Commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of the Act.
- 02 Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person (Code sec. 56325.1).

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

Revised: 12/19/01

515 **ADDRESSING THE COMMISSION**

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

516 **DECORUM**

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

517 **COMMISSION DIRECTIVES**

The Commission shall, from time-to-time, by directives issued by it, establish procedures for the processing of the business of the Commission. Such directive shall be binding upon the staff of the Commission and all persons having business before the Commission.

518 **REIMBURSEMENT OF EXPENSES**

The members of the Commission shall be reimbursed for their actual and necessary expenses incurred in connection with their attendance at meetings of the Commission and in connection with other official Commission business. Such reimbursements shall be at the rates and subject to the conditions established by the Board of Supervisors for officers and employees of the County of Fresno and the

members shall submit their claims for such reimbursement to the Executive Officer who will process the same for payment by the County Auditor.

519 **RETIREMENT AWARD**

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

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

Adopted: August 27, 1997

520 **SELECTION OF PUBLIC MEMBER**

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

- 01 Publish a notice in a newspaper of general circulation in the County, stating the coming vacancy of the public member position. The notice shall conform to that notice approved by the Commission.
- 02 Post a notice outside the Commission hearing room, being the same notice as published.
- 03 Make available to all applicants an approved application form and a description of the duties and responsibilities of the public member, as described on the application.
- 04 No application shall be accepted if received after April 20, preceding the term expiration. A roster of all applicants and their application shall be mailed to the Commissioners making the selection at least ten days prior to the date of the selection.
- 05 A public hearing shall be held on the regularly scheduled hearing date in May, for the purpose of making the selection.
- 06 Each applicant shall be invited to an interview at the hearing by the Commissioners making the selection. The interview shall be for an approximate duration of five minutes. Each Commissioner may question the applicant directly.

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

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

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

Revised: February 24, 1988

Revised: December 20, 2000

## 521 **PROCEDURES FOR PUBLIC COMMENT**

- 01 Each person wishing to speak shall file a written request with the Clerk of the Commission in advance of the public comment agenda time. The request shall state the person's name and address, and the subject of the comment. The Commission chairman shall ask the clerk if any requests have been filed. Other public comment may be allowed by the chairman without written request being filed.
- 02 Subject of any comment shall be limited to the purposes and responsibilities of the Commission as provided by state law, or any previous action taken by the Commission or executive officer.
- 03 Time limit for public comment shall be no more than three minutes per person, or as allowed by the chairman. Commissioners shall have opportunity to ask questions of each person giving comment.
- 04 Action taken by the Commission on any matter considered under Public Comment shall be subject to the noticing requirements of state law and the Regulations and Procedures adopted by the Commission.

Adopted: February 19, 1987

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

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

## **SECTION – 525**

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to promulgate and adopt conflict of interest codes. Furthermore, the Fresno Local Agency Formation Commission's Policies, Standards, and Procedures Manual ("LAFCo Policy Manual) Section 525 requires that LAFCo bi-annually adopt a Conflict of Interest Code.

The Fair Political Practices Commission (the "FPPC") has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contain the terms of a standard conflict of interest code. This Section and any subsequent amendments by the FPPC are hereby incorporated by reference and, along with the Exhibit "A" (reflected in LAFCo Policy Manual Section 526) and Exhibit "B" (reflected in LAFCo Policy Manual Section 527), in which members and employees are designated and the disclosure categories are set forth, constitute LAFCo's Conflict of Interest Code.

Pursuant to Section 4(A) of the standard code, designated employees shall file statements of economic interests with the agency. Upon receipt of the statements by the LAFCo Executive Officer, LAFCo shall make and retain a copy and forward the original of these statements to the Clerk of Fresno the Board of Supervisors. Statements for all other designated employees will be retained by the agency.

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

## 526 **EXHIBIT A**

<u>Designated Employees</u>	<u>Categories</u>
Commissioners	I
Alternate Commissioners	I
Executive Officer	I
LAFCo Clerk	I
LAFCo Staff Analyst	I
LAFCo Counsel	I
Consultant	I

Note: Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the Code, subject to the following limitation:

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

Revised August 23, 2000  
Revised September 13, 2006  
Revised August 13, 2008  
Revised August 11, 2010

527 **EXHIBIT B**

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income or source of income may materially be affected by any decision made or participated in by the designated officer or employee by virtue of the employee's position.

