

REFERENCES AND RESOURCES

UC CE UC Cooperative Extension Land Use Fact Sheet Series

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LUPIN (Land Use Planning Information Network) is an information service that supports and addresses California land use planning issues via the CERES web.



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September 2007

General Plans

(Fact Sheets 8, 9, 10, 14 and 16)

Many county general plans and zoning ordinances are available online from the California Land Use Planning Information Network (**LUPIN**). County information is available at: <http://ceres.ca.gov/planning/counties/>.

Sierra County's General Plan is not currently online. Plumas County's General Plan is at:

http://www.countyofplumas.com/building_planning/general_plan.htm

The City of Portola's General Plan can be accessed from the city's website <http://www.ci.portola.ca.us>. Click on "Portola Government" and then on "Public Documents."

The **Governor's Office of Planning and Research (OPR)** encourages collaborative and comprehensive land use planning at the local, regional, and statewide levels to achieve sustainable development goals of protecting the environment, maintaining a healthy economy, and ensuring equitable treatment of all people."

OPR General Plan Guidelines are online at: <http://www.opr.ca.gov>.

A Citizen's Guide to Planning is at: http://ceres.ca.gov/planning/planning_guide/plan_index.html;

California General Plan Glossary is online at: <http://www.cprroundtable.org/cprwww/docs/glossary.html>

Library users may borrow plan documents through any local library's inter-library loan process.

The Housing Element of the General Plan must be updated every 5 years. See the Department of Housing and Community Development website for deadlines for a particular county. www.hcd.ca.gov

Brown Act (Fact Sheet 13)

The First Amendment Project produces a **Pocket Guide to the Brown Act**, available as a PDF file at <http://www.thefirstamendment.org/bringownact.html>.

The California Attorney General's Office publishes **The Brown Act: Open Meetings for Local Legislative Bodies**. For a PDF file, go to http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf.

Local Agency Formation Commissions (Fact Sheet 4)

Fifty-six of the 58 Local Agency Formation Commissions in California—including Plumas County's and Sierra County's—belong to the California Association of Local Agency Formation Commissions. The organization's website, www.calafco.org, provides a host of useful links from its "Resources" page.

More Fact Sheets & Websites

Land Use Terms, Zoning, Permits and Variances, Private Property Rights, Cost of Community Services, Growth & Development, CEQA, Property Tax Distribution, etc. can be found at <http://ucanr.org/landusefactsheets>.

For regional scope and an activist spin, try the Sierra Nevada Alliance at www.sierranevadaalliance.org,

For Collaborative Efforts in land use, visit <http://landuse.org/guidebook.html>

For a thumbnail summary of census data, visit <http://quickfacts.census.gov/qfd/states>.

For a comprehensive toolkit on land use and health, visit http://www.healthyplanning.org/toolkit_edrd.html

Written by Delaine Fragnoli and Holly George. <http://ucanr.org/landusefactsheets>

WHO'S WHO AND WHAT DO THEY DO?

“Never doubt that a small group of thoughtful, concerned citizens can change the world.

Indeed, it is the only thing that ever has.”

Margaret Mead,
anthropologist



We've all heard the saying, "You can please some of the people some of the time, but not all of the people all of the time." Although a good General Plan (GP) will try to reconcile conflicting community values, creating a plan that is all things to all people is virtually impossible. Only clear communication and collaboration among elected and appointed officials, professional staff, and the public can assure a workable plan.

Elected Officials: A city council or county board of supervisors initiates the General Plan process. Although they may delegate a planning commission to advise them, these elected officials are the ones who approve and adopt the General Plan. They are answerable to you, the voter. They hold regularly scheduled meetings with time allotted for public comment.

Planning Commission: A board of supervisors or city council may form a planning commission. The commission has to have at least five commissioners appointed by the board or council. Once appointed, commissioners become local government officers who must act in the public interest. A member cannot hold an incompatible office nor have a conflict of interest. Planning Commission meetings are open to the public.

Planning Department: Planning departments are staffed with professionals who provide the information and data necessary to the planning process. Every city or county in California must have a planning agency to help develop, implement, and monitor the General Plan.

Special Districts: Called "special" because they provide only certain services within restricted boundaries, these districts perform up to 30 different kinds of functions, the most common of which are water and sewer service, solid waste disposal, and fire protection. Special districts implement many General Plan requirements on the ground. They are managed by boards of directors who are elected by residents within the district. Their meetings are open to the public.

Local Agency Formation

Commission: LAFCo is a key connecting organization that helps the special districts and any cities within the county figure out who should be doing what along with where so that services are efficient and cost effective. The commission is also charged with helping to prevent sprawl and trying to preserve agricultural lands. LAFCo Commission makeup differs from county to county but usually includes two members from the board of supervisors, two members from city councils in the county, two members representing special districts, and one member at large. LAFCo meetings are open to the public.

Community and Neighborhood Groups:

Churches, civic and service clubs, educational institutions, non-governmental organizations, and business groups can all make valuable contributions to the planning process. A comprehensive planning process should reach out to all these groups so their perspectives can be incorporated into any planning decisions.



Ideally, citizens should drive the planning process. The ultimate success of a general plan depends on public acceptance.



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You: Ideally, citizens should drive the planning process. The ultimate success of a General Plan depends on public acceptance. If they are left out of the planning process, citizens may challenge the legitimacy of a plan. Nobody likes to feel that a decision has been made without a chance to put in his or her two cents. In the worst cases, citizens may challenge planning decisions through legal action, or they may use ballot initiatives to overturn all or part of a General Plan.

State law requires two public hearings before a city council or board of supervisors adopts or amends a General Plan—one by the planning commission and another by the legislative body. This is the bare minimum. Most planners do not consider two meetings to be sufficient for effective public participation.

Under the California Environmental Quality Act (CEQA), adopting or revising a General Plan often requires an Environmental Impact Report. The act contains its own public participation requirements. (See *CEQA fact sheet #12 for details.*)

Any public meetings should strive for inclusiveness. They should be scheduled in different places at different times to attract a cross-section of the population.

In addition to any organized planning meetings, state law allows the public to attend all meetings of appointed advisory bodies, planning commissions, and local legislative bodies, with a few limited exceptions. These groups must publish a public notice stating when and where they are meeting and what's on the agenda. Meeting agendas, meeting minutes, staff reports, and backup information are all open to the public.

Practice Your Values



Get to know your elected officials. Attend city council or board of supervisors meetings. Vote!

Attend planning commission meetings. Call your city or county planning department for contact information, meeting times, and dates.

If you have a particular interest or area of expertise, volunteer to sit on an advisory board or council.

Learn what special districts you belong to. You may have several—one for fire protection, another for water and sewer services, etc. Vote in board elections, or run for office yourself.

Attend Local Agency Formation Commission (LAFCo) meetings. If you can't attend, read the meeting minutes—they are public documents.

Discuss community values with your family, friends, neighbors, and co-workers. Host a get-together and invite elected officials or agency staff to address your group.

Educate yourself. Consult the #1 *References and Resources* fact sheet along with others in the *University of California Cooperative Extension Land Use Fact Sheet Series* available from Plumas-Sierra Cooperative Extension Office in Quincy or online.

Written by Delaine Fragnoli and Holly George.
<http://ucanr.org/landusefactsheets>



California Statutes

Full text of the following California Statutes may be found on the Official California Legislative Information website:

www.leginfo.ca.gov/calaw.html

CEQA Public Resources
Code Sections 21000-21178

LAFCO Law Government
Code Sections 56000-57550

Planning and Zoning Law
Government Code Sections
65000-66037

General Plans Government
Code Sections 65300-65404

Specific Plans Government
Code Sections 65450-65457

Zoning Government Code
Sections 65800-65863.13

Permit Streamlining Act
Government Code Sections
65920-65963.1

Subdivision Map Act
Government Code Sections
66410-66499.58

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Traditional zoning creates zones that allow certain building uses. Form-based code is more flexible about building uses in each zone, and more stringent about design elements such as architecture, landscaping, and ways of making streets and sidewalks bike and pedestrian friendly.

Overlay Zones

Overlay zones provide an additional layer of standards. They are often set up to protect natural and cultural areas such as historic districts, residential enclaves, wetlands, water fronts, and scenic views.

Variances

A variance is a limited waiver of development standards allowed by the zoning ordinance. It may be granted, after a public hearing, in special cases where: (1) strict application of the zoning regulations would deprive property of the uses enjoyed by nearby lands in the same zone; and (2) restrictions have been imposed to ensure that the variance will not be a grant of special privilege. **A variance does not permit a use that is not otherwise allowed in that zone** (for example, a commercial use may not be approved in a residential zone by variance).

Economic hardship alone is not sufficient justification for approval of a variance. Typically, variances are considered when the physical characteristics of the property make it difficult to use. For instance, in a situation where the rear half of a lot is a steep slope, a variance might be approved to allow a house to be built closer to the street than usually allowed.

Conditional Use Permits (CUPs)

Some types of land uses are only allowed upon approval of a conditional use permit (also called a CUP or special use permit) after a public hearing. These uses might include community facilities (i.e., hospitals or schools), public buildings or grounds (i.e., fire stations or parks), temporary or hard-to-classify uses (i.e., Christmas tree sales), or uses with potentially significant

environmental impacts (i.e., hazardous chemical storage or surface mining). The local zoning ordinance specifies the uses for which a conditional use permit is required, the zones they may be allowed in, and the public hearing procedure. **A CUP imposes special development requirements to insure that the use will not be detrimental to its surroundings.** Requirements might include, for example, additional landscaping, soundproofing, limited hours of operation, additional parking, or road improvements. **A CUP does not rezone the land.**



SOURCES FOR MORE INFORMATION

The following sources offer a better understanding of planning in California:

California Land Use and Planning Law, by Daniel J. Curtin Jr., (Solano Press, Pt. Arena, California), revised annually, looks at the planning, zoning, subdivision, and environmental quality laws & is illustrated by references to numerous court cases.

The General Plan Guidelines (Governor's Office of Planning and Research, Sacramento, California). The Guidelines discuss local planning activities and how to write or revise a general plan. Available online at <http://www.opr.ca.gov/publications/>

Growth within Bounds: Report of the Commission on Local Governance for the 21st Century, 2000.

Recommendations on future local governance options, including LAFCO reform. Available online at <http://www.opr.ca.gov/publications/>

Guide to California Planning, by William J. Fulton (Solano Press, Point Arena, California). A lively, well-written discussion of nearly every aspect of planning in the State.

Written by Valerie Borel and Holly George.

<http://ucanr.org/landusefactsheets>

ROLES OF LAFCo, CITIES AND SPECIAL DISTRICTS: SPHERE OF INFLUENCE, ANNEXATION AND INCORPORATION

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LAFCo's exercise both regulatory and planning functions. While annexations are a regulatory act, LAFCo's major planning task is the establishment of 'spheres of influence' for the various governmental bodies within their jurisdiction.



WHAT'S A LAFCo?

LAFCo stands for Local Agency Formation Commission. They are independent regulatory commissions created by the California Legislature to control the boundaries of cities and most special districts. They do not regulate boundaries for school districts.

Counties have vastly different people, geography, and governing institutions. Regulating local boundaries at the local level recognizes this diversity. The Cortese-Knox-Hertzberg Act directs **LAFCos** to achieve two main purposes: to **discourage sprawl** and to **encourage orderly government**.

Local governments in California are divided into five categories: counties, cities, special districts, school districts and miscellaneous. Each category has certain powers and duties.

Entity	Power
Counties	Police, Corporate, Tax
Cities	Police, Corporate, Tax
Special Districts	Corporate, Tax
School Districts	Corporate, Tax
Miscellaneous	Police, Corporate, or Tax depending on their

Police powers: ability to regulate private behavior to protect the public health, safety, or welfare.

Corporate powers: ability to deliver public services and programs and build public works projects.

Tax powers: ability to raise public revenue with taxes, assessments, or fees.

LAFCos fall into the category of miscellaneous local governments



because they don't fit anywhere else. They have a specific purpose to regulate boundaries, but they are *not* counties, cities or special districts. LAFCos have both regulatory and planning powers. They **do not have corporate powers**.

- LAFCos use their **regulatory powers** to control city and special district boundaries.
- LAFCos use their **planning powers** to influence land use.

