

Volume I, Part IV. PROPOSAL PROCESSING PROCEDURES

1. Application Preparation and Submittal

This section lists steps and requirements for all types of proposals. Additional application requirements, if any, are listed in this document under the specific type of proposal. The applicant is expected to facilitate processing of their application by reviewing and implementing the required steps.

- 1.1 Applicants are required to meet with LAFCo staff prior to submitting an application. Presubmittal meetings substantially reduce processing time and potential frustrations by facilitating preparation of application packages that are complete and consistent with legal requirements. Applicants should contact Alameda LAFCo staff to schedule the meeting.
- 1.2 Compile the following information and materials, and bring them to presubmittal meeting¹:
 - Assessor's parcel number for individual lots or project map for complex proposals.
 - General Plan, Specific Plan, if applicable, and zoning land use designations for the project vicinity.
 - Approved or proposed development plans and related staff reports and CEQA documents if applicable. (Approved plans generally indicate what land uses are planned, the level of services required, how services will be provided, the conditions under which service will be extended, and the impact on adjacent areas.)
 - A project vicinity map.
- 1.3 Provide one original and seven copies of the completed and signed LAFCo Application.
- 1.4 Provide one original and two copies of a certified resolution of application OR one original and four copies of a petition of land owners/registered voters (See Appendix E, Exhibit D). A resolution (See Appendix E, Exhibit E) must contain the same information as a petition except signatures (§56700, §56654). The resolution or petition shall include all of the following: State that proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000;
 - State nature of the proposal and list all proposed changes of organization;

¹ Applicants for Out of Area Service Agreements only need to bring a copy of the agreement or contract, a project site and vicinity map and documentation of public health or safety concerns, as appropriate.

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- Set forth a metes and bounds description of the boundaries of the affected territory accompanied by a map showing the boundaries;
- Set forth any proposed terms and conditions;
- State project justifications;
- State whether petition is signed by registered voters or owners of the land;
- Designate a maximum of three persons as chief petitioners, setting forth their names, mailing addresses and phone numbers;
- State whether proposal is consistent with SOIs for each affected city or district; and
- Request proceedings pursuant to appropriate sections of the CKH Act.

1.5 Submit the following items to the LAFCo office:

- Eight copies of a vicinity map (8 1/2 x 11) of the subject property (see Appendix E, Exhibit J).
- 15 letter-sized copies (8½ x 11) and 1 display-sized copy (2'x3') of easily readable maps of the project sites with the relationship among the project site and district or city service and SOI boundaries, and, if applicable, Measure D or urban growth boundaries clearly indicated and color coded (see Appendix E, Exhibit K).
- Eight copies of preliminary proposal map pre-approved by the County Surveyor and associated legal description in metes and bounds (see Appendix C).
- Two large-scale topographical map of the project site (may use USGS quadrangle map for larger sites).
- One legible copy of any deeds cited on project maps.
- For city annexations, provide one certified original and two copies of the adopted City Council Resolution rezoning the property pursuant to §56375.
- For city or special district annexations involving property tax revenues exchanges, one certified and two copies of Resolutions from affected cities, districts and Alameda County indicating that affected jurisdictions have reached agreement on an exchange of property tax revenues pursuant to Revenue and Taxation Code §99.

