

**Local Agency Formation Commission
of Modoc County
(LAFCO)**

**Policies,
Standards, and Procedures**

**Adopted
Resolution 2009-0001
April 14, 2009**

**Amended
Resolution 2013-0007
December 10, 2013**

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**LOCAL AGENCY FORMATION COMMISSION OF MODOC COUNTY
POLICIES, STANDARDS, AND PROCEDURES**

**Local Agency Formation Commission (LAFCO)
of Modoc County
Policies and Standards**

1. PURPOSE, JURISDICTION, AUTHORITY, AND COMPOSITION

1.1. Purpose of these Policies and Standards

LAFCO is charged with applying the policies and provisions of the Cortese-Knox-Hertzberg Act to its decisions regarding annexations, incorporations, reorganizations, and other changes of government. LAFCO is required to adopt written policies and standards and to exercise its powers in a manner consistent with those policies and standards and with the policy directives of the Act. Specifically, the policies and standards set forth in this chapter are designed to:

- a) Provide Information. Give applicants for changes of organization guidance as to the information LAFCO needs to make appropriate determinations concerning their applications and provide information and notice to elected officials, governmental staff, and members of the general public as to the policies and standards that LAFCO will use in evaluating applications.
- b) Set Criteria. Provide applicants for changes of organization with explicit guidance as to the criteria LAFCO will use in approving, disapproving, amending, or conditionally approving applications for changes of organization.
- c) Ensure Consistency in LAFCO's decision-making process.
- d) Facilitate Communication among local agencies in the region.
- e) Minimize Adverse Impacts of the social, economic and environmental results of growth.
- f) Provide for Planned, Well-Ordered Efficient Urban Development Patterns with appropriate consideration of preserving open space lands within those patterns.

1.2. The Legislature's Creation of LAFCO

- a) LAFCO is an intra-local agency that was created by state legislation to ensure that changes in governmental organization occur in a manner which provides efficient and quality services and preserves open space land resources.
- b) The creation of LAFCO was a legislative response to actions by local jurisdictions in the 1940's and 1950's. These agencies incorporated or annexed large, irregular portions of land in a manner which resulted in irrational urban boundaries and isolated populations without efficient services or with no services at all. In 1963, the Legislature established a Local Agency Formation Commission in each county and delegated to them its regulatory authority over local agency boundary changes.

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- c) Additional legislation in the 1960's extended LAFCO authority. In the 1970's the Legislature recognized the connection between decisions concerning governmental organization and the issues of urban sprawl and loss of prime agricultural land. In response to these concerns, LAFCOs were charged with implementing changes in governmental organization in a manner which would preserve agricultural and open space land resources and provide for efficient delivery of services. Concerned that LAFCOs were responding reactively without considering long-term regional issues, in 1972 the Legislature began requiring LAFCO to adopt a sphere of influence for each agency in its jurisdiction. The sphere is the physical boundary and service area each local government agency is expected to serve and each proposal the Commission considers must be consistent with the sphere plan. The Legislature and the courts require LAFCOs to implement the California Environmental Quality Act (CEQA) as it applies to LAFCO actions.
- d) In 1985, the Cortese-Knox Local Government Reorganization Act consolidated all statutes relative to local government changes of organization. Later, in 1997, the Legislature assembled a Commission on Local Governance in the 21st Century to examine governance issues with special attention to the Local Government Reorganization Act. "Growth Within Bounds," is the Commission's report, and is based on four major findings: (1) The future will be marked by continued phenomenal growth, (2) California lacks a plan to accommodate growth, (3) local government is plagued by fiscal insecurity, and (4) the public is not engaged. The Commission made eight recommendations:
- i) *LAFCO policies and procedures should be streamlined and clarified.*
 - ii) *LAFCOs must be neutral, independent, and balanced in representation of counties, cities, and special districts.*
 - iii) *LAFCO's powers must be strengthened to prevent sprawl and ensure the orderly extension of government services.*
 - iv) *The Legislature must strengthen LAFCOs' policies to protect agricultural and open-space lands.*
 - v) *The Legislature must comprehensively revise the state-local fiscal relationship.*
 - vi) *The Legislature must develop incentives to encourage coordination of local plans within each region.*
 - vii) *The Legislature must enhance communication, coordination, and procedures of LAFCOs and local governments.*
 - viii) *The Legislature must increase opportunities for public involvement, active participation, and information regarding government decision-making.*

Most of these recommendations were incorporated into the Cortese Knox Hertzberg Act, which was adopted by the Legislature in 2000, and became effective in 2001, **and as amended.**

1.3. The Legislature's Policy Direction to LAFCO

The Legislature has charged LAFCO with carrying out changes in local governmental organization to promote specified legislative policies now codified in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The Cortese-Knox-Hertzberg Act commences with Government Code Section 56000, and the reader is referred especially to Government Code Sections 56001, 56300, 56301, 56375, 56377, and 56668. These sections contain the following major policy elements:

- a) Orderly Growth. LAFCO is charged with encouraging orderly growth and development.
- b) Logical Boundaries. LAFCO is responsible for encouraging the logical formation and determination of boundaries.
- c) Efficient Services. LAFCO must exercise its authority to ensure that affected populations receive adequate, efficient and effective governmental services.
- d) Preserve Agricultural and Open Spaces. LAFCO is required to exercise its authority to guide development away from open space and prime agricultural land uses unless such actions would not promote planned, orderly, and efficient development.
- e) **LAFCO is required to exercise its function in a manner, which promotes environmental justice.**
- f) Specific Authority. LAFCO has the specific authority to review and approve or disapprove:
 - i) Annexations to, or detachments from, cities or districts.
 - ii) Formation or dissolution of districts.
 - iii) Incorporation or disincorporation of cities.
 - iv) Consolidation or reorganization of cities or districts.
 - v) The establishment of a subsidiary district(s).
 - vi) The development of, and amendments to, Spheres of Influence.
 - vii) Extensions of service beyond an agency's jurisdictional boundaries.
 - viii) Provision of new or different services by districts.
 - ix) Pursuant to Government Code Section 56434, the Commission may review and approve proposals that extend service into previously unserved territory in unincorporated areas.
- g) Limited Authority to Initiate Proposals. Under specific circumstances, LAFCO may initiate proposals resulting in consolidation of districts, dissolution, merger, or establishment of subsidiary districts, **formations**, or reorganizations that include any of those changes of organization.

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- h) **Limitation of Authority Relating to Land Use Conditions.**
In order to carry out the legislative policies identified above, LAFCO has the power to approve or disapprove applications, or to impose reasonable conditions on approval. However, while LAFCO is charged with consideration of the impacts of land use in its determination, it is specifically prohibited from directing specific land use or zoning actions. LAFCO can deny an application where the land use that would result violates the statutory policies of Cortese-Knox-Hertzberg.

The California Supreme Court has explained this unusual combination of power to deny coupled with no power to impose conditions to solve the same policy issue. It said the prohibition on imposing conditions regarding land use:

"merely insures that final zoning decisions are made by the local agencies concerned. It certainly does nothing to detract from the power of a LAFCO to disapprove an annexation if it finds that it violates the detailed criteria which a LAFCO must consider." Bozung v. LAFCO (1975) 13 Cal. 3d 263, 284.

Thus, for example, LAFCO may disapprove an application for an annexation to a city if it would create an area of urban development that is difficult to serve, or because it would cause the premature development of agricultural land. However, LAFCO could not carry out the same policies by requiring land to be rezoned from residential to agricultural use, or by other direct exercise of land use authority through the zoning or subdivision process.

1.4 LAFCO Composition and Legislative Charge

- a) **General Statutory Requirements.** LAFCO is an independent, intra-local agency created by the Legislature to implement policies which the Legislature determined must be addressed with a regional perspective.
- b) **Independent Agency.** LAFCO is, by statute, a separate public agency from the County and the City of Alturas who provide funding and appoint members to the Commission.
- c) **Intra-Local Representation.** The legislative body of LAFCO is the Commission. The Legislature established the composition of the Commission to be representative of the local governmental agencies in the County by providing for city, county, special district (as applicable), and public membership.
- d) **Public Interest.** While the Commission is largely composed of members appointed by individual local agencies, the Legislature requires the Commissioners to exercise their independent judgment

in carrying out the provisions of the Act and to make their decisions impartially, on behalf of the public as a whole. Decisions required of LAFCO relating to the most efficient form of local government and the preservation of agricultural and open space land inherently involve the balancing of potentially competing interests of cities, counties, and special districts. In addition, such determinations usually affect the public at large because of various options for the delivery of services.

The legislative charge to LAFCO Commissioners is to bring their experience and perspectives to bear in a manner, which carries out the best policy from the perspective of the public as a whole. Commissioners are not selected to represent or to cast the vote of their appointing agencies. While Commissioners' decisions may be informed by their experience at their agency, those decisions must not be dictated by the interests of that agency.

