

# **LAFCO OF SANTA CLARA COUNTY**

## **BYLAWS**

### **1. GENERAL**

#### **1.1. NAME AND ADDRESS OF COMMISSION**

The Local Agency Formation Commission, established in Santa Clara County pursuant to Chapter 1 (commencing with Section 56000) of Part 1, Division 3, Title 5, for the Government Code, shall be known as the Local Agency Formation Commission of Santa Clara County (“LAFCO of Santa Clara County”), and hereinafter referred to as the “Commission.”

#### **1.2. AUTHORITY**

LAFCO of Santa Clara County is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et seq. of the California Government Code, as amended, and hereinafter referred to as the “CKH Act.” The provisions of these bylaws are not intended to preempt State law. In the event of a conflict between the provisions set forth in these bylaws and those set forth in the CKH Act, the provisions of the CKH Act shall prevail.

#### **1.3. MISSION**

The mission of LAFCO of Santa Clara County is to promote sustainable growth and good governance in Santa Clara County by preserving agricultural lands and open space, curbing urban sprawl, encouraging efficient delivery of services, exploring and facilitating regional opportunities for fiscal sustainability, and promoting accountability and transparency of local agencies.

LAFCO of Santa Clara County will be proactive in raising awareness and building partnerships to accomplish this through its special studies, programs and actions.

#### **1.4 EXECUTIVE OFFICER**

- a. The LAFCO Executive Officer shall be designated in accordance with the terms of the Memorandum of Understanding between the Commission and the County of Santa Clara.
- b. The Executive Officer shall carry out all orders as instructed by the Commission. The Executive Officer shall prepare or cause to be prepared an agenda for each meeting and maintain a record of all proceedings as required by law and these bylaws, and as instructed by the Commission. The Executive Officer shall set all hearing dates, publish notices and shall oversee the performance of all other clerical and administrative services required by the Commission. In addition, the Executive Officer shall by direction of the Commission and in accordance with

the terms of the Memorandum of Understanding between the Commission and the County of Santa Clara, hire other staff of the Commission.

### **1.5. LEGAL COUNSEL**

- a. LAFCO Counsel shall be appointed by the Commission and shall serve at the pleasure of the Commission.
- b. LAFCO Counsel shall attend all meetings of the Commission, give all requested advice on legal matters and represent the Commission in legal actions unless the Commission specifically makes other arrangements.

## **2. THE COMMISSION**

### **2.1. COMPOSITION**

The Commission shall consist of seven (7) regular commissioners and five (5) alternate commissioners.

### **2.2. SELECTION / APPOINTMENT OF COMMISSIONERS**

- a. County. The Board of Supervisors shall appoint two regular commissioners and one alternate commissioner from the Board's membership to serve on the commission. GC §56327(a)
- b. San Jose. The City of San Jose shall appoint one regular commissioner and one alternate commissioner to serve on the commission. Each appointee shall be the mayor or city council member. GC §56327(b)
- c. Cities. The City Selection Committee shall appoint one regular commissioner and one alternate commissioner to serve on the commission. Each appointee shall be a mayor or city council member from one of the County's other 14 cities. Such appointments shall be made in accordance with the procedure established by the City Selection Committee and described in the rules and regulations of that body. GC §56327(c)
- d. Special Districts. The Independent Special Districts Selection committee shall appoint two regular commissioners and one alternate commissioner to serve on the commission. Each appointee shall be elected or appointed members of the legislative body of an independent special district residing in the county but shall not be members of the legislative body of a city or county. Such appointments shall be made in accordance with the procedure established by the Independent Special Districts Selection Committee. GC §56327.3 and §56332
- e. Public Member. The other six commissioners shall appoint one public member and one alternate public member to serve on the commission. Pursuant to Government Code §56327(d), each appointee shall not be a resident of a city which is already represented on the commission. The appointees shall be Santa Clara County residents; and not currently an officer or employee of the county or

any city or district with territory in the county. The appointees shall also not concurrently hold any elected or appointed office with a local government agency that makes or informs land use decisions while serving on the Commission.

