

LOCAL AGENCY FORMATION COMMISSION  
OF  
SAN BENITO COUNTY  
POLICIES AND GUIDELINES

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# CHAPTER 1 PREAMBLE

## Section 1.1 Precedence

All LAFCO actions will be in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. In the policies outlined here, San Benito LAFCO identifies further requirements, aims, and considerations to guide processing of applications for changes of organization. This Policies and Guidelines Manual supersedes all other policies previously adopted by LAFCO.

## Section 1.2 Legislation

The major legislative mandate to LAFCO is set forth in §56001 of the Government Code which reads, in part:

"The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interest of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services."

## Section 1.3 Sprawl

Sprawl in San Benito County has not been a significant issue to date; however, there is some sprawl in fringe areas where farmland predominates. In order to ensure development is conducted in an organized and planned fashion in line with legislative intent and requirements, LAFCO must implement policies which will control growth in an orderly manner.

San Benito LAFCO aims to preserve the agricultural community from a hodge-podge of small urban developments of residences and shopping centers, to enhance quality of life and eliminate uncoordinated growth.

## Section 1.4 Problems

Resolving problems created in the past are of concern:

1. Effectively relate needed public services to the population.
2. Protect the remaining prime agricultural land. Sufficient non-prime land is available for development into urban uses. Prime land should be identified and placed under long-term protection as agricultural preserves.
3. Promote the annexation and development the unincorporated pockets of land (islands) that are substantially surrounded by the cities.
4. Provide for more logical expansion of the cities within their Sphere of Influence.

## Section 1.5 Development Control

It has long been considered that every landowner is entitled to construct a home for himself/herself or to farm his/her land. This assumes he or she can meet normal health and safety requirements. There is no inherent obligation on the part of government to provide public services to the landowner or developer to develop the land for commercial, industrial or residential subdivision use; however, developments must meet local, State, and federal development standards regarding service provision.

## Section 1.6 Programmed Development

Urban development cannot take place without sufficient infrastructure and the related financing to ensure adequate systems in place to provide municipal services, including roads, sewers, water, gas and electricity. Furthermore, urban life demands facilities and services for public safety, education, health, recreation and human welfare. The program for development, time, location and scope of public investment decisions will influence an orderly structure.

## Section 1.7 LAFCO Responsibility

LAFCO was created to be an important mechanism of local government for effective programming of urban development. LAFCO has the power to aid local governments in carrying out their annexation goals. In return, LAFCO is justified in requesting cities and special districts that are expanding to prepare a planned program for development and expansion. Such programs would be followed by LAFCO in approving proposed annexations and encouraging unincorporated islands to be annexed.

## CHAPTER 2: GENERAL POLICIES, APPLICATIONS AND PROPOSALS, REQUIREMENTS AND CRITERIA

## Section 2.1. General Principles for Evaluating Proposals

By applying the General Principles listed below, the following criteria are established for evaluating proposals coming before the commission:

### Section 2.1.1 Factors to Be Considered By LAFCO in Reviewing a Proposal

Government Code Section 56668 states factors to be considered by LAFCO in the review of a proposal. Should the factors be changed in the Government Code in any way, those factors shall supersede the factors listed here. The factors that shall be considered include, but are not limited to, all of the following:

- (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.  
  
"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- (g) A regional transportation plan adopted pursuant to Section 65080.



- (h) The proposal's consistency with city or county general and specific plans.
- (i) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- (j) The comments of any affected local agency or other public agency.
- (k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- (l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.
- (m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
- (n) Any information or comments from the landowner or owners, voters, or residents of the affected territory.
- (o) Any information relating to existing land use designations.
- (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
- (q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to [Section 51178](#) or maps that identify land determined to be in a state responsibility area pursuant to [Section 4102 of the Public Resources Code](#), if it is determined that such information is relevant to the area that is the subject of the proposal.

### Section 2.1.2 Cities and those special districts providing municipal services are:

1. Encouraged to time updates and/or prepare capital improvements and infrastructure plans to dovetail with preparation of Municipal Service Reviews required in §56430.
2. Encouraged to propose precise Spheres of Influence which will be considered by the Commission. This Commission will establish Spheres of Influence for those agencies under its jurisdiction pursuant to the requirements of the Knox-Cortese-Hertzberg Act.
3. Encouraged to define and establish staged development plans for the area within

the Sphere of Influence and periodically update these plans. The Commission may deny a particular annexation in the absence of an acceptable plan.