Since Commission members are appointed by law to impartially carry out objective policies concerning public policy issues, it is presumed that they will do so. It is for this reason that the Legislature determined that it is not an automatic conflict of interest for a Commissioner to vote on issues which may affect their appointing agency. Each LAFCO Commissioner is charged with representing the County as a whole and not merely his or her appointing authority. Nevertheless, if a Commissioner feels that he or she is unable to act impartially, then the Commissioner should voluntarily disqualify himself or herself.

- e) **Commission Composition.** Modoc LAFCO Commissioners are selected from the groups most affected by its decisions: the City of Alturas, the County, and the public. Modoc LAFCO is composed of five regular members. The members of Modoc LAFCO are:
 - i) **Two City Council members and one alternate who are appointed by the Alturas City Council.**
 - ii) **Two Modoc County Supervisors and one alternate appointed by the Modoc County Board of Supervisors.**
 - iii) **One Public Member and one alternate appointed by the Commission with at least one affirmative vote from each of the other two categories.**

2. LAFCO GENERAL POLICIES AND STANDARDS

The following are the general policies and substantive standards that will apply to LAFCO's consideration of any type of proposal. In certain situations, the application of one policy may conflict with the application of another; in that case, the LAFCO will exercise its discretion to balance policies in a manner consistent with the Cortese-Knox-Hertzberg Act and the standards contained in this document.

2.1. Communication Between Local Agencies

LAFCO considers that an important part of its role is to encourage communication and collaborative planning and studies between public agencies (such as the county, city and special district (s), members of the public, and service-providing members of the private sector).

2.2 Urban Development

LAFCO will encourage proposals that result in urban development in the City's Sphere of Influence **(or a Service District Sphere of Influence where public or central water and (or) wastewater systems exist)** to include annexation to the city **(or a Service District where public or central water and (or) wastewater systems exist)** wherever reasonably possible, and discourage proposals for urban development without annexation to the city **(or a Service District where public or central water and (or) wastewater systems exist)**. LAFCO will also encourage the city **(or a Service District where public or central water and (or) wastewater systems exist)** to annex lands that have been developed to urban levels, particularly areas that receive services.

Urban Development includes development that utilizes either public water or sewer, and which involves industrial or commercial use, or residential use with density of at least one unit per 1.5 acres. **LAFCO may revise this policy at the time in the event the County of Modoc revises its General Plan.**

2.3 Discouraging Urban Sprawl

LAFCO has been directed by the State Legislature to discourage urban sprawl, and the Commission will normally deny proposals that can reasonably be expected to result in sprawl. Sprawl is characterized by irregular, dispersed, and/or disorganized urban or suburban growth patterns occurring at relatively low density and in a manner that precludes or hinders efficient delivery of municipal services, especially roads, public sewer and public water.

2.4 Environmental Consequences (CEQA)

LAFCO shall operate in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Sections 21000 and the Guidelines for implementation of the California Environmental Quality Act. Like other public agencies, LAFCO is required to comply with the California Environmental Quality Act and consider the environmental consequences of its actions. Each proposal must receive the appropriate environmental review for consideration by the Commission in making its decisions. LAFCO is frequently a “responsible agency” and reviews and considers the environmental document prepared for the project by another agency (the city, the county, or a special district). **LAFCO is a Responsible Agency since it has permitting authority over a specific project, which requires a LAFCO process. Lead agencies must circulate environmental documents to LAFCO prior to project approval. If environmental documents are not circulated to LAFCO, LAFCO may assume the role as Lead Agency. As Lead Agency, LAFCO may require environmental review to ensure there is sufficient information to meet LAFCO’s needs. Likewise, LAFCO may require additional environmental review if there is a change in a project.**

It is the policy of LAFCO of Modoc County that LAFCO shall actively participate in the Lead Agency's development of the environmental documents where LAFCO is a responsible agency. Only through such active participation can LAFCO assure that the environmental documents shall provide adequate information to meet LAFCO's needs. LAFCO may add mitigation measures when a project is before LAFCO if it so determines.

Occasionally LAFCO will be the “lead agency” and may be required to prepare and certify a Negative Declaration or Environmental Impact Report (EIR) for a proposal. If a city, the county, or a special district is the proponent, it is usually the lead agency. One of the following determinations must be made by the lead agency after the appropriate environmental review:

- a) The project is exempt and a Notice of Exemption is prepared.
- b) A Negative Declaration is prepared, circulated for public review and certified by the governing body after an initial study finds that no significant impact to the environment will occur. The lead agency is required to consult with LAFCO staff during the review process.
- c) An EIR is prepared, circulated, and certified by the governing body if a project may have significant impacts on the environment. The lead agency must consult with LAFCO staff during the process.

2.5 Balancing Jobs and Housing

LAFCO will encourage those applications which improve the regional balance between jobs and housing. LAFCO will consider the impact of a proposal on the regional supply of housing for all income levels. The agency that is the subject

of the proposal must demonstrate to the Commission that any adverse impacts of the proposal on the regional affordable housing supply have been mitigated.

2.6 Compact Urban Form and Infill Development Encouraged

When reviewing proposals that result in urban development, LAFCO will consider whether the proposed development is timely, compact in form and contiguous to existing urbanized areas.

2.7 Public Accessibility and Accountability

LAFCO recognizes that the public's ability to participate in the local governance process is improved when the government structure is simple, accessible, and when decision-makers are accountable to those affected. The Commission will consider this principle when it evaluates proposals for change of organization or reorganization.

2.8 Ability to Provide Adequate Services

LAFCO will consider the ability of an agency to deliver adequate, reliable and sustainable services, and will not approve a proposal that has significant potential to diminish the level of service in the agency's current jurisdiction **or any service zone and (or) service level or capacity of any other affected agency**. The agency must provide satisfactory documentation of capacity to provide **all service needed** within a reasonable amount of time.

2.9 Efficient Services

Community needs are normally met most efficiently and effectively by proposals that:

- a. Utilize Existing Public Agencies rather than create new ones.
- b. Consolidate the Activities and Services of public agencies in order to obtain economies from the provision of consolidated services.
- c. Restructure Agency Boundaries and service areas to provide more logical, effective, and efficient local government services.

2.10 Community Impacts

LAFCO will consider the impacts of a proposal and any alternative proposals on adjacent areas, on mutual social and economic interests, and on the local government structure **including affected independent special districts**.

2.11 Conformance With General and Specific Plans

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- a) Consistency with General and Specific Plans. LAFCO will approve changes of organization or reorganization only if the proposal is consistent with the General Plan and relevant Area Plans of the applicable planning jurisdiction.
- b) Planning Jurisdiction. The applicable planning jurisdiction is as follows:
 - i) For annexations to the City of Alturas, the applicable planning jurisdiction is the City of Alturas.
 - ii) For district formation or annexation within a city's sphere of influence, the city and the County are the applicable planning jurisdictions.
 - iii) For areas outside a city's sphere of influence, Modoc County is the applicable planning jurisdiction.
- c) Notification of Consistency. Prior to consideration of the proposal by LAFCO, the applicable planning jurisdiction (s) shall advise LAFCO in writing whether the proposal meets all applicable consistency requirements of state law, including internal consistency. If the applicable planning jurisdiction is also applying to LAFCO by Resolution of Application, such finding may be included in the Resolution. LAFCO shall retain discretion to independently **verify and** determine consistency and may require additional information if necessary, particularly where the proposal involves an amendment to the general plan or area plans of the applicable planning jurisdiction.
- d) Consistency Found Adequate. For purposes of this standard, the proposal shall be deemed consistent if the proposed use is consistent with the applicable General Plan designation and text, the applicable general plan is legally adequate and internally consistent, and the anticipated types of services to be provided are appropriate to the land use designated for the area.
- e) Prezoning or Planning. All territory proposed for city annexation must be specifically planned and/or prezoned by the planning agency. Prezoning or zoning of the territory must be consistent with its general plan and sufficiently specific to determine the likely intended use of the property.-No subsequent change to the zoning by a city is permitted by state law for a period of two years under most circumstances.

2.12 Boundaries

- a) Definite Boundaries Required. LAFCO will not accept as complete any application for a proposal unless it includes boundaries that are definite, certain, and fully described.

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- b) **Boundary Criteria.** LAFCO will normally favor applications with boundaries that do the following:
 - i) Create logical boundaries within the affected agency's Sphere of Influence, and where possible, eliminate previously existing islands or other illogical boundaries.
 - ii) Follow natural or man-made features and include logical service areas, where appropriate.
 - iii) Create boundaries that would square out or make boundaries more discernable
- c) **Boundary Adjustments.** LAFCO will normally amend applications with boundaries which:
 - i) Split neighborhoods or divide an existing identifiable community, commercial district, or other area having a social or economic identity.
 - ii) Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries.
 - iii) Are drawn for the primary purpose of encompassing revenue-producing territories.
 - iv) Create areas where it is difficult to provide services.
- d) **Boundary Disapprovals.** If LAFCO cannot suitably adjust the boundaries of a proposal to meet the criteria established in item 2.12 (b) above, it will normally deny the proposal.