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- For Out-of-Area Service Agreements, two copies of agreement or contract, and two copies of documentation of public health or safety emergency, if applicable.
 - 15 copies of any CEQA documents approved for any portion of the proposal, such as Environmental Impact Reports (EIR), Findings of Fact, Statement of Overriding Considerations, EIR appendices, negative declarations, or mitigated negative declarations (contact LAFCo staff about submitting these documents electronically).
 - One original and one copy of applicant and property owner financial disclosure Statement(s) pursuant to the requirements of the Fair Political Practices Commission and LAFCo Policies.
 - One copy of Notice of Determination or Notice of Exemption, and refundable State Fish & Game Department CEQA review fees, or copy of receipt of payment of these fees, if applicable.
 - Non-refundable LAFCo application processing fees (see Appendix A).
 - Other items, as applicable, listed in the Application Checklist (see Appendix B1)
- 1.6. Applicants must submit a plan to provide municipal services. Plan of Service submittals are required to contain, but are not limited to, the following information:
- An enumeration and description of the service to be extended to the affected territory;
 - The level and range of those services;
 - The estimated time frame for service delivery;
 - A statement of any capital improvements, or other conditions, which the local agency would impose or require within the affected territory if the requested action is approved (§56653).
 - A capacity analysis which states: (1) number of service units available (units can be described as parcels, meters, equivalent dwelling units or other project specific units of measure as approved by the Executive Officer); (2) the number of service units currently allocated; (3) the total number of service units within agency boundaries, including assessment districts which may cross district boundaries, that are anticipating future service; (4) the number of service units proposed to be added as a result of the annexation; (5) the total number of service units entitled to receive services as a result of the proposed project. In the event that the applicant or annexing agency finds that there are not enough

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service units available to provide for number 5, the applicant shall provide a plan for obtaining the capacity necessary to provide service pursuant to 1.7;

- A description of the size, location and capacity of existing infrastructure;
- A statement from the annexing agency disclosing its disposition regarding responsibility to reserve capacity for unserved property within agency boundaries and current estimates of unserved property within its current boundaries;
- A list of the conditions that the applicant must meet in order to receive services from the annexing agency, such as annexation costs, facility plan report, fire flow requirements, on and off site construction requirements, or easements, and a statement explaining who is responsible for funding required items; and
- Annexing agency's statement of intent to provide services, including a description of the applicant's requirements to fund infrastructure so that areas within the district can be served, or will continue to be served, at the same or higher level of service, and proposed service areas will be accommodated at the same or a higher level of service. If the annexing agency cannot provide the latter guarantees, then the applicant or annexing agency shall provide a written justification for project approval despite anticipated negative impacts.

1.7. If a service cannot be provided without expanding service capacity or constructing infrastructure (other than at parcel connections to service), then the following information must also be included in a plan of service:

- A description of any required facility or infrastructure expansions or other necessary capital improvements;
- The likely schedule for completion of the expanded capacity project, the viability of the needed project, and the relation of the subject project to the overall project and project time line;
- A list of required administrative and legislated processes, such as CEQA review or State Water Resources Board allocation permits, including assessment of likelihood of approval of any permits and existence of pending or threatened legal or administrative challenges if known;
- The planned total additional capacity;
- The size and location of needed capital improvements;
- The proposed project cost, financing plan and financing mechanisms including a description of the persons or properties who will be expected to bear project costs; and

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- Any proposed alternative projects if the preferred project cannot be completed (include information listed above for each proposed alternative).

2. Application Review

- 2.1. The Executive Officer will render a decision on the completeness of the submittal within 30 days of receipt by determining whether the application is sufficient and complete as required by law including required additional copies and fees (§56652).
- 2.2. The Executive Officer will determine the status of CEQA review consistent with adopted policies and procedures.² This includes the determination of LAFCo Lead or Responsible Agency role if not yet established. All environmental review is conducted consistent with LAFCo's adopted CEQA procedures.
- 2.3. The Executive Officer will give mailed notice of application receipt to each interested and subject agency, all affected counties, the county committee/s on school district reorganization, and each school superintendent whose school district overlies the area (§56658). If an application for the formation, consolidation or dissolution of a park district formed pursuant to Recreation and Park District law, or a reorganization including any of these actions, is received the Executive Officer shall provide notice to the Director of the State Department of Parks and Recreation (56131.7). The Director shall be permitted 60 days to respond and the Commission shall consider all comments received.
- 2.4. If the application is complete, the Executive Officer will issue a Certificate of Filing and schedule a Commission hearing within the following 90 days.
- 2.5. A Certificate of Filing shall not be filed until at least 21 days following notice provided in 2.3.
- 2.6. If the application is incomplete, the Executive Officer will inform the applicant in writing of the additional information or supplemental documentation that is needed (§56658).
- 2.7. After the application is deemed complete, the Executive Officer will solicit comments from affected Alameda County departments, and other affected counties, agencies, entities, persons and parties requesting notice, and any affected LAFCos (§56658).
- 2.8. Notice and opportunity to request a public hearing shall be given to agencies whose boundaries are affected (§56658).