### Section 2.1.3: Demonstrated Need

Any proposal involving annexations, incorporations, and formations shall not be approved unless it demonstrates a need for the additional services to be provided to the area; while all proposals involving detachments, disincorporations, and dissolutions shall not be approved unless the proponent demonstrates that the subject services are not needed or can be provided as well by another agency or private organization.

### Section 2.1.4 Prezoning

The Commission shall require prezoning for all city annexations so that the potential effects of the proposals can be evaluated by the Commission and known to the affected citizens.

### Section 2.1.5: Need Established by General Plan

For proposals concerning the extension of other services by annexation, incorporation, or district formation, need shall be established by the applicable general plan land use designations and the service levels specified for the subject area in the applicable general plan.

### Section 2.1.6: Cities are encouraged to:

1. Annex unincorporated islands.
2. Promote larger inhabited annexations.

### Section 2.1.7: Agencies are discouraged from strip or leap-frog annexations.

### Section 2.1.8: Extraterritorial Services

Cities and special districts may not provide municipal services outside of their approved boundaries and Sphere of Influence unless otherwise approved by LAFCO. If a demonstrated need arises for services outside of a city's or special district's boundaries, an application to LAFCO is required for approval of extension of such extraterritorial services according to the requirements outlined in Government Code Section 56133.

### Section 2.1.9: The Commission favors:

1. Urban development within cities rather than in unincorporated territory.
2. Development of vacant land within a city prior to development in fringe areas.
3. Annexation to an existing agency over creation of a new agency.
4. Annexation to cities over formation of special districts to provide urban services.
5. Consolidation of existing special districts where feasible.

### Section 2.1.10: Agricultural and Open Space Areas Identified by Land Use Authorities

The Commission will recognize and preserve clearly defined, long-term agricultural and open space areas established by the County or cities.

### Section 2.1.11: City-County Cooperation

The Commission encourages closer city-county cooperation in planning decisions.

### Section 2.1.12: Justification of Overlap

Special district annexation and formation proposals which result in duplication of authority to perform similar functions must be clearly justified.

### Section 2.1.13: City and Special District Cooperation

Cities and special districts are encouraged to mutually resolve service and financial problems prior to city annexation.

### Section 2.1.14: Consistency with Sphere of Influence

All changes of organization shall be consistent with adopted spheres of influence of affected agencies. Consistency shall be determined by a LAFCO finding of consistency with the sphere of influence maps and policies adopted by LAFCO for the affected agencies.

### Section 2.1.15: Logical Boundaries

LAFCO shall promote more logical and reasonable expansion of agency boundaries through the following:

- a) Cities and special districts will be required to annex entire street sections whenever possible. The full width and full length of roads adjacent to; and all the • roads within any proposed annexation shall be included in territory proposed to be annexed to any municipality in San Benito County.
- b) To the greatest possible extent, boundaries shall follow existing political boundaries, natural features (such as ridges and watercourses), and constructed features (such as railroad tracks).
- c) Boundaries should avoid dividing an existing identifiable community, commercial district, or other area having social or economic homogeneity. Where such divisions are proposed, the proponents shall justify exceptions to this standard.
- d) Boundaries of proposals must be definite and certain, split lines of assessment must be avoided whenever possible. If the proposed boundary divides assessment parcels, the proponents must justify to the Commission the necessity for such division. If the Commission approves the proposal, the Commission may condition the approval upon obtaining a boundary adjustment or lot split from a city or county.
- e) The boundary resulting from the change of organization must not create areas difficult to serve.

- e) Cities and special districts are discouraged from selective annexation of territories having higher assessed valuations. The Commission shall amend or reject any proposal that, in its estimation, appears to select principally revenue-producing properties for inclusion in a jurisdiction.
- f) The creation of unincorporated islands will be prohibited unless properly justified.
- g) The Commission will require, as a condition of city annexation, detachment of the annexed territory from special districts where appropriate to avoid an irregular pattern of boundaries.
- h) The Commission encourages that boundaries of special districts abut with city boundaries insofar as appropriate.

### Section 2.1.16 Consistency with Plans

Agencies shall consider the general plans of neighboring governmental entities and be comparable with the district's and neighboring' cities' staged development plans.

### Section 2.1.17 Effects of Proposal

The Commission shall consider the effects of a proposed action on adjacent areas, mutual social and economic interests, and on local governmental structure.