2.13 Revenue Neutrality

LAFCO of Modoc County encourages proposals for changes of organization or reorganization where the proposal will result in an agreeable exchange of both revenues and service responsibilities among all affected agencies.

2.14 Agricultural and Open Space Land Conservation

Among LAFCO's core purposes is preservation of open space and prime agricultural lands. The Commission will exercise its powers to conserve prime agricultural ("ag") land as defined in Government Code Section 56064, and open space land as defined in Government Code Section 65560 of the pursuant to the following standards. In order to more effectively carry out this mandate, the Commission may develop local standards to define and identify prime agricultural and open space lands.

- a) **Conditions for Approval of Prime Ag/Open Space Land Conversion.** LAFCO will apply a heightened level of review when considering proposals for changes of organization or reorganization which are likely to result in the conversion of prime ag/open space land use to other uses, and will approve such proposals only when the Commission finds that

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the proposal will lead to the planned, orderly, and efficient development. For purposes of this standard, LAFCO shall consider each of the five principles:

- i) The land subject to the change of organization or reorganization is contiguous to either lands developed with an urban use or lands which have received all discretionary approvals for urban development.
 - ii) The proposed development of the subject lands is consistent with the Sphere of Influence Plan, including the **municipal service review** of the affected agency or agencies and the land subject to the change of organization is within the current **near-term** sphere of influence boundary.
 - iii) The land subject to the change of organization is likely to be developed **in the near term, for example, within the next five years**. In the case of very large developments, annexation should be phased wherever feasible. If the Commission finds phasing infeasible for specific reasons, it may approve annexation if all or a substantial portion of the subject land is likely to develop within a reasonable period of time.
 - iv. Insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable **near-term** Sphere of Influence that is planned and developable for the same general type of use.
 - v. The proposal will have no significant adverse effect on the physical and economic integrity of other ag/open space lands.
- b) Finding with Respect to Alternative Sites. The Commission will not make the affirmative findings that insufficient vacant non-prime or open space land exists within the Sphere of Influence plan unless the applicable jurisdiction has:
- i) Identified within its Sphere of Influence all "prime agricultural land" and "open space land".
 - ii) Enacted measures to preserve prime ag/open space land identified within its Sphere of Influence for agricultural or open space use.
 - iii) Adopted as part of its General Plan specific measures to facilitate and encourage in-fill development as an alternative to the development of prime ag/open space lands.
- c) Determining Impact on Adjacent Ag/Open Space Lands. In making the determination, whether conversion will adversely impact adjoining prime agricultural or open space lands, LAFCO will consider the following factors:
- i) The prime ag/open space significance of the subject and adjacent areas relative to other ag/open space lands in the region.
 - ii) The use of the subject land and the adjacent areas.

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- iii) Whether public facilities related to the proposal would be sized or situated so as to facilitate the conversion of adjacent or nearby prime ag/open space land, or will be extended through or adjacent to any other prime ag/open space lands which lie between the project site and existing facilities.
- iv) Whether natural or man-made barriers serve to buffer adjacent or nearby prime ag/open space land from the effects of the proposed development.
- v) Applicable provisions of the General Plan open space and land use elements, applicable growth-management policies, or other statutory provisions designed to protect agriculture or open space.
- d) Comments On Prime Ag/Open Space Projects. LAFCO will comment upon, whenever feasible, Notices of Preparation for Environmental Impact Reports or projects which involve the development of large tracts of open space or agricultural land.

2.15. Need for Services

A need for the services that will be made available must be established. LAFCO will normally determine that a need for service exists if any of the following situations is present **at the time an application comes forward**:

- a) Public Health and Safety Threat. If the lack of the service creates a demonstrated threat to the public health and safety.
- b) Community Needs. If a proposal includes the extension or provision of community services , for existing development, such as fire protection, recreation, or road maintenance, and the residents of the area have indicated a desire for the service. A positive indication from the residents may be established by the city or a district being requested by residents to initiate annexation on their behalf.
- c) **Near-term** urbanization. If a proposal will result in the extension of services that may reasonably be expected to result in urbanization of the subject territory, the area growth patterns must indicate that the subject area is likely to be developed for urban use **in the near-term, for example, within five years**, if permitted, and local planning regulations provide:
 - i) It is designated for urban uses in the appropriate land use authority's General Plan;
 - ii) If the proposal includes annexation to a city, the subject territory has been pre-zoned for urban uses; and
 - iii) Development at the site is consistent with the policies of the General Plan, and the policies of Cortese-Knox-Hertzberg Act.

2.16. Exceptions

LAFCO may make exceptions to any of these policies and standards if it determines that such exceptions can be justified under one or more of the following grounds:

- a) Unique. The project has a unique physical constraint which is so unusual and inconsistent with other similar locations that granting an exception would not be a grant of a special privilege.
- b) Standards Conflicts. Are required to resolve conflicts between standards of these policies.
- c) Quality/Cost. Result in significantly improved quality or substantially lower cost of service available.
- d) No Alternative. Are required because no feasible or logical alternative exists.

2.17 Tribal Lands

If a proposal involves an amendment or establishment of a Sphere of Influence or a change of organization, which could ultimately lead to the provision of services to tribal lands, the proper tribal authority shall be informed of LAFCO's intention to seek a partial waiver of sovereign immunity prior to its approval of a change of organization.

Prior to issuance of a certificate of filing for an application involving a change of organization to provide public services on tribal lands, LAFCO shall require a partial waiver of sovereign immunity whereby the proper tribal authority and LAFCO agree in writing to mitigate the effects of the proposed change of organization on adjacent areas and on the local government structure of the county or city in accordance with the LAFCO Act, in exchange for the authority to provide the service.

LAFCO will incorporate the agreed upon provisions into its terms and conditions of approval.

2.18 Updated Municipal Service Review Required

At the time LAFCO receives an application for a change of organization, information contained in the applicable Municipal Service Review (MSR) shall be reviewed and updated, as necessary. Revised determinations within an applicable MSR will be required when significant changes in the MSR baseline result in inconsistencies with existing MSR determinations.

2-19. Disadvantaged Unincorporated Communities

The Commission will identify Disadvantaged Unincorporated Communities, as defined below, for the purpose of:

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1. Municipal Service Reviews. Water, Wastewater, and Fire Protection Municipal Service Reviews will discuss and identify opportunities for the provision of those services to Disadvantaged Unincorporated Communities located within or contiguous to the Sphere of Influence of an agency.
2. Annexations to the City of Alturas. Disadvantaged Unincorporated Communities ten acres or larger that are located contiguous to areas proposed for annexation to the City of Alturas shall normally be included in the annexation or reorganization proposal or be separately proposed for annexation, unless the Commission has determined that the disadvantaged community would not be benefited by annexation, or if at least 50% the registered voters have indicated opposition to annexation.
3. Definition of Disadvantaged Unincorporated Community. A Disadvantaged Unincorporated Community is defined as a developed area that has been identified as such by LAFCo, the County or the City of Alturas, or one that meets all the following standards:
 - a) Substantially developed with primarily residential uses
 - b) Contains at least 25 parcels in close proximity to each other that do not exceed 1.5 acres in size
 - c) Does not have reliable public water, sewer or structural fire protection service available
 - d) Contains at least 12 registered voters
 - e) Has a median household income level of less than 80% of the statewide median household income

Request for Determination. In addition to those Disadvantaged Unincorporated Communities identified by LAFCo or other agencies, residents or property owners may request that LAFCo determine whether a specific area meets the criteria listed in Item 3 to be treated as a Disadvantaged Unincorporated Community. Such request must be submitted by at least twelve registered voters of the area. The review shall be conducted by LAFCo staff and shall, if appropriate, be submitted for consideration and approval by the Commission.

3. SPHERES OF INFLUENCE

3.1. General Policies

LAFCO must adopt a sphere of influence for each city and each district in its jurisdiction, and **must review and, if necessary, update each Sphere of Influence at least every five years.** All LAFCO actions must be consistent with the relevant sphere plan. A Sphere of Influence is defined in Government Code Section 56425 of the Government Code as “a plan for the probable physical boundary and service area of a local agency or municipality as determined by the commission.”

The **establishment** of Sphere of Influence Plans is perhaps the most important planning function given to LAFCOs by the state legislature. Spheres of Influence are described by the Cortese-Knox-Hertzberg Act as an important tool 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.” Spheres serve a similar function in LAFCO determinations as general plans do for cities and counties. Consistency with the adopted sphere plan is mandatory, and changes to the plan require careful review.

While LAFCO encourages the participation and cooperation of the subject agency, the sphere of influence plan is a LAFCO responsibility, and the Commission is the sole authority as to the sufficiency of the documentation and the plan’s consistency with law and LAFCO policy. Staff of LAFCO will work closely with agencies in developing sphere of influence plans. In determining the sphere of influence of each agency, LAFCO must consider and prepare a written statement of its determinations with respect to the following four factors as stated in Government Code Section 56425 (e):

- a) The present and planned land use in the area, including agricultural and open-space lands.
- b) The present and probable need for public facilities and services in the area.
- c) The present capacity of public facilities and adequacy of public services provided by the agency.
- d) Any social or economic communities of interest in the area that the Commission determines is relevant to the agency.