The appointment of the public member and/or alternate public member shall be made in accordance with the following procedures:

- i. The LAFCO Executive Officer shall notify the Commission in advance of the public member's and alternate public member's term expiration or when such seat(s) becomes vacant.
- ii. The LAFCO Executive Officer shall prepare a notice announcing the vacancy on the Commission and seeking applications to fill the vacancy.
- iii. The notice shall be posted on the LAFCO website and provided to each local agency within the county and to interested parties.
- iv. Among other things, the notice shall include information on the mission of LAFCO, and responsibilities of a LAFCO commissioner; and indicate the application filing period and submittal requirements.
- v. Interested applicants shall be required to submit a resume and a letter of interest outlining their reasons for wanting to serve as a member of the Commission.
- vi. The current public member and alternate public member shall be eligible to apply for an upcoming vacancy of the public member and/or the alternate public member positions.
- vii. The Commission shall not appoint someone to fill a vacancy until at least 21 days after the posting of the notice.
- viii. The Commission shall review applicants' resumes and letters of interest and shall conduct a group interview of the candidates at the next available LAFCO meeting, using questions prepared beforehand.
- ix. At the close of the group interview, the Commission shall by majority vote, appoint a public member and/or an alternate public member.

### **2.3. TERMS OF OFFICE OF COMMISSIONERS**

The term of office of each commissioner shall be four (4) years, expiring on May 31 in the year in which the term of the member expires. Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body that originally appointed the member whose office has become vacant.

### **2.4. ROLE OF COMMISSIONERS**

- a. While serving on the Commission, all commissioners shall exercise their independent judgment on behalf of the interests of the public as a whole in

furthering the purposes of the CKH Act and not solely the interests of the appointing authority. GC §56325.1

- b. In each member category, the alternate member shall serve and vote in place of a regular member who is absent or who disqualifies herself or himself from participating on a specific matter before the Commission at a regular/special commission meeting or in closed session.
- c. All alternate members are expected and encouraged to attend and participate in all Commission meetings, even if the regular member(s) is (are) present. Alternate members may attend and participate in closed session meetings of the Commission. However, alternate members may not vote or make a motion when the regular member is present.
- d. The Brown Act allows an exception from its requirements for the attendance of a majority of the members of the Board of Supervisors at noticed meetings of the Commission, provided that a majority of the members of the Board of Supervisors do not discuss among themselves, other than as part of the Commission's scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the Board of Supervisors.
- e. No person may disclose confidential information that has been acquired by being present in a closed session meeting authorized pursuant to the Brown Act to a person not entitled to receive it, unless the Commission authorizes disclosure of that confidential information.

## **2.5. COMMISSIONER PLEDGE**

- a. All commissioners shall sign the Commissioner Pledge acknowledging their understanding of their unique role and responsibilities as a LAFCO Commissioner.
- b. All newly appointed commissioners shall receive and sign a copy of the pledge prior to their first LAFCO meeting.
- c. Copies of the signed pledge shall be provided to the LAFCO Clerk and retained for LAFCO records. A copy of the signed pledge shall be provided to the Commissioner.
- d. The LAFCO Commissioner Pledge shall read as follows:

I, \_\_\_\_\_, as LAFCO Commissioner, pledge to uphold LAFCO's mission and mandate to promote sustainable growth and good governance in Santa Clara County.

As an appointed LAFCO Commissioner, I will represent the interests of the public as a whole, and not solely the interests of my appointing authority. In doing so, I will help LAFCO be a forward thinking agency that stewards public resources for the good of the whole county.

I will faithfully fulfill my duties as a LAFCO Commissioner, recognizing that LAFCO's work yields public benefits and that LAFCO has a unique role and responsibility in shaping the future of the county.