² CEQA implementation procedures have been published separately. A copy may be obtained from the LAFCo office.

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- 2.9. Depending on nature and type of proposal, or if requested by any party, project applicants and/or LAFCo may conduct a meeting with affected residents or landowners to present the proposal and receive comments.
- 2.10. The Executive Officer shall review the application, other pertinent information and any comments received from the public or other entities.
- 2.11. The Executive Officer shall prepare a staff report, which contains: (1) an analysis of the proposal's consistency with pertinent LAFCo factors and policies, SOIs, general and specific plans, other pertinent plans or programs, and LAFCo's policies and procedures (§56668, §56668.3, §56668.5); (2) recommendations of appropriate Commission actions; and (3) appropriate terms and conditions (§56885-§56890) if any.
- 2.12. At least five days prior to hearing, the Executive Officer shall mail the staff report to each LAFCo Commissioner, each person designated in the application, each affected local agency requesting a report, each agency whose boundaries or SOI will be changed, each individual who has indicated an interest in the action, and the Executive Officer of the LAFCo of any other affected county (§56665).

3. Public Hearings.

- 3.1. The Executive Officer shall set the hearing date, and provide notice in accordance with applicable law.
- 3.2. LAFCo shall consider the proposal on the noticed date and shall receive all oral and written testimony. LAFCo may continue a hearing for up to 70 days.
- 3.3. Some LAFCo determinations can be made without notice and hearing if determined de minimis, with written consent of all landowners or other conditions (§56662, §56663).
- 3.4. At the same hearing, or within, 35 days of approving a proposal, LAFCo shall adopt a Resolution of Determination that will:
 - Determine if the territory is inhabited or uninhabited (inhabited territory means territory within which 12 or more registered voters reside);
 - Approve or deny with or without terms, conditions or modifications to the proposal;
 - Initiate conducting authority processes and protest proceedings unless state law authorizes another agency to assume that role;³

³ Conducting authority proceedings are not required for Out of Area Service Agreement proposals.

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- For annexations, detachments, and county service area formations, authorize proceedings without notice, hearing, or an election, if there is 100% consent (§56662, §56663); and
 - Specify in the terms and conditions for each proposal requiring a protest hearing, and the window of time (21-60 days) allowed for the collection and filing of protest. The number of days required shall be based upon the need to expedite the process and the level of controversy or interest surrounding the proposal.
- 3.5. Protest proceedings for uninhabited areas may be waived if all of the following conditions apply (§56663):
- The subject area is uninhabited;
 - All of the owners of land within the affected territory have given their written consent to the change of organization or reorganization;
 - All subject agencies have consented in writing to a waiver of protest proceedings;
 - The commission has provided written notice of commission proceedings to all property owners and registered voters within the subject territory and no opposition is received prior to or during the commission meeting;
 - A satisfactory and verified property tax exchange agreement has been completed; and
 - Affected SOIs are up-to-date (§56425) and service reviews have been conducted and were available for use during proposal evaluation (§56430).
- 3.6. The Commission may waive protest proceedings for inhabited areas entirely if the following conditions apply (§56663):
- The commission has provided a written notice of commission proceedings to all registered voters and landowners within the affected territory and no opposition from registered owners or landowner within the affected territory is received prior to or during the commission meeting. The written notice shall disclose to the registered voters and landowners that unless opposition is expressed regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest an election proceedings; and
 - All subject agencies have consented in writing to a waiver of protest proceedings.
 - Affected SOIs are up-to-date (§56425) and service reviews have been conducted and were available for use during proposal evaluation (§56430).

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- 3.7. The Executive Officer will mail a copy of the Resolution of Determination to proponents, chief petitioners if any, and each affected local agency whose boundaries will be changed (§56882).
- 3.8. If a proposal is denied, no new proposal can be made for one year unless waived by LAFCo. If the proposal includes an incorporation or city consolidation, no new proposal can be made for two years unless waived by LAFCo (§56880, §56884, §57090).