In order to prepare and update spheres of influence, LAFCO is required to conduct a review of the municipal services provided in the county, region, subregion, or other appropriate designated area. The policies and standards Modoc LAFCO applies to service reviews will be contained in a subsequent section of these policies and standards. Spheres of influence must be consistent

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with the determinations of the municipal service reviews, and will be modified if necessary.

- a) Consistency Requirement. Every sphere of influence plan must be consistent with LAFCO's Policies and Standards and Procedures, the state legislature's policy direction to LAFCO, the sphere plans of all other agencies in the area, the Commission's statement of written determinations with respect to its review of municipal services in the applicable area, and with the long range planning goals for the area.
- b) Sphere Boundaries. In establishing the boundaries of a sphere of influence plan for an agency, LAFCO will consider the factors listed in Government Code Section 56425 (e) as noted above.

With respect to Factor 3.1(b) above, LAFCO will not include lands that are unlikely to require the services provided by the agency, for example, lands not designated for development by the applicable General Plan, areas where development is constrained by topographical factors, or areas where the projected and historical growth rates do not indicate a need for service within the timeframe of the sphere plan.

With respect to Factor 3.1(c) above, LAFCO will not include areas in an agency's sphere of influence which cannot feasibly be served by the agency within a time frame consistent with the sphere plan.

- c) No Concurrent Amendment. LAFCO will generally not amend a Sphere of Influence concurrently with its action on a proposal.
- d) Time Factor. Sphere of Influence amendments will ordinarily take longer to process than applications for a change of organization or reorganization and will generally require more detailed information.
- e) Updated Plans Encouraged. Agencies are encouraged to keep the supporting documentation for their Sphere of Influence plans up to date so that individual applications for changes of organization or reorganization are not burdened with time delays.
- f) Areas of Concern. LAFCO may, at its discretion, designate a geographic area beyond the Sphere of Influence as an Area of Concern to any local agency.
 - i) An Area of Concern is a geographic area beyond the Sphere of Influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency ("the Concerned Agency"). For example, approval of a housing project developed to urban densities on septic tanks outside the city limits of the City of Alturas and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city in such situation would be the Concerned Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the city.

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- ii) LAFCO will notify any Concerned Agency when LAFCO receives notice of a proposal of another agency in the Area of Concern to the Concerned Agency, and will give great weight to its comments.
- iii) If requested, LAFCO will seek to obtain a Joint Powers Agreement or other commitment between the agencies so that the Acting Agency provides advance notice to the Concerned Agency of any actions, or projects being considered within the area of concern, and commits to considering any comments made by the Concerned Agency.
- g) Internal Consistency Required. Sphere of Influence Plans shall be internally consistent.
- h) Agency Incapable of Providing Services. If the evidence demonstrates that an agency is unable to provide an adequate level of service within a portion of its service area boundaries within the time frame provided for that boundary, the Sphere of Influence Plan shall be amended pursuant to the procedures for periodic review such that the probable service boundaries are consistent with the **determinations included in the applicable Municipal Service Review.**
- i) Adoption and Revision. LAFCO will adopt, amend, or update Sphere of Influence Plans after a public hearing and pursuant to the procedures set forth in Government Code Section 56427. Sphere actions are subject to the provisions of the California Environmental Quality Act. Sphere of Influence Plans shall be updated every five years, or more frequently if deemed necessary by the Commission. Wherever possible, the City of Alturas sphere update shall be scheduled to coincide with its general plan update.
- j) **Adoption and Revision. LAFCO will adopt, amend, or update Sphere of Influence Plans after a public hearing and pursuant to the procedures set forth in Government Code Section 56427. Sphere actions are subject to the provisions of the California Environmental Quality Act. Sphere of Influence Plans shall be updated every five years, or more frequently if deemed necessary by the Commission. Wherever possible, the City of Alturas sphere update shall be scheduled to coincide with its general plan update.**

3.2. Contents of the Sphere of Influence Plan

- a) General Requirements. The Sphere of Influence Plans for all governmental agencies within LAFCO's jurisdiction shall contain the following:
 - i) **A sphere map and phased plan for annexation of the depicted territory defining the probable boundary of the agency's service area 20 years hence (the long-term horizon) and identifying a near-term development horizon defining the agency's logical boundary for lands likely to be annexed prior to the next sphere**

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review or update (typically within five years). The phased annexation plan may include specific conditions for particular areas that must be satisfied before annexations may occur.

ii) **Documentation to support the Commission's determinations regarding the factors stated in Government Code Section 56425(e). Generally this information will be provided in the applicable Municipal Service Review(s), supplemented and updated as necessary to assure the information and analysis satisfy LAFCO policy requirements and are complete, current, and accurate.**

b) Specific Requirements for City Sphere Plans

i) Contiguous Sphere Horizon Boundaries are required to promote orderly development.

ii) **City/County Agreement. When required by Government Code Section 56425(b), a city and the county shall meet and confer regarding the boundaries of the city's sphere prior to the Commission's final determination. If a city and the county have reached agreement regarding the boundaries, development standards, and zoning requirements within a proposed city sphere, the Commission shall give great weight to the agreement in the Commission's final determination of the city's sphere.**

iii) **Parcel Inventory and Absorption Study. The Commission must be able to make a positive determination that the city's sphere is consistent with its historical and expected growth rates, and that the territory within the sphere is likely to be annexed within the 20-year timeframe. The Commission's determination will be based on information provided by the city, including 1) a vacant land inventory, 2) an analysis of the vacant lands to determine their suitability for development, and 3) a market study to determine the absorption rate of the usable vacant lands. If the city is unable to supply such information, LAFCO will make a sphere determination after considering the city's historical growth rates for each land use designation, pertinent city land use and zoning regulations, and the physical characteristics of the property intended to be included in the sphere.**

iv) Spheres for New Cities. The Commission will adopt a sphere of influence plan for a newly incorporated city within a year of the date of incorporation.

c) Specific Requirements for District Sphere Plans

i) **A district's sphere plan must document that the territory within the district's sphere is likely to require the district's services**

and that the district has or will have the capacity to serve the area at the appropriate level.

ii) **Multi-service Districts.** LAFCO shall adopt a sphere of influence plan for each distinct function or class of service provided by a district. These sphere plans may or may not be coterminous. Each sphere shall establish the nature, location, and extent of the functions or classes of services provided by the district.

iii) **Spheres for New Districts.** LAFCO will adopt a sphere of influence plan for a newly formed district within 2 years of the completion of formation proceedings.

3.3 **Municipal Service Reviews**

In order to establish an appropriate sphere for an agency, LAFCO must have adequate information on present and future service needs in the area and the capabilities of the agency to meet those needs. To this purpose, the Cortese-Knox-Hertzberg Act requires LAFCO to conduct service reviews prior to establishing or updating spheres of influence. A service review is a comprehensive review of provision of specified services within a designated geographic area. Its purpose is to evaluate the provision of services on a regional basis and to recommend actions, when necessary, to promote the efficient provision of those services. The service reviews are intended to help LAFCO, the public and other agencies better understand the public service structure and evaluate options for the provision of efficient and effective public services. LAFCO uses the information and analysis provided by the Municipal Service Review (MSR) to ascertain whether an agency can provide adequate and efficient services to the areas in the agency's sphere within the applicable time frame.

LAFCO will prepare or update the appropriate Municipal Service Reviews prior to or in conjunction with the adoption or update of an agency's sphere of influence plan. In general, LAFCO will conduct such reviews on a service-by-service basis for designated geographic areas. The Commission will periodically develop and implement a multi-year coordinated schedule for preparing MSRs and updating spheres of influence, in accordance with LAFCO's budget and the legislature's direction to review each agency's sphere of influence every five years and update as necessary.

a. **General Standards.** LAFCO shall prepare Municipal Service Reviews in conformance with the provisions of Government Code §56430 and its policy regarding Municipal Service Review determinations. A Municipal Service Review must provide information specific to each agency to support the Commission's written determinations with respect to the following:

Growth and population projections for the affected area.

Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

Financial ability of agencies to provide service.

Status of, and opportunities for, shared facilities.

Accountability for community service needs, including governmental structure and operational efficiencies.

Any other matter related to effective or efficient service delivery.

