



Local Agency Formation Commission of Napa County
Subdivision of the State of California

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
Fax: (707) 251-1053
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 8d (Action)

TO: Local Agency Formation Commission

PREPARED BY: Policy Committee (Mohler, Rodeno, and Freeman)

MEETING DATE: February 5, 2018

SUBJECT: Proposed Policy Amendments Relating to Outside Service Agreements

RECOMMENDATION

It is recommended the Commission adopt the draft resolution, included as Attachment One, amending the *Policy on Outside Service Agreements* and the *General Policy Determinations*.

BACKGROUND AND SUMMARY

California Government Code (G.C.) Section 56133 requires cities and special districts to request and receive written approval from LAFCO prior to providing new or extended services outside their jurisdictional boundaries. Notably, under G.C. Section 56133, LAFCO may only authorize cities and special districts to provide services outside both their jurisdictional boundaries and spheres of influence to respond to documented existing or impending public health or safety threats.

Assembly Bill 402 (Dodd) was approved in 2015 and became effective on January 1, 2016. AB 402 added G.C. Section 56133.5, which established a five-year pilot program that allows Napa and San Bernardino LAFCOs to authorize cities and special districts to provide services outside both their jurisdictional boundaries and spheres of influence without requiring a documented existing or impending public health or safety threat.

Senate Bill 239 (Hertzberg) was approved in 2015 and became effective on January 1, 2016. SB 239 amended G.C. Sections 56017.2 and 56133, and added G.C. Section 56134. SB 239 requires cities and special districts to receive approval from LAFCO before providing new or extended fire protection services outside the agencies' jurisdictional boundaries under specific circumstances.

Scott Sedgley, Commissioner
Councilmember, City of Napa

Margie Mohler, Commissioner
Councilmember, Town of Yountville

Kenneth Leary, Alternate Commissioner
Councilmember, City of American Canyon

Brad Wagenknecht, Chair
County of Napa Supervisor, 1st District

Diane Dillon, Commissioner
County of Napa Supervisor, 3rd District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Vice Chair
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

On November 3, 2008, the Commission adopted its *Policy on Outside Service Agreements*. The most recent amendment to the *Policy on Outside Service Agreements* was approved on April 4, 2016. Additional policies relating to outside service agreements are included in the Commission's *General Policy Determinations*.

The ad hoc Policy Committee, consisting of Commissioners Mohler and Rodeno and the Executive Officer, met via teleconference on December 15, 2017, and January 23, 2018, for purposes of reviewing the Commission's existing policies related to outside service agreements.

As part of this item, the Commission will consider the Committee's proposed amendments to the *Policy on Outside Service Agreements* and *General Policy Determinations* as discussed in this report and as shown in tracked changes in Attachments Two and Three.

DISCUSSION

The Commission's existing policies relating to outside service agreements are included in the *Policy on Outside Service Agreements* and *General Policy Determinations*. The Committee reviewed these existing policies and determined amendments are appropriate for purposes of clarifying the Commission's review process when cities and special districts request authorization to provide new or extended services outside their jurisdictional boundaries. The Committee also determined the *Policy on Outside Service Agreements* should expand upon the local considerations the Commission should consider when reviewing requests to authorize outside service agreements.

It is important to note the Committee determined it would be appropriate for all policies relating to outside service agreements to be contained in the stand-alone *Policy on Outside Service Agreements*, attached to the draft resolution (Attachment One). Currently, the Commission's policies exist in both stand-alone documents and in the more comprehensive *General Policy Determinations* document. The Policy Committee intends to revise the Commission's current policies with a goal of creating a new, fully updated, single volume of policies. As part of that process, the *General Policy Determinations* would be superseded by the new single volume of policies and procedures.

Therefore, if the Commission approves the proposed amendment to the *Policy on Outside Service Agreements* as reflected in Attachment Two, it is also recommended the Commission concurrently amend the *General Policy Determinations* to delete Sections V(B) and VI(D) as reflected in Attachment Three.

ALTERNATIVES FOR COMMISSION ACTION

Staff has identified three alternatives for Commission consideration.

Alternative Action One (Recommended):

Adopt the draft resolution, included as Attachment One, amending the *Policy on Outside Service Agreements* and the *General Policy Determinations*.

Alternative Action Two:

Continue this item to the April 2, 2018, meeting and provide direction to the Policy Committee to return with any changes to the proposed policy amendments as desired by members of the Commission.

Alternative Action Three:

Provide direction to the Policy Committee to circulate the proposed policy amendments for public review and comment.

ATTACHMENTS

- 1) Draft Resolution Amending the Policy on Outside Service Agreements
- 2) Proposed Amendment to Policy on Outside Service Agreements (tracked changes)
- 3) Proposed Amendment to General Policy Determinations (tracked changes)

RESOLUTION NO. 2018-04

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
AMENDING ITS POLICY ON OUTSIDE SERVICE AGREEMENTS**

WHEREAS, the Local Agency Formation Commission of Napa County has adopted policies on the topic of Outside Service Agreements in its *General Policies Determinations*;

WHEREAS, On November 3, 2008, the Commission adopted a *Policy on Outside Service Agreements* and amended that policy on April 4, 2016;

WHEREAS, the Commission desires to consolidate its policies on outside service agreements into a single stand-alone policy and to amend the *Policy on Outside Service Agreements*;

WHEREAS, the Commission considered proposed amendments to the *Policy on Outside Service Agreements* and the *General Policy Determinations* at its regular meeting on February 5, 2018, and invited public comment on the policy at that meeting;

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of Napa County hereby adopts the amended *Policy on Outside Services Agreements* attached hereto and concurrently deletes Sections V(B) and VI(D) of the Commission's *General Policy Determinations*.

