

## CHAPTER 4. ANNEXATION, DETACHMENT, AND REORGANIZATION POLICIES

### 4.1 INTRODUCTION

Under generally applicable provisions of state law, Local Agency Formation Commissions (LAFCOs) for each county are designated as the sole approval authority for annexations, detachments, other changes of organization, and reorganizations of local agencies.

However, in Santa Clara County, a city annexation or reorganization (e.g., annexation to a city and detachment from one or more special districts) proposed within a city's Urban Service Area (USA) may qualify for a "city-conducted" process, pursuant to Government Code (GC) §56757. Such proposals are not heard by LAFCO, but by the City Council of the appropriate city as described further below.

The policies and procedures for annexation to cities are thus differentiated from those applicable to special districts in Santa Clara County.

The State law definitions of the types of boundary changes addressed in this chapter include the following:

- **Annexation** is a change of organization involving "the inclusion, attachment, or addition of territory to a city or special district." [GC §56017]
- **Detachment** is a change of organization involving "the exclusion, deletion, or removal from a city or district of any portion of the territory of that city or special district." [GC §56033]
- **Reorganization** is the term used for two or more concurrent changes of organizations (e.g. annexation/detachment from a city, and annexation/detachment from a special district) contained in a single proposal. [GC §56073]

### 4.2 CITY ANNEXATIONS, DETACHMENTS AND REORGANIZATIONS

The Countywide Urban Development Policies (CUDPs), jointly adopted by LAFCO, the County and the 15 cities, stipulate that urban development is to occur within cities, rather than in the unincorporated areas; and that development that requires urban services should annex to cities. LAFCO has adopted USAs for each of the cities that include lands currently urbanized and annexed to cities and provided with urban services, as well as unincorporated lands that a city intends to annex in order to develop those lands and provide them with urban services within five years. Therefore, lands that a city intends to annex must first be located within the city's USA, as approved by LAFCO.

Historically, some cities have areas within their city limits that lie outside their USAs. Even though these areas are outside the USA, the city is not required to seek LAFCO approval to provide services to them, as long as the areas are within the city limits.

Annexation of any remaining unincorporated lands within adopted USAs (i.e. islands) has been a shared goal for the cities, County, and LAFCO. LAFCO policy encourages cities to annex such unincorporated lands in order to accommodate needed growth. (Chapter 6: Island Annexation Policies). The special allowance for "city-conducted" annexations as defined below is also intended to encourage and facilitate annexation of unincorporated lands within USAs.

The following are policies, and evaluative criteria and/or requirements for city annexations.

1. **City-Conducted Annexation.** Pursuant to GC §56757, in Santa Clara County, an annexation or a reorganization proposal that includes city annexation of unincorporated lands located within the USA of a city is not reviewed by LAFCO if the annexation or reorganization proposal is initiated by city council resolution. Further, the city council is required to conduct and approve the annexation or reorganization proposal after making all the following findings:
  - a. The unincorporated territory is located within the USA of the city as adopted by LAFCO.
  - b. The County Surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with LAFCO's Road Annexation Policies as listed in Policy #4.2.4. The city shall reimburse the county for the actual costs incurred by the County Surveyor in making this determination.
  - c. The proposal does not split lines of assessment or ownership.
  - d. The proposal does not create islands or areas in which it would be difficult to provide municipal services.
  - e. The proposal is consistent with the adopted general plan of the city.
  - f. The territory is contiguous to existing city limits
  - g. The city has complied with all conditions imposed by LAFCO for inclusion of the territory in the USA of the city.
2. **Pre-Zoning.** Consistent with GC §56375(a)(7), Santa Clara LAFCO requires pre-zoning of lands proposed for city annexation. Pre-zoning must be consistent with the city general plan designation for the lands. Both the pre-zoning and the general plan designation shall be considered in reviewing a city annexation proposal.
3. **Change of Pre-Zoning Limitation.** Pursuant to GC §56375(e), no subsequent change may be made to the city general plan or the zoning designations of the annexed territory that is not in conformance to the pre-zoning designations for a period of two years after the completion of the annexation, unless the city council makes a finding at a public hearing that a substantial change has occurred in the circumstances that necessitate the change.
4. **Annexation of Roads.** Cities shall annex appropriate segments of roads, freeways, highways, expressways, private roads or railroad rights-of-way, adjacent to or within the proposed annexation boundaries to ensure logical boundaries and efficient provision of public services. A city annexation proposal shall be designed to include:
  - a. A continuous section of roadway sufficient in length to allow road maintenance, and provision of other services such as policing of the street,