- b. Municipal Service Reviews Must Support Spheres of Influence.** In addition to the requirements discussed above, Municipal Service Reviews shall normally contain information on which the Commission can base its determination of the appropriate sphere of influence for an agency, including:

i) Identification of existing land uses and a reasonable projection of land uses, which would occur if services were provided consistent with each agency's sphere of influence plan. This analysis should include maps and explanatory text detailing the following:

- Present designated and actual land uses in the area, improved and unimproved properties, and agricultural and open space lands, as defined by Government Code Sections 56064 and 56059.
- Proposed future land uses in the area.

ii) Discussion of present and probable future needs for public facilities and services in the sphere area. The discussion should include consideration of the need for all types of major facilities, not just those provided by the agency.

iii) A determination of the present and future capacity of facilities and adequacy of services the agency provides or has plans to provide. The review must include specific information and analysis of how the agency will meet anticipated growth in demand within its current boundaries and within the area included in its sphere. This information will guide the Commission's designation of appropriate sphere horizons in the Sphere of Influence Plan. The required information should include the following:

- Maps and explanatory text that indicate the location and capacity of existing and proposed facilities, including a plan for timing and location of new or expanded facilities.
- An estimate of projected revenue and expense over the sphere horizons, specifically identifying the cost of planned new facilities or services and projected source(s) of revenue to fund those new facilities or services.
- Actual and projected costs of services to consumers in current dollars. A statement of actual and projected allocations of the cost of services between existing and new residents shall be included.

iv. Identification of any relevant social or economic communities of interest in the area. For example, an area which is completely within one subdivision governed by a single homeowner's association should be noted, in order to avoid unnecessary division of the territory between service agencies.

v. Any other information as determined appropriate by the Commission.

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- c. Uses of the Municipal Service Review. Upon approval of the Municipal Service Review, it will be utilized by LAFCO both in establishing the agency's sphere of influence and in the consideration of all proposals affecting that agency.

3.4. Amendments and Updates of Spheres

a. Adoption and Revision.

LAFCO will adopt, amend, or update a Sphere of Influence Plan after a public hearing and pursuant to the procedures set forth in Government Code Section 56427 of the Cortese-Knox-Hertzberg Act. Sphere actions are subject to the provisions of the California Environmental Quality Act. Sphere of Influence Plans shall be reviewed and updated if necessary every five years, or more often if deemed necessary by the Commission. Whenever possible, city sphere updates shall be scheduled to coincide with city General Plan updates.

- b) Updates generally involve comprehensive review of the entire Sphere of Influence Plan, including the map and the information provided in the Municipal Service Review for the agency.**

Amendments generally involve limited changes to a Sphere of Influence Map or Plan that are proposed by an agency or individual to accommodate a specific proposal. An amendment may or may not involve changes to the Municipal Service Review information.

c) Amendments Required.

An amendment to the Sphere of Influence Plan will be required in the following circumstances:

- To modify a sphere by adding or removing territory.**
- To move territory from one development horizon to another.**
- When a district seeks to provide a new or different function or class of service.**
- When a significant change in an agency's plans for service makes the current sphere plan impractical.**

- d) Updates Required. LAFCO will review the adopted sphere of each agency at least every five years, and will update it as the Commission deems necessary. In order to conduct a sphere review, LAFCO will request the agency provide updated information relative to its sphere of influence plan and municipal service review. Such information is necessary to inform the Commission's determination of appropriate sphere horizon boundaries. In the absence of adequate information, the Commission will complete the sphere update by identifying the territories that currently receive the agency's services and excluding unserved territories from the sphere.**

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Prior to completion of a sphere of influence update, the Commission will conduct a review of the municipal services in the applicable area.

- e) General Requirements. LAFCO will generally treat an update or a proposed amendment to an agency's Sphere of Influence similarly to an application for approval of a Sphere of Influence. Each of the following sets of policies apply to amendments to and updates of Spheres of Influence:
 - i) General policies.
 - ii) Specific policies and standards for Spheres of Influence and for Updates and Amendments thereto.
- f) Precedence of Amendments over Annexations. Sphere of Influence amendments **may** precede the Commission's consideration of proposals for change of organization or reorganization.
- g) Treatment of Amendment under Sphere Horizons. LAFCO will not place territory in an agency's 0-10 year sphere horizon unless the agency can show an immediate need for service by clear and convincing evidence.
- h) Consistency Required. Amendment proposals must be consistent with an updated Sphere of Influence Master Services Element.
- i) Inconsistent Sphere Amendments Prohibited. LAFCO will not approve requests for Sphere of Influence amendments if the amendment will result in a sphere that is inconsistent with other policies or standards.
- j) Demonstrated Need Required. An applicant for amendment to a Sphere of Influence must demonstrate a projected need or (in the case of reduction of the sphere) lack of need for service.
- k) Open Space and Prime Agricultural Land. Amendment proposals involving Sphere expansions which contain open space or prime agricultural land will not be approved by LAFCO if there is sufficient alternative land available for annexation within the existing Sphere of Influence.
- l) Spheres of Influence Amendment and Update Procedures (Government Code Section 56425). Each request for amendment or update must be heard in a public hearing and is subject to the provisions of the California Environmental Quality Act.

Section 3.5 – Districts and services, which are not growth-inducing

The Commission may prepare abbreviated Municipal Service Reviews and Sphere of Influence Updates for services not providing growth-inducing services and districts providing non-growth inducing services, and determine Sphere of Influence affirmations to be exempt from the provisions of the California Environmental Quality Act. Section 3.3 may also be waived if a current

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Municipal Service Review containing the required elements has been approved by the Commission.

Non-growth-inducing services are defined as all services excepting water conveyance, treatment, extraction and use of ground and (or) surface water for domestic services or to facilitate urban development; and domestic wastewater collection, treatment and disposal to facilitate urban development; and fire protection services. Districts providing non-growth inducing services normally would serve finite geographical areas, surrounded by public lands, provide limited specified services to residents or landowners, have coterminous district/sphere of influence boundaries and are not generally or routinely considered for expansion through annexations or sphere amendments for the purpose of providing services for existing or future urban development.

Sphere of Influence Plan reviews and affirmations for districts providing non-growth inducing services are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15320, changes in organization in that: The Sphere of Influence affirmation for districts providing non-growth inducing services will not affect the geographical area in which these services are provided; will not result in any substantive changes to the functions, operations or purposes of the districts; are not predicated on, or will result in, any land use changes that may be subject to CEQA review; and will not cause any reasonable foreseeable environmental consequences in that the Sphere of Influence affirmation will not directly create or cause any significant land use changes or other actions that could be detrimental to the environment.

4. ANNEXATIONS, DETACHMENTS, AND ACTION

4.1. General Standards for Annexation

These standards govern LAFCO determination regarding annexations to and detachments from all agencies.

- a) Consistency With LAFCO Policies. The annexation or detachment must be consistent with the General Policies set forth in these Policies and Standards.
- b) Consistency with Spheres and **Municipal Service Reviews**
 - i) The annexation must be consistent with the **internal Spheres of Influence horizons**. The land subject to annexation shall normally lie within the **near-term sphere horizon, which is land expected to be annexed before the next sphere update**.
 - ii) The annexation must also be consistent with the applicable **Municipal Service Review**. An annexation shall be approved only if **the Municipal Service Review and any update done as part of the annexation process demonstrate that adequate services will be provided** within the time frame needed by the inhabitants of the annexed area.
 - iii) Proposed annexations of lands that lie outside of the **near-term** sphere horizon are presumed to be inconsistent with the Sphere Plan. In such case the agency or proponent must first request LAFCO consider a sphere amendment **to bring the territory within the near-term sphere horizon. Only if** the amendment is approved **can LAFCO** proceed with the annexation proposal.
- c) Plan for Services Required. Every proposal must include a Plan for Services that addresses the items identified in **Government Code** Section 56653. This Plan for Service must be consistent with the **Municipal Service Review** of the agency.
- d) Contiguity. If required by statute, or if necessary to ensure efficient service provision, territory proposed to be annexed must normally be contiguous to the annexing city or district. Territory is not contiguous if its only connection is a strip of land more than 300 feet long and less than 200 feet wide **exclusive of public roads**. (Government Code Section §56031)
- e) Piecemeal Annexation **Discouraged**. LAFCO requires annexations to be consistent with the Sphere of Influence **and any annexation plan, if adopted. Where feasible**, LAFCO will modify small, piece-meal annexation **proposals** to include additional territory in order to promote orderly annexation and logical boundaries.

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- f) Annexations to Eliminate Islands. Proposals to annex islands and to otherwise correct illogical distortion of boundaries will normally be approved unless they would violate another provision of these standards.
- g) Annexations that Create Islands. An annexation will not normally be approved if it will result in the creation of islands of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries. The Commission may nevertheless approve the annexation where it finds that annexation as proposed is necessary for orderly growth and that reasonable effort has been made to include the island in the annexation but that inclusion is not feasible at this time.
- h) Service Requirements. An annexation shall not be approved merely to facilitate the delivery of one or a few services to the detriment of **either existing or future** delivery of a larger number of services or services more basic to public health and welfare.
- i) Adverse Impact of Annexation On Other Agencies or Service Recipients. LAFCO will normally deny annexation proposals that would result in significant adverse effects upon other service recipients or other agencies serving the affected area unless the approval is conditioned to avoid such impacts.
- j) **Need for Services. An annexation will normally not be approved unless an agency can demonstrate there is a demand and need for services in the short-term and that the annexation will not be premature meeting the criteria in Section 2.15 of these policies.**
- k) Action Options. LAFCO shall take one of the following three actions on an application for annexation or detachment:
 - i) Approve the proposal if it has found the change to result in the most efficient delivery of services for the affected population and to comply with other applicable standards and policies.
 - ii) Modify or conditionally approve the proposal to ensure efficient service delivery and meet other policy objectives. These may include, but are not limited to:
 - (1) Waiver of detachment from an existing service provider or, in the alternative, appropriate **mitigation**.
 - (2) Entering into a Joint Powers Agreement with another service provider.
 - (3) Requiring the inclusion of additional territory or exclusion of territory in order to achieve more logical boundaries.
 - (4) Such other conditions as authorized by **Government Code** Section 56886.
 - iii) Deny the annexation. In the event of such a denial, LAFCO may, where appropriate, provide direction as to changes in the proposal that could cause the Commission to consider approving a revised application.