This Resolution shall take effect from and after the date of its passage and adoption.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on February 5, 2018, after a motion by Commissioner _____, seconded by Commissioner _____, by the following vote:

AYES:	Commissioners	_____
NOES:	Commissioners	_____
ABSENT:	Commissioners	_____
ABSTAIN:	Commissioners	_____

Brad Wagenknecht
Commission Chair

ATTEST: _____
Brendon Freeman
Executive Officer

Recorded by: Kathy Mabry
Commission Secretary



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Outside Service Agreements

(Adopted: November 3, 2008; Last Amended: February 5, 2018)

I. BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities, towns, and special districts to request and receive written approval from the Commission before providing new or extended services by agreements outside their jurisdictional boundaries with limited exemptions pursuant to Government Code (G.C.) Sections 56133, 56133.5, and 56134.

The Commission may authorize a city, town, or special district to provide new or extended service outside its jurisdictional boundary, but within its sphere of influence, in anticipation of a subsequent change of organization, such as an annexation. The Commission may also authorize a city, town, or special district to provide new or extended service outside its jurisdictional boundary *and* sphere of influence (a) to address an existing or impending threat to public health or safety or (b) if the Commission makes the determinations set forth in Section V(A)(4) of this policy at a noticed public hearing.

II. PURPOSE

The purpose of these policies is to guide the Commission in reviewing city, town, and special district requests to provide new or extended services by agreement outside their jurisdictional boundaries. This includes making policy statements and establishing consistent procedures with respect to the form, review, and consideration of requests.

III. OBJECTIVE

The objective of the Commission in implementing these policies is to ensure the extension of services by cities, towns, and special districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Napa County, and to prevent the circumvention of the LAFCO process by providing services by contract instead of through the annexation of territory. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

From LAFCO's perspective, an Outside Service Agreement can:

- 1) Protect the public from threats to health and safety.
- 2) Impose restrictions that limit development to existing intensities.
- 3) Permit a city or town to plan for future development in an orderly manner through the use of traditional zoning or specific plans.
- 4) Discourage premature development of fringe properties.

IV. DEFINITIONS

The Commission shall incorporate the following definitions in administering this policy:

- A. “Services” shall mean any municipal service provided by a city, town, or special district unless otherwise exempted under G.C. Section 56133.
- B. “New” shall mean the extension of a services to previously unserved non-jurisdictional land.
- C. “Extended” shall mean the intensification of existing services.
- D. “Outside Service Agreement” shall mean an agreement contemplated by G.C. Sections 56133, 56133.5, or 56134.

V. LOCAL CONSIDERATIONS

A. Consideration of New or Extended Services Outside a Jurisdictional Boundary and Outside the Sphere of Influence (G.C. Sections 56133(c) or 56133.5)

When considering any proposed Outside Service Agreement pursuant to G.C. Section 56133(c) or the Pilot Program under G.C. Section 56133.5, the Commission will consider the following, which will be addressed in the Executive Officer’s written report:

- 1) The ability of the applicant to extend the subject service to the affected territory.
- 2) The application’s consistency with the policies and general plans of all affected local agencies.
- 3) The application’s effect on growth and development within and adjacent to the affected territory.
- 4) The documentation presented pursuant to G.C. Section 56133(c)(1), which must provide substantial evidence to support a finding by the Commission of an impending threat to the health or safety of the public or the residents of the affected territory.
- 5) The application’s potential impacts on prime agricultural or open space lands.
- 6) The application’s consistency with the Commission’s adopted municipal service review determinations and recommendations.
- 7) The application’s potential impacts with respect to supporting affordable or farmworker housing.

B. Consideration of New or Extended Services Outside the Jurisdictional Boundary but within the Sphere of Influence in Anticipation of a Later Change of Organization (G.C. Section 56133(b))

Annexations to cities, towns, and special districts involving territory located within the affected agency's sphere of influence are preferred to Outside Service Agreements. The Commission recognizes, however, that there may be instances when Outside Service Agreements involving territory within the affected agency's sphere of influence are appropriate given unique local circumstances.

When submitting an application under G.C. Section 56133(b), the city, town, or district must state with specificity the nature and timing of the anticipated later change of organization for the area affected by the potential Outside Service Agreement.

C. Environmental Review

The review of a proposed Outside Service Agreement will be subject to the review procedures defined in the California Environmental Quality Act (CEQA) and the Napa LAFCO CEQA Guidelines. Napa LAFCO will act as the Lead Agency under CEQA for its environmental review of any Outside Service Agreement request.

If an environmental assessment/analysis was prepared for the project associated with the service extension request (i.e. the County or agency's environmental analysis for a project) and LAFCO was afforded the opportunity to evaluate and comment during the Lead Agency's environmental review process, then LAFCO can act as a Responsible Agency under CEQA for its environmental review of an Outside Service Agreement.

A complete set of the adopted environmental documents prepared for the project, a copy of the filed Notice of Determination/Notice of Exemption, and a copy of the Department of Fish and Wildlife fee receipt must be submitted as part of the application. Completion of the CEQA review process will be required prior to action by the Executive Officer or the Commission.