4. Reconsideration

- 4.1. Any person, agency or other entity may file a written request with the Executive Officer seeking reconsideration of any portion of a resolution adopted by the Commission (§56895). The request shall state what new or different facts that could not have been presented previously are claimed to warrant reconsideration. Requests for reconsideration of a Commission resolution are to be submitted in writing and accompanied by the reconsideration request fee (§56383).
- 4.2. Reconsideration requests shall be filed within 30 days of a resolution making determinations (§56895(b)). If the 30th day falls on a weekend or holiday, the filing deadline will be extended to the next business day at 5:00 p.m.
- 4.3. At the hearing, the Commission may approve, disapprove, amend, modify or continue the matter for no more than 35 days. If the reconsideration request is granted, the Commission shall adopt a resolution, which supersedes the previous resolution (§56895(g)). Clerical errors or mistakes in any action or resolution adopted pursuant to a reconsideration action may be corrected (§56854, §56895(l)).
- 4.4. Any Commissioner or alternate seated at a given meeting can vote on reconsideration of an action taken at a prior meeting if they review meeting reports, tapes and minutes prior to the meeting at which they vote.
- 4.5. The Commission's determination is final. No person shall make any further request for the same change or substantially similar change as determined by the Commission (§56895(h)).

5. Conducting Authority Proceedings

After approval of a change of organization or reorganization, LAFCo generally assumes the ministerial role of conducting authority unless another conducting authority is specified in the law (§56029). The basic purpose of the conducting authority process is to provide a process for registered voters and property owners to formally voice their approval or disapproval for the particular change of organization. Proceedings for district formations are conducted as authorized in the principal act of the district proposed to be formed

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unless that procedure is inconsistent with the CKH Act or a formation is part of a reorganization (§56100, §56859, §57007).

Section 5 contains procedures that apply to most proposals. Part III contains procedures that apply to specific types of proposals. Readers need to review policies and procedures for specific types of proposals before proceeding with conducting authority processes.

- 5.1. The Executive Officer is designated conducting authority and shall assume conducting authority responsibilities on behalf of the Commission (§57000(c)) unless otherwise directed by the Commission.
- 5.2. Unless requirements for hearing are waived (§56837), the conducting authority shall conduct a protest hearing to receive any oral or written protests (§57050). Protest forms (see Appendix E, Exhibit B) are available at the LAFCo office.
- 5.3. Within 35 days following adoption of the resolution making determinations and requiring a protest hearing, and following the reconsideration period specified in §56895(b), the Executive Officer shall set the proposal for hearing and give notice. The hearing shall not be less than 21 or more than 60 days after the notice is given (§57002) with the exception of subsidiary districts in which case the hearing shall be not less than 90 or more than 135 days following the notice. For incorporations, the hearing must be scheduled within 15 days of adopting determinations, and for the next regularly scheduled meeting for which proper notice can be given.
- 5.4. The Commission shall not accept for filing, or act upon, any other proposal affecting the territory until the proceedings are completed or terminated (§57003).
- 5.5. Notice of the protest hearing shall be provided pursuant to applicable state law (§56153, §56254, §56158, §56159, §57025, §57026)
- 5.6. The protest hearing shall be held in the affected territory if the hearing is a proposal initiated by the Commission pursuant to §56375(a) for a district consolidation, dissolution, or merger, or the establishment of a subsidiary district.
- 5.7. At the protest hearing, the conducting authority shall summarize the Commission's resolution and hear and receive any oral or written protests, objections, or evidence. Written protests may be withdrawn during the hearing.
- 5.8. Written protests may be filed by any affected landowner or registered voter (§57050, §57051) after notice of the hearing is published and prior to, or at, the protest hearing.
- 5.9. The conducting authority may continue the protest hearing from time to time, but not more than 60 days from the date specified in the notice, or 35 days if an incorporation is the subject of the protest hearing (§57050).