## Section 2.2 Policies and Criteria for City Annexation

### Section 2.2.1: Demonstrated Need and Capability

Proponents must clearly demonstrate the need for municipal services and the city to which the territory is being annexed must be capable of meeting these needs.

### Section 2.2.2: Establishment of Need

Need shall be established by (a) an adopted rezoning, consistent with the city general plan, that shows current or future development at a density that will require urban services such as sanitary sewer and water, and (b) a city growth rate and pattern that the subject area will be developed within 5 years.

### Section 2.2.3: The proposed annexation must:

- a) Result in a logical and reasonable expansion of the annexing city.
- b) Consider the general plans of the city and the County.
- c) Not represent an attempt by the city to annex only revenue producing property.
- d) Conform to the Commission's approved boundary agreement

### Section 2.2.4: Compatibility

The annexation must be compatible with the city's staged development plan.

### Section 2.2.5: Plan for Services

A plan for providing services shall be included in all applications for annexation pursuant to §56653 of the Government Code.

### Section 2.2.6: Mechanism for Service Adequacy

LAFCO will deny applications absent a clear, quantifiable mechanism to provide adequate services.

### Section 2.2.7: Elimination of Islands

LAFCO will take every possible opportunity to amend applications and alter applications to eliminate any present and future islands.

### Section 2.2.8: Environmental Review

LAFCO will use the California Environmental Quality Act to its fullest extent of the law and will disclose and understand all environmental impacts prior to LAFCO action. LAFCO will require updated environmental documents when the certified documents submitted with applications contain outdated information and analysis of environmental impacts that will be used to evaluate annexations.

### Section 2.2.9: Prime Agricultural Lands

LAFCO will assess all city annexation applications based on Agricultural Preservation and Mitigation Policies established in Section 2.7.

### Section 2.2.10: Justification of Necessity

When a city with a substantial supply of vacant land within its city limits applies for an expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates will be maintained.

## Section 2.3 Policies and Criteria for Evaluation of Proposed Incorporations of Municipalities

### Section 2.3.1: The feasibility study for the proposed incorporation must include the following content/analysis:

- a) Reason for proposal.
- b) Proposed boundary map and justification of those boundaries.
- c) The population and number of registered voters in the incorporation area. Projection of population growth for the next ten years.
- d) The assessed value of the property in incorporation area.
- e) A description of the local agencies which presently serve the community, with a discussion of the range and level of services currently provided.
- f) A list and discussion of the functions that the new city would assume.
- g) A discussion and supporting data on the financial and service efficiency impacts that the proposal would have on all governmental agencies that would give up service responsibility as a result of this proposal. This discussion should include the effects of the incorporation on adjacent communities, special districts, and the County.
- h) A list and descriptions of the County and special district functions that the new city is not proposed to assume, a list of the special districts that are proposed to continue services to the new city, and a discussion of the foreseeable level of services in the community after incorporation. If the new city would have any impacts on these districts (including economic or level of service impacts), the feasibility study should discuss the impacts and quantify them, where possible.

A clear and compelling rationale must be provided if the continued overlap of any special district (e.g., water, fire, parks, sanitation, or storm drainage) is proposed. There should be a special emphasis on the impact of incorporation on the County or any special districts which are currently providing services to the area immediately surrounding the proposed city.

- i) A map showing a proposed sphere of influence of the new city, including the existing sphere of influence of any city that overlaps or comes within two miles of the proposed city sphere.
- j) A ten-year forecast of revenues and expenditures for the new city broken out by revenue and expenditure categories. The forecast should include the applicable categories in the same order. Where fees will be set by municipality, include projection of fee levels and anticipated volume.
- k) A map of any agricultural or other open space lands in the incorporation boundaries, or the proposed sphere of influence. A discussion of the effect of the proposal on maintaining or converting these lands to other uses.

- l) Based upon existing master plans and capital improvement programs of the County and affected districts, the feasibility study shall include a list of planned capital improvements related to city responsibilities, their costs, an indication of which projects would likely be funded, and the source of the funds.

### Section 2.3.2                    The proposed incorporation must:

- a) Meet the need for municipal services or controls.
- b) Provide for sufficient revenue to supply the municipal services required.
- c) Consider the general plans of the county and affected cities.
- d) Not conflict with the normal and logical growth of adjacent cities, as reflected in Commission- approved spheres of influence.
- e) Not represent an attempt to incorporate only revenue producing territories to preempt neighboring cities.
- f) Not give special advantages to a particular interest group.