4.2. Determination of the Best Service Provider

LAFCO will normally approve an annexation **and** (or) detachment only if the Commission determines that the annexing agency possesses the capability to provide the **better** delivery of applicable services for the affected population.

- a) **Best Combination of Service and Cost.** For purposes of this standard, the **best service provider is the agency that provides the best combination of service cost and service level.** In the case of providers with similar service costs, the provider with higher service levels shall **normally be preferred.** In the case of providers of similar service levels, the provider at the lowest cost shall **normally be preferred.** In comparing the providers of adequate but low-cost services, with high-quality, high-cost services, the Commission shall **make the decision based on the facts of the specific situation, compliance with other LAFCO policies and** the preferences of the affected population.

- b) **In the case of a city annexation and detachment from a special district, LAFCO may consider the broader service issues in making the determination whether to approve the detachment and shift of services from the special district to the city. Even though looked at in isolation, the service provided by the special district may be the superior if evaluated under subsection a) above, LAFCO may consider the overall efficiency advantages of a single multi-purpose agency and determine that these advantages justify the detachment from the special district and shift of service to the city.**

- c) “Affected Population” Defined. For purposes of this standard, “affected population,” means any of the following:
 - i) The population, which inhabits or will inhabit the area to be annexed.
 - ii) The population already being served by the annexing agency.
 - iii) The population of existing or potential alternative service providers.

- d) Factors to Be Considered. In evaluating the capability of an annexing agency or of alternative agencies to provide the required service, LAFCO shall utilize **information from the applicable municipal service reviews.** In addition, LAFCO shall take into account all of the following factors:
 - i) Physical accessibility of the territory to the agency’s service provision resources -- for example, is the agency the provider of sewer service whose plant can most easily gravity-feed from the subject territory?
 - ii) The agency’s possession of or ability to acquire resources necessary to provide the needed service -- for example, an agency may be judged unable to acquire water rights necessary

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- to provide the water services needed by a territory proposed for annexation.
- iii) The agency's historic service provision effectiveness and efficiency -- for example, an agency may be judged an inefficient service provider if it has a previously documented history of service interruptions, accidents, safety hazards, excessive complaints, non-compliance with CEQA, illegal activities or excess costs/charges.
 - iv) The appropriateness of the agency's organizational structure to meet service needs. For example, LAFCO may question whether a dependent district of the city is an appropriate provider of services outside the city boundaries, where the population will have no ability to vote for the board of directors of that district.
 - v) The legislative policy established in Cortese-Knox-Hertzberg to favor consolidation of services in a single multi-service provider over allowing the proliferation of single-purpose service agencies.
 - vi) The effect on alternative service providers and those who use their services.
 - vii) **Or other information supplied by the agencies and (or) developed by LAFCO.**
 - viii) **The factors listed in Government Code Section 56668.**
- e) LAFCO Responsibility for Determination. LAFCO shall determine the **best** overall service provider or combination of providers, not the affected agencies.

4.3. City Annexations

- a) Annexations of Streets. Annexations shall reflect logical allocation of streets and **rights of way**. Specifically:
 - i) LAFCO may require inclusion of additional territory within an annexation in order to assure that the city reasonably assumes the burden of providing adequate roads to the property to be annexed. **Where adjacent lands that are in the City will generate additional traffic, LAFCO will require the city to annex the streets that serve those lands.**
 - ii) **LAFCO will also require annexation of county roads where the annexation will leave isolated sections (difficult to maintain sections) of County roads.**
 - iii) LAFCO favors annexations with boundary lines located so that all streets and rights-of-ways will be placed within the same jurisdiction as the properties which either abut thereon or use the streets and rights-of-way for access. Except in extraordinary circumstances, the city shall annex an entire roadway portion when 50% or more of the frontage on both sides of the street will be within the city after completion of the annexation.

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- b) Urban Boundaries. LAFCO will normally adjust annexation boundaries to include adjacent urbanized areas in order to maximize the amount of developed urban land inside the city, and to minimize piece-meal annexations **and to ensure the provision of urban services to the urbanized area.** As used herein, “urbanized areas” are areas that are developed for industrial, commercial or residential use with a density of at least one residential unit per 1.5 acres and which receive either public water or sewer service.
- c) Pre-zoning Required. The Cortese-Knox-Hertzberg Act requires the City to prezone territory to be annexed, and prohibits subsequent changes to the general plan and or pre-zoning designations for a period of two years after completion of the annexation, unless the city council makes a finding at a public hearing consistent with the provisions of Government Code Section 56375 (e). The City’s pre-zoning must take into account the likely intended development of the specific property.
In instances where LAFCO amends a proposal to include additional territory, the Commission’s approval of the annexation will be conditional upon completion of pre-zoning of the new territory.

4.4. Detachments with an Annexation to the City

- a) General Requirements. LAFCO normally disfavors the detachment of territory from a service provider who provides an adequate level of service unless the following can be demonstrated:
 - i) The detachment is necessary to ensure delivery of services essential to the public health and safety; or
 - ii) The successor provider will be **the best** services provider to the area as determined pursuant to Section 4.2 above and the detachment will not significantly reduce the efficiency of service delivery to the remaining inhabitants of the current service provider’s territory; **or**
 - iii) **The agency is not providing service and is not likely to provide service in the foreseeable future.**
- b) Service Plan Considerations. The service plans of special districts, which lie within a city's Sphere of Influence should provide for orderly detachment of territory from the district or merger of the district as district territory is annexed to the city. However, LAFCO may determine during the updating of the spheres of the two agencies, that the district should continue to provide service within certain areas even after annexation to the city.
- c) Bonded Indebtedness. Detachment from the city or special district shall not relieve the landowners within the detaching territory from existing obligations for bonded indebtedness or other indebtedness incurred previously by the city or district to provide service to the detaching property unless the following apply:
 - i) The relief from indebtedness is part of a revenue exchange agreement applying to the detachment.

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- ii) The agency is legally authorized to and agrees to assume the cost and spread it over the remaining property within the agency.

4.5. Extension of Services by Contract

This section applies only to contracts to extend services beyond a local agency's jurisdictional boundaries as provided in **Government Code** Section 56133.

- a) General Standards.
 - i) Applicable Policies:

When considering requests to extend services by contract beyond an agency's jurisdiction boundaries, LAFCO will apply the same general substantive policies as for annexation requests. In addition, the application must be made in anticipation of annexation. As used in this section, the term "in anticipation of annexation" means that the area is within the **near-term** sphere horizon of the agency.
 - ii) Subsequent Annexation Application Required

For all contract service extensions, the requesting agency must either:

 - (1) File a concurrent application with LAFCO for annexation of the property, or
 - (2) Carry out both of the following:
 - (a) Place a condition in its contract with the property owner requiring submittal of an annexation application within a period not to exceed two years; and
 - (b) Record a notice against title to the property specifying that in the event that the agency does not proceed with annexation, the property owner must make application to LAFCO for annexation of the territory within two years of LAFCO's approval of the request.
- b) Review of Contracts. The LAFCO Executive Officer will conduct periodic reviews of **agencies and** contracts established since January 1, **2001**, for compliance with the requirements of this section.
- c) Unapproved Contracts Null & Void. If an agency enters into a contract without LAFCO approval, the contract shall be null and void. If the Executive Officer receives notice of a violation of these provisions, he or she shall place the item on the Commission's agenda for consideration of appropriate action.
- d) **Urgency** Approvals. In a case which conforms to the standards set forth in this section (4.5), and which also involves an imminent peril to public health and safety, applicants may submit an abbreviated application, along with the applicable deposit as specified in the LAFCO fee schedule, to be considered for temporary **urgency** approval by the

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Executive Officer. The Executive Officer shall present the matter to the Commission at the next available meeting for final consideration.