State law forbids LAFCos from making *direct* land use decisions; however, it requires them to make *indirect* land use decisions. Controlling boundaries means **LAFCos engage in indirect land use decisions** by controlling the timing and location of development. For instance, **LAFCos regulate boundaries** for the following services:

- Water, sewer, fire protection, flood control (*growth inducing* facilities and services).
- Parks, libraries, airports (*growth supporting* facilities and services).
- Hospitals, cemeteries, pest abatement (*non-growth related* facilities and services)

LAFCo's planning activities include adopting and revising planning documents called **spheres of influence** for every city and for those special districts under their jurisdiction.

WHAT is a Sphere of Influence?

It designates an agency's **probable future physical boundary and service area**. It is territory that a city or special district will annex in the future. It's also the area where the local government will build facilities and deliver services sometime in the future. It is often bigger than a local government's current jurisdiction. LAFCOs must consider various factors when determining spheres of influence:

- Present and planned land uses.
- Present and probable need for public facilities and services.
- Present and probable future capacity of public facilities and services.
- Existence of any social or economic communities of interest, if relevant.

LAFCO regulates boundary lines because of the importance they have to:

- Assign physical space** to local governments and thereby define a city's or district's identity.
- Designate land use authority.** That's legalese for "what's on my turf is mine and what's on your turf is yours", i.e.: the City can't approve a new subdivision in the unincorporated part of the County. *Land use in California is mutually exclusive.*
- Define** which local governments have **taxing powers** over an area.
- Decide** which local governments have **corporate powers** or authority to "do things" in an area.

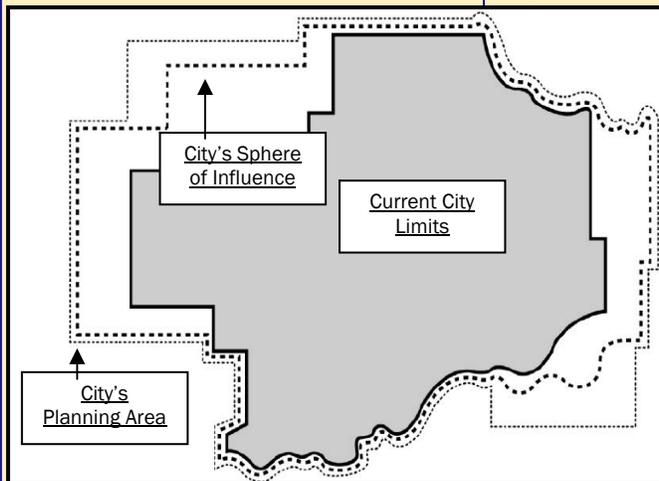
Types of Boundary Changes

Sometimes, local officials want to change their boundaries so they can serve additional areas, gain taxing powers or encourage new development. Before a boundary change can occur, a person, group or local government must submit a proposal to LAFCo. The Cortese-Knox-Hertzberg Act calls a single boundary change in one proposal a *change of organization*. **State law defines all nine changes of organization:** annexation, detachment, incorporation, disincorporation, formation,

dissolution, consolidation, merger, subsidiary district.

Merging a district into a city occurs only when a district's territory is entirely within city limits. A city can establish a subsidiary district if at least 70% of the district's territory is within the city limits. **Combining two or more boundary changes in one proposal is a reorganization.**

In other words, a reorganization is merely a way to package several related changes of organization into a single proceeding.



WHO Serves on LAFCo?

Most LAFCOs have 5-7 commissioners who are not directly elected to serve on these commissions; but **most of them are locally elected** officials who are appointed to serve. Two commissioners come from a county's board of supervisors, two members are mayors or city council members within the county. In about half of the LAFCOs, two commissioners come from the independent special districts in the county. One member comes from the public at large. Membership changes so call your executive officer or check out the website for current information.

WHO Pays for LAFCOs?

Each sector (county, city, special district) **pays one-third of a LAFCOs budget**. Where there is no independent special district representation on the LAFCO, the county and the cities split the funding; fifty-fifty. **LAFCOs can charge fees** to recover its costs of reviewing boundary changes. Fees

can't exceed the reasonable cost of the service. To find out what your LAFCo charges, contact the executive office or check the website at <http://www.calafco.org>

Adapted from the California Senate Committee on Local Government publication, *It's Time to Draw The Line: A Citizen's Guide to LAFCOs*, Second Edition, May 2003.

SPECIAL DISTRICTS

Special districts are **limited purpose local governments** – separate from cities and counties.

Within their boundaries, special districts **provide public services** such as fire protection, sewers, water supply, electricity, parks, recreation, sanitation, cemeteries, and libraries. California has nearly 3,400 special districts.

Districts' service areas range from a few acres to thousands of square

miles crossing city and county lines. The Metropolitan Water District of Southern California serves over 16 million people in more than 5,200 square miles in six counties. By contrast, the Arden Manor Recreation and Park District in Sacramento County covers only 21 acres; Stallion Springs Community Services District in Kern County serves about 2,500 people.

There are about 50 major types of special districts (and many subcategories) ranging from airport to cemetery to water conservation districts. All types of districts operate under either a **principal act** or a **special act**.

A **principal act** is a generic state law that applies statewide to all special districts of that type. There are about 60 principal acts. The chart on page 3 shows some of the most common principal act districts.

A **special act** is a law that the Legislature tailored to the unique needs of a specific area. There are

about 120 special act districts. Examples are: Kern County Water Agency, Fairfield-Suisun Sewer District, and Humboldt Bay Harbor, Recreation, and Conservation District.

One way to understand special districts is to look at their *activities, funding, and governance*:

Activities

Nearly 85% of California's special districts are **single function** districts, which provide only one service such as fire protection, mosquito abatement, or waste disposal. The remaining districts are **multi-function** districts providing two or more services. For example, several *municipal utility districts* provide fire protection and park services in addition to utility services. *Fire protection districts* often provide ambulance services too. *County Service Areas (CSAs)* can provide any service that a county can provide. *A district's name does not always indicate which services it provides or is authorized to provide.*

Funding

Special districts generate revenue **from several sources** including property taxes, special assessments, and fees.

Enterprise districts run much like business enterprises and provide specific benefits to their customers.

These districts are primarily funded through fees that customers pay for services. About 27% of special districts are enterprise districts and

generated about \$10.5 billion in revenues within California.

Governance

There are two forms of special district governance:

About 2/3 of special districts are **independent districts** with independently elected boards or appointed boards whose directors serve for fixed terms. Most have 5-member boards but they vary with the size and nature of the district. Cemetery, Fire Protection, and Community Services Districts are mostly *independent districts*.

The remaining special districts are **dependent districts** governed by either a city council or county board of supervisors. County Service Areas are *dependent districts*.



ANNEXATION AND INCORPORATION

Annexation (the addition of territory to an existing city) and incorporation (creation of a new city) are **controlled by LAFCOs**. Following is a very general discussion of annexation and incorporation procedures. For detailed information on this complex subject, contact your county LAFCo - in the phone book under county listings.

Annexation

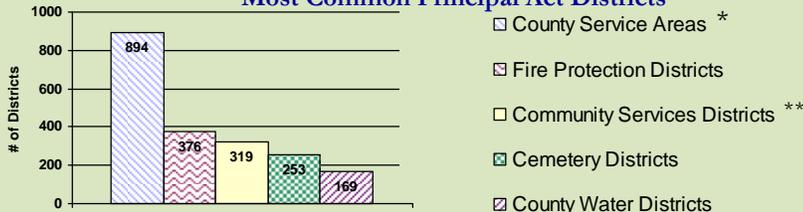
When the LAFCo receives an annexation request, it will convene a hearing to determine the worthiness of the proposal. Annexations may be requested by affected landowners or by a city. In cases where the proposed annexation is being initiated by a city, its planning commission may be asked to study the proposal before a formal application is filed with the LAFCo.

The **LAFCo will deny, approve or conditionally approve annexation proposals** based on its policies and state law (for example, annexation cannot occur unless the LAFCo has adopted a sphere of influence for the city and the area proposed to be annexed is within the city's sphere).

include airport, harbor, hospital, transit, waste disposal, and utility districts. In 2003-04, enterprise districts in California generated about \$18.3 billion in revenues.

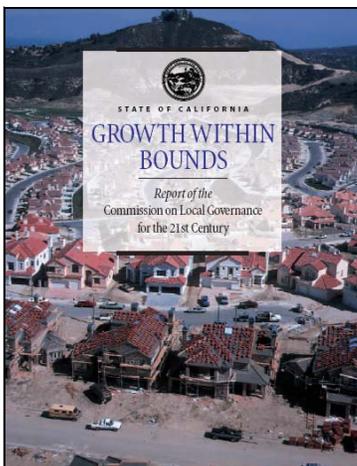
Non-enterprise districts deliver services that provide a general benefit to entire communities. These services, such as fire protection, flood control, cemeteries, and road maintenance, do not lend themselves to fees. Non-enterprise districts rely primarily on property taxes for their revenues. In 2003-04, non-enterprise districts

Most Common Principal Act Districts



*A **county service area** (CSA) can provide any service that a county can provide. The county remains responsible for providing public services and the County Board of Supervisors retains all decision-making authority for the territory within a CSA (Currently, Joshua Tree is designated CSA-20 and is governed by the Board of Supervisors for San Bernardino County).

A **community service district (CSD) is a form of local government that is authorized by state law to provide certain public services that are typically provided by a city or county government (For example, The Silverado Community Service District has four active powers: street lighting, street sweeping, landscape maintenance, and weed abatement as a form of fire prevention).



Resources

Cortese-Knox Act
http://www.assembly.ca.gov/acs/committee/c17/Publications/CKH_Guide_2006.pdf.

Senate Local Government Committee. What's So Special About Special Districts? 2nd ed. Sacramento CA. 1993.

Little Hoover Commission. Special Districts: Relics of the Past or Resources for the Future? Sacramento CA. 2000.

Governors Office of Planning and Research. LAFCOs, General Plans and City Annexations. Sacramento, CA: 1997
<http://ceres.ca.gov/planning/lafco/lafco.htm>

California Local Area Formation Commission or CaLAFCo:
www.calafco.org

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The **LAFCo delegates tentatively approved annexation requests to the affected city** for hearings and, if necessary, an election. Annexations which have been passed by vote of the inhabitants or which have not been defeated by protest (in those instances where no election was required) must be certified by the LAFCo and meet all its conditions before they become final. **The LAFCo, not the city, has final responsibility for the annexation process.**

The Sphere of Influence

Cities cannot establish their own sphere of influence. The **LAFCo has sole responsibility for doing this.** However, a city may request that the LAFCo amends its sphere. Some cities use their sphere of influence as a convenient boundary for their general plan.

These cities plan beyond their city limits although they usually have no actual authority over land uses in county areas. This planning anticipates the eventual annexation of land into the city.

LAFCOs exercise both regulatory and planning functions. While annexations are a regulatory act, LAFCOs' major planning task is the establishment of "spheres of influence" for the various governmental bodies within their jurisdictions. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

The sphere of influence is an important benchmark because it defines the primary area within which urban development is to be encouraged. In a 1977 opinion, the California Attorney General stated that sphere of influence should "serve like general plans, serve as an essential planning tool to combat urban sprawl and provide well planned efficient urban development patterns, giving appropriate consideration to preserving prime agricultural and other open-space lands".

Along this same line of reasoning, the California Appellate Court has held that **spheres of influence must be adopted before an annexation** to the affected city or district **can be considered.** The law requires a LAFCo to send notice of pending annexation

hearings to those affected agencies whose spheres contain territory within the proposal.

Incorporation

When a new city is proposed to be formed, the **LAFCo studies the financial feasibility of the proposed city, its financial impact on the county and special districts, and the provision of public services.** If the proposal cannot be shown to be feasible, the LAFCo can terminate the proceedings.

If the proposed city appears to be feasible, **LAFCo will refer the proposal** (and a set of conditions to be met upon incorporation) **to the county board of supervisors for a public hearing** to be held. Incorporation proceedings are terminated if the supervisors receive protests from a majority of the voters residing within the proposed city boundaries. If they do not receive a majority protest, an election will be held on the question of whether to create the city and to elect city officials.

Conclusion

Both the city and the LAFCo have a responsibility to see that the proposed expansion of corporate limits complies with the procedures laid out in the Cortese-Knox Act and adopted LAFCo policies. At the same time, it is important that they recognize that **it is their (LAFCo's) responsibility to coordinate the annexation process through cooperation and mutual discussion.** The LAFCo can provide the city with a great deal of information about the annexation process and the enabling legislation.