### Section 2.3.3:    Cost/Benefit Analysis

Within the proposal there must be a cost versus benefits justification of the proposed incorporation.

### Section 2.3.4:    Compact and Contiguous Community

The area to be incorporated must be compact and contiguous and possess a community identity.

### Section 2.3.5:    No Difficult-to-Serve Areas

The boundaries of the proposed incorporation must not create or result in areas that are difficult to serve.

### Section 2.3.6    Effects on Special Districts

The effect of the incorporation on special districts must be considered.



## Section 2.4 Criteria for the Evaluation of Proposed Formations of Special Districts

### Section 2.4.1: Demonstrate Need

The proposed formation of a special district must demonstrate that a need exists for a service or control which can best be provided by a special district and that there are no other alternatives that would provide the service or control in a more reasonable manner.

### Section 2.4.2 The proposed formation must:

- a) Be able to provide sufficient revenue to provide the requested service.
- b) Contain within it a cost versus benefits study showing the gains resulting from the formation.
- c) Not conflict with normal and logical expansion of adjacent governmental agencies.
- d) Consider the general plans of affected cities and the county.
- e) Not give to any special interest group the status of a governmental agency.
- f) Must demonstrate a discouragement of urban sprawl and the encouragement of the orderly formation and development of service.

### Section 2.4.3: Governing Body

The governing Board of the proposed formation must, in so far as possible, be directly responsible to the electorate.

### Section 2.4.4: No Difficult-to-Serve Areas

The boundary configuration of the proposal must not create or result in areas that are difficult to serve.

### Section 2.4.5: Coordination with Existing Agencies

The proposal for the formation of a special district must define the relationship of the newly formed district to existing agencies and the Commission may take appropriate action to provide all required services.

## SECTION 2.5 Criteria for Sphere of Influence

### Section 2.5.1: Establishment of Sphere of Influence

In order to carry out its responsibilities for planning and shaping the logical and orderly development of local government agencies, LAFCO is empowered to develop and determine the sphere of influence of each local governmental agency within the county. (Government Code Section 56425). 'Sphere of Influence' means a plan for the probable physical boundaries and service area of a local government agency. (Government Code Section 56076).

### Section 2.5.2 Regular Sphere of Influence Review

LAFCO will review sphere of influences at least every five years, or as necessary, as required in §56425(g) of the Government Code to assure that the legislative intent of the Cortese-Knox-Hertzberg Act accomplished. State law mandates that spheres be prepared or updated in conjunction with or after completion of a related Municipal Service Review (Government Code Section 56430).

### Section 2.5.3 Update/Amendment as Part of Application

Any review and update or amendment to the sphere of influence necessary as part of an application is the responsibility of the applicant and will be conducted for a fee as adopted in the LAFCO Application Schedule of Fees.

### Section 2.5.4 Sphere Consistency

Once established, an agency's sphere of influence will be a primary guide to the Commission in its decisions on individual proposals affecting that agency. Before the Commission may approve a change of organization inconsistent with the adopted sphere of influence, the Commission shall amend the sphere of influence.

The sphere of influence shall be used by the Commission as a factor in making regular decisions on proposals over which it has jurisdiction. Any application for change of organization must be consistent with its adopted sphere of influence (Government Code Section 56375.5).

### Section 2.5.5 Sphere of Influence Purpose

The Commission will use spheres of influence to discourage inefficient development patterns and to encourage the orderly expansion of local government agencies. Spheres of influence will be used to:

- a) Effectively relate needed public services to the population.
- b) Protect the remaining prime agricultural land.
- c) Promote the annexation and development the unincorporated pockets of land (islands) that are substantially surrounded by the cities.
- d) Provide for more logical expansion of the cities and special districts within their Sphere of Influence.
- e) Promote efficient and coordinated planning among the county's various agencies; city spheres shall not overlap, and districts that provide the same type

of service should not have overlapping sphere boundaries.

### **Section 2.5.6 Factors in Determining Competing Spheres of Influence**

When more than one agency could serve an area the following factors will be key to determining the sphere of influence:

- a) The agencies' services capabilities
- b) Costs for providing services
- c) The desires of the affected community

### **Section 2.5.7 Encourage Elimination of Single-Purpose Districts**

The Commission will encourage the elimination or consolidation of small, single-purpose special districts when a more efficient alternative exists for providing the necessary services. Whenever a combination of urban services is required, general purpose governments or multi-services districts will be preferred to single-purpose districts.