- e) **Exemptions from LAFCO approval for certain contracts.**
- i) **Pursuant to Government Code Section 56133 (e) no LAFCO approval is required for contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.**
- a) **For the purposes of this exemption, “the level of service contemplated by a public service provider” shall mean that the existing public service provider is presently authorized to provide the service and has the capability to provide the service to the area subject to the contract.**
- ii) **Also Pursuant to Government Code Section 56133 (e) no LAFCO approval is required for “ contracts or the transfer of nonpotable or nontreated water”. However, this exemption does not apply where the transfer of nonpotable or nontreated water will support or induce development or growth to urban levels as defined in Section 2.2 above. For purposes of this exemption nonpotable or nontreated water shall not include wastewater.**

5. INCORPORATIONS, FORMATIONS, PROVISION OF NEW SERVICES BY DISTRICTS, CONSOLIDATIONS, DISSOLUTIONS, & DISINCORPORATIONS

5.1. Incorporation Of Cities

- a) Consistency with LAFCO Policies. A proposal for incorporation of a new city must be consistent with the General Policies set forth in these Policies and Standards, as well as the following specific policies for incorporations.
- b) Need for Incorporation. LAFCO will normally only favor a proposal for incorporation if the Commission finds that there is a significant unmet need for urban services or need for improved urban services within the territory for which incorporation is proposed. In determining whether such a need for urban services exists, the Commission will base its determination on:
 - i) Current levels of service in the area to be incorporated.
 - ii) Whether the area proposed for incorporation is already substantially urbanized or applicable general plans, specific plans, or area plans and/or realistic population and growth projections demonstrate the need for urbanization of the affected area within the next five years.
 - iii) The Sphere of Influence Plans for the jurisdictions currently providing services to the area.
 - iv) The preferences of the community proposing to incorporate.
- c) **Better Combination of Services.** LAFCO shall approve a proposal for incorporation only if it finds that a new city will provide **on the whole the best combination of urban services** to the affected population.
- d) Public Benefit Considered. LAFCO will consider whether the proposed incorporation will benefit the affected population as a whole, or only a select group. Absent other considerations, LAFCO will not approve an incorporation proposal that amounts to a grant of governmental powers to a special interest group.
- e) Balancing Adverse Impacts. In making its decision on the incorporation, LAFCO shall weigh the benefits of the incorporation against its adverse impacts on:
 - i) Particular communities or groups in the incorporating area or affected unincorporated area.
 - ii) Other service providers within the area of the proposed incorporation, including the County.
 - iii) Prime agricultural and open space lands and the prevention of urban sprawl.

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- f) Plan for Services Required. A proposal for incorporation must include a Plan for Services that addresses the items identified in Government Code Section 56653.
- g) Prime Agricultural and Open Space Land that is not designated for urbanization within the next five years of the date of the receipt of the application shall not be included within the boundaries of a proposed city unless the Commission determines that **inclusion is necessary for logical boundaries and orderly growth** and the proposal is structured to ensure the long-term preservation **of the** open space or agricultural lands.
- h) Comprehensive Fiscal Analysis Required. Government Code Section 56800 requires the Executive Officer to prepare or cause to be prepared a comprehensive fiscal analysis (CFA) of the projected fiscal condition of the new city. Normally, LAFCO will contract with an independent consultant for this analysis, and the charge for this study will be included with the other project-related charges paid by the applicant. The CFA shall project income and expense for a period of seven years after incorporation. The Commission will approve the CFA after a public hearing.
- i) **Substantial Revenue Neutrality and Fiscal Solvency Required.** LAFCO will only approve a proposal for incorporation if the proposed city will be able to fund municipal services, and remain financially solvent, after making adjustments to attain revenue neutrality. As used herein, the term “revenue neutrality” shall mean an exchange of revenue and service delivery costs between the new city and the various affected agencies, as more specifically required by Government Code Section 56815. The determination of whether the proposed incorporation meets this standard will be the objective of the Comprehensive Fiscal Analysis described above. **In determining revenue neutrality, LAFCO will consider the overall impact on all agency funds and will not necessarily require revenue neutrality in each separate fund.**
- j) **The Commission shall encourage the County and incorporation proponents to reach an agreement with respect to revenue neutrality and shall actively facilitate such negotiations. However, if the parties are unable to reach an agreement within a reasonable period of time, the Commission shall make such determination.**
- k) Financial Review Request. In accordance with the provisions outlined in Government Code Section 56801, any interested person or agency may request a review of the CFA by the Office of the State Controller within 30 days of the Commission’s approval of the document. The requesting party will be responsible for the State Controller’s charges to conduct the review, and is required to deposit the estimated cost before the review will be initiated. If the requesting party fails to deposit the estimated cost and execute a payment agreement for the balance within 7 days of being notified of the amount, the request will be deemed withdrawn.
- l) Competing Applications Relative to the Proposed Incorporation. Where LAFCO receives more than one application affecting an area proposed for incorporation, and such competing application(s) is received within 60 days of the initial application for incorporation, the Commission shall

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consider such competing application(s) prior to approval of the incorporation proposal. (**Government Code Section 56657**)

- m) **Cost of Processing the Application. The incorporation proponents shall normally be responsible for the costs of preparation of all necessary reports and staff time associated with the proposal as with any other application to LAFCO.**

5.2. District Formation

- a) Consistency with LAFCO Policies. The formation of a special district must be consistent with the General Policies set forth in these Policies and Standards, as well as specific policies for formations.
- b) Need for a New District Required. LAFCO will only approve special district formations in areas that demonstrate a need for the proposed services and where no existing agency can adequately or efficiently provide such services, in an accountable manner as required by **Government Code Section 56886.5.**
- c) Plan for Services Required. Every proposal for formation of a new special district must include a Plan for Services that addresses the items identified in **Government Code Section 56653.**
- d) LAFCO Will Establish Service Pattern. LAFCO's approval of a district formation will designate the nature, location, and extent of any functions or classes of services for the new district. This designation will be based upon the Plan for Services.
- e) Consistency Required. LAFCO will only approve district formation applications that accommodate development that is consistent with the General and Specific Plans of all affected land use authorities.
- f) Conflicts Not Allowed. LAFCO will not approve a district formation proposal if the Plan for Services conflicts with the **sphere of influence and/or municipal service review of another agency unless better service provision will occur as determined under Section 4.2 above. In such event, the sphere of the other agency shall be amended to remove the area from the agency sphere to avoid overlapping spheres.**
- g) Public Benefit Considered. LAFCO will consider whether the proposed district formation will benefit the affected public as a whole, or only a select group. Absent other considerations, LAFCO will not approve a formation proposal that amounts, to a grant of governmental powers to a special interest group. **LAFCO will also consider the impacts on other service providers, including the County.**
- h) Fiscal Solvency. LAFCO will prepare a fiscal analysis for the proposed district which projects services to be provided, costs to service recipients, and revenue and expenses for a period of at least 5 years. LAFCO will not approve an application for district formation unless the fiscal analysis demonstrates the district can provide the needed services and remain fiscally solvent. If the financing element of the Plan for Services requires

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voter or landowner approval (for instance, a special tax or benefit assessment), LAFCO's approval of the proposal will require voter approval of the funding mechanism as a condition for completion of the formation.

5.3. Provision of New Services by Districts

- a) Policies Applicable to New Service Proposals. LAFCO will evaluate a proposal for a district to provide new services using the policies and standards applicable to the formation of a new district.
- b) Plan for Services Required. A proposal must include a Plan for Services that addresses the items identified in **Government Code Section 56653. The Plan for service must include a fiscal feasibility analysis for the new service containing the elements set forth in 5.2 (h).**
- c) New Services not Subsidized. LAFCO will not approve a proposal for the provision of a new service where it is reasonably likely that existing ratepayers and/or taxpayers will have to subsidize the new service.

5.4. Consolidations and Merger of Districts into the City

- a) Policies Applicable to Consolidations and Mergers. As stated in General Policies 2.9, LAFCO generally supports consolidation of agencies to obtain economies from the provision of consolidated services. For the purposes of LAFCO's policies and standards, a consolidation of cities or districts will be treated as an incorporation or a district formation. The merger of a district into the city will be treated as if it were an annexation of the district's territory combined with a detachment or dissolution.
- b) General Requirements. Based upon the submitted Plan for Services and any other data provided, LAFCO will determine whether the city's or districts' organizations and operations can feasibly be combined. LAFCO will give particular attention to the following:
 - i) Service plans and safeguards to ensure uniform and consistent service quality throughout the newly consolidated or merged jurisdiction.
 - ii) Staffing levels, personnel costs, and employment contracts.
 - iii) Potential for cost efficiencies and economies of scale.
 - iv) Potential for improved governance and accountability.
 - v) Plans for restructuring agency debt.
 - vi) Provisions for combining capital reserves and improvement plans.
 - vii) Provisions for establishing zones of benefit, if necessary.
- c) Special Consolidation Procedures. (Government Code Section 56853). If two or more local agencies file an application to consolidate that meets the standards established in Government Code Section 56853, the Commission will either approve the proposal or require conditions that

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will ensure the proposal is consistent with LAFCO policy. The Commission will notify the agencies of change in the material proposed conditions in the application, in accordance with the provisions established in Government Code Section 56853.

- d) Procedure for Formation of Subsidiary Districts
Proposals for the merger of a district into the city or establishment of the district as a subsidiary district of the city shall follow the special procedure set forth in Government Code Sections 56861-56863.