Finally, when considering the annexation proposal, both the city and LAFCo must look beyond the immediate to the future impact of the total project on city services, sources of tax revenue, historic growth trends, the city center, and neighboring communities and cities. Annexation does not occur in a vacuum. **The land's inter-relationship with the surrounding world and the community changes that could occur as a result of annexation should be considered.**

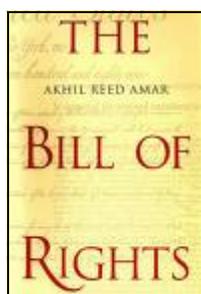
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PRIVATE PROPERTY: RIGHTS, RESPONSIBILITIES AND LIMITATIONS

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Property rights are a concern for many landowners and are on legislators' agendas even more than ever.



This publication addresses frequently asked questions about property rights in land in order to dispel myths and misunderstandings, and generate thoughtful discussion.



Property ownership entails not only private rights, but also obligations to the public.

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I can do whatever I choose with my land, right?

Not always. Although landowners generally may do what they please with their land, **there are limits**. *Zoning laws may restrict how you use your property*. You must develop your property in accordance with the allowable uses of your property's zoning district (See fact sheet #3). Landowners are prohibited from using their property in a fashion that may injure their neighbors or the environment.

Property rights in land are often described by being compared to a bundle of sticks. Each stick

represents a right. Each stick may be separated from the rest of the bundle. For instance, a landowner may rent his land to one person to farm and transfer the underground mineral rights to another entity. The landowner in this situation still holds other sticks in the bundle (like the right to sell the land), though a sale may be subject to rights extended to others.

In all circumstances, government agencies at the local, state, and federal level hold other rights, like the right to tax. Some sticks in your neighbor's bundle, like the right to use her property in a beneficial fashion, for example, may also affect your property.

Do Zoning Regulations affect property rights?

Yes. The United States Constitution and court cases give government entities the power to pass laws to protect the health, safety, welfare, and morals of their citizens. This power is called the "police

power" and it is delegated to local government units like cities and counties. Most local governments exercise their land use police powers through zoning ordinances. **Zoning restrictions are intended to protect the health, safety, welfare, & morals of citizens plus the environment.**

Typical zoning ordinances divide the locality into districts. Within each district certain land uses are allowed, and certain other land uses are prohibited. For example, all single family houses would be together and not beside a cement factory. Zoning laws are



intended to avoid nuisances by prohibiting land activities that are potentially offensive to others. The United States Supreme Court has ruled that zoning

ordinances may be valid exercises of the police power of state and local governments.

Can zoning prohibit me from putting a trailer on my property for my elderly parents to live in?

Yes. Zoning may prohibit using property in the way in which you want or in the way that may be most profitable to you. The standard a court usually applies to determine whether zoning prohibitions are appropriate is the "arbitrary and capricious" standard. In other words, when local governments are acting to protect the health, safety, welfare, and morals of their citizens, the courts allow them broad discretion.

Funding provided by Renewable Resources Extension Act



A court will usually overturn the local government's zoning decision (for example, the denial of a request for a variance) if the decision is unreasonable and not supported by any facts. **A court will not interfere with a land-use plan simply because a landowner has identified a more profitable use than is permitted by the plan.**

Courts will also determine whether a zoning ordinance is for the public good, rather than for private gain. If the ordinance is for private gain, it is not valid. Again, one must look not only at a landowner's property rights, but how the exercise of those

property rights will affect neighbors and the community at large.

How could my land uses "injure" the neighbors?

Just as a property owner possesses rights to use his property, he also holds rights to prevent others from using their land in a manner that harms him or his property. **"Nuisance"** describes a situation in which one landowner is using his property in a way that unreasonably limits the use of his neighbor's land.

A *"private nuisance"* interferes with a relatively small number of people in their use of land, i.e. if one neighbor plays her radio very loudly, especially during times that others sleep.

A *"public nuisance"* causes distress to a large number of persons (an entire neighborhood or community) in the use of their land. An example is a cement factory, which discharges large amounts of smoke and dust.

Who decides whether a particular activity is a nuisance?

The first step in deciding whether a landowner is injuring his neighbor is a complaint by the neighbor. Property rights depend in large part on whether persons are being good neighbors. The preferred way to resolve property rights disputes is to talk to your

neighbor before you engage in an activity that may be offensive. **If neighbors cannot agree, mediation** by a zoning administrator, a grievance

committee, **or some other type of arbitrator may be helpful.** A zoning administrator may issue a notice of zoning compliance and perhaps a penalty to the offending neighbor, or may grant a special use permit if the non-compliance is not injurious to others. A grievance committee set up to deal with a specific ordinance may help parties to come to an agreement.

For example, Calaveras County has an ordinance covering Agricultural Tourism operations that guides the planning commission in nuisance complaint decisions; El Dorado County has adopted a Right to Farm Ordinance to define and limit cases where farming may be considered a nuisance.



If this does not resolve the dispute, the offended neighbor may file a nuisance lawsuit. Then, a court will decide.

How does a court decide if an activity is a nuisance or not?

In determining whether one landowner's use of land is an "unreasonable" interference of another property owner's use of land, **the court must weigh many factors.** They must consider the extent of the harm, the character of the harm, the type of use being interfered with, and whether the use interfered with is appropriate to the area. The court must also consider the benefits (income to the landowner, jobs, and tax revenue) provided by the offending use, whether the harm can be avoided with the continuation of the activity, and whether the offending use is suitable in that area. Courts balance these factors and consider other factors to resolve a dispute.

What can courts do if they find a nuisance?

If a nuisance exists, **the court has options in deciding what to do.** The

Remember, property ownership entails not only private rights, but also obligations to the public.



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remedies may include money damages and/or an injunction. Money damages **compensate the landowner** for the interference with the use of his property. If the court orders the offending activity stopped, then the damages may be only for past injury. If the court allows the activity to continue, the damages may cover past and/or future injury.

An injunction is an order from a judge to stop an activity or a command that a certain action may begin or continue. In the nuisance context, the judge most often orders the landowner to cease the nuisance activity. However, **courts may combine damages** and a partial injunction which would order the landowner to cut back the offending activity to a certain level. For example, if a judge found that a large hog operation was a nuisance, the judge may limit the farmer to a smaller number of hogs.

The law allows judges great flexibility in fashioning creative remedies. In an Arizona case, the judge ordered a large cattle feedlot to move, but made the developer of the adjoining residential subdivision pay for the move because the feedlot was there first. The solution to a nuisance case may involve a balancing process to be fair, similar to the balancing used to determine whether a nuisance exists.

What if the government takes some of my land to build a road or other government facility?

Federal, state, and local **government agencies possess the power of eminent domain.** A California statute says private utilities may also possess the power of eminent domain for projects that benefit the public. Any agency seeking to acquire private property rights for public use must follow steps in the law.

Property owners may take action to insure fair compensation, or perhaps avoid the taking of their property in selected cases.

The property owner must be paid a fair price. If the owner and the agency cannot agree on a price, then a procedure exists for the court to set the price, usually after testimony from professional appraisers and due consideration to both sides.

Contact your lawyer for more



information on eminent domain, condemnation, and property rights.

Does the government have to pay when a regulation or law reduces the value of my property?

Local, state, and federal governments may regulate land and land uses. Most members of society recognize this legal fact. However, just as the law places limits on the ability of landowners to use their land as they please, legal constraints exist on a government's ability to regulate land. How much may a government regulation reduce the value of a particular piece of private property before a "taking" occurs?

When a government goes "too far" in regulating private property, it must pay just compensation.

The courts have struggled to define the point where governments have gone "too far" in regulating property. If the regulation is not for a "public purpose," the government must pay compensation to the private landowner. **A government regulation may not exist only to further private interest.**

The requirements imposed by the regulation **must be directly connected to the public purpose.** Only on rare occasions does a taking result from lack of public purpose.

For example, in the 2005 Supreme Court decision, *Kelo v. City of New London*, the court held that there was no constitutional protection for a property owner whose **property was seized for private economic development.**



Eminent domain pertains to the power of authorized agencies to acquire rights in private property to use for public purposes, even if the owner does not wish to sell.

The Fifth Amendment of the United States Constitution provides that "... private property [shall not] be taken for public use, without just compensation."

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A good neighbor policy of consulting with and giving advance notice to adjoining landowners can prevent many property rights disputes.

Property rights must be balanced against the needs, rights, and concerns of all parties involved.

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Ms. Kelo's property and the properties of other protesting owners were in good condition and occupied as the residence of many of them. Their properties were going to be transferred by the city and its agencies to a private corporation for an office research park. Why? The city had determined that to "promote economic development" their land should be taken and transferred to another private party.

The court rationalized its result by changing the "public use" test, which had been used to take private property for use by a railroad or a utility or a city to a "public purpose" test. The public purpose of New London was economic development.

Two other situations automatically merit compensation for the landowner. First, when the regulation acts to physically invade private property, such as requiring a landowner to allow cable television wires on the landowner's property, compensation must be paid. **Any type of physical invasion**, regardless of how small, warrants compensation.

Second, **when the regulation makes a piece of property "worthless,"** – compensation must be paid. A significant reduction in value, though, may not entitle the landowner to automatic compensation.

If the regulatory taking does not fall into one of the categories mentioned above, a court considers the other factors to determine whether an unlawful taking has occurred:

- the economic impact of the regulation on the landowner;
- the landowner's investment backed expectations; and
- the character of the government activity.

No hard-and-fast rules exist to guide either the court or landowners in applying these factors. **However, two examples may help illustrate the concepts involved.**

First, suppose that the state government passes a law to protect wetlands. The law prohibits anyone from building, farming, or conducting any other activity on a wetland or within 1,000 feet of a wetland. Suppose you own a piece of land that is primarily wetlands. After this law is passed you cannot put a building

anywhere on your land, farm the land, or do anything with your land. In this case, the law has made your land worthless and an unconstitutional taking has occurred. The government must pay you for your land.

Now consider a situation in which you own farmland in California. First it is zoned to allow you to use the property for offices or commercial purposes. Then it is rezoned so that now you may only build single-family dwellings. The land still retains value, so you may not assume that a total taking has occurred. The value of the land is much less than prior to the rezoning, however. In a suit for compensation, the court would have to balance the three factors listed above. A court would likely determine that no taking has occurred in this situation.



CONCLUSION

The law regards property rights very highly and jealously guards their sanctity. **Each landowner possesses the right to use his or her land in a reasonable manner.** This right may be affected by a neighbor's use of his or her property. In these cases, where valid property rights of two or more persons exist, the respective property rights must be balanced to determine which right will prevail.

Similarly, the federal, local, and state governments may regulate land use. When there is a total or near total taking of one's property, the law provides for compensation at fair market value. A drastic reduction in the value of your land due to a new regulation does not automatically entitle a landowner to compensation. **Property rights must be balanced against the needs, rights, and concerns of all parties.**

Adapted from Purdue University Cooperative Extension Service 4 pg pub (ID-229). Authors: Jesse J. Richardson, Jr. Urban Affairs and Planning,

Written by Valerie Borel and Holly George. <http://ucanr.org/landusefactsheets>

GROWTH AND DEVELOPMENT: PROJECTS, APPROVAL PROCESS AND SUBDIVISIONS

UC UC Cooperative Extension CE Land Use Fact Sheet Series

6



“Smart growth balances development and environmental protection – accommodating growth while preserving open space and critical habitat, reusing land, and protecting water supplies and air quality.”



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What is Smart Growth?

Smart Growth is **development that serves the economy, the community, and the environment**. It changes the terms of the development debate away from the traditional growth/no growth question to “how and where should new development be accommodated.” Smart Growth answers these questions by simultaneously achieving:

- Healthy communities that provide families with a clean environment.
- Economic development and jobs that create business opportunities and improve local tax base; that provide neighborhood services and amenities; and that create economically competitive communities.
- Strong neighborhoods which provide a range of housing options giving people the opportunity to choose housing that best suits them. It maintains and enhances the value of existing neighborhoods and creates a sense of community.
- Transportation choices that give people the option to walk, ride a bike, take transit, or drive.



California Environmental Quality Act

CEQA (see Fact Sheet #12 for more details on CEQA & EIR) is a state law requiring state and local agencies to regulate activities with consideration for environmental protection. If a proposed activity has the potential for a significant adverse environmental impact, an Environmental Impact Report (EIR) must be prepared and certified as to its adequacy before taking action on the proposed project. General Plans require the preparation of a “program EIR.”