VI. FORM OF REQUEST

The Commission encourages cities, towns, and special districts to coordinate with the Executive Officer prior to filing a request under G.C. Sections 56133 or 56134 in order to determine if the Pilot Program under G.C. Section 56133.5 or the exemptions under G.C. Section 56133(e) may apply.

Requests to authorize an Outside Service Agreement shall be filed with the Executive Officer by the affected city, town, or special district. Requests shall be made by resolution of application with a cover letter accompanying a completed application using the form provided in Attachment A. Requests shall identify any assurances that the Outside Service Agreement would not induce growth or result in the premature conversion of agricultural or open space lands to an urban use.

Requests shall include a check in the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed Outside Service Agreement. The application shall be signed by an authorized representative of the city, town, or special district.

VII. REVIEW OF REQUEST

The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize an Outside Service Agreement is complete. If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

VIII. CONSIDERATION OF REQUEST

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation.

In the case of a request involving an existing or impending public health or safety emergency, the Executive Officer will consult with the Chair regarding the request. If the Chair agrees that the request should be granted, then the Executive Officer may approve the request. The Commission shall ratify the approval at the next scheduled meeting. If the Chair does not agree, then the request will be presented at the Commission's next meeting.

For requests not involving an existing or impending public health or safety threat, the Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete.

The Commission may approve, approve with conditions, or deny the request for an Outside Service Agreement. The Commission's determination and any required findings will be set out in a resolution that specifies the property or area to be served, the services to be provided, and the authority of the agency to provide its services outside its boundaries.

If the request is approved, the Commission's approval shall expire within one year from approval unless a contract has been executed and the construction of any needed infrastructure improvements has commenced. A one-time extension may be requested by the applicant for a period of time that is necessary to complete the Commission's conditions. Time extension requests shall include a check in the amount prescribed under the Commission's adopted fee schedule.



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Outside Service Agreements

(Adopted: November 3, 2008; Last Amended: ~~April 4, 2016~~ February 5, 2018)

I. BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities, towns, and special districts to request and receive written approval from the Commission before providing new or extended services by agreements outside their jurisdictional boundaries with limited exemptions (pursuant to Government Code (G.C.) Sections 56133-~~and~~, 56133.5)-, and 56134.

The Commission may authorize a city, town, or special district to provide new or extended service outside its jurisdictional boundary, but within its sphere of influence, in anticipation of a subsequent change of organization, such as an annexation. ~~The~~ Commission may also authorize a city, town, or special district to provide new or extended service outside its jurisdictional boundary *and* sphere of influence (a) to address an existing or futureimpending threat to ~~the~~ public health or safety or (b) if the Commission makes the determinations set forth in Section ~~IV~~V(A)(4) of this policy at a noticed public hearing.

II. PURPOSE

The purpose of these policies is to guide the Commission in reviewing city, town, and special district requests to provide new or extended services by agreement outside their jurisdictional boundaries. This includes making policy statements and establishing consistent procedures with respect to the form, review, and consideration of requests.

III. OBJECTIVE

The objective of the Commission in implementing these policies is to ensure the extension of services by cities, towns, and special districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Napa County-~~, and to prevent the circumvention of the LAFCO process by providing services by contract instead of through the annexation of territory.~~ The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

~~From LAFCO's perspective, an IV.—~~Outside Service Agreement ~~Policies~~ can:

- 1) Protect the public from threats to health and safety.
- 2) Impose restrictions that limit development to existing intensities.
- 3) Permit a city or town to plan for future development in an orderly manner through the use of traditional zoning or specific plans.

- 4) Discourage premature development of fringe properties.

IV. DEFINITIONS

The Commission shall incorporate the following definitions in administering this policy:

- A. “Services” shall mean any municipal service provided by a city, town, or special district unless otherwise exempted under G.C. Section 56133.
- B. “New” shall mean the extension of a services to previously unserved non-jurisdictional land.
- C. “Extended” shall mean the intensification of existing services.
- D. “Outside Service Agreement” shall mean an agreement contemplated by G.C. Sections 56133, 56133.5, or 56134.

V. LOCAL CONSIDERATIONS

- A. Consideration of New or Extended Services Outside a Jurisdictional Boundary and Outside the Sphere of Influence (G.C. Sections 56133(c) or 56133.5)**

When considering any proposed Outside Service Agreement pursuant to G.C. Section 56133(c) or the Pilot Program under G.C. Section 56133.5, the Commission will consider the following, which will be addressed in the Executive Officer’s written report:

- 1) The ability of the applicant to extend the subject service to the affected territory.
- 2) The application’s consistency with the policies and general plans of all affected local agencies.
- 3) The application’s effect on growth and development within and adjacent to the affected territory.
- 4) The documentation presented pursuant to G.C. Section 56133(c)(1), which must provide substantial evidence to support a finding by the Commission of an impending threat to the health or safety of the public or the residents of the affected territory.
- 5) The application’s potential impacts on prime agricultural or open space lands.
- 6) The application’s consistency with the Commission’s adopted municipal service review determinations and recommendations.

- A. The General Statements**

7) application's potential impacts with respect to supporting affordable or farmworker housing.

B. Consideration of New or Extended Services Outside the Jurisdictional Boundary but within the Sphere of Influence in Anticipation of a Later Change of Organization (G.C. Section 56133(b))

Annexations to cities, towns, and special districts involving territory located within the affected agency's sphere of influence ~~is generally~~ are preferred to ~~outside service agreements.~~ Outside Service Agreements. The Commission recognizes, however, that there may be instances when ~~outside service agreements~~ Outside Service Agreements involving territory within the affected agency's sphere of influence ~~is~~ are appropriate given unique local circumstances.