\_\_\_\_\_  
Commissioner Signature

\_\_\_\_\_  
Date

## **2.6. DISCLOSURE OF EX PARTE COMMUNICATION**

- a. Commissioners shall use their best efforts to track ex parte contacts pertaining to applications that are subject to a public hearing pursuant to the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (Act).
- b. Ex parte contacts include oral or written communications concerning applications that are subject to a public hearing pursuant to the Act which occur outside of a noticed public hearing. Contacts shall include phone calls, meetings, site visits, and written communications, including emails.
- c. If an ex parte communication regarding the public hearing matter occurs, the Commissioner shall verbally disclose (1) the identity of the individual(s) with whom the Commissioner had contact; and (2) the substance of the information communicated. The commissioners shall verbally disclose written communication, unless such correspondence is forwarded to LAFCO staff in advance of the public hearing for inclusion in the agenda packet.
- d. Following the closure of the public hearing and prior to a final decision, commissioners shall disclose any electronic or personal communication that has taken place pertaining to the item.
- e. The LAFCO meeting agenda shall note public hearing items that require disclosure of ex parte communication.

## **2.7. APPOINTMENT OF OFFICERS**

- a. The Commission shall annually appoint a Chairperson and Vice Chairperson for the next calendar year at the December meeting. The Chairperson and Vice Chairperson shall be appointed based on the following rotation schedule unless otherwise determined by the Commission:
  - Cities member
  - County member
  - San Jose member
  - Special Districts member
  - County member
  - Public member
  - Special Districts member

- b. The Chairperson shall preside at all meetings of the Commission and the Vice-Chairperson shall preside at meetings in the absence of the Chairperson.

### **3. CONDUCT OF MEETINGS**

#### **3.1. MEETINGS**

- a. Regular Commission meetings are held on the first Wednesday of February, April, June, August, October, and December at 1:15 P.M., in the Board Meeting Chambers at 70 West Hedding Street, San Jose, California, or in another designated location.
- b. The Commission shall establish a schedule of meetings for the following calendar year at its regular meeting in December.

#### **3.2. QUORUM AND ACTION OF COMMISSION**

- a. Four commissioners entitled to vote shall constitute a quorum.
- b. The Commission shall act by resolution or Commission order. All final determinations of the Commission on change of organization or reorganization proposals shall be taken by resolution. The Commission minutes shall reflect the vote on all resolutions. The records and minutes of the Commission shall be signed by the Chairperson and LAFCO Clerk.
- c. Commissioners are strongly encouraged to vote and not abstain from voting unless they are disqualified by law or because there is an appearance of conflict.

#### **3.3. ORDER OF BUSINESS**

The order of business at Commission meetings shall typically include the following items, unless otherwise directed by the Commission.

- Roll Call
- Public Comment – An opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. Speakers are limited to three minutes. All statements that require a response will be referred to staff for reply in writing.
- Consideration of Minutes
- Consent Calendar – Consent calendar consists of those items recommended for approval, not requiring public hearing, and in the opinion of the staff, not involving major issues or problems. A commissioner, staff or member of the public, may request that an item be removed from the Consent Calendar for public discussion.
- Public Hearings

- Items for Action/Discussion
- Executive Officer's report
- Pending Applications/Upcoming Projects
- Commissioner Reports – An opportunity for commissioners to comment on items not listed on the agenda, provided that the subject is within the jurisdiction of the Commission. No action or discussion by a quorum of the Commission may be taken on off-agenda items unless authorized by law.
- Newspaper Articles/Newsletters
- Written Correspondence
- Adjournment