Project

A project, as defined by CEQA, is **any action that has the potential for a direct or indirect impact on the environment**. A project can be any of the following: 1) an activity of a public agency, 2) an activity of someone who receives assistance, such as grants or loans, from a public agency, 3) an activity that involves receiving a lease, permit, or other permission for use that is issued by a public agency (California Code of Regulations 15378).

Lead Agency

The primary public **agency with the principal responsibility** for issuing permits to a project, or for carrying out the project, is called the lead agency (California Code of Regulations

Section 15367). As such, this agency is responsible for determining whether or not a project will significantly impact the environment and, when necessary, for analyzing the project's possible environmental impacts (or contracting for this work to be done under its direction). The **planning department is usually the lead agency** in local planning matters.

PROJECT APPROVAL PROCESS

Permits

Most **projects require one or more permits**, depending upon state and local codes and regulations. Generally speaking, **permits fall into two categories: discretionary and ministerial**. A **discretionary permit** is subject to the evaluation, judgment, and approval or denial by the local planning authority or other permitting agencies. A **ministerial permit** is not subject to discretion.



SOURCES FOR MORE INFORMATION

California Environmental Quality Act: Statutes and Guidelines (Resources Agency) The CEQA Guidelines describe the requirements for evaluating environmental impacts. Available online at <http://ceres.ca.gov/ceqa/>

California Land Use and Planning Law, by Daniel J. Curtin Jr., (Solano Press, Pt. Arena, California), revised annually. A look at the planning, zoning, subdivision, and environmental quality laws that is illustrated by references to numerous court cases.

Growth within Bounds: Report of the Commission on Local Governance for the 21st Century, 2000. Recommendations on future local governance options, including LAFCO reform. Available online at <http://www.opr.ca.gov/publications/>

Guide to California Planning, by William J. Fulton (Solano Press, Point Arena, California). A lively, well-written discussion of nearly every aspect of planning in the State.

Subdivision Map Act Manual, by Daniel J. Curtin, Jr., (Solano Press, Pt. Arena, California). A practitioner's guide to the Map Act, including pertinent legal precedents.

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Rather, the **approval of a ministerial permit is automatic** if it meets certain pre-determined requirements. Typically, small projects such as renovating a kitchen or building a fence are ministerial. **Ministerial projects are not subject to the California Environmental Quality Act (CEQA).**

SUBDIVISIONS

In general, land cannot be subdivided in California without local government approval. Dividing land for sale, lease or financing is regulated by local ordinances based on the state Subdivision Map Act (commencing at Government Code Section 66410). The local general plan and the zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements that will be required as conditions of approval.

There are basically two kinds of subdivisions: (1) *parcel maps*, which are limited to divisions resulting in fewer than 5 lots (with certain exceptions), and (2) *subdivisions (or tract maps)*, which create 5 or more lots. **Tract maps and parcel maps are approved in two stages.**

Tentative Map

Upon receiving an application for a tentative subdivision map, the city or county staff will examine the design of the subdivision to ensure that it meets the requirements of the general plan and the subdivision ordinance. An environmental impact analysis must be done and an advertised public hearing held before a tentative map is considered for approval.

If approved, the map will be **subject to conditions that the subdivider must meet within a specific time period.**

While these conditions are being met, no lots have been officially approved. However, if the developer is granted a *vesting tentative map* by the local jurisdiction prior to approval of the tentative map, the builder has the vested right to build the project laid out in the tentative map. More detailed information may be requested for a tentative map, though, if the developer requests vesting.

Final Map

When all of the conditions set out in the approved tentative map have been

satisfied, and compliance certified by city or county officials, the city council or county board of supervisors will approve a final map.

Unlike a tentative map, which can be denied if it does not meet city or county standards, **the final map must be approved** (with some exceptions) **if it substantially complies with the previously approved tentative map.** The subdivider may now record the map at the County Recorder's office.



Subdivision approval is conditioned upon the subdivider providing public improvements such as streets,

drainage facilities, water supply or sewer lines to serve the subdivision. They may also be required to dedicate park land to the community. These improvements must be installed or secured by bond before the city or county will grant final map approval and allow the subdivision to be recorded in the recorder's office.

Lots within the subdivision cannot be sold and are not legal divisions of land until a final map has been recorded. The subdivider has at least two years (and with extensions, usually more) in which to comply with the improvement requirements, gain final administrative approval, and record the final map.

California Statutes

Full text of the following California Statutes may be found on the Official California Legislative Information website: www.leginfo.ca.gov/calaw.html

- CEQA Public Resources Code Sections 21000-21178
- Permit Streamlining Act Government Code Sections 65920-65963.1
- Subdivision Map Act Government Code Sections 66410-66499.58

Written by Valerie Borel and Holly George. <http://ucanr.org/landusefactsheets>

REGIONAL PLANNING: WHAT, WHO, WHY, WHERE AND HOW

UC UC Cooperative Extension
CE Land Use Fact Sheet Series

7

A regional approach is essential to manage urban growth.

WHAT is Regional Planning?

“Regional” planning is planning that **occurs beyond the boundaries of local governments** (cities and counties). Sometimes referred to as cross-jurisdictional or multi-jurisdictional planning, regional planning addresses issues that transcend the local level, such as transportation, smart growth, “fair share” provision of affordable housing, watershed planning, regional agricultural planning, air quality, and water quality and provision.

WHO does Regional Planning?

Regional planning can happen in a number of different ways. In most cases

local jurisdictions come together to form regional planning bodies. Some are advisory only, and others have true regulatory powers. Councils of government (COGs), which have a regional planning function and are present in many areas across the state, are an example of the former. Air quality management districts are an example of the latter. Some regional bodies, such as the Bay Area’s Metropolitan Transportation Commission, allocate federal funds in their regions, and in this way exercise considerable power.

Other regional agencies represent ad-hoc efforts by two or more local governments to provide a service or solve a problem.

“**Joint powers authorities**” can be set up to run a commuter rail line, manage



open space, provide insurance, or meet many other common needs. A final type of regional planning agency is set up by state or federal governments to perform a defined task. Examples include park districts, air quality districts, and water quality districts.

Regional bodies tend to have appointed boards, often consisting of elected officials from the cities and counties in which the regional bodies are located. Some regional bodies are made up of only government agencies, while others may include businesses, community-based organizations, or other groups.

WHY do Regional Planning?

Many current problems can only be dealt with at a regional scale. City and county **boundaries are somewhat arbitrary**. Air and water move across landscapes, so managing pollution or supply requires a regional approach. A regional approach is essential to manage urban growth, and may be needed to plan for park systems or habitat conservation for a wide-range of species. Large-scale transportation systems must be planned at a regional scale. Multi-jurisdictional



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planning can help agencies **prepare for disasters** such as earthquakes, fires, or floods. Regional agencies can even help address inequities in tax base between local cities and towns, pooling sales tax revenue and

then redistributing it on the basis of population, as in the Minneapolis-St. Paul area.

Local governments often resist regional approaches, or ignore voluntary regional plans that are created by councils-of-governments or other agencies. This has been a major problem historically. But such resistance can be overcome in a number of ways. Identifying common interests and building relationships between local leaders can help build political will. **State or federal funding can be used to motivate regionalism.** Also, regional agencies can acquire statutory authority from higher levels of government in order to perform their mission.

WHERE does Regional Planning Happen, and at What Scale?

The term "region" has no set definition. Regional planning **can involve only a part of a county** and the cities that lie within it, as in the *One Valley One Vision* plan for the Santa Clarita Valley in Los Angeles, **or it can cross state lines**, as in the *Tahoe Regional Planning Agency*.

In California, regional planning efforts have arisen in areas experiencing rapid growth, such as Southern California, or the San Joaquin Valley, or in areas with a specific, unifying interest in economic development, or in protection of a natural feature (Lake Tahoe).

HOW are Cross-Jurisdictional Planning (CJP) Relationships Established and What Types of Agreements are Formed?

CJP agreement models can be a joint powers agreement, a memorandum of understanding, executive order, agency initiative, negotiated charter, or statutory or other legislative authority.

The **joint powers agreement is the most common form.** This is usually a contract between a city, a county and/or a special district in which the city or county agrees to perform services, cooperate with, or lend its powers to the special district or other government entity. The **joint powers agreement creates a separate legal entity**, a joint powers authority, that can apply for funding in its own name. The authority is a more effective applicant than either party individually because it can provide, with certainty, partnering, matching funds and collaborative approaches, which are elements generally encouraged by funding agencies. **A Memorandum of Understanding, which would not create a separate entity**, would not have these benefits.

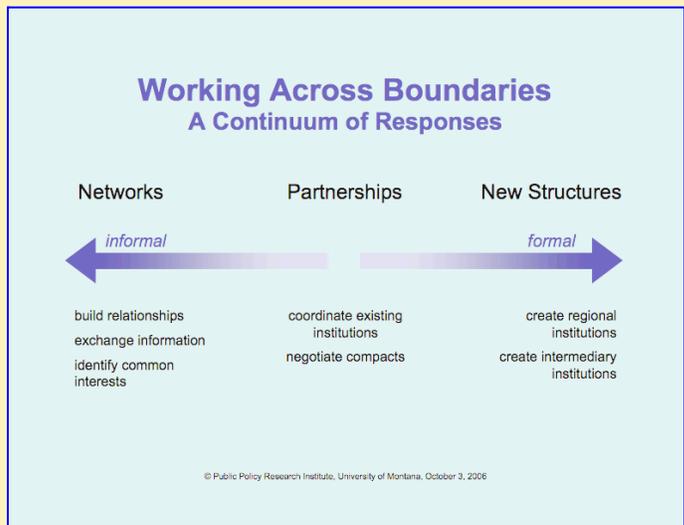
Whether regional planning bodies have authority, and who supersedes who, is a function of the terms of the agreements they reach, and whether these have legal standing.

WHO is doing Regional Planning, Where, Why, and How?

Some examples of cross-jurisdictional planning that appear to be working well

“Identifying common interests and building relationships between local leaders can help build political will” and pave the way for regional planning.

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in California are the *San Diego Association of Governments (SanDAG)*, *Southern California Association of Governments (SCAG)*, the *Regional Council of Rural Counties (RCRC)*, and the *Bay Area Alliance for Sustainable Communities (BAASC)*.

SanDAG

The San Diego Association of Governments, **consisting of eighteen cities and the county government**, serve as the forum for regional decision-making. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, plans, engineers, and builds public transportation, and provides information on a broad range of topics pertinent to the region's quality of life.

SANDAG's *Public Involvement Program* is designed to inform and involve the region's residents in the decision-making process on issues such as growth, transportation, environmental management, housing, open space, air quality, energy, fiscal management, economic development, and public safety.

SanDAG created the **Regional Comprehensive Plan**, adopted in July 2004. It provides a blueprint for managing the region's growth, while preserving natural resources and limiting urban sprawl. The Regional Comprehensive Plan (**RCP**) serves as the long-term planning framework for the San Diego region. It provides a broad context in which local and regional decisions can be made that move the region toward a sustainable future – a future with more choices and opportunities for all residents of the region.

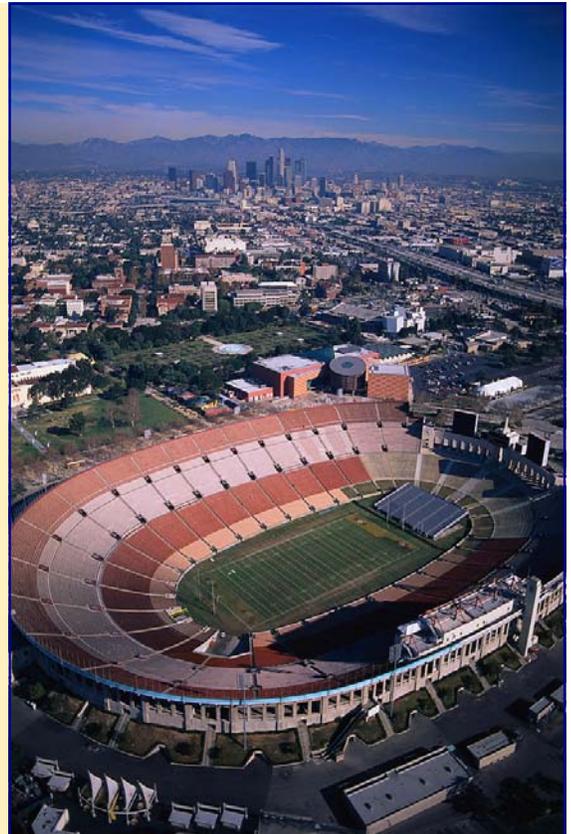
The RCP better integrates the region's local land use and transportation decisions, and focuses attention on where and how they will grow. This provides a vital alternative to where the area could end up if they continue with business as usual. The **RCP contains an incentive-based approach** to encourage and channel growth into existing and future urban areas and smart growth communities.

