

CONTRA COSTA LAFCO

3.1 Procedures for Processing Boundary Changes

A – Prior to Submitting a Proposal to LAFCO

1. Land use entitlements or requests for public services

Prior to submitting a proposal to LAFCO, a city or the County completes a land use planning process. This process typically involves approval of a specific plan, parcel map, development permit or other land use entitlement. Cities are required to prezone areas proposed for annexation to a city. [§56375(a)(3)]

Some city or County land use actions cannot be implemented without changes to special district boundaries. If a city or the County intends to submit an application to LAFCO, which includes proposed changes to a special district boundary, these proposals need to be included in the application.

Special districts can also initiate boundary change applications. These are typically in response to landowner requests for service, or to implement master service plans. Prior to extending service, the district must submit an application to LAFCO and obtain approval.

2. Compliance with CEQA

It is the policy of the Contra Costa LAFCO that a city, the County or special district serves as Lead Agency for boundary changes. As Lead Agency, the public agency typically renders an environmental determination and conducts the appropriate review for the underlying land use entitlement, development project, LAFCO proposal, or service extension. The city must serve as Lead Agency for prezoned annexations. [CEQA Guidelines, §15051] In these cases, LAFCO assumes the Responsible Agency role. The Lead Agency is required to gather input from and interact with LAFCO throughout the CEQA process to ensure that LAFCO issues are adequately reviewed. If LAFCO issues and proposed actions are not described or addressed in a CEQA document, LAFCO may need to assume the Lead Agency role and prepare the appropriate environmental document at the applicant's expense.

3. Resolution of application or petition

An application initiating a boundary change can come to LAFCO either by resolution of an affected local agency (i.e., City Council, Board of Supervisors, Special District Board of Directors), [§56654] or by a petition of registered voters or landowners execute a petition [§56700].

4. If the affected local agency(ies) received a portion of the property tax, a tax exchange agreement with all affected agencies may be completed prior to application to LAFCO and must be completed before LAFCO staff can issue a certificate of filing – Revenue & Taxation Code, Sections 99 and 99.01

B - Application Components [§56652]

1. A complete application includes:

- Cover letter including statement of landowner consent if applicable

- Resolution of application or petition
- SOI and Proposal Questionnaires (proposals involving agricultural land, open space land, and/or land covered under a Williamson Act land contract shall include an impact analysis)
- CEQA Documentation – Environmental Impact Report, Negative Declaration, Mitigated Negative Declaration, Notice of Determination, Finding of Fact and Statement of Overriding Considerations, Mitigation Monitoring and reporting Program, Notice of Exemption, proof of payment of Fish & Wildlife and court fees, if applicable.
(Or, if LAFCO is going to be the Lead Agency, an environmental questionnaire.)
- Map and description of boundary change area
- Other relevant supporting documents
- LAFCO processing fee
- Deposit for County Surveyor to check map and description (if one is involved)
- For annexation proposals with a land area of 100 acres or more, a fiscal analysis is required as part of the application

C - LAFCO Processing Procedures

1. As soon as an application is received [§56658(a)] LAFCO staff shall:
 - Access the County Assessor database for Assessor’s Parcel Number and Tax rate Area printouts to determine the “affected agencies”, identify all agencies that receive a share of the 1% property tax, and verify that all needed changes of organization are included in the project description.
 - Prepare a notice that application materials have been received and mail it to Commissioners, County Administrator, affected local and State agencies, school districts, application’s proponents, and the County Supervisor in whose District the proposal is located.
 - Send out “Request for Reportback” to various County Departments (County Administrator, Assessor, Auditor, Elections, County Community Development Department and Surveyor). If a significant increase in housing will occur, request a “Reportback” from affected school districts regarding their capacity to serve the project.
 - Examine the application materials for accuracy and completeness and write to the proponent or others if additional information is needed.

2. Issuing the Certificate of Filing
 - LAFCO staff must wait at least 20-days before issuing the Certificate of Filing.
 - Within 30 days of receipt of the application, the LAFCO Executive Officer must either deem the application incomplete and notify the applicant as to the missing application components, or deem the application complete and issue the Certificate of Filing. [§56658(g)(h)]
 - A Certificate of Filing cannot be issued until there is an approved property tax exchange agreement. [R&T §99 and 99.01]
 - A LAFCO hearing is to be held within 90 days of issuing the Certificate of Filing

3. If a proposal is to detach territory from a city [§56751]
 - Transmit a copy of the proposal to the *city from which a detachment is proposed*.
 - Place the proposal on the agenda of the next LAFCO meeting for “information purposes.”
 - Wait 60 days before placing the detachment on the Commission’s agenda for action because the affected city may, not more than 60 days after the proposal is on the Commission’s agenda, request by resolution that LAFCO terminate the proceedings and LAFCO shall do so.