### **3.4. AGENDA**

- a. The Executive Officer shall prepare, for the Chairperson's review and approval, an agenda for each regularly scheduled meeting containing the specific items of business to be transacted.
- b. All reports, materials, or other matters to be submitted to the Commission at its regular meeting, as part of the agenda packet, shall be delivered to the Executive Officer no later than 12:00 p.m. (noon) on the Monday, nine days preceding a Regular Commission Meeting.
- c. During the Commissioner Reports portion of the meeting, any commissioner may request consideration of an agenda item for a future meeting, and such item shall be added to a future meeting if voted for by a majority of the Commission.
- d. The agenda shall be posted on the bulletin board located outside of the County of Santa Clara Government Center in San Jose and shall be available for public inspection at the LAFCO office, no later than seventy-two (72) hours prior to the meeting.
- e. The agenda packet for a Regular Commission Meeting shall be posted on the LAFCO website and shall be available for public inspection at the LAFCO office, no later than seventy-two (72) hours prior to the meeting.
- f. Materials related to an agenda item submitted after the posting of the agenda shall be provided to commissioners and shall be available for public inspection at the LAFCO office and at the meeting.
- g. No commissioner shall amend the agenda after the agenda has been posted. The Commission shall not take action on any items that do not appear on the posted agenda. However, the agenda may be amended to include items not appearing on the posted agenda, in accordance with Government Code Section 54954.2.

### **3.5. MEETING MINUTES**

The Executive Officer shall cause a member of his/her staff to prepare the draft minutes of each meeting which will be included on the agenda of the following meeting, for approval by the Commission.

### **3.6. DEADLINES FOR SUBMISSION OF APPLICATIONS**

- a. Deadlines for submitting proposals/applications will be no later than 5:00 P.M. on the Thursday immediately following a LAFCO meeting in order to be considered at the next LAFCO meeting. Applications shall be submitted with correct fees on the appropriate forms and in the quantities required.
- b. The Commission will not consider proposals/applications which have been submitted in violation of the deadline unless an emergency situation exists within the territory relating to the proposal which would affect the health and safety of citizens.
- c. The Commission shall establish a schedule of application deadlines for the following calendar year at its regular meeting in December.

### **3.7. CLARIFICATION OF MOTIONS**

Commissioners shall state motions in such a manner as to assure understanding of all parties as to the content of any terms and conditions to be placed on the Commission's action. It shall be the responsibility of the Chairperson to verify the wording of any motion with staff.

### **3.8. ROSENBERG'S RULES OF ORDER**

Except as herein otherwise provided, the proceedings of the Commission shall be governed by "Rosenberg's Rules of Order" on all matters pertaining to parliamentary law. No resolution, proceeding, or other action of the Commission shall be invalid or the legality thereof otherwise affected by the failure of the Commission to observe or follow such rules.

### **3.9. RECONSIDERATION OF A LAFCO RESOLUTION MAKING DETERMINATIONS**

- a. Notwithstanding Section 3.8 of the Bylaws (Rosenberg's Rules of Order), any request for reconsideration of a resolution making determinations shall be processed in accordance with the CKH Act, specifically Government Code Section 56895, and not Rosenberg's Rules of Order.
- b. If the LAFCO Executive Officer receives a request for reconsideration pursuant to Government Code Section 56895(a) of the CKH Act, 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 are claimed to warrant the reconsideration.
- c. Upon receipt of a timely request for reconsideration, the Commission shall first determine whether there are new or different facts that could not have been presented previously.



- d. If the Commission determines that there are no new or different facts that could not have been presented previously, the Commission shall not reconsider the matter and shall disapprove the request for reconsideration.
- e. If the Commission determines that there are new or different facts that could not have been presented previously, the Commission shall then consider the request and receive any oral or written testimony and at the conclusion of its consideration, the Commission may approve with or without amendment, wholly, partially, or conditionally, or disapprove the request for reconsideration.