SCAG

The Southern California Association of Governments (SCAG) develops long-range regional plans and strategies that provide for efficient movement of people, goods and information; enhance economic growth and international trade; and improve the environment and quality of life. SCAG also provides quality information services and analysis for the region, and **uses an inclusive decision-making process** that resolves conflicts and encourages trust. SCAG creates an educational and work environment that cultivates creativity, initiative, and opportunity both within the agency and the region.

SCAG's Air Quality Planning Program coordinates with various air quality and transportation stakeholders in Southern California to ensure compliance with the federal and state air quality

requirements, including the Transportation Conformity Rule and other applicable federal, state, and air district laws and regulations. As the Federally-designated Metropolitan Planning Organization (MPO) for the six-county Southern California region, SCAG is required by law to ensure that transportation activities "conform" to, and are supportive of, the goals of regional and state air



SanDAG... provides a blueprint for managing the region's growth, while preserving natural resources and limiting urban sprawl.

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quality plans to attain the National Ambient Air Quality Standards (NAAQS). In addition, SCAG is a co-producer, with the South Coast Air Quality Management District (AQMD), of the transportation strategy and transportation control measure sections of the Air Quality Management Plan (AQMP) for the Basin.

Regional Council for Rural Counties (RCRC)

The Regional Council of Rural Counties (RCRC) and its affiliates work hand-in-hand with member counties in areas of State and Federal advocacy, program development and outreach.

Improving the ability of rural California county government to provide services, reducing the

burden of state and federal mandates and promoting a "rural" understanding among urban focused policy makers are the foundation of RCRC's mission.

Rural Counties' Environmental Services Joint Powers Authority (ESJPA) was formed in response to new and costly state and federal mandates regulating local solid waste management programs.

Composed of 22 member counties, ESJPA advocates on behalf of rural counties and provides ongoing assistance to counties in their efforts to comply with state and federal environmental standards. ESJPA's Board includes county Supervisors and technical staff who provide the direction and expertise needed in this critical area.

BAASC

The Bay Area Alliance for Sustainable Communities **is a coalition** of business, environmental, social equity and government leaders who forge collaborative solutions **to improve the quality of life** in the nine-county San Francisco Bay Area.

This group is concerned about barriers to their collective prosperity, such as the cost of housing, traffic congestion and unsustainable use of natural resources. To advance regional sustainability, one of BAASC's main functions is to **facilitate dialog to identify shared goals** and develop joint action strategies for the area.



Resource

A map of Councils of Government is below. A complete listing with contact information is online: <http://www.calpin.ca.gov/directory/cog.asp>



Written by the UCANR Land Use Work Group.
<http://ucanr.org/landusefactsheets>



ESJPA advocates on behalf of rural counties and provides ongoing assistance to counties in their efforts to comply with state and federal environmental standards.

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RELATIONSHIP OF THE GENERAL PLAN PROCESS AND THE CEQA PROCESS



For efficiency's sake, the planning process and the environmental analysis should proceed concurrently.

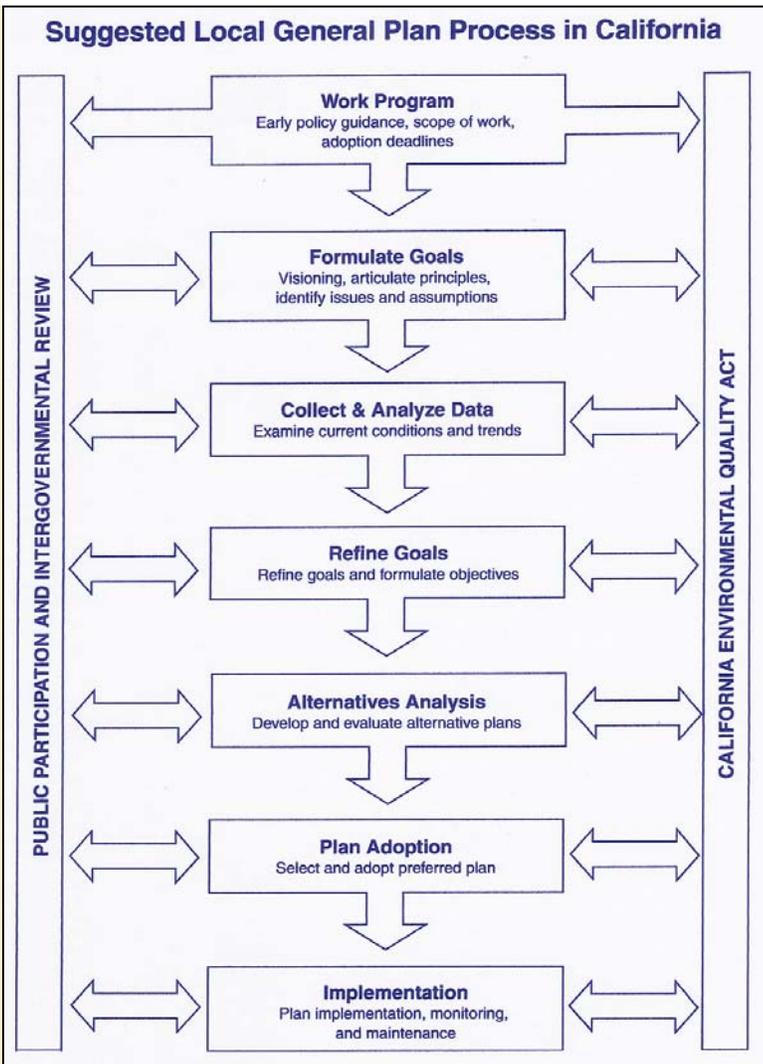
Doing so prevents unnecessary delays or duplication of work.

In other words, one process does not have to be put on hold while the other process "catches up." It might help to think of the two documents—the draft General Plan and the draft Environmental Impact Report—as different streams of information which eventually merge.

Because the draft Environmental Impact Report (EIR) must examine the alternatives being proposed in the draft General Plan (GP), it is not usually released for review until the draft GP is nearing completion. Most often, the draft EIR will be released after a preferred GP alternative has been identified.

If the plan undergoes too much change at this point, the draft EIR may need to be revised and re-circulated—a costly and time-consuming delay.

The EIR must describe the existing local and regional physical environment, emphasizing those features that are likely to be affected by the plan and the environmental constraints and resources that are rare or unique to the area.



It should describe existing infrastructure, such as roads, water systems, and sewage treatment facilities, along with their capacities and current levels of use. The EIR should also discuss any inconsistencies between the proposed plan and adopted regional plans as they may relate to environmental issues.

Flow chart courtesy of the Governor's Office on Planning and Research.

Written by Delaine Fragnoli and Holly George.
<http://ucanr.org/landusefactsheets>

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GENERAL PLANS: PRACTICING COMMUNITY VALUES

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A General Plan is a statement of community values and a promise to enact those values.



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What exactly is a General Plan?

California law requires that every county and city in the state prepare a comprehensive, long-term General Plan to guide future physical development. *See Fact Sheets 8, 10, 14 and 16 for more GP information.* General Plans cover a county or city's boundaries and "any land outside it boundaries which bears relation to its planning." A county's or city's land-use actions must be consistent with the adopted plan. Let's look at these requirements more closely.

What does it mean for a General Plan to be comprehensive?

First, it must be inclusive in a geographic sense. A county must address all its unincorporated areas, while a city must address land within its boundaries and within its legally established "sphere of influence."

A county should also consider the plans of every city within its boundaries. Thus, Plumas County needs to take into consideration Portola's plan, while Sierra County must consider Loyalton's. Such proactive planning can help avoid city-versus-county disputes over the same land. In fact, a city and county can jointly prepare and separately adopt a General Plan or individual elements of a plan.

For it to be geographically inclusive, a county's General Plan must also examine regional issues like air quality, transportation and floodplain management.

A General Plan must broadly address the community's general welfare—physical and environmental—but may also look at its social and economic health.

How long is long term?

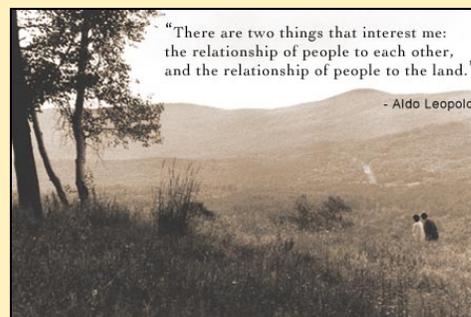
Planning is a continuous process. A General Plan is a living thing, a dynamic document based on continually evolving community conditions and values. It should be revised regularly as conditions change on the ground—an increase in population, new development in a neighboring county—and values shift.

The lifespan of a plan is usually 15-20 years. The Governor's Office of Planning and Research, a clearing-house for planning information, is required to notify a city or county when its plan has not been revised in eight years; if a city or county hasn't revised its plan within 10 years, the OPR must notify the state attorney general.

State law requires that the housing element in a General Plan be revised every five years.

What must be consistent with what?

A General Plan must be internally consistent, with no policy conflicts between plan components and amendments, either in the text itself or in accompanying maps and diagrams. Each individual component must be internally consistent as well.



Written by Delaine Fragnoli and Holly George.
<http://ucanr.org/landusefactsheets>

Funding provided by Renewable Resources Extension Act

THE GENERAL PLAN PROCESS

The Governor's Office of Planning and Research (OPR) recommends a seven-step approach whenever a city or county amends its General Plan, one or more elements are prepared or modified, or the plan is completely revised.

The appropriate legislative body initiates the process but may delegate day-to-day oversight to a committee or planning commission. (see *Fact Sheet #8*)



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Step 1: Establish a Work Program—Who does what when, and how much will it cost?

The work program should define the responsibilities of each department and/or individual and define the roles of any consultants—most new plans or comprehensive revisions make at least some use of consultants.

In addition, the work program should allow opportunities for community participation. State law mandates that the planning agency provide for the involvement of citizens, public agencies, public utility companies, and civic, educational, and other community groups through public hearings or other appropriate means.

The work program should contain a budget and establish a schedule for completing the work: most plan revisions take approximately two years & cost an average of \$845,000 for counties and \$255,000 for cities, paid for out of the general fund.

Because environmental review is fundamental to the planning process, environmental documents should be prepared concurrently with the General Plan.

Step 2: Formulate Goals—What kind of future do we want?

Initial goals may be articulated by the legislative body or through a public visioning process.

During this step, a community will define a vision of its preferred future, evaluate the important local and regulatory issues to be addressed by the plan, and note the assumptions it is making.

Step 3: Collect and Analyze Data—Who are we? What facilities do we have?

Planning staff will gather information about

- “green” infrastructure such as water, habitat, forest, and open space.
- physical infrastructure like schools, fire stations, roads, and water treatment plants.
- demographic information about population size and composition, and the distribution of low-income and minority populations.
- housing stock and needs for all income levels and special populations (the disabled, the elderly, large families, female-headed families, etc.).
- economic conditions such as employment, market demand, and fiscal impacts.
- existing commitments, policies, and regulations under previous plans and applicable state and federal regulations.





Step 4: Refine Goals—What are the possibilities?

All this information will invariably lead a community to revise its goals and objectives. From here, a community will begin to formulate possible policies and alternative plan proposals. Public participation during this step is essential to ensure that resulting options accurately reflect community values.

Step 5: Analyze Alternatives—Which version of the future looks best to us?

In this step, the idea is to compare and contrast possible futures. Each alternative should examine three major areas:

- An economic impact assessment tries to quantify the relative economic efficiency of the different proposals.
- A social impact assessment focuses on individuals and groups of people within the community in an attempt to identify and evaluate changes to people’s well-being and/or quality of life under the various scenarios.

An environmental impact assessment seeks to identify the potential significant environmental effects of the proposed alternative. (See the *CEQA Fact Sheet #12 for details.*)

Step 6: Adopt a Plan—Is this plan the one?

The lead planning agency will select a preferred plan—one of the alternatives or a synthesis of parts of several alternatives—and submit a draft plan to the public and legislative body for review. The draft must also be referred to various regional and state agencies. A majority of the total membership of a planning commission must recommend that a plan be approved before it can be forwarded to the city council or board of supervisors.