5.5. LAFCO Initiated Changes of Organization (Government Code Section 56375 (a))

- a) General. LAFCO may initiate proceedings for consolidation of districts, **district formations**; and the dissolution, merger, or establishment of subsidiary districts; or reorganizations that include any of these changes of organization in accordance with all relevant provisions of the Cortese-Knox-Hertzberg Act. Such changes of organization shall hereinafter be referred to as LAFCO-initiated proposals for the purposes of this section.
- b) Initiation of a proposal must be consistent with the recommendation of a study prepared pursuant to **Government Code Sections** 56378 (studies of governmental agencies) or 56425 (Spheres of Influence) or 56430 (Municipal Service Reviews), which evaluates the factors listed in Section 5.4 above, and 5.4 (d) below. The Commission will publicly consider a request from any interested person or agency to conduct such a study, or may initiate such as study on its own.
- c) Procedure for Initiation of Proposals by the Commission.
 - i) The Commission may initiate a proposal for any combination of change of organization or reorganization consistent with the recommendation of a study conducted pursuant to this section.
 - ii) The Commission shall adopt a resolution of initiating the proposal at a public meeting. The resolution shall contain all the information normally included in a Resolution of Application. The Executive Officer shall provide each affected agency with notice of the meeting at least 21 days in advance.
 - iii) The Commission may decide to refer the matter to a reorganization committee constituted pursuant to **Government Code** Section 56826.
 - iv) A proposal initiated by the Commission will be processed in accordance with all normal and specific procedural requirements of Cortese-Knox-Hertzberg and these Policies and Standards.
- d) Policy Considerations. The Commission's general and applicable specific policies and standards will be used to evaluate LAFCO-initiated proposals. Additionally, the Commission must make specific determinations pursuant to Government Code Section 56881 if it approves a LAFCO initiated proposal:

- i) Public service costs of the proposal are likely to be less than or substantially similar to the costs of alternative means of providing the service.
- ii) The change of organization or reorganization promotes public access and accountability for community service needs and financial resources.

5.6. Disincorporations and Districts Dissolutions

- a) Grounds for Disincorporation and District Dissolutions.
 - i) LAFCO will approve a proposal for disincorporation/dissolution only if it determines that the services offered or authorized are no longer necessary; or
 - ii) The services can **better** be provided more efficiently by another agency or provider and that agency agrees to provide the services; or
 - iii) The agency is insolvent and unable to provide the services.
 - iv) **The agency meets the conditions for non-use of corporate powers set forth in Government Code Section 56871.**
- b) Bonded Indebtedness. Where possible, LAFCO shall condition any dissolution to provide for the repayment of any bonded indebtedness or other obligations of the dissolved agency.
- c) Disposition of Remaining Funds. A disincorporated city must turn its treasury over to the County Treasurer within thirty (30) days of disincorporation. A dissolved district shall turn over its funds to its successor as determined under **Government Code** Section 57451.

5.7. Reorganizations

- a) Evaluation Process. LAFCO will independently evaluate each component organizational change, which makes up a reorganization proposal following the standards of this chapter applicable to that component of the reorganization. LAFCO will then balance the overall benefits against the costs and adverse impacts, in deciding on the reorganization as a whole.
- b) Mitigation Requirements. The service quality, efficiency, and effectiveness available prior to reorganization shall constitute a benchmark for determining significant adverse effects upon an interested party. LAFCO will approve a proposal for reorganization, which results in significant adverse effects only if effective mitigating measures are included in the proposal.

6. GENERAL PROCEDURES

6.1. Applicant Responsible for Cost of Service

Applicants are expected to pay all costs associated with processing a proposal through LAFCO, including, without limitation, staff time at approved charge-out rates, consultant charges, county and state charges, and other expenses. LAFCO has adopted a deposit schedule depending on the nature of the proposal, requiring the payment of an initial deposit and subsequent deposits as necessary. LAFCO will periodically apply monies from the deposit to reimburse for costs incurred. The Executive Officer may require an additional deposit when the initial deposit runs low or where necessary to cover an anticipated additional expense. If the deposit is not timely made, processing of the proposal will be suspended until it is submitted. LAFCO will periodically provide the applicant with an expenditure report detailing the application of the deposit monies.

6.2 Notice and Public Participation

- a. **Public Participation Encouraged.** LAFCO encourages participation in its decision-making process. The Cortese-Knox-Hertzberg Act provides for a wide dissemination of notice. LAFCO shall not necessarily be limited to the minimums required by law and policy. The Commission will provide opportunity to the public to be heard at LAFCO meetings in accordance with the procedures set forth in the By-Laws.
- b. **Unnecessary Public Hearings Eliminated.** Where LAFCO is authorized by Cortese-Knox-Hertzberg to consider a proposal without public hearing, the proposal will be considered by the Commission without a public hearing, unless the Commission determines that the matter is of sufficient public interest or controversy to warrant a public hearing.

6.3 Application by Resolution Preferred

- a. While Cortese-Knox-Hertzberg permits initiation of applications to LAFCO either by resolution of an affected agency or by direct landowner/voter petition, LAFCO prefers that the resolution procedure be utilized wherever feasible. Use of the resolution of application procedure is preferable because: 1) it involves the affected public agency early in the process to assure that the agency's concerns are considered, 2) better integrates CEQA processing by the affected public agency as lead agency 3) it is better utilization of Public Resources, and it is more cost effective. Each applicant shall be advised of this policy at the earliest possible time.
- b. **Prior to accepting a petition-initiated application, LAFCO will require the proponents to demonstrate that they have attempted to**

initiate proceedings by a resolution of application but that the agency has refused to adopt such a resolution.

6.4 Application Requirements

- a. LAFCO encourages a pre-application discussion between the proponent and LAFCO staff, which can save the prospective applicant substantial time once the process has begun. LAFCO staff will review procedures, information requirements, processing fees and provide application forms.
- b. Applications to the Commission must contain all the information and materials required by the Cortese-Knox-Hertzberg Act (Government Code Sections 56652 and 56653) as well as the applicable fees or deposit toward fees as specified by the LAFCO Fee Schedule. Except when the Commission is the Lead Agency pursuant to the California Environmental Quality Act (as defined in **Public Resources Code** Section 21067), an application must also contain complete documentation of the Lead Agency's environmental determination. No application for a change of organization or reorganization will be deemed complete and scheduled for hearing unless the requirements of Section 99 regarding tax apportionment agreements of the Revenue and Taxation Code have been satisfied.
- c. **The application shall also include an agreement to pay costs and indemnification. The agreement to pay costs and indemnification must be signed by the applicant for the application to be deemed complete.**
- d. **Where the application is by resolution of application from an agency, the application and related agreements must be signed by an authorized officer of the agency.**

6.5 Reconsideration of LAFCO Decisions

- a. Request and Fees. The request for reconsideration shall be made consistent with the provisions of **Government Code** Section 56895, and shall be accompanied by the appropriate reconsideration fee **deposit** as established in the LAFCO Fee Schedule. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the Commission making determinations.
- b. Grounds for Reconsideration. LAFCO will normally only change its previous determination where one or more of the following circumstances are shown to exist:
 - i. Compelling new evidence exists about the proposal, that was previously unavailable, that might alter the Commission decision.

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- ii. Factors significant to the Commission decision were overlooked, or have changed, such as a change in an applicable federal, state, or local law that might alter the Commission's decision.
- iii. A significant, prejudicial error in procedure is found.
- iv. The Executive Officer shall review the reconsideration request to ensure compliance with i, ii, or iii above.

6.6 Conducting Authority Proceedings (Government Code Section 57000)

For proposals for which the Commission acts as Conducting Authority, the following applies:

- a) **Waiver of Conducting Authority Proceedings.** The Commission may waive final Conducting Authority proceedings and authorize the Executive Officer to file a Certificate of Completion upon approval of a change of organization or reorganization **and satisfaction of all terms and conditions pursuant to Government Code Sections 56663 and 57200.**
- b) **Setting the Matter for Hearing.** The Commission shall include in the terms and conditions of its approval for a proposal a stipulation of a period, not less than 21 nor more than 60 days, to be allowed for the collection and filing of written protests. Within 35 days of final LAFCO action, the Executive Officer shall set the matter for hearing according to the schedule stipulated by the Commission and cause a notice thereof to be published in compliance with **Government Code** Section 56150 *et seq.*
- c) **Delegation of Authority to Conduct Protest Hearing.** The Commission shall delegate to the Executive Officer the authority to conduct a protest hearing unless it specifies otherwise. **Such delegation may include making the finding regarding the value of written protests and appropriate order as authorized by Government Code Section 57075 et. seq.** Such delegation shall be stated in the terms and conditions for approval of the subject proposal.

7. ADOPTION AND AMENDMENT

7.1. Amendments

Amendments to Modoc LAFCO's Policies and Standards shall be made in compliance with the LAFCO Commission's Bylaws.