#### **4. TRAVEL AND EXPENSE REIMBURSEMENT**

##### **4.1. AUTHORIZED EXPENSES**

- a. LAFCO funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized LAFCO business. In addition to the day to day business activities of LAFCO, expenses incurred in connection with the following types of activities generally constitute authorized expenses (LAFCO Policy adopted on June 1, 2006):
  - i. Communicating with representatives of local, regional, state and national government on LAFCO business
  - ii. Attending educational seminars designed to improve skills and information levels
  - iii. Participating in local, regional, state and national organizations whose activities affect LAFCO's interests
  - iv. Recognizing service to LAFCO (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost)
  - v. Attending LAFCO or CALAFCO events
- b. All other expenditures incurred will require prior approval by the Commission.
- c. Any questions regarding the propriety of a particular type of expense should be resolved before the expense is incurred.

##### **4.2. MEETING PER DIEM / STIPEND**

Consistent with LAFCO Resolution # 2006-06, LAFCO commissioners including alternate commissioners will receive a \$100 per diem for attendance at LAFCO meetings. This compensation is in lieu of reimbursement for travel and other expenses incurred in attending the LAFCO meetings.

##### **4.3. LAFCO COMMISSIONER ATTENDANCE AT CALAFCO CONFERENCE**

Regular LAFCO commissioners will be given first priority for attending the CALAFCO Annual Conference. If regular commissioners are unable to attend, alternates may attend.

#### **4.4. TRANSPORTATION, LODGING, MEALS, AND OTHER INCIDENTAL/ PERSONAL EXPENSES**

- a. Reimbursement for authorized transportation, lodging, meals and other incidental expenses shall be provided in conformance with the current Travel Policy of the County of Santa Clara.
- b. Registration and travel arrangements including airline reservations must be coordinated through the LAFCO Office.

#### **4.5. EXPENSE REPORTING**

Within 14 calendar days of return from a LAFCO business trip or event, a final accounting of all expenses must be submitted to the LAFCO office. Original receipts are required for processing reimbursement. LAFCO staff will then fill out the necessary forms and submit to the appropriate County department in compliance with the County Travel Policy.

#### **4.6. AUDITS OF EXPENSE REPORTS**

All expenses are subject to verification that they comply with this policy.

#### **4.7. REPORTS TO LAFCO**

At the following LAFCO meeting, a report shall be presented on meetings attended at LAFCO expense.

#### **4.8. COMPLIANCE WITH LAWS**

Some expenditures may be subject to reporting under the Political Reform Act and other laws. LAFCO expenditures, expense report forms and supporting documentation are public records subject to disclosure under the Public Records Act.

#### **4.9. ETHICS TRAINING**

LAFCO is not a local agency whose officials are required to comply with the requirement of ethics training pursuant to Government Code Section 53235. Since LAFCO provides reimbursement for expenses, LAFCO commissioners, Executive Officer and Analyst are encouraged to receive ethics training. LAFCO commissioners who are County supervisors, city council members or special districts board members will receive this training in their respective roles as county, city or special district officials. LAFCO staff will advise the public members of opportunities to receive the training.

### **5. FEE POLICIES**

#### **5.1. FEE POLICIES**

- a. The Commission may establish a schedule of fees and service charges for the processing of applications filed with the Commission, pursuant to Government Code §56383. The schedule of fees and service charges shall not exceed the estimated reasonable cost of providing the service for which the fee is charged.

- b. The Commission shall regularly review and amend as necessary the schedule of fees and service charges to help ensure an appropriate level of cost-recovery.
- c. All fees/deposits shall be paid at the time of the application submittal and said application shall not be deemed complete until the required fees/deposits are received.
- d. In order to achieve reasonable cost-recovery and not place an undue cost burden on its funding agencies (i.e. County, cities, special districts), the Commission will not generally provide fee waivers.
- e. Consistent with Government Code §56383(d), the Commission may reduce or waive fees if it finds that payment of such fees would be detrimental to the public interest.
- f. Any request for a fee reduction or waiver must be submitted in writing to the Executive Officer.

**Adopted on:** April 1, 2014

**Revised on:**

June 4, 2014

October 5, 2016

February 7, 2018

June 8, 2018

October 17, 2018

June 5, 2019