These elected bodies must hold at

least one public hearing before making a decision. The city council or board of supervisors must certify that it has considered the information contained in the final environmental impact report prior to adopting the proposal. The legislative body may then vote to adopt the plan, or it may be adopted by initiative or referendum, in which case residents will be able to vote for or against it.

Step 7: Implement the Plan—How are we doing?

The General Plan should identify local agencies responsible for implementing the plan and describe a formal process for regularly monitoring the plan. State law requires the planning agency to deliver annual reports to the legislative body on the plan’s status, progress, and implementation.

Later . . . Amending the General Plan

Once adopted, a GP is not written in stone. The most common way a plan is revised is through an amendment, usually in response to a privately initiated development project.

In general, local governments may not amend any one of the mandatory elements more than four times in a calendar year. Each amendment may include more than one change. Many local governments group together several proposals, review them individually, and analyze their cumulative impact. Thus, you may hear references to a county’s quarterly “winter,” “spring,” “summer,” or “fall” amendments.

When amending, local governments must follow the same public notice and hearing procedures required when adopting a plan. Or the amendments may be made by ballot initiative or referendum. Any amendments are subject to environmental review.

Written by Delaine Fragnoli and Holly George
<http://ucanr.org/landusefactsheets>

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LAND USE TERMS

This fact sheet contains a summary of around 90 terms and phrases relating to land use and planning matters.

It covers a variety of issues ranging from new development to conservation and environmental protection.

Accessory Use

An activity or structure that is incidental to the main use of a site.

Action plan

That part of a comprehensive or general plan that spells out in some detail how the plan's vision or goals are to be achieved. This includes a description of the responsible party, the specific actions to be taken and the time frame for completing the action. The time frame of the plan is usually between one and five years.

Benchmark

A performance monitoring standard that allows a community to periodically measure the extent to which the goals and policies of its comprehensive or general plan are met.

Boundary changes

Changes in the legal status and area of jurisdiction of a local community. This may be accomplished through annexation of all or a portion of a township, consolidation of two adjacent municipalities or detachment of part of a community and annexation by another community. Proposals for boundary changes are governed by state law.

Brownfield

An abandoned, idled or under-used industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination.

Building Envelope

The space remaining on a site for structures after all building setback, height limit, and bulk requirements have been met.

Capital Improvement Program

A timetable for the installation of permanent public structures, facilities, roads, and other improvements based upon budget projections.



CEQA

The California Environmental Quality Act (see Public Resources Code section 21000). CEQA requires that private and public projects' potential adverse effects upon the environment be reviewed by decision-makers.

Charter City

A city which has been incorporated under its own charter rather than under the general laws of the state. Charter cities have broader powers than do general law cities.

Cluster Development

Development which is bunched together in a portion of a site, leaving the remainder in open space. The amount of development allowed equals the amount that would have otherwise been allowed on the entire site.

COG

Council of Governments. California's 25 COGs are regional planning agencies concerned primarily with transportation planning and housing; they do not directly regulate land use. Elected officials from each of the cities and counties belonging to the COG make up its governing board.





The zoning ordinance should be consistent with the comprehensive or general plan.

Community Plan

A portion of the local general plan that focuses on a particular area or community within the city or county. Community plans supplement the contents of the general plan.

Compact Development

Refers to high-density communities designed so to be more livable and sustainable. This concept emphasizes neighborhoods, town centers, a mix of land uses, public transit, and pedestrian and bicycle accessibility. Sometimes referred to as "New Urbanism" or "Transit-Oriented Development" (TOD).

Comprehensive plan

See **General Plan**.

Conditional Use Permit (CUP)

A permit authorizing a use not routinely allowed on a particular site, subject to a public hearing. If approval is granted, the landowner must meet certain conditions to harmonize the project with its surroundings.

Consistency Requirement

The concept that the zoning ordinance should be consistent with the comprehensive or general plan. This conforms to established planning theory and practice that official controls, such as zoning ordinances and subdivision regulations, are the tools to implement the comprehensive or general plan. Most important, courts are tending to hold zoning

ordinances that are inconsistent with an adopted comprehensive or general plan to be invalid.

Dedication

A grant of private land to a public agency for public use. Dedications are often used to obtain roads and parkland needed to serve a project.

Density Bonus

An increase in the allowable number of residences granted by the city or county in return for the project's

providing low- or moderate-income housing. (see Government Code section 65915)

Design Review Board

A group appointed by the city council or Board of Supervisors to consider the design and aesthetics of development within all or a portion of the community.

Design standards

A set of guidelines on the appearance and aesthetics of buildings or improvements that governs construction, alteration, demolition or relocation of a building or improvement, including land improvements.



Development Agreement

A binding contract between a developer and a city or county establishing the conditions under which a particular development may occur. The local government "freezes" the regulations applicable to the site for an agreed upon period of time. (see Government Code section 65864)

Development Fees

Fees charged as a precondition to construction or development approval. The most common are: (1) impact fees (such as parkland acquisition fees, school facilities fees, or street construction fees) related to funding public improvements necessitated in part or in whole by the development; (2) connection fees (such as water fees) to cover the cost of installing public services to the development; (3) permit fees (such as building permits or grading permits) for the administrative costs of processing development plans; and, (4) application fees (rezoning, variance,



etc.) for the administrative costs of reviewing and hearing development proposals.

Downzone

A change of zoning to a more restrictive zone (for example, from multi-family residential to single-family residential).

Ecological Impact

A change in the natural environment that could disrupt wildlife habitat or vegetation, or that could cause air, water, noise, or soil pollution.

Environmental Corridors

Linear areas of natural resources that are critical to maintaining water quality and quantity and to providing habitat linkages that maintain biological diversity. Environmental corridors are often associated with rivers and streams.

EIR

See *Environmental Impact Report*.

Easement

The right to use property owned by another for a specific purpose. Power line easements are a common example.

Eminent Domain

The right of government to take private property for public use upon the payment of just compensation to the owner. This is also called condemnation (condemnation can also mean the closing of an unsafe structure by a public agency to protect the community safety).

Environmental Impact Report (EIR)

A document required by CEQA when an agency determines that a project may have a significant effect on the environment. An EIR evaluates a proposed project's impacts on the environment, and recommends mitigation measures to reduce or eliminate those impacts. Decision-makers use information in an EIR to help determine whether or not to approve a project.

Exaction

A fee or dedication required as a condition of development permit approval.

Exurban

Refers to a prosperous residential area outside a city, beyond the suburbs, generally consisting of lots five to forty acres in size.

Final Map Subdivision

Land divisions which create five or more lots. They must be consistent with the general plan and are generally subject to stricter requirements than parcel maps. Such requirements may include installing road improvements, the construction of drainage and sewer facilities, parkland dedications, and more. The final map must be filed before the tentative map expires. Approval of the final map is ministerial if all of the conditions of approval attached to the tentative map have been met.

Findings

The legal "footprints" which an agency must leave to bridge the analytical gap between the raw data considered by the agency and its ultimate decision. They expose its mode of analysis of facts, regulations, and policies.

Floor Area Ratio (FAR)

A measure of development intensity. FAR is the ratio of the floor area of a building to the area of its site. For instance, both a two-story building that covers an entire lot and a four-story building that covers 1/2 of a lot have FARs of 2.

General Law City

A city incorporated under and subject to the general laws of the state.

General Plan

The official public document adopted by a community as the policy guide for decisions about its future development and redevelopment. It consists of a vision





for the community, background data, goals, policy statements, standards and programs for guiding the physical, social and economic development of a community. A general plan usually includes, but is not limited to, a land use plan, transportation plan, public facilities plan, housing plan, parks and open space plan, environmental protection plan and implementation strategies. The time frame for a plan typically ranges from 15 to 25 years (see Government Code section 65300). Also known as a **Comprehensive Plan**.



General Plan Amendment

A general plan must be updated over time to maintain relevancy. The general plan can be amended through a comprehensive overhaul or through incremental change. Under state law, amendments of mandatory elements are allowed up to four times per year. An amendment can include any number of individual changes

grouped together into a formal amendment. Most often these interim amendments are made to accommodate the needs of a specific development proposal or to fine-tune the plan in a specific way.

"Granny" Housing

An accessory dwelling for one or more elderly persons that is attached to or separate from a main residence.

Government Code section 65852.1 allows cities and counties to approve such units in single-family neighborhoods.

Greenfield

Farmland and open areas where there has been no residential, commercial or industrial activity.

Growth Management

A local program limiting the rate of community growth. Growth

management strategies vary, but they can include capping the annual number of building permits, relating allowable development intensity to certain levels of infrastructure service or limiting the location of new development.

Impact Fees

See **Development Fees**.

Infill

Construction of new facilities such as housing and/or commercial centers within existing urban or suburban areas. Infill development may range from development on vacant lots the reuse of underutilized sites, such as older strip malls.

Infrastructure

Public facilities and services needed to support and sustain industry, residence, commerce and all other land use activities. It includes transportation, water and sewer, energy, telecommunications, recycling and solid waste disposal, parks and other public spaces, schools, police and fire protection, and health and welfare services.

Initial Study

An analysis of a project's potential environmental effects and their relative significance. An initial study is preliminary to deciding whether to prepare a negative declaration (a document describing why a project has no significant impact on the environment) or an Environmental Impact Report.

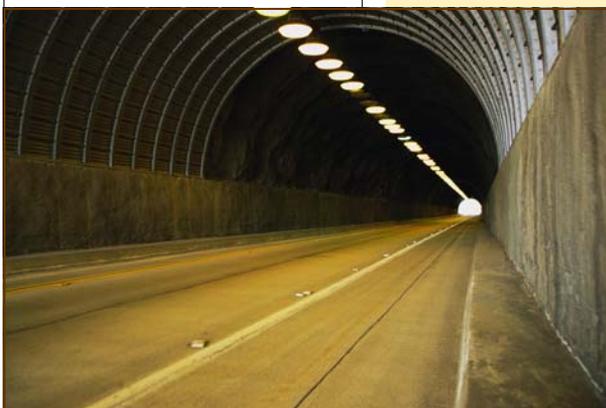
Initiative

A ballot measure which has qualified for election as a result of voter petition. At the local level, initiatives usually focus on changes or additions to the general plan and zoning ordinance. The initiative power is reserved for the public by the California Constitution.

Inverse Condemnation

The illegal removal of property value through excessive government regulation. Legal advice should be sought before proceeding in cases of potential inverse condemnation.

*A General Plan
...consists of a
vision for the
community....*



Local Agency Formation Commission (LAFCo)

A LAFCo is made up of elected officials from the county, cities, and, in some cases, special districts charged with administering the state law governing city incorporation and annexation proposals. The Cortese/Knox Act (see Government Code section 56000) establishes a Local Agency Formation Commission in each county.

Land use plan

A basic element of a comprehensive or general plan that designates the present and future location, form, class and extent (size) within a planning jurisdiction for residential, commercial, industrial and institutional (public areas and buildings) use or reuse. The land use plan includes a map and a written description of the different land use areas or districts. The land use plan serves as the guide for official land use decisions.

Level of Service (LOS)

A measurement of the quantity and quality of public facilities.

Mitigation Measure

The California Environmental Quality Act requires that when an environmental impact or potential impact will occur, measures must be proposed that will eliminate, avoid, rectify, compensate for or reduce that effect. It is the responsibility of the public agency approving the project to monitor these measures.



Mixed Use

The practice of allowing more than one type of use in a building or set of buildings. In planning terms, this can mean some combination of residential, commercial, industrial, office, institutional, or other land uses.

Moratorium

A halt to new development or the issuance of permits. Moratoria are often imposed while a new general plan or zoning ordinance is written or when sewer or water facilities are inadequate to serve additional development. (See Government Code section 65858)

Negative Declaration

A negative declaration is written when a project is subject to CEQA, but will not have a significant effect upon the environment. The negative declaration describes why the project will not have a significant effect and may propose measures that avoid all possible effects.

Nonconforming Use

A land use which does not meet current zoning requirements.

Overlay Zone

A zone which is superimposed upon other zoning. Overlay zones are used in areas which need special protection (as in a historic preservation district) or have special problems (such as steep slopes or flooding). Development of land subject to an overlay must comply with the regulations of both zones.