### **Section 2.5.8 Consideration of Adopted Plans**

LAFCO recognizes the planning accomplishments of local agencies in the County. In developing spheres of influence, the Commission will consider those adopted plans, and policies of local governments which encourage staged, cost-effective development patterns and the efficient provision of services. Spheres will identify probable boundaries for an agency's expansion and will be periodically reviewed to reflect changing conditions and circumstances.

### **Section 2.5.9 Inclusion in Agency Planning Documents**

The Commission will review the existing and future land uses of territory prior to including it within an agencies' sphere in order to determine the logical extension of municipal services and the probable future boundary of a city or district. The Commission strongly encourages each city to include all territory within its sphere of influence within the city's General Plan and each special district to address it in its infrastructure, facilities and operational planning documents.

### **Section 2.5.10 Inconsistencies in General Plans**

City and County general plans will be a significant factor in determining spheres of influence. Where a city's and the County's general plan for the same area are inconsistent, the Commission should encourage the affected agencies to resolve any inconsistencies. In the event the inconsistency cannot be resolved, by law the final decision for the Sphere of Influence must remain with LAFCO.

### **Section 2.5.11 Orderly Annexation**

Proposals for urban development within a city's sphere of influence should first be considered for annexation to that city, unless such annexation would create a "leapfrog" pattern of expansion with respect to existing city boundaries.

### **Section 2.5.12: Sphere of Influence City-County Cooperation**

While counties possess sole land use jurisdiction over unincorporated territory whether located

outside or inside of a city's sphere of influence, as the future service provider of unincorporated land in a city's sphere of influence, the city should have an opportunity to address how land in the sphere is planned for and developed in anticipation of future annexation. This has both physical and fiscal ramifications for cities as future service providers. Before a city submits an application to LAFCO to update its sphere of influence, the city and county shall meet in an effort to reach agreement on the sphere of influence boundaries and the development standards and planning and zoning requirements within the sphere (Government Code Section 56425(b)).

### Section 2.5.13: Prime Agricultural Lands

LAFCO will deny amendments to currently adopted sphere-of-influences, that clearly induce, facilitate, or lead to conversion of prime agricultural lands when there is opportunity for amendment and/or annexation to non-prime lands.

## Section 2.6 Out of Agency Contract for Services Proposals/Extraterritorial Services

### Section 2.6.1 Applicability

Government Code § 56133 requires that districts and cities obtain LAFCo approval of any new or extended services outside the agency's existing boundaries. For the Commission to approve the request, the area to be served must be within the sphere of influence ("SOI") of the agency, and annexation of the territory is anticipated. LAFCo may also authorize extended services outside an agency's SOI to respond to an existing or impending public health or safety threat (e.g. failing well or septic system).

The following services are exempt from this code section:

- a) 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.
- b) Contracts for the transfer of nonpotable or nontreated water.
- c) Contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. Approval from the Commission is required before any surplus water is provided to a project that will support or induce development.
- d) Service that a city or district was providing on or before January 1, 2001.
- e) A local publicly owned electric utility, as defined by Section 224.3 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.
- f) A fire protection contract, as defined in subdivision (a) of Section 56134.

Unless determined by the Commission to be exempt, a city or district may provide new or extended services by contract outside its jurisdictional boundaries only if it first requests and receives written approval from the Commission.

### Section 2.6.2 Initiation of Process

Government Code § 56133 specifies that a city or special district must apply for and obtain LAFCo approval before providing new or extended services outside its jurisdictional boundaries. Initiation of the process can also be made by application from the prospective recipient of the services with agreement of the agency. An application must be submitted for the Commission to determine whether it meets the criteria for exemption.

### Section 2.6.3 Factors for Consideration

LAFCo will consider the following factors to determine the local and regional impacts of

proposed out of agency services:

- a) Whether annexation is a reasonable and preferable alternative to LAFCo allowing extended services outside the agency's jurisdictional boundaries;
- b) The growth inducing impacts of any proposal;
- c) Whether the proposed extension of services promotes logical and orderly development of areas within the SOI (i.e. islands, strips and corridors are disfavored);
- d) The agreed upon timetable and stated expectation for annexation to the agency providing the requested service;
- e) The proposal's consistency with the policies and plans of all affected agencies;
- f) The ability of the local agency to provide service to the proposed area without detracting from current service levels;
- g) Whether the proposal contributes to the premature conversion of agricultural land or other open space land;
- h) Whether the proposal conflicts with or undermines adopted Municipal Service Review determinations and/or recommendations; and
- i) Other factors determined to be relevant by the Commission or staff

#### Section 2.6.4 Expiration of Approval

LAFCo's authorization for extended services shall generally be valid up to three year from the date of approval and will expire unless a contract has been executed and construction commenced. If the extended services are part of an overall development proposal, the authorization shall generally be valid per the term specified by the lead agency project approvals, unless otherwise specified in the LAFCo conditions of approval.