When submitting an application under G.C. Section 56133(b), the city, town, or district must state with specificity the nature and timing of the anticipated later change of organization for the area affected by the potential Outside Service Agreement.

C. Environmental Review

The

review of

- ~~2) The Commission may authorize a city or special district's request to provide new or extended services outside its jurisdictional boundary and sphere of influence in response to either an (a) existing or (b) impending threat to public health or safety, if the requirements of Government Code Section 56133, subsection (c) are met.~~
- ~~3) The Commission recognizes the importance of proactively addressing impending threats to public health and safety in considering requests for outside water and sewer services pursuant to Government Code Section 56133, subsection (c), in support of existing and planned public serving or residential uses with reasonable access to existing infrastructure.¹ Accordingly, the Commission will consider outside water and sewer service requests for purposes of addressing an impending public health or safety threat if all of the following criteria is applicable:

 - ~~(a) The subject property is zoned for public serving or residential use by the affected land use authority.~~
 - ~~(b) The subject property comprises a legal lot of record as of January 1, 2001.~~
 - ~~(c) The subject property is adjacent to a public right of way in which the affected service line is located.~~~~

¹ "Planned use means any project that is included in an approved specific plan as of July 1, 2015."

- ~~(d) The proposed service extension can be accommodated by an appropriate connection for public serving or single family residential use.~~
- ~~4) Until December 31, 2020, the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundary and sphere of influence in accordance with Government Code Section 56133.5 if all of the following determinations are made at a noticed public hearing:~~
- ~~1) The proposed service extension or services deficiency was identified and evaluated in a municipal service review Outside Service Agreement.~~
- ~~(b) The proposed service extension will not result in either: (1) growth inducing impacts; or (2) adverse impacts on open space or agricultural lands.~~
- ~~(c) Inclusion of the area to be served in the agency's sphere of influence is not feasible or desirable based on the Commission's adopted policies.~~
- ~~5) The Commission authorizes the Chair to approve a city or special district's request for an outside service agreement if there is an existing or impending public health or safety emergency. The Commission shall ratify the Chair's determination at the next regular scheduled meeting.~~
~~All requests for outside service agreements are subject to the applicable provisions of review procedures defined in the California Environmental Quality Act (CEQA) and the Napa LAFCO CEQA Guidelines. Napa LAFCO will act as the Lead Agency under CEQA for its environmental review of any Outside Service Agreement request.~~
- ~~7) Commission approval is not required for cities or special districts to provide new or extended services outside their jurisdictional boundaries if any of the following conditions apply in accordance with Government Code Section 56133(e):~~
- ~~(a) The agreement involves two or more public agencies where the contracted service is an alternative or substitute for public services already provided by an existing public service provider, and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.~~
- ~~(b) The agreement involves the transfer of non-potable or non-treated water.~~
- ~~(c) The agreement involves the provision of surplus water to agricultural lands and facilities for conservation projects or to directly support agricultural industries, unless the surplus water will be provided to a project that will support or induce development.~~
- ~~(d) The agreement involves an extended service that a city or special district was providing on or before January 1, 2001.~~

~~(e) The agreement involves a local publicly owned electric utility (as defined by Public Utilities Code Section 9604, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility outside the utility's jurisdictional boundary.~~

~~(f) The agreement involves a fire contract as defined in subdivision (a) of Government Code Section 56134.~~

If an environmental assessment/analysis was prepared for the project associated with the service extension request (i.e. the County or agency's environmental analysis for a project) and LAFCO was afforded the opportunity to evaluate and comment during the Lead Agency's environmental review process, then LAFCO can act as a Responsible Agency under CEQA for its environmental review of an Outside Service Agreement.

A complete set of the adopted environmental documents prepared for the project, a copy of the filed Notice of Determination/Notice of Exemption, and a copy of the Department of Fish and Wildlife fee receipt must be submitted as part of the application. Completion of the CEQA review process will be required prior to action by the Executive Officer or the Commission.

VI. FORM OF REQUEST

The Commission encourages cities, towns, and special districts to ~~work~~coordinate with the Executive Officer prior to filing a request under G.C. Sections 56133 or 56134 in determining when order to determine if the above Pilot Program under G.C. Section 56133.5 or the exemptions under G.C. Section 56133(e) may apply.

Form of Request

Requests to authorize an ~~outside service agreement~~Outside Service Agreement shall be filed with the Executive Officer by the affected city, town, or special district. ~~Requests shall be made in writing by resolution of application~~ with a cover letter accompanying a completed application using the form provided in Attachment A. ~~Requests shall also~~Requests shall identify any assurances that the Outside Service Agreement would not induce growth or result in the premature conversion of agricultural or open space lands to an urban use.

Requests shall include a check in the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed ~~service agreement~~Outside Service Agreement. The application shall be signed by an authorized representative of the city, town, or special district.

VII. REVIEW OF REQUEST

The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize an ~~outside service agreement~~Outside Service Agreement is complete.— If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

VIII. CONSIDERATION OF REQUEST

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. ~~The~~

In the case of a request involving an existing or impending public health or safety emergency, the Executive Officer will consult with the Chair regarding the request. If the Chair agrees that the request should be granted, then the Executive Officer may approve the request. The Commission shall ratify the approval at the next scheduled meeting. If the Chair does not agree, then the request will be presented at the Commission's next meeting.