Open space

Land set aside and permanently restricted for conservation, agriculture or recreation purposes by a municipality, nonprofit conservation organization or land trust, homeowners association, or person. Open Space may include woodlands, pasture, landscaped yards, gardens or play areas, golf courses, walking and riding trails, and similar areas as appropriate to the site, but shall not include structures such as tennis courts, buildings, swimming pools or other impervious areas. Open Space may be open for public use or access to such areas may be restricted.

Ordinance

A term for a law or regulation officially adopted by a lesser unit of government such as a county board, township board or city council.



Open space is land set aside and permanently restricted for conservation, agriculture or recreation purposes.



Parcel Map

A minor subdivision resulting in fewer than five lots.

Planned Unit Development (PUD)

Land use zoning which allows the adoption of a set of development standards that are specific to a particular project. PUD zones usually do not contain detailed development standards; those are established during the process of considering proposals and adopted by ordinance upon project approval.

Planning commission

An appointed body that is the legal entity through which planning is carried

out. It is advisory to the city council, town board or county board. Their duties and authority vary and are governed by the ordinance that established them.

Plat

A plan or map of a specific land area. A subdivision plat may be filed to show detailed size and boundaries of each lot, easements, location of utilities, and streets and to state the restrictive covenants.

Police powers

Ability to regulate private behavior to protect the public health, safety, or welfare.

Redevelopment

Any proposed replacement of existing development.

Referendum

A voter challenge to legislative action taken by a city council or county board of supervisors. If enough voters' signatures are filed before the legislative action becomes final, the council or board must either rescind its decision or call an election on the issue.

The California Constitution guarantees the public's power of referendum.

Regional Plan

A plan that covers multiple jurisdictions, often within the administrative area of a regional planning commission, and that can be prepared jointly by cooperating municipalities, regional planning commissions, state agencies, or other entities.

School Impact Fees

Fees imposed on new developments to offset their impacts on area schools.

Setback

The minimum distance required by zoning to be maintained between two structures or between a structure and a property line.

Site Plan/Building Permit Authorization

All commercial, industrial, institutional, and multiple residential buildings must be reviewed and approved by both the Planning Commission and City Council or Board of Supervisors. The review is to assure that the site plan meets proper zoning performance standards (setbacks, height, landscaping, parking stalls, etc.) and that the appearance of the building meets community standards.

Smart Growth

An approach to land-use planning and growth management that recognizes connections between development and quality of life. The features that distinguish smart growth approaches vary. In general, smart growth invests time, attention, and resources in restoring community and vitality to city centers and older suburbs. In developing areas, the approach is more town-centered, is transit and pedestrian oriented, and has a greater mix of housing, commercial, and retail uses. Smart-growth approaches preserve open space and other environmental amenities.

Specific Plan

A plan addressing land use distribution, open space availability, infrastructure, and infrastructure financing for a portion of the community. Specific plans put the provisions of the local general plan into action (see Gov't. Code section 65450).



Smart growth
...recognizes
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Sphere of Influence

A plan for the "probable physical boundary and service area of a local agency" as approved by the LAFCO. It identifies the area available to a city for future annexation. However, unless another arrangement has been made, the city has no actual authority over land outside its city limits.

Spot Zoning

The zoning of an isolated parcel in a manner which is inconsistent or incompatible with surrounding zoning or land uses, particularly if done to favor a particular landowner. A conditional use permit is not a spot zone.

Stakeholder

Any organization, governmental entity or individual that has a stake in or may be affected by a given approach to environmental regulation, pollution prevention or energy conservation.

Strategic planning

A disciplined effort to produce fundamental decisions and actions that shape and guide what an organization is, what it does and why it does it. A strategic plan usually includes a vision statement, assessment of both the organization's external and internal environment, identification of the strategic, long-term issues facing an organization or community and development of strategies and implementation programs in the form of an action plan to deal with the strategic issues. The distinguishing features of a strategic plan are that it is focused, long-range and action-oriented.

Strip Development

Commercial and high-density residential development located adjacent to major streets. This type of development is characterized by its shallow depth, street-oriented layout, lack of unified design theme, and numerous points of street access. It impedes smooth traffic flow.

Subdivision

A housing development that is created by dividing a tract of land into two or more lots for sale or lease.

Subdivision regulations

Regulations and standards enacted by a community to control the proposed subdivision of land into lots or parcels. The standards may include procedures for subdivision review and approval (preliminary and final **plats**), design standards, improvements required (streets, sanitary and storm sewers, water supply, etc.) and dedication of land for parks and open space, streets, and so on. Like the zoning ordinance, it is a major device for implementing a comprehensive plan.

Suburban

Referring to a residential district located on the outskirts of a city.

Sustainable development

Development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. It is development that meets the needs of the present without compromising the ability of future generations to meet their own needs

Tax increment financing

A public financing tool whereby revenue bonds are issued to pay for the improvement of, or provision of, new public infrastructure in a defined area necessary to support and encourage its development. The community assumes the debt obligation. The assessed value of property in the defined area is frozen for a specific period for the general revenue purposes of the community, and the additional taxes generated by the increased valuations in the district created by the development are used to amortize the bonding.

Tentative Subdivision Map or Tentative Map

The map or drawing illustrating a subdivision proposal. The city or county will conditionally approve or deny the proposed subdivision based





upon the design depicted on the tentative map. A subdivision is not complete until the conditions of approval imposed upon the tentative map have been satisfied and a final map has been certified by the city or county and recorded with the county recorder.

Tract

An indefinite stretch or bounded piece of land; in subdivisions, a tract is often divided into individual lots.

Tract Map

See *final map subdivision*.

Traditional neighborhood design

Community design typical of communities built in the first part of the 20th Century and considered to be more "people-oriented" and "human" in scale. Characteristics may include narrow streets oriented to pedestrian and bicycle use, compact development patterns and mixed land uses, and the use of front porches and other features to encourage the interaction of residents.

Transit-Oriented Development (TOD)

A mixed-use community within an average one-fourth mile walking distance of a transit stop and commercial core area. The design, configuration, and mix of uses emphasize a pedestrian-oriented environment and reinforce the use of public transportation. TODs mix of residential, retail, office, open space, and public uses within comfortable walking distance, makes it convenient for residents and employees to travel by transit, bicycle or foot, as well as by car.

Transportation Systems Management (TSM)

A program coordinating many forms of transportation (car, bus, carpool, rapid transit, bicycle, etc.) in order to distribute the traffic impacts of new development. Instead of emphasizing road expansion or construction, TSM examines methods of increasing road efficiency.

Urban

Relating to or concerned with a city or densely populated area.

Urban Growth Boundary

The local government enacts an ordinance that defines on a map where growth will occur in the future and where basic services, such as schools, sewers, water facilities, and police and fire protection, can be provided economically.

Urban Sprawl

Low-density, automobile-dependent, and land-consumptive outward growth of a city; the spread of urban congestion and development into suburban and rural areas adjoining urban areas.

Variance

A limited waiver from the requirements of the zoning ordinance. Variance requests are subject to public hearing and may only be granted under special circumstances.

Vision

A description of a realistic and credible desired future for a community or organization. A vision is a key part of a strategic planning process.

Watershed

The physical land area that naturally drains into a lake, river or stream.

Zoning

Local codes regulating the use and development of property. The zoning ordinance divides the city or county into land use districts or "zones", illustrated on zoning maps, and specifies the allowable uses within each such zone. It establishes development standards such as minimum lot size, maximum structure height, building setbacks, and yard size.

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Written by Valerie Borel and Holly George.
<http://ucanr.org/landusefactsheets>

THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

UC UC Cooperative Extension CE Land Use Fact Sheet Series

12



Governments are required to consider potential environmental impacts of a project **before** they decide to approve it.

The purpose of CEQA is to disclose potential impacts of a project, suggest ways to minimize those impacts and discuss alternatives to the project so that decision makers can make informed decisions.

“Project” is defined broadly in CEQA and includes many things from annexation to zoning. Amendments to County and City General Plans usually require CEQA.

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The California Environmental Quality Act or CEQA is a complex law with a great deal of subtlety and local variation. *This fact sheet is a general overview of the CEQA law and Environmental Impact Report (EIR) process.* Contact your local planning department or go online (<http://www.ceres.ca.gov/ceqa>) to review *The California Environmental Quality Act: Statutes and Guidelines* for details about local government’s responsibilities.

Lead Agency

The agency (usually the planning dept.) responsible for issuing permits to a project is the “lead agency” and as such is responsible for seeing that environmental reviews are done according to CEQA and when necessary environmental analyses are prepared. The “lead agency” may do the environmental analysis themselves or contract the work out.



Preliminary Review

Analyzing a project’s potential environmental effect is a multi-step process. Many minor projects like single-family homes, remodeling, accessory structures and minor lot divisions are exempt from CEQA requirements and do not require an environmental review.

When a project is subject to CEQA, the lead agency prepares an “initial study” to assess the proposal’s potential adverse physical impacts.

Negative Declarations and EIRs

If the initial study shows that the project will not cause a “significant” impact on the environment or when it has been revised to eliminate all such impacts, a “negative declaration” is prepared. The negative declaration or ‘negative dec’ is an informational document that describes the reasons why the project will not have a significant effect and may propose measures (called “mitigation measures”) to

completely alleviate or avoid any possible detrimental effects.

If significant environmental effects are identified, then an Environmental Impact Report (EIR) must be written before the project can be considered by decision makers. An EIR discusses the proposed project, its environmental setting, its probable impacts, realistic means of reducing or eliminating those impacts, its

cumulative effects, and alternatives to the project.

CEQA requires that draft Negative Declarations and EIRs be made available for public review prior to consideration of the project. The review period allows concerned citizens and agencies to comment on the completeness and adequacy of the environmental review prior to its completion.

When a decision making body (City



Council, Board of Supervisors, etc.) approves a project, it must certify the adequacy of the environmental review. If its decision to approve a project will result in unavoidable significant impacts, the decision making body must not only certify

the EIR, but also state, in writing, its overriding reasons for granting the approval and how the impacts are to be addressed.

The Negative Declaration or an EIR is an *information document*. It does not, in itself, approve or deny a project. Environmental analysis must be done as

early as possible in the process of considering a project and must address the entire project. **There are several different types of EIRs** that may be prepared depending upon the project. They are described in the CEQA Statutes and Guidelines. (source: Governor's Office of Planning and Research)

An Environmental Impact Report or EIR must:

- ◆ Describe the existing local and regional environment, including any rare or unique resources.
- ◆ Describe the significant environmental effects that may result from the plan.
- ◆ Evaluate the proposed plan's impacts on existing environmental conditions as well as on the environmental conditions envisioned by the existing plan.
- ◆ Focus on the secondary effects of the plan. In addition to the direct impacts of any immediate projects described in the plan, the EIR must consider cumulative and growth-inducing consequences.
- ◆ Identify ways to avoid or minimize potential impacts.

- ◆ Incorporate those mitigation measures.
- ◆ Describe a reasonable range of alternatives and analyze each for its effects.
- ◆ Evaluate the "no project" alternative; that is, the report must consider what might happen if the plan were not adopted.

Preparing an EIR is a four-step process.

Step 1: Notice of Preparation (NOP)

The city or county notifies interested parties that it is preparing an EIR and solicits input. This information helps to identify important issues and to focus the scope and content of the draft report. The city or county must provide for at least one meeting to receive this feedback.

Step 2: Draft EIR

Using the comments from step 1, the city or county prepares a draft report and circulates it for review. This public review period lasts 45 days. CEQA does not mandate that local governments hold a public meeting on the draft report, but many have one or more. Such meetings may consider both the EIR and the General Plan.

Step 3: Final EIR

After the review period, the city or county prepares a final EIR containing the comments received during the review period and its written responses to them.

Step 4: Adoption and Certification

The city or county considers the final report and certifies its adequacy. The city council or county supervisors must explain how the environmental effects have been or should be mitigated, and offer rationales for any unmitigated effects. They must also adopt a reporting program to assure that the mitigation measures are carried out.



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Written by Delaine Fragnoli and Holly George
<http://ucanr.org/landusefactsheets>

THE BROWN ACT: MAKING MEETINGS PUBLIC



California's **BROWN ACT** stipulates that meetings of public bodies must be "open and public," actions may not be secret, and action taken in violation of open meetings laws may be voided.

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The **Brown Act**, officially known as the Ralph M. Brown Act (Sections 54950-54963), authored by Assemblyman Ralph M. Brown, was enacted in 1953 by the California State Legislature in an **effort to safeguard the public's right to access and participate in government meetings** within the State.