- fire protection, street maintenance, solid waste collection/disposal, by a single jurisdiction in an efficient manner without service duplication.
- b. Full-width sections of the street right-of-way to provide single-agency oversight, except that when a street is the boundary line between two cities, the centerline of the street may be used as the boundary.
  - c. Full-width street sections in increments of not less than one thousand linear feet, or the distance between two consecutive intersections, where 50 percent or more of the frontage on both sides of the street in said increment has been or is to be included in the city.
  - d. Existing short segments of county-maintained road to provide single-agency oversight of a full-width section of the road.
5. **Ability to Provide Public Services / Infrastructure.** Cities shall assume responsibility for ensuring that the annexed territory receives a full range of city services, and the city must clearly demonstrate its ability to provide services to the area proposed for annexation without detracting from current service levels within the city.
  6. **Concurrent Detachment from Special Districts.** Cities shall concurrently detach the affected territory from special districts that will no longer provide service upon annexation to the city.
  7. **Annexation to Special Districts for Services.** Where city annexations necessitate annexation to a special district in order to meet service needs, annexation of territory to the special district is required with consent from the special district. If the annexation territory is located outside the sphere of influence of the special district, LAFCO approval for an amendment of the special district sphere of influence and for annexation must be obtained.
  8. **Annexation of Lands Under Williamson Act.** Pursuant to GC §56856.5, annexation of territory under Williamson Act Contract to a city or special district that would provide facilities or services related to sewers, nonagricultural water, or streets or roads shall be prohibited unless these facilities and services benefit land uses that are allowed under the Williamson Act Contract.
    - a. In evaluating such annexation proposals that involve Williamson Act lands, LAFCO will consider:
      - i. Whether the city or special district will limit the provision of urban services or facilities related to sewer, non-agricultural water or streets and roads to the proposal area.
      - ii. Whether the city that would administer the contract after annexation has adopted policies and feasible implementation measures applicable to the affected territory ensuring the continuation of agricultural use and other uses allowable under the contract on a long-term basis.
      - iii. Whether the proposal encourages or is necessary to provide planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns.

- b. In approving city annexation of land subject to a Williamson Act Contract, pursuant to GC §56754, LAFCO shall, based on substantial evidence, determine one of the following:
  - i. That the city shall succeed to the rights, duties, and powers of the county pursuant to GC §51243; or
  - ii. That the city may exercise its options to not succeed to the rights, duties, and powers of the county pursuant to GC §51243.5.
- 9. **Conformance with Service Reviews and Spheres of Influence.** City annexations shall be consistent with city Spheres of Influence (SOI) and shall not undermine adopted service review determinations or recommendations.
- 10. **Annexation of Lands Outside a City's USA for Permanent Preservation of Open Space.** In general, cities are precluded from annexing lands outside adopted USA boundaries. If such annexation is to be considered, LAFCO is the approval authority. LAFCO strongly discourages city annexation of territory located outside a city's USA, unless consistent with the mission and policies of LAFCO.

LAFCO recognizes that in some limited circumstances, city annexations outside USAs may be appropriate, such as annexations that help promote permanent preservation of open space lands. Such annexation proposals outside city USAs will be considered on their merits on a case-by-case basis, and LAFCO shall reconsider allowance of exceptions to the general rule if it appears a pattern of such requests is developing.

In evaluating such annexation proposals, LAFCO shall consider, among other things, the following:

- a. The city's explanation for why the annexation is necessary, why an USA expansion is not appropriate prior to annexation, and how the annexation will result in the permanent preservation of open space.
  - b. Whether effective measures have been adopted for permanently protecting the open space status of the affected territory. Such measures may include acquisition and transfer of ownership of open space or transfer of open space conservation easements to a conservation entity for permanent preservation of the open space.
  - c. Whether the city has applied an appropriate general plan and pre-zoning designation to the proposal area indicating the open space status of the lands.
11. **City Detachments subject to City Support.** Detachment of territory from a city requires LAFCO approval and pursuant to GC §56751, LAFCO may not approve a city detachment proposal if the city adopts and transmits a resolution seeking termination of the proposal.

### 4.3 SPECIAL DISTRICT ANNEXATIONS, DETACHMENTS, AND REORGANIZATIONS

LAFCO is the approval authority for all boundary changes for special districts. State law precludes LAFCO from approving a proposal to annex territory located outside the SOI of the affected special district. Therefore, territory proposed for annexation to a special district must first be located within the affected special district's SOI as approved by LAFCO.

If an annexation proposal includes territory that is located outside the affected special district's SOI, the proposal must include a request to LAFCO for an amendment to the SOI. LAFCO has adopted policies to help guide its consideration of SOI amendment proposals. Please see "Chapter 2. Sphere of Influence Policies" for further information.