#### Section 2.6.5 Emergency Connections

In circumstances presenting an imminent peril to the public health and safety (e.g. a failing well or septic system), the Executive Officer will review the request immediately and depending on the specific nature of the problem and need for immediate action either issue a temporary approval or defer the matter to the Commission's next meeting. If the Executive Officer gives temporary approval such approval shall only be in effect until the Commission's decision. LAFCo acknowledges that the Standards of Evaluation will not apply to emergency connections in most cases.

## Section 2.7 Agricultural Conservation

### Section 2.7.1 Legislative Mandate

Government Code § 56377 mandates LAFCO consider the following factors. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:

- a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

### Section 2.7.2 Applicability

Given the direction outlined by the California Legislature in Government Code § 56377, LAFCo adopts the following policies in respect to the conversion of agricultural land to urban uses. This policy is meant to apply both to city and special district changes of organization when urban development is the ultimate goal.

### Section 2.7.3 Agricultural Policy Statement

Agriculture is a vital and essential part of the San Benito County economy and environment. Accordingly, boundary changes for urban development should only be proposed, evaluated, and approved in a manner which, to the fullest extent feasible, is consistent with the continuing growth and vitality of agriculture within the county.

### Section 2.7.4 Review Criteria

To promote the policy statement, proposals shall be reviewed based on the following considerations:

- a) Existing developed areas should be maintained and renewed;
- b) Vacant land within developed areas should be developed before agricultural land is annexed for non-agricultural purposes;
- c) Land substantially surrounded by existing agency boundaries should be annexed before other lands;
- d) Urban development should be restricted in agricultural areas. For example, agricultural land should not be annexed for non-agricultural purposes when feasible alternatives exist;

- e) The continued productivity and viability of agricultural land surrounding existing communities should be promoted, by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses;
- f) Development near agricultural land should not adversely affect the economic viability or constrain the lawful, responsible practices of the agricultural operations;
- g) Where feasible, non-prime land should be annexed before prime land; and
- h) A land's current zoning, pre-zoning, or land use designation is one of the factors the Commission will consider in determining whether mitigation will be required for the loss of agricultural land. A land's zoning, pre-zoning, or land use designation in the city's or County's general plan does not automatically exempt it from mitigation.
- i) Preservation of agricultural lands shall be balanced with environmental and social justice considerations.

### Section 2.7.5 Agency Guidelines

LAFCo encourages local agencies to adopt policies that result in efficient, coterminous, and logical growth patterns within their general plan and sphere of influence areas and that encourage protection of prime agricultural land in a manner that is consistent with this Policy.

LAFCo encourages the cities and the County to formalize agreements maintaining agricultural buffers.

LAFCo encourages local agencies to identify the loss of prime agricultural land as early in their processes as possible, and to work with applicants to initiate and execute plans to mitigate for that loss, in a manner that is consistent with this Policy, as soon as feasible.

### Section 2.7.6 Standards for Annexations Involving Prime Agricultural Land

Annexation of prime agricultural lands shall not be approved unless the following factors have been considered:

- a) There is insufficient marketable, viable, less prime land available in the subject jurisdiction for the proposed land use;
- b) The adoption and implementation of effective measures to mitigate the loss of agricultural lands, and to preserve adjoining lands for agricultural use to prevent their premature conversion to other uses. Such measures may include, but need not be limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county; participation in other development programs (such as transfer or purchase of development rights); payments to responsible, recognized government and non-profit organizations for such purposes; the establishment of open space and similar buffers to shield agricultural operations from the effects of development; and



- c) Less prime agricultural land generally should be annexed and developed before prime land is considered for boundary changes. The relative importance of different parcels of prime agricultural land shall be evaluated based upon the following in conjunction with necessary access to water (in a descending order of importance):
  - i. Soil classification, with Class I or II soil receiving the most significance, followed by the Revised Storie Index Rating.
  - ii. The land's economic viability for continued agricultural use.