For requests not involving an existing or impending public health or safety threat, the Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. -The public hearing will be scheduled for the next ~~regular~~ meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete. —The Executive Officer's written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the following three factors:

The ability of the applicant to extend the subject service to the affected land~~The Commission may approve, approve with conditions, or deny the request for an Outside Service Agreement. The Commission's determination and any required findings will be set out in a resolution that specifies the property or area to be served, the services to be provided, and the authority of the agency to provide its services outside its boundaries.~~

~~1) If the request is approved, the Commission's approval shall expire within one year from approval unless a contract has been executed and the construction of any needed infrastructure improvements has commenced. A one-time extension may be requested by the applicant for a period of time that is necessary to complete the Commission's conditions. Time extension requests shall include a check in the amount prescribed under the Commission's adopted fee schedule. =~~

~~2) The application's consistency with the policies and general plans of all affected local agencies.~~

~~3) The application's effect on growth and development within and adjacent to the affected land.~~

~~The Commission may approve the request with or without conditions. If denied, the affected city or special district can ask for reconsideration within 30 days.~~



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

General Policy Determinations

(Adopted: August 9, 1972; Last Amended: ~~October 3, 2011~~ February 5, 2018)

I. Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 specifies the Commission's principal objectives are discouraging urban sprawl, preserving open-space and agricultural resources, and encouraging the orderly formation and development of cities and special districts and their municipal services based on local conditions. Regulatory duties include approving or disapproving proposals involving the formation, reorganization, expansion, and dissolution of cities and special districts. The Commission's regulatory actions must be consistent with its adopted written policies and procedures. The Commission must also inform its regulatory duties through a series of planning activities, which includes establishing and updating spheres of influence.

II. General Policies

The intent of these policies is to serve as the Commission's constitution with regards to outlining clear goals, objectives, and requirements in uniformly fulfilling its prescribed duties. The Commission reserves discretion in administering these policies, however, to address special conditions and circumstances as needed.

A) Legislative Declarations

The Commission acknowledges and incorporates into its own policies, the policies of the Legislature regarding the promotion of orderly, well-planned development patterns that avoid the premature conversion of agricultural and open-space lands and ensure effective, efficient, and economic provision of essential public services. The Commission wishes to specifically note the following declarations and policies contained in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000:

- (1) The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services. (G.C. §56000)
- (2) It is the intent of the Legislature that each commission, not later than January 1, 2002, shall establish written policies and procedures and exercise its powers pursuant to this part in a manner consistent with those policies and procedures, and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns. (G.C. §56300)

- (3) In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:
 - a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
 - b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency. (G.C. §56377)

B) Commission Declarations

The Commission declares its intent not to permit the premature conversion of designated agricultural or open-space lands to urban uses. The Commission shall adhere to the following policies in the pursuit of this intent, and all proposals, projects, and studies shall be reviewed with these policies as guidelines.

- (1) Use of County General Plan Designations:
In evaluating a proposal, the Commission will use the Napa County General Plan to determine designated agricultural and open-space lands. The Commission recognizes that inconsistencies may occur between the County General Plan and the affected city general plan with respect to agricultural and open-space designations. Notwithstanding these potential inconsistencies, the Commission will rely on the Napa County General Plan in recognition of the public support expressed in both the incorporated and unincorporated areas of Napa County for the County's designated agricultural and open-space lands through enactment of Measure "J" in 1990 and Measure "P" in 2008.
- (2) Location of Urban Development:
The Commission shall guide urban development away from designated agricultural or open-space lands until such times as urban development becomes an overriding consideration as determined by the Commission.

(3) Timing of Urban Development:

The Commission discourages proposals involving the annexation of undeveloped or underdeveloped lands to cities and special districts that provide potable water, sewer, fire protection and emergency response, or police protection services. This policy does not apply to proposals in which the affected lands are subject to a specific development plan or agreement under consideration by a land use authority. This policy does not apply to city annexation proposals in which the affected lands are part of an unincorporated island.

(4) Factors for Evaluating Proposals Involving Agricultural or Open-Space Lands:

The Commission recognizes there are distinct and varying attributes associated with agricultural and open-space designated lands. A proposal which includes agricultural or open-space designated land shall be evaluated in light of the existence of the following factors:

- a) "Prime agricultural land", as defined by G.C. §56064.
- b) "Open-space", as defined by G.C. §56059.
- c) Land that is under contract to remain in agricultural or open-space use, such as a Williamson Act Contract or Open-Space Easement.
- d) Land which has a County General Plan agricultural or open-space designation (Agricultural Resource or Agriculture, Watershed and Open-Space).
- e) The adopted general plan policies of the County and the affected city.
- f) The agricultural economic integrity of land proposed for conversion to urban use as well as adjoining land in agricultural use.
- g) The potential for the premature conversion of adjacent agricultural or open-space designated land to urban use.
- h) The potential of vacant non-prime agricultural land to be developed with a use that would then allow the land to meet the definition of prime agricultural land under the Williamson Act.

(5) Encouragement of Reorganizations:

The Commission encourages reorganization proposals as a means of coordinating actions of local governmental agencies involving, but not limited to, annexation of land to two or more public agencies. The Commission recognizes the usefulness of the reorganization concept as a vehicle designed to simplify and expedite such actions.