Category I. Designated employees in this category must report:

- 01 Interest in real property which is located in whole or in part within Fresno County, including any leasehold, beneficial, or ownership interest or option to acquire such interest in real property. Interests in real property of an individual includes a share of interest in real property of any business entity or trust in which the designated employee or his or her spouse owns directly or indirectly or beneficially a ten percent interest.
- 02 All investments in, income (including gifts, loans, and travel payments) from, and employment with any business entity which has within the last two years done business or may in the future do business in Fresno County.

Revised September 13, 2006  
Revised August 13, 2008

**SECTION 540**

**PROCEDURES TO IMPLEMENT  
THE POLITICAL REFORM ACT**

# PROCEDURES TO IMPLEMENT THE POLITICAL REFORM ACT

## SECTION - 540

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

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

The wording of the public notice shall be as follows:

“If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda for a land use entitlement and have made a campaign contribution of more than \$250 to or for any of the Commission members or alternate Commission members within 12 months prior to the Commission hearing, State law disqualifies such members from participating and voting on such a proceeding. State law also prohibits applicants and participants from making such campaign contributions, depending on their timing and circumstances. All of these restrictions also apply to agendas of applicants or participants. Please consult with Commission staff at (559) 495-0604 as to the requirements of the Political Reform Act (Government Code Section 84308).”

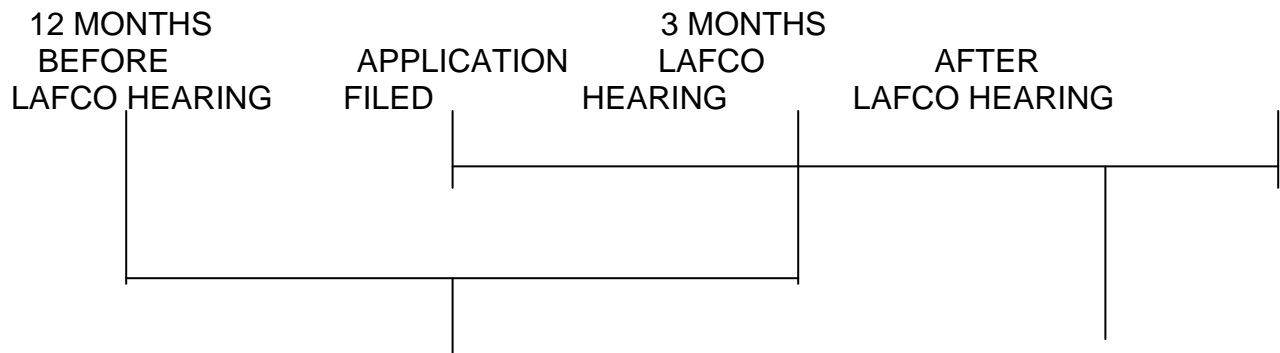
- 02 Informing the Commissioners of the general requirements of the act as it applies to the Commission, and then informing them of who the applicants or participants may be in advance. This advance notice will be accomplished by:
  - A. First, sending a copy of the certificate of filing with a list of the landowners or parties of real interest listed on the bottom. This list includes all landowners of uninhabited proposals, and landowners of larger, undeveloped parcels in inhabited proposals. This notice is usually sent out approximately one month prior to the actual hearing.
  - B. Second, a list of the same landowners and real parties of interest on the staff report, received just prior to the hearing.
- 03 For each of the landowner lists received the Commission will be responsible to comply with the law by:
  - A. Refusing a contribution of more than \$250 from an applicant or participant from the date of filing (certificate) until 3 months after the hearing; and

- B. Disclosure, non-participation, and disqualification from the proceeding if a contribution of more than \$250 has been received from an applicant or participant up to 12 months prior to the LAFCO hearing.

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

Adopted: October 2, 1986  
 Amended: 9/18/02

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



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

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

Revised: March 26, 1996

## **SECTION 541**

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

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

**SECTION – 541**

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

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

01 Definitions

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

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

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

03 Disclosure Requirements for Conducting Authority Proceedings

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

Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.