## Section 2.7.7 Change of Organization/Reorganization Resulting In Conversion of Prime Agricultural Land

LAFCo will approve a change of organization which will result in the conversion of prime agricultural land or open space use to other uses only if the Commission finds that the proposal will lead to planned, orderly, and efficient development. The following factors shall be considered:

- a) Contiguity of the subject land to developed urban areas;
- b) Receipt of all other discretionary approvals for changes of boundary, such as rezoning, environmental review, and service plans as required by the Executive Officer before action by the Commission. If not feasible before the Commission acts, the proposal can be made contingent upon receipt of such discretionary approvals within not more than one (1) year following LAFCo action;
- c) Consistency with existing planning documents of the affected local agencies, including a service plan of the annexing agency or affected agencies;
- d) Likelihood that all or a substantial portion of the subject land will develop within a reasonable period of time for the project's size and complexity;
- e) The availability of less prime land within the sphere of influence of the annexing agency that can be developed, and is planned and accessible, for the same or a substantially similar use; and
- f) The proposal's effect on the physical and economic viability of other agricultural operations. In making this determination, LAFCo will consider the following factors:
  - i. The agricultural significance of the subject and adjacent areas relative to other agricultural lands in the region;
  - ii. The existing use of the subject and adjacent areas;
  - iii. Whether public facilities related to the proposal would be sized or situated so as to facilitate the conversion of adjacent or nearby agricultural land, or will be extended through or adjacent to, any other agricultural lands which lie between the project site and existing facilities;

- iv. Whether natural or man-made barriers serve to buffer adjacent or nearby agricultural land from the effects of the proposed development; and
- v. Provisions of the General Plan's open space and land use elements, applicable growth management policies, or other statutory provisions designed to protect agriculture. Such provisions may include, but not be limited to, designating land for agriculture or other open space uses on that jurisdiction's general plan, adopted growth management plan, or applicable specific plan; adopting an agricultural element to its general plan; and acquiring conservation easements on prime agricultural land to permanently protect the agricultural uses of the property.

### Section 2.7.8 Agricultural Mitigation

Except as otherwise expressly noted in these policies, annexation of prime agricultural lands shall not be approved unless one of the following mitigations has been instituted, at not less than a 1:1 replacement ratio:

- a) The acquisition and dedication of farmland, development rights, and agricultural conservation easements to permanently protect adjacent and other agricultural lands within the County.
- b) The payment of fees that is sufficient to fully fund the acquisition and maintenance of such farmland, conservation rights or easements. The per acre fees shall be specified by a Fee Schedule or Methodology, noted in Section 4.15, which may be periodically updated at the discretion of the Commission.
- c) Any such measures must preserve prime agricultural property of reasonably equivalent quality and character that would otherwise be threatened, in the reasonably foreseeable future, by development and/or other urban uses.

The loss of fewer than twenty (20) acres of prime agricultural land generally shall be mitigated by the payment of in lieu fees as mitigation rather than the dedication of agricultural conservation easements. The loss of twenty (20) acres or more of prime agricultural land generally may be mitigated either with the payment of in lieu fees or the dedication of agricultural conservation easements. In all cases, the Commission reserves the right to review such mitigation on a case-by-case basis.

### Section 2.7.9 Agricultural Mitigation Imposed by Other Agencies

The Commission prefers that mitigation measures consistent with this Policy be in place at the time that a proposal is filed with the Commission. The loss of prime agricultural land may be mitigated before Commission action by the annexing city, or the County of San Benito in the case of a district annexation, provided that such mitigation is consistent with this Policy. LAFCo will use the following criteria in evaluating such mitigation:

- a) Whether the loss of prime agricultural land was identified during the project's or proposal's review process, including but not necessarily limited to review pursuant to the California Environmental Quality Act;
- b) Whether the approval of the environmental documents included a legally binding

and enforceable requirement that the applicant mitigate the loss of prime agricultural land in a manner consistent with this Policy; and

- c) Whether, as part of the LAFCo application, an enforceable approval was submitted confirming that mitigation has occurred, or requiring the applicant to have the mitigation measure in place before the issuance of a grading permit, a building permit or final map approval for the site.