III. Policies Concerning Spheres of Influence

It is the intent of the Commission to establish spheres of influence that promote the orderly expansion of cities and special districts to ensure effective, efficient and economic provision of essential public services, including public sewer and water, fire protection and emergency response, and police protection.

A) Legislative Declarations

The Commission acknowledges and incorporates into its own policies, the policies of the Legislature as they relate to spheres of influence. The Commission wishes to specifically note the following declarations and policies contained in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000:

- (1) "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission. (G.C. §56076)
- (2) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies 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 and enact policies designed to promote the logical and orderly development of areas within the sphere. (G.C. §56425(a)).
- (3) The Commission encourages cities and the County to meet and agree to sphere of influence changes. The Commission shall give "great weight" to these agreements to the extent they are consistent with its policies. (G.C. §56425(b) and (c))
- (4) On or before January 1, 2008, and every five years thereafter, the Commission shall, as necessary, review and update each sphere of influence. (G.C. §56425(g))

B) General Guidelines for the Review of Spheres of Influence

It is the intent of the Commission to consider the following factors whenever reviewing a proposal that includes the adoption, amendment, or update of a sphere of influence.

- (1) The Commission incorporates the following definitions:
 - a) An “establishment” refers to the initial development and determination of a sphere of influence by the Commission.
 - b) An “amendment” refers to a limited change to an established sphere of influence typically initiated by a landowner, resident, or agency.
 - c) An “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission.
- (2) The Commission discourages proposals from residents, landowners, and agencies proposing amendments to spheres of influence unless justified by special conditions and circumstances.
- (3) The Commission shall consider the following land use criteria in establishing, amending, and updating spheres of influence:
 - a) The present and planned land uses in the area, including designated agricultural and open-space lands.
 - b) Consistency with the County General Plan and the general plan of any affected city.
 - c) Adopted general plan policies of the County and of any affected city that guide future development away from designated agricultural or open-space land.
 - d) Adopted policies of affected agencies that promote infill of existing vacant or underdeveloped land.
 - e) Amount of existing vacant or underdeveloped land located within any affected agency’s jurisdiction and current sphere of influence.
 - f) Adopted urban growth boundaries by the affected land use authorities.

- (4) The Commission shall consider the following municipal service criteria in establishing, amending, and updating spheres of influence:
 - a) The present capacity of public facilities and adequacy of public services provided by affected agencies within the current jurisdiction and the adopted plans of these agencies to improve any municipal service deficiency, including adopted capital improvement plans.
 - b) The present and probable need for public facilities and services within the area proposed for inclusion within the sphere of influence and the plans for the delivery of services to the area.
- (5) The Commission shall endeavor to maintain and expand, as needed, spheres of influence to accommodate planned and orderly urban development. The Commission, however, shall consider removal of land from an agency's sphere of influence if any of the two conditions apply:
 - a) The land is outside the affected agency's jurisdictional boundary but has been within the sphere of influence for 10 or more years.
 - b) The land is inside the affected agency's jurisdictional boundary, but is not expected to be developed for urban uses or require urban-type services within the next 10 years.

C) City Spheres of Influence

The Commission shall adhere to the following policies in the establishment, amendment, or update of a city's sphere of influence.

- (1) Location of Urban Development:
It shall be a basic policy of the Commission is that the sphere of influence shall guide and promote the affected city's orderly urban growth and development.
- (2) Sphere of Influence to Reflect Service Capacities:
A city's sphere of influence should reflect existing and planned service capacities based on information collected by, or submitted to, the Commission.
- (3) Use of County General Plan Agricultural and Open-Space Designations:
The Commission shall use the most recently adopted County General Plan as the basis to identify designated agricultural and open-space lands in establishing, amending, and updating a city's sphere of influence.

- (4) Avoidance of Inclusion of Agricultural and Open-Space Lands:
Land specifically designated as agricultural or open-space lands shall not be approved for inclusion within any city's sphere of influence for purposes of urban development unless exceptions are warranted based on the criteria outlined in Section B(3) and (4).
- (5) Preference for Infill:
The Commission will consider the amount of vacant land within the established sphere of influence of a city when considering amendments and updates. The Commission encourages sphere of influence proposals that promote the infill of existing vacant or underdeveloped land thereby maximizing the efficient use of existing city services and infrastructure as well as discouraging urban sprawl. Conversely, the Commission discourages sphere of influence proposals involving vacant or underdeveloped land that requires the extension of urban facilities, utilities, and services where infill is more appropriate.
- (6) Spheres of Influence as Guides for City Annexations:
A city's sphere of influence shall generally be used to guide annexations within a five-year planning period. Inclusion of land within a sphere of influence shall not be construed to indicate automatic approval of an annexation proposal; an annexation will be considered on its own merits with deference assigned to timing.
- (7) Joint Applications:
When an annexation is proposed outside a city's sphere of influence, the Commission may consider both the proposed annexation and the necessary change in the sphere of influence at the same meeting. The change to the sphere of influence to include the affected territory, however, shall be considered and resolved prior to Commission action on the annexation.
- (8) Cooperative Planning and Development:
Spheres of influence shall be developed by the Commission in cooperation with input from the cities and the County.
 - a) The urban areas as delineated by the spheres of influence or other boundary adopted by the Commission should be recognized and considered as part of planning and development programs of the affected cities as well as any affected special districts and the County.
 - b) The Commission shall encourage cities to first develop existing vacant and underdeveloped infill lands located within their jurisdictions and spheres of influence to maximize the efficient use of available services and infrastructure and discourage the premature conversion of agricultural and open-space lands to urban uses. The Commission shall

encourage the development of vacant or underdeveloped infill lands located within cities' jurisdictions before the annexation of lands requiring the extension of urban facilities, utilities, and services.