In accordance with GC §56668, LAFCO must take into account many factors when considering special district annexation/detachment proposals. Certain factors may be more applicable or relevant than others, depending on the specific proposal and circumstances. The following are LAFCO's policies and evaluative criteria for special district annexation, detachment, and reorganization proposals:

1. **Consistency with Spheres of Influence** In order to promote orderly growth and development, and efficient service provision, and pursuant to GC §56375.5, LAFCO shall not approve a special district annexation proposal located outside of the affected special district's SOI.
2. **Conformance with Service Reviews.** LAFCO shall consider the applicable service reviews and shall discourage proposals that undermine adopted service review determinations or recommendations.
3. **Impacts to Agricultural and Open Space Lands.** In order to preserve agricultural lands and open space, LAFCO shall discourage proposals that include or adversely impact agricultural lands and open space, consistent with GC §56377(a) and GC §56668(e).
4. **Logical, Orderly Boundaries.** LAFCO shall discourage proposals that will not result in logical and orderly boundaries. LAFCO will consider:
  - a. Whether the boundaries of the proposal are contiguous with the existing district boundary [GC §56668(d) & (f)]
  - b. Whether the boundaries of the proposal are definite and certain, and whether the boundaries conform with lines of assessment or ownership [§56668(f)]
  - c. Whether the proposal will result in islands, flags, peninsulas, corridors or other irregular boundary configurations which are illogical and/or difficult to serve [GC §56668(f)]
  - d. Whether the boundaries of the proposal follow natural and man-made features, such as ridge lines, drainage areas, watercourses, and edges of right-of-way [GC §56668(a)]
5. **Special District Annexations to Provide Urban Services outside City USAs.** Consistent with the intent of the Countywide Urban Development Policies (CUDPs) and the County General Plan that prohibit urban development and the provision of

urban services in unincorporated areas outside city USAs; and in order to promote efficient development patterns, and prevent the ~~premature~~ conversion of agricultural land, LAFCO shall discourage special district annexation proposals that would extend urban services such as sewer and water to unincorporated lands outside existing city USAs.

However, LAFCO recognizes that in some limited circumstances, a special district annexation proposal may be in response to an existing threat to public health and safety (e.g., existing septic system failures, well contaminations, or well failures) in the rural unincorporated area, outside city USAs. LAFCO shall consider the following criteria in evaluating such proposals on a case-by-case basis:

- a. Whether the property is currently developed.
  - b. Whether the threat to public health and safety is substantial and immediate as documented by the County Department of Environmental Health and whether there are no other feasible means of addressing the situation.
  - c. Whether the proposed boundaries would result in a ~~premature~~ intrusion of urbanization into a predominantly agricultural or rural area.
  - d. Whether public facilities or infrastructure related to the proposal would be sized to exceed the capacity needed to address the situation and/or the development.
  - e. Whether a pattern of such requests is developing, and if so, the cumulative impact of such requests. If a pattern of such requests is developing, LAFCO shall encourage affected agencies to develop and successfully implement measures/plans to first avoid and minimize such requests which may be growth inducing.
6. **Ability to Provide and Fund Public Services and Infrastructure.** In order to ensure efficient service provision, LAFCO shall discourage proposals that do not clearly demonstrate that the special district has the ability to provide services to the proposal area without detracting from current service levels within the special district, and in areas that the special district has already committed to serve. Consistent with GC §56668(b) and (k), LAFCO will consider:
- a. The special district's plan for providing services within the proposal area prepared in accordance with LAFCO's Guide for preparing a Plan for Services included as Exhibit B, and which pursuant to GC §56653, shall include:
    - i. An enumeration and description of services currently provided and/or to be provided and the corresponding service provider
    - ii. The level and range of those services as well as detailed information on the size, location, and capacity of infrastructure both existing and required
    - iii. Estimated time frame for service delivery
    - iv. A statement indicating capital improvements, or upgrading of structures, roads, sewers, water facilities or other conditions that the

special district would require in the affected territory prior to providing service

- v. A description of how the services will be financed
- b. Whether the proposal is expected to result in any significant increase in service needs and/or new facilities, personnel, apparatus or equipment as a result of adding the proposal area.
- c. Whether the anticipated increase in service needs (e.g. increase in calls for fire and police services) and/or new facilities are likely to result in an increase in service costs and how the special district plans to finance the anticipated increase in service costs.
- d. Whether the proposal will require the construction of new infrastructure and/or expansion of existing infrastructure and how the special district plans to address the associated fiscal impacts.