### Section 2.7.10 Mitigation for Public Agency Projects

In the case of proposals that are undertaken exclusively for the benefit of a public agency, the Commission should review the applicability of the mitigation requirements set forth in this Policy on a case-by-case basis to determine the appropriateness of requiring mitigation in any particular case. In making such a determination, the Commission will consider all relevant information that is brought to its attention, including but not limited to the following factors:

- a) Whether the public agency had any significant, practical option in locating its project, including locating the project on non-prime or less prime agricultural land;
- b) Whether the public agency is subject to or exempt from the land use regulations of another public agency;
- c) Whether the public agency identified the loss of agricultural land as an environmental impact during the project's review, including but not limited to California Environmental Quality Act review, and, if so, whether it adopted a "Statement of Overriding Considerations" for that impact;
- d) Whether the public good served by the public agency's proposal clearly outweighs the purposes served by this Policy and its mitigation requirements; and
- e) Whether the proposal is necessary to meet the immediate needs of the public agency.

If the Commission determines that it is not appropriate to require mitigation for the loss of agricultural land resulting from a public agency's proposal, or to require less mitigation than otherwise prescribed by this Policy, it shall adopt findings, and a statement of overriding considerations if applicable, supporting that determination.

### Section 2.7.11 Less Than Significant Agricultural Loss

Mitigation shall not be required for the annexation of less than five (5) acres of land if the Commission finds that the land:

- a) Scores in the fourth tier of Land Evaluation and Site Assessment;
- b) Is "infill" as defined in this Policy; and
- c) Has not been used for active agriculture purposes in the previous 20 years.

## Section 2.8 Unincorporated islands

### Section 2.8.1 Unincorporated Islands Definition

The following definitions will be utilized for making a determination concerning the use of island annexation provisions of state law.

“Surrounded” territory is that which is wholly enveloped by incorporated territory which includes privately owned lands, publicly owned lands, and associated rights-of-way including roads, railroads and deeded easements.

“Substantially Surrounded” territory is that which is contiguous to incorporated territory that includes privately owned lands, publicly owned lands, and associated rights-of-way including roads, railroads and deeded easements, in one or more of the following ways:

- a) Greater than 50% of the total length of the external boundary of the proposed area is contiguous to incorporated territory; or
- b) The proposed area, due to existing irregular or illogical boundaries, and/or geographical or logistical constraints, has been effectively predisposed to utilizing municipal (city) services for existing or proposed development of the area.

### Section 2.8.2 Annexation Encouraged

The Commission acknowledges that unincorporated islands are generally costly for County government to serve and often have impacts on the surrounding city or district. Cities and special districts (where applicable) will be encouraged to annex unincorporated islands within their sphere of influence.

### Section 2.8.3 Annexations to Eliminate Islands

Proposals to annex islands and to otherwise correct illogical distortion of boundaries will be approved unless they would violate another provision of these standards.

### Section 2.8.4 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 the 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. (Government Code Section 56375(m))

### Section 2.8.5 Island Annexations

It is the policy of LAFCO to encourage the most efficient delivery of public services through the elimination of island areas, promote orderly city boundaries and reduce the cost and time of processing applications and to this end, all annexations to cities require that applications for lands meeting the criteria of the island annexations law shall be so configured and supported by the appropriate resolution of application. Applications not complying with this policy would be rejected by the Commission staff as not supporting the creation of logical and orderly

boundaries unless the local agency provides clear and substantial arguments that the elimination of island areas would be detrimental to the health, safety or welfare of the affected community of interest. (Government Code Section 56375.3)

### Section 2.8.6 Special Islands

The Commission must approve an annexation to a city and order the annexation without an election, or waive the protest proceedings if the annexation is proposed by resolution of the affected city and the Commission finds that territory contained in the annexation meets all of the requirements as outlined in Government Code Section 56375.3:

### Section 2.8.7 Regular Islands

Regular islands exceeding the maximum size requirement for waiver of protest proceedings as identified above will be processed as required by law and consistent with the Commission's expressed policy to eliminate and avoid unincorporated islands.

### Section 2.8.8 Island Annexation Plans

Cities are encouraged to develop island annexation plans to eliminate unincorporated islands to the greatest extent possible.

### Section 2.8.9 LAFCO Facilitation

LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands, including work with the County, the cities and other interested parties/agencies to find ways to reduce or share the cost of processing unincorporated island annexations and streamline the process to the greatest degree possible.

### Section 2.8.10 Development Standards

LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.

### Section 2.8.11 Joint Planning

LAFCO encourages the cities and County to develop joint planning practices for the areas within the sphere of influence, and in particular for areas identified as islands.