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

#### 04 Other Reports and Disclosures

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

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

#### 05 Where to File

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

#### 06 Reporting Requirements are Non-Exclusive

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

07 Sunset Provision

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

Adopted: 12-5-07

Revised: 1-9-08

**SECTION 550**

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

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

**SECTION - 550**

**GENERAL**

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

**PURPOSE**

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

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

551 **SUPPLEMENTAL DEFINITIONS**

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

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

552 **FEES FOR ENVIRONMENTAL REVIEW**

LAFCO shall collect a fee for the following:

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

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

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

554 **PROCEDURE FOR CATEGORICAL EXEMPTION IMPLEMENTATION**

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

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

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

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

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

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

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

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

02 Projects Initiated by LAFCO Subject to Discretionary Action

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

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

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

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

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

01 Draft EIR Process

011 Private Projects

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

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

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

012 LAFCO Projects

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

013 Notice of Completion

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

014 Public Hearing on Draft EIR

Any request for a public hearing on a Draft EIR shall be subject to approval by the Executive Officer. The Executive Officer may require a public hearing on a Draft EIR without any formal request. The decision or determination that a public hearing on a Draft EIR be conducted shall require findings that: 1) the project subject to the EIR does not require approval at a public hearing, and 2) such a public hearing is necessary to facilitate the purposes of the CEQA. The reviewing body at such public hearing shall be the LAFCO. All comments made on the Draft EIR at such public hearing shall be summarized and addressed and made part of the Final EIR.

02 Final EIR Process

021 Response to Comments

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

022 Use of Final EIR

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

023 Final Action on Applications

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

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

557 **LIMITS FOR PROJECT ACTION**

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

Adopted: March 27, 1974

Revised: February 2, 1977

Revised: December 21, 1977

Revised: September 28, 1983

Revised: September 24, 1996

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

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

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

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

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

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

organization or reorganization pursuant to Part 4, Chapter 1 of the Act (commencing with Code sec. 57000). (Code sec. 57000(a)).

Added 12/19/01

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

710 **PERSONNEL AND FACILITIES (CODE SEC. 56380).**

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

01 The Commission shall appoint an Executive Officer who shall conduct and perform the day-to-day business of the Commission. If the Executive Officer is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint an alternate Executive Officer. The Commission may recover its costs by charging fees pursuant to Code section 56383.

02 The Commission shall appoint legal counsel to advise it. If the Commission's counsel is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint alternate legal counsel to advise it. The Commission may recover its costs by charging fees pursuant to Code sec. 56383.

03 The Commission may appoint staff as it deems appropriate. If staff for the Commission is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint alternate staff to assist it. The Commission may recover its costs by charging fees pursuant to Code section 56383.

04 The term "conflict of interest" shall be defined as it is for the purpose of the Political Reform Act of 1974 and shall also include matters proscribed by Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Code (Code sec. 56384).

05 In order to obtain cost-effective services and resources, the Commission currently has an agreement with the County of Fresno to provide personnel and resources to operate the Commission, including the provision of an Executive Officer and staff, and legal counsel.

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

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

01 If the County or a city does not remit its required payment to fund the Commission's net operating expenses, as provided in Code section 56381(c), the Executive Officer is authorized to determine an appropriate method of collecting the required payment, including a request to the County Auditor-Controller/Treasurer-Tax Collector to collect an equivalent amount from the

property tax, or any fee or eligible revenue owed to the County or city under Code section 56381(c).

- 02 Any action previously taken by the Executive Officer to enforce Code section 56381(c) is hereby ratified and approved.

Added 12/19/01  
REVISED 2/13/04

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

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

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

- 05 In the case of Commission approved changes of organization and reorganizations where recordation is not achieved timely and where extensions of time are granted, the two-year time frame identified in Policy 730-01, shall be tolled from the time the change of organization or reorganization is completed (recorded).
- 06 In cases where a change of organization or reorganization is allowed to expire, the two-year time frame shall be tolled from the original date of approval or the date of the most recent time extension, if such extension(s) was granted.
- 07 Audio recordings of all Commission meetings shall be maintained on compact disks or other appropriate medium as provided by State law and shall be stored in the manner as described in Subsection 04 above. These records are to be maintained as a permanent record of Commission proceedings.

Added: 7/9/2008