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5.10. Upon conclusion of the protest hearing:

- If no written protests have been filed the conducting authority shall adopt a form of resolution ordering the change of organization or reorganization without an election; or
- If written protests have been filed, the conducting authority shall, within thirty days after the conclusion of the hearing, make determinations on the value of written protests filed and not withdrawn (§57075).
- To determine the value of written protests filed and not withdrawn, the conducting authority shall cause the names of the signers on the protests to be compared with the voters' register in the office of the Registrar of Voters pursuant to §56707 and/or the names of the owners of land on the most recent assessment roll pursuant to §56708 and §56710.

5.11. Upon determination of the value of written protests filed and not withdrawn, the conducting authority shall take one of the following actions, depending on the nature of the change of organization or reorganization:

- Issue Certificate of Termination terminating proceedings;
- Adopt a resolution making determinations and ordering the change of organization or reorganization without an election; or
- Adopt a resolution making determinations and ordering the change organization or reorganization subject to confirmation by the voters.

5.12. A resolution ordering the change of organization or reorganization shall describe the exterior boundaries of territory annexed or detached, and shall contain all terms and conditions imposed upon such change of organization or reorganization (§57100).

5.13. The conducting authority's actions shall be based on the following statutory requirements:

For inhabited territory:

- Terminate proceedings if a majority protest exists in accordance with §57078.
- Order the change of organization or reorganization without an election when protests are less than 25% of registered voters in the territory and less than 25% of the land owners owning less than 25% of the assessed value of land in the territory (§57075).

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- Order an election by voters within the territory when 25% or more (but less than 50%) of the voters or landowners who own 25% of the assessed value protest (§57075). For city annexations, any required election shall be held in both the annexation area and the city when the assessed value of land within the annexation area equals one-half, or more, of that within the city; or the number of registered voters within the annexation area equals one-half or more of that within the city (§56759).

For uninhabited territory:

- Terminate proceedings if a majority protest exists in accordance with §57078.
 - Order the change of organization or reorganization if property owners with less than 50% of the total assessed value of land within the affected territory protest (§57075).
- 5.14. If an election is required, the Executive Officer, pursuant to §57000(d), shall inform the Board of Supervisors or City Council of the affected agency of LAFCo's determination and request the legislative body to direct the elections' official to conduct the election.
- 5.15. The County elections officers will conduct the election in accordance with state election laws and the CKH Act.
- 5.16. The conducting authority shall execute a Certificate of Completion (COC) confirming the order of the change of organization or reorganization if a majority of the votes cast are in favor in any of the following circumstances (§56176):
- At an election called in the affected territory;
 - At an election called within the affected territory and within the territory of the affected agency; or
 - At both an election called within the territory ordered to be organized or reorganized and an election called within the territory of an affected city, when required by the commission pursuant to (§56759).
- 5.17. The conducting authority shall execute a Certificate of Termination of Proceedings if the majority of votes were against the proposal.

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6. Final Actions, Filings and Notifications

- 6.1. After the conducting authority proceedings are completed, the project proponent shall submit to the LAFCo Office:
 - Fees for the State Board of Equalization;
 - Final Maps (2 Mylar originals for LAFCo and one Mylar original for any affected city of special district) and a legal description approved for form and accuracy by the Alameda County Surveyor's Office; and
 - Proof of compliance with all terms and conditions of LAFCo's Resolution.
- 6.2. Within 30 days of receipt of maps and fees, and verification of compliance with terms and conditions by the Executive Officer, a COC will be issued and recorded with the County Recorder. The COC must be recorded in one year or the proceedings will be abandoned unless LAFCo grants a waiver (§57001).
- 6.3. If no effective date is specified in the Commission resolution, the recordation date is the effective date (§56102).
- 6.4. A statement of boundary change or creation will be issued by the Executive Officer and filed with the State Board of Equalization and County Assessor. If it is a city change, a notice will be provided to the Secretary of State. Property tax resolutions, if any, are forwarded to the County Auditor to enable property tax transfer.
- 6.5. The Executive Officer shall provide a notice of completion and effective date to agencies whose boundaries are affected and affected county departments. Any other agencies, utilities and other affected parties will be also notified as appropriate (§57201, §57203, §57204).
- 6.6. After receiving notice, affected agencies are required to recognize completion of the jurisdictional change and implement any amended processes such as redistribution of property tax.