4. If a proposal is to annex territory to a special district but is not filed by the district [§56857]
 - Transmit a copy of the proposal to the *district for which annexation is proposed*.
 - Place the proposal on the agenda of the next LAFCO meeting for “information purposes.”
 - Wait 60 days before placing the annexation on the Commission’s agenda for action because the affected district may, not more than 60 days after the proposal is on the Commission’s agenda, request by resolution that LAFCO terminate the proceedings and LAFCO shall do so.

5. Property Tax Exchange Agreement [Revenue & Taxation Code, §99 and 99.01]
 - If necessary, confer with the County Administrator’s Office to determine if a “master” tax exchange agreement applies to this project or if a separate property tax agreement is needed for this proposal.
 - If a tax exchange agreement is needed, as part of the “Request for Reportback” request the Assessor and Auditor to prepare the data for the parties to negotiate

6. Determine if LAFCO can proceed without a NOTICED public hearing [§56662 & 56663]

All boundary changes must be considered at a NOTICED public hearing – meaning a 21-day notice that is published, posted and mailed to a specific mailing list -- UNLESS it meets the following criteria:

- Consists only of annexations and detachments (and formations of CSAs) and
- All owners of land have given their written consent to the boundary change.

All applications must be placed on a LAFCO meeting agenda by staff (except for emergency out-of-agency service agreements, which the Chair can approve and place on the next Commission agenda).

7. When a noticed hearing is required, obtain mailing lists [§56157]

Mailing lists shall be provided by the County Assessor and/or the County Registrar of Voters. The applicant is required to pay the costs associated with obtaining the mailing lists. Mailing lists are needed for:

- All registered voters and all property owners within the proposal area, and

- All registered voters and all property owners within 300 feet of the exterior boundary of the proposed change (separate list from above).

Note: Lists must be current and include a complete street address.

8. Select a date for LAFCO to consider the proposal; include the proposal in the Notice of Hearing.
9. At least 21 days prior to each LAFCO meeting, prepare and distribute a Notice of Hearing and list all of the items to be considered at that meeting [§56661]

- Post the Notice of Hearing on County bulletin board.
- Post the Notice of Hearing on the Contra Costa LAFCO website.
- Mail the Notice of Hearing to the “standard mailing list” that includes:
 - Each member of the Commission and the LAFCO legal counsel
 - Other members of the Board of Supervisors
 - All cities and special districts in the County
 - County departments listed on the mailing list
 - Affected school district and County Superintendent of Schools
 - Everyone who has requested a notice of that LAFCO meeting
 - The distribution list for each proposal to be heard, taken from each Case Processing Form
- State Director of Conservation for city annexations in a Williamson Act Preserve contract
- State Director Forestry and Fire Protection for annexations to fire protection districts of state responsibility areas
- State Lands Commission if tidelands or submerged lands are included

10. Additional notice for agenda items that require a NOTICED public hearing [§56661]

- At least 21 days before the hearing, publish a notice of the specific items to be heard that require published notice; not every item on the Notice of Hearing for a meeting requires publication.
- At least 21 days before the hearing, mail the Notice of Hearing to an EXTENDED MAILING LIST that consists of:
 - All registered voters and property owners within the proposal area, and
 - All registered voters and property owners within 300 feet of the exterior boundary of the proposed change with cover letter.

11. LAFCO Staff will provide copies of certified EIRs or lengthy Negative Declarations and supporting reports or material for the proposal to each member of the Commission for their early review.

Copies of pertinent environmental documents will be available for review in the LAFCO office. LAFCO staff reports and attachments will be posted on the LAFCO website.

12. Prepare the Executive Officer report [§56665)]

Use available information from reportbacks in preparing the Executive Officer report:

- Assessor provides tax rate and assessed value information
- Elections confirms whether the proposal is inhabited or uninhabited
- Community Development verifies plans, zoning, agricultural land information
- Community Development provides maps for staff reports
- Surveyor checks map and legal description for adequacy
- School districts indicate if school facilities are adequate or require additional mitigation

13. At least seven days prior to the LAFCO meeting assemble and send the “Meeting Packet.”

Send copies of the meeting packet to:

- Each member of the Commission
- Executive Officer, legal counsel, Commission Clerk, other LAFCO staff
- County Administrator
- County Director of Community Development
- Others who have requested and paid for meeting packets

Post a copy of each agenda item and attachments to the LAFCO Website.