- c) No urban development should be permitted by the County to occur on unincorporated lands within a city's sphere of influence. If approval of urban development in such areas is legally required of the County, such development should conform to applicable city standards and be the subject of a joint city-County planning effort.

D) Special District Spheres of Influence

The Commission shall adhere to the following policies in the establishment, review, amendment, or update of a special district's sphere of influence.

- (1) Urbanizing Effect of Services:
It shall be a basic policy of the Commission that the establishment, amendment, or update of a special district's sphere of influence serves to promote urban development with limited exceptions.
- (2) Sphere of Influence to Reflect Service Capacities:
A special district's sphere of influence should reflect existing and planned service capacities based on information collected by, or submitted to, the Commission.
- (3) Exclusion of Agricultural and Open-Space Lands:
Land designated agricultural or open-space by the applicable city or County general plan shall not be approved for inclusion within any special district's sphere of influence for purposes of urban development through the extension of essential public services. Such designations shall be recognized by the Commission as designating the land as non-urban in character in regard to the existing use of the area or its future development potential. The Commission may consider exceptions to this policy based on evidence provided by the affected special district demonstrating all of the following:
 - a) The expansion is necessary in order to provide potable water or sewer to the territory to respond to a documented public health or safety threat.
 - b) The affected special district can provide adequate potable water or sewer service to the affected territory without extending any mainline more than 1,000 feet.
 - c) The expansion will not promote the premature conversion of agricultural or open-space land to urban use.

- (4) Sphere of Influence as a Guide to Special District Annexations:
A special district's sphere of influence shall generally be used to guide annexations within a five-year planning period. Inclusion of land within a sphere of influence shall not be construed to indicate automatic approval of an annexation proposal; an annexation will be considered on its own merits with deference assigned to timing.
- (5) Joint Applications:
When an annexation is proposed outside a special district's sphere of influence, the Commission may consider both the proposed annexation and the necessary change in the sphere of influence at the same meeting. The change to the sphere of influence to include the affected territory, however, shall be considered and resolved prior to Commission action on the proposed annexation.
- (6) Cooperative Planning and Development Programs:
Spheres of influence shall be developed by the Commission in cooperation with any affected cities and the County.
 - a) The service area of a special district as delineated by the sphere of influence or other boundary adopted by the Commission should be recognized and considered as part of the planning and development programs of any affected district, city, and the County.

IV. Policies Concerning the County Of Napa

A) Location of Urban Development

- (1) Development of an urban character and nature should be located within areas designated as urban areas by the County General Plan in close proximity to a city or special district which can provide essential public services.
- (2) Urban development should be discouraged if it is apparent that essential services necessary for the proposed development cannot readily be provided by a city or special district.
- (3) The Commission shall review and comment, as appropriate, on the extension of services or the creation of new service providers to furnish services into previously unserved territory within unincorporated areas.

B) Use of County Service Areas and Community Services Districts

- (1) In those unincorporated urban areas where essential urban services are being provided by the County, the Board of Supervisors should consider the establishment of county service areas or community services districts so that area residents and landowners pay their fair and equitable share for the services received.

V. Policies Concerning Cities

A) Incorporations

- (1) The Commission discourages proposals to incorporate communities unless substantial evidence suggests the County and any affected special district are not effectively meeting the needs of the community.
- (2) The Commission discourages proposals to incorporate communities involving land that is not already receiving essential public services from a special district.
- (3) Any community proposed for incorporation in Napa County shall have at least 500 registered voters residing with the affected area at the time proceedings are initiated with the Commission as required under G.C. §56043.

~~B) Outside Service Agreements~~

- ~~(1) Commission approval is needed for a city to provide new or extended services outside its jurisdictional boundary by contracts or agreements. A Request by a city shall be made by resolution of application and processed in accordance with G.C. §56133.~~
- ~~(2) The Commission shall incorporate the following definitions in administering these policies:

 - ~~a) "Services" shall mean any service provided by a city unless otherwise exempted under G.C. 56133.~~
 - ~~b) "New" shall mean the actual extension of a municipal service to previously unserved non-jurisdictional land. Exceptions include non-jurisdictional land in which the city or County has adequately contemplated the provision of the subject service on or before January 1, 2001 as determined by the Commission.~~
 - ~~c) "Extended" shall mean the intensification of an existing municipal service provided to non-jurisdictional land associated with a land use authority's redesignation or rezoning after January 1, 2001 as determined by the Commission.~~~~
- ~~(3) The Commission shall establish policies and procedures in the review of outside service agreement requests involving a city.~~

VI. Policies Concerning Special Districts

A) In Lieu of New District Creation

- (1) Where a limited-purpose special district exists and additional services are required for an unincorporated area designated as urban by the County General Plan, the Commission encourages reorganizations to provide the extended services of the existing limited services special district.

B) Preference for Districts Capable of Providing All Essential Services

- (1) All new special districts proposed for formation in the unincorporated urban areas as designated under the County General Plan should be capable of providing essential urban type services which include, but are not limited to, water, sanitation, fire protection, and police protection.