14. At least five days prior to the LAFCO meeting send specific staff reports and an agenda to the parties listed on the Case Processing Form and to affected County Supervisors [§56665]

D - Commission Hearing

1. At the LAFCO meeting the Commission considers the items on the Agenda.

For each item on the agenda:

- Receive the Executive Officer Report
- If appropriate, open the hearing and accept any public testimony
- If appropriate, close the hearing
- Discussion by Commissioners
- Take action on each proposal or item of business - approve, deny, receive or continue

2. When can LAFCO waive the Conducting Authority proceedings? [§56663(c) and (d)]

If it approves a proposal, LAFCO can waive the conducting authority proceedings only when:

In the case of uninhabited territory (i.e., fewer than 12 registered voters):

- All affected landowners have given their written consent, and
- All local agencies that will gain or lose territory have not submitted written opposition to a waiver of protest proceedings.

In the case of inhabited annexations and detachments (i.e., 12 or more registered voters):

- All local agencies that will gain or lose territory have not submitted written opposition to a waiver of protest proceedings, and
- The LAFCO staff sends written notice to all affected landowners and registered voters and no written opposition is received regarding the proposal or the intention to waive the conducting authority proceedings.

E - Post Commission Hearing Activities

1. If Conducting Authority proceedings have been waived:

- Immediately file Notices of Exemption or Notices of Determination with the County Clerk-Recorder.
- Complete Commission resolutions of approval or denial by recording the votes cast; obtain the Chair's signature, and attach the Surveyor-approved map and legal description to the resolution.
- Prepare a Certificate of Completion.
- Send request to the County Auditor for the new Tax Rate Code for the proposal area.
- Wait the mandatory 30-day reconsideration period.
- Ensure the conditions of approval have been met.
- After the 30-day waiting period record the Certificate of Completion, LAFCO resolution of approval and approved map.
- When the recordation numbers and TRA data are received, file the proposal with the State Board of Equalization and County Assessor.
- When the SBE confirmation is received, send Notice of Completion to standard mailing list.

2. If Conducting Authority Proceedings are required

- Immediately after the LAFCO meeting file the Notice of Exemption or Notice of Determination with the County Clerk-Recorder.
- Send request to the County Auditor for the new Tax Rate Code for the proposal area.
- Schedule and notice a protest hearing to be held following the 30-day reconsideration period.
- At least 21 days prior to the protest hearing prepare a Notice of Hearing and
 - Post the notice on County bulletin boards. [57025(a)]
 - Post the notice on the LAFCO Website.
 - Publish the notice. [57025(a)]
 - Mail notices pursuant to statute [57025]

Note: For LAFCO-initiated proposals to consolidate, dissolve or merge special districts or establish a subsidiary district, a protest hearing must be held "in the affected territory." [57008]

3. The LAFCO Executive Officer conducts the protest hearing as delegated by the Commission.

For these proceedings, an Executive Officer Order and Determination is used in lieu of a Commission resolution.

- Open the hearing.
- Call for any written or oral protests.
- Close the hearing.
- Determine the value of all written protests that have been filed and not withdrawn.

For uninhabited annexations and detachments

- Order the change of organization if written protests are filed by owners of less than 50% of the assessed value of land.
- Terminate the proceeding if protests are filed by 50% or more of the assessed value.

For inhabited annexations and detachments

- Order the change without election if written protests are filed by
 - Less than 25% of the registered voters and
 - Less than 25% of the landowners owning less than 25% of the assessed value of land.
- Order the change subject to confirmation by the voters if written protests are filed by
 - At least 25% but less than 50% of the registered voters or landowners.
- Terminate the proceeding if 50% or more of the registered voters file protests.

4. Completion of Proceedings following protest hearing

- Place the matter on the next Commission agenda to report on the outcome of any protest hearings that are conducted.
- Prepare a Certificate of Completion.
- If the proposal is approved WITHOUT AN ELECTION
 - Attach the County Surveyor-approved map and legal description to the resolution of approval.
 - Ensure the conditions of approval have been met.
 - Record the Certificate of Completion, LAFCO resolution of approval and map.
 - When the recorded information and TRA data are received, file the proposal with the State Board of Equalization and County Assessor.
 - When the SBE confirmation is received, distribute the Notice of Completion to the standard mailing list.
- If the proposal is approved SUBJECT TO VOTER CONFIRMATION, notify the Board of Supervisors or the City Council to conduct the election.
- If proposal is TERMINATED, adopt and file a resolution of termination.