~~C~~B) Establishing New Services or Divestiture of Existing Service Powers

- (1) Commission approval is required for a special district to establish new services or divest existing service powers within all or parts of its jurisdictional boundary. Requests by a special district shall be made by adoption of a resolution of application and include all the information required and referenced under G.C. §56824.12.
- (2) The Commission incorporates the following definitions in administering these policies:
 - a) “New” shall mean activating a latent service not previously authorized.
 - b) “Divestiture” shall mean deactivating a service power previously authorized.
- (3) The Commission shall consider the effect of the proposal in supporting planned and orderly growth within the affected territory.

~~D~~) ~~Outside Service Agreements~~

- ~~(1) Commission approval is needed for a special district to provide new or extended services outside its jurisdictional boundary by contracts or agreements. Requests made by special districts shall be made by resolution of application and processed in accordance with G.C. §56133.~~

- ~~(2) The Commission shall incorporate the following definitions in administering these policies:~~
- ~~a) "Services" shall mean any service provided by a special district subject to the jurisdiction of the Commission unless otherwise exempted under G.C. 56133.~~
 - ~~b) "New" shall mean the actual extension of a municipal service to previously unserved non-jurisdictional land. Exceptions include non-jurisdictional land in which the special district or land use authority has adequately contemplated the provision of the subject service on or before January 1, 2001 as determined by the Commission.~~
 - ~~c) "Extended" shall mean the intensification of an existing municipal service provided to non-jurisdictional land associated with a land use authority's redesignation or rezoning after January 1, 2001 as determined by the Commission.~~
- ~~(3) The Commission shall establish policies and procedures in the review of outside service agreement requests involving a special district.~~

VII. Policies Concerning Annexations

A) General Policies Concerning Annexations to a City

- (1) Inclusion in Sphere of Influence:
The affected territory shall be included within the affected city sphere of influence prior to issuance of the Executive Officer's certificate of filing for the subject annexation proposal. The Executive Officer may amend both a sphere of influence amendment and annexation application for Commission consideration and action at the same meeting.
- (2) Substantially surrounded:
For the purpose of applying the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act, most notably G.C. §56375, the affected territory of an annexation proposal shall be deemed "substantially surrounded" if the following two conditions apply:
 - a) The affected territory lies within the city's sphere of influence.
 - b) The affected territory is surrounded by no less than 66.6% by the city, as set forth in a boundary description accepted by the Executive Officer.

B) Policies Concerning Island Annexations

- (1) Boundary of Areas Not 100% Surrounded by City:
The outside boundary of an unincorporated island less than 100% surrounded shall be the affected city sphere of influence boundary line.
- (2) Criteria for Determining a Developed Island:
A developed island shall substantially meet all the following criteria:
 - a) The island shall have a housing density of at least 0.5 units per gross acre.
 - b) All parcels within the island can readily receive from the affected city or any affected special district basic essential services including but not limited to police protection, fire protection, potable water and sanitation.
- (3) Policy Regarding Annexations Within an Identified Island Area:
When an annexation proposal includes territory within a developed island, the Commission shall invite the affected city to amend the boundary of the proposed annexation to include the entire island. To the extent permitted by law, the Commission reserves the right to expand the boundaries of the proposed annexation to include the entire island.

C) Policies Concerning Annexation of Municipally-Owned Land

- (1) Restricted Use Lands Owned by Public Agencies:
The Commission shall disapprove annexation of publicly-owned land designated agricultural or open-space or subject to a Williamson Act contract unless the land will be used for a municipal purpose and no suitable alternative site reasonably exists within the affected city's sphere of influence.
- (2) Facilities Exempt from Policy:
Municipal purpose shall mean a public service facility which is urban in nature such as water and sewage treatment facilities and public buildings, but shall not include land which is vacant or used for wastewater reclamation irrigation, a reservoir, or agricultural, watershed or open-space.

D) Concurrent Annexation Policies

It is the intent of the Commission to promote concurrent annexations to cities and special districts whenever appropriate. The Commission may waive its concurrent annexation policies based on unique conditions or circumstances surrounding the annexation proposal which make application of the policy impractical and will not result in the annexation of lands designated agricultural or open-space by the applicable city or County General Plan.

(1) City of Napa and Napa Sanitation District

a) Annexations to the District:

All annexation proposals to the Napa Sanitation District located outside of the City of Napa shall first be required to annex to the City if the affected territory is located within the City's sphere of influence as adopted by the Commission, is located within the City Residential Urban Limit Line (RUL) as adopted by the City, and annexation is legally possible.

~~b~~a) Annexations to the City:

All 100% consent annexation proposals to the City of Napa located outside of the Napa Sanitation District shall be required to annex to the Napa Sanitation District if the affected territory is located within the District's sphere of influence and if sanitation service is available.

(2) City of American Canyon and American Canyon Fire Protection District

a) Annexations to the District:

All annexation proposals to the American Canyon Fire Protection District located outside of the City of American Canyon shall be required to annex to the City if the affected territory is located within the City's sphere of influence as adopted by the Commission and if annexation is legally possible.

b) Annexations to the City:

All annexation proposals to the City of American Canyon located outside of the American Canyon Fire Protection District shall be required to annex to the District if the affected territory is located within the District's sphere of influence.

(3) County Service Area No. 4

a) Annexations to Cities:

All annexation proposals to a city shall be required to concurrently detach from County Service Area No. 4 unless the affected territory has been, or is expected to be, developed to include planted vineyards totaling one acre or more in size.