The Brown Act, originally a 686 word statute has grown substantially over the years.

It was enacted in response to mounting public concerns over informal, undisclosed meetings held by local elected officials which were not in compliance with requirements for advance public notice; instead, they were skirting laws by holding secret 'workshops' and 'study sessions'.

The Brown Act solely applies to California city and county government agencies, boards, special districts and councils, whereas the comparable [Bagley-Keane Act](#) mandates open meetings for State government agencies.

What is a "public body"?

Local agencies such as counties, cities, school and special districts are public bodies. So are legislative bodies of each agency—any boards, commissions, committees, task forces, or other advisory bodies created by the agency—whether they are temporary or permanent. City councils, boards of supervisors, planning



commissions, and a county's Local Agency Formation Commission (LAFCo) are public bodies.

When is a meeting a meeting?

Anytime the majority of the members of a covered board meet, The Brown Act applies. A meeting is any gathering to hear, discuss, or deliberate on matters within the body's purview. The meeting does not have to be face to face to be covered: an e-mail conversation or conference call counts. A meeting is still a meeting even if no decision is reached or no vote is taken.

The Brown Act allows for closed meetings under very limited circumstances: some personnel issues, pending litigation, some labor and property negotiations.



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Even then, the agency must post an agenda that lists the item, publicly report verbally or in writing any actions and votes taken in the closed session within 24 hours, and promptly make available copies of any approved contracts or settlements.

Dos and Don'ts Under Brown

Anytime a local public body meets, its members must

- post a notice and an agenda letting the public know when and where they are meeting and what they are going to discuss. They must mail a notice three days before a regular meeting to anyone who requests it. If a meeting is continued—that is, business isn't concluded during the allotted time and is carried over to another meeting—notice must once again be posted. In the case of a special meeting, a notice must be sent at least a day ahead to those who request it.
- notify the media of special or emergency meetings if requested.

- journalists have the right to remain in a meeting even if it is cleared due to public disturbance.
- hold meetings in universally accessible places within the jurisdiction without requiring a fee or sign-in.
- allow non-disruptive recordings and broadcasts. The public has a right to inspect any agency-made recordings. Such recordings may be destroyed after 30 days.
- provide opportunities for public comment.
- cast their votes publicly—no secret ballots.
- make public “without delay” any documents distributed to all or a majority of the members of the board before or during a meeting.

Alleged Violations and Penalties

If you suspect violation of the Brown Act, contact your County District Attorney. Individuals or the district attorney may file civil lawsuits to void action taken in violation of the Brown Act. A court may force the agency to make and preserve tapes of closed meetings, declare actions taken null and void, and award costs and attorney fees.

Additional Resources:

<http://www.thefirstamendment.org/brownact.html>

http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf

Written by Delaine Fragnoli and Holly George
<http://ucanr.org/landusefactsheets>

GENERAL PLAN LANGUAGE

UC
CE

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The following verbs signify different levels of commitment to a particular goal, objective, principle, etc.

Require denotes a mandatory action

Should means something that is expected to occur but is not mandatory

May is used for discretionary actions

Encourage or recommend describes a desired but discretionary outcome

NOTE: The Governor's Office of Planning and Research, a clearinghouse for planning information, warns that "using 'should' to give the impression of more commitment than actually intended is a common but unacceptable practice." In other words,

a General Plan can not just pay lip service to a goal, objective, policy, proposal, or measure.

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General Plan Language

Each city and county in California must prepare and adopt a comprehensive, long term **general plan** to guide its future. The general plan has been called the "constitution for future development."

The General Plan document contains text and a set of maps and diagrams. These should be clearly written and easy to interpret, without jargon, acronyms, or overly technical language.

That said, a plan uses certain words in specific ways. The text will include goals and objectives, principles, standards, and proposals.

It is important to understand what these terms mean in the context of a General Plan. The following list moves from the general to the specific.

A **goal** describes an ideal future end. It is a general expression of community values and may therefore be abstract. Goals are expressed as ends, not means.

An **objective** is a specified end, condition, or step that is an intermediate step toward attaining a stated goal. Objectives should be achievable, measurable, and time specific.

Principles are assumptions, doctrines, or fundamental rules. While they underlie the planning process, they are usually not expressed explicitly.

A **policy** is a specific statement that guides decision making; it commits a local legislative body—a city council or board of supervisors—to a particular course of action. It is based on and helps implement the plan's objectives.

Standards are rules or measures establishing a level of quality or quantity that must be met.

Plan proposals describe intended development in an area.

An **implementation measure** is an action, procedure, program, or technique that carries out plan policy. Each policy must have at least one corresponding implementation measure. That means a plan can't set a goal without describing how to reach it.

See other Fact Sheets for more Land Use Info

Written by Delaine Fragnoli and Holly George
<http://ucanr.org/landusefactsheets>

Funding provided by Renewable Resources

CONTACT INFORMATION

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Plumas County

Building and Planning Services

555 Main St.
Quincy, CA 95971
(530) 283-7011

www.countyofplumas.com/building_planning

Planning Commission

Mark Dotta
Elizabeth "Betsy" Schramel
Richard Rydell, Chairman
Danny Leonhardt
David Hockaday, Vice Chair

The Commission meets the first and third Thursdays in the Permit Center Conference Room, Building and Planning Services, 555 Main St., Quincy CA 95971. Contact Building and Planning Services for more details.

Board of Supervisors

520 Main St., Room 201
Quincy, CA 95971
(530) 283-6170
pcbs@countyofplumas.com

www.countyofplumas.com/board/index.htm

The Plumas County Board of Supervisors meets the first three Tuesdays of every month in the courthouse on the third floor. Agendas and minutes are posted on the website.

Local Agency Formation Commission

John Gullixson, Executive
Director
142 N. Gulling St.
Portola, CA
(530) 832-5269
plumaslafco@aol.com

Office hours: 10 a.m. to 4 p.m.
Mondays through Thursday

LAFCo meets the 2nd Monday of every month at 10 a.m. in the Board of Supervisors room in the courthouse in Quincy.

City of Portola

City Hall

35 Third St.
Portola, CA 96122
(530) 832-4216
www.ci.portola.ca.us

Leslie Tigan, City Clerk
l.tigan@ci.portola.ca.us

Jim Murphy, City
Administrator
(530) 832-6800
j.murphy@ci.portola.ca.us

City Planning Department
(530) 832-6808



Portola City Council

Meets 7 p.m. on Wednesdays in the City Council Chamber at City Hall. Agendas and minutes are posted on the website. Meetings are also televised on Charter Cable Channel 37 on Sunday at 7 p.m., Monday at 3 p.m., and Wednesday at 10 a.m. and 7 p.m.



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Portola Building Dept.

Todd Roberts, Building Official/Utility Manager/Public Works Superintendent
(530) 832-6804

t.roberts@ci.portola.ca.us

Sierra County

Board of Supervisors

PO Drawer B, Courthouse Ste 11, Downieville, CA 95936
(530) 289-3295 phone
Clerk-recorder@sierracounty.ws

<http://www.sierracounty.ws>

They meet the 1st Tues of the month in Downieville and the 3rd Tues @ the Loyalton Social Hall

City of Loyalton

City Hall

115 Front Street
Loyalton, CA 96118
(530) 993-6750

City Council

meets once a month on the third Tuesday at 7pm at the Loyalton Social Hall. Call City Hall for more details.



**Sierra County
Planning and Building**

101 Courthouse Square
P.O. Box 530
Downieville, CA 95936
(530) 289-3251 phone
building@sierracounty.ws
planning@sierracounty.ws

Tim H. Beals, Director
Planning & Transportation
P.O. Box 530
Downieville, CA 95936
(530) 289-3251
(530) 289-2828 (fax)

(also serves as secretary of the Sierra County Planning Commission & LAFCo Director)



Planning Commission

Usually meet once a month on the second Thursday following the first Tuesday at 9 a.m. The chairman decides location.

Commissioners
(date term expires)

- S. Phil Cammack (1/31/09)
- Richard Devore (1/31/11)
- Anne Eldred (1/31/09)
- Mike Freschi (1/31/09)
- Janet Loverin (1/31/11)

Written by Delaine Fragnoli and Holly George
<http://ucanr.org/landusefactsheets>

ELEMENTS OF A GENERAL PLAN

A General Plan takes community values and puts them into practice.

How does it do that?

The state of California requires that each city and county prepare a General Plan (GP) with seven elements that address the following:

Land use: what is the best use of our available land?

Circulation: how will we get around?

Housing: where will we live? Will there be enough housing? Can folks from all economic levels find affordable housing?

Conservation: how should we use our natural resources?

Open space: where and how much space should we set aside for agricultural use or green space?

Noise: what levels are acceptable where?

Safety: how do we protect ourselves from seismic, geologic, flood, fire and other hazards?

These elements share equal status: one does not take precedence over another. The provisions of one may not contradict the provisions of another.

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A General Plan may include optional elements like air quality, capital improvements, community design, economic development, energy, parks and recreation, flood management, geothermal, and water. Optional elements have the same legal force as mandatory elements. Once again, optional elements must be internally consistent, consistent with other optional elements, and consistent with the mandatory elements.

Calaveras County's current plan, for example, contains the required land use, housing, circulation, noise, and safety elements. The conservation element addresses the conservation, development and use of natural resources including water, forests, soils, rivers and mineral deposits.

Calaveras' open space element details plans and measures for preserving open space for natural resources, the managed production of resources, outdoor recreation, public health and safety, and the identification of agricultural land.

It also contains optional economic and public facilities elements.

Elements may be consolidated to avoid repetition. In other words, a plan does not have to have seven separate sections with one devoted to each element or with those elements as titles. Consolidation streamlines information and helps prevent inconsistencies from creeping in. Statewide, the trend is to combine elements into chapters that address issues which reappear in several elements.

How we plan and develop our communities has an enormous impact on the quality and quantity of



California's water. There are concerns across the state about adequate supplies for a variety of uses, water quality, flood damage and liability.

The Local Government Commission in Sacramento has an excellent website (<http://water.lgc.org/land-use-and-watersheds>) designed as a clearinghouse for information and resources related to land use and water resources. The relationship between land use and water will become increasingly critical given California's projected population growth and urbanization.

Resources

Element Consolidation: Streamlining Local General Plans, by the California Governor's Office of Planning and Research:
http://ceres.ca.gov/planning/element_consol/index.html

Calaveras County General Plan:
http://www.co.calaveras.ca.us/departments/planning/gen_plan.asp

Planning is bringing the future into the present so you can do something about it now."

- Alan Lakein, management guru

Written by Delaine Fragnoli and Holly George.
<http://ucanr.org/landusefactsheets>

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COST OF COMMUNITY SERVICES

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COCS studies help to evaluate working and open lands on equal ground with residential, commercial and industrial land uses.



Land use decisions affect the taxes you pay and your quality of life. A land use may generate a lot of money for local government; but if it requires services that cost more than it generates, it will end up costing local taxpayers even more money. Communities pay a high price for unplanned growth. Scattered development frequently causes traffic congestion, air and water pollution, loss of open space, crowded schools and increased demand for costly public services. This is why it is important for citizens and local leaders to understand the relationships between residential and commercial growth, agricultural land use, conservation and their community's bottom line.

Cost of Community Services (COCS) studies compare the fiscal contribution (positive or negative) of existing local land uses. COCS studies help to evaluate working and open lands on equal ground with residential, commercial and industrial land uses.

Researchers from a variety of backgrounds have undertaken COCS studies. Regardless of who conducted the research, the results have been consistent. Virtually all of the studies show that the COCS ratio is substantially above 1 for residential land, meaning that they cost the community more in services than they generate in taxes and fees. In most places, residential land is a net drain

on local government budgets. The average estimate ranges from about 1.15 to 1.50, which means that for every dollar collected in taxes and non-tax revenue, between \$1.15 and \$1.50 gets returned in the form of local government and school district services.

On the other hand, the COCS ratios for the other two land use categories are both substantially below 1. For commercial/industrial, the ratio usually ranges from 0.35 to 0.65, indicating that for every dollar collected, the local government provides only about 35 to 65 cents worth of services. For agriculture and open space, the ratios are only slightly smaller, usually ranging from 0.30 to 0.50. These land use categories generate less tax revenue; but they also cost the community less in terms of services rendered.



The primary reason that the ratios vary somewhat is that not all communities are identical. If many homes in a community are in an extremely high price range and occupied by "empty nesters," for example, the COCS ratio should be expected to be relatively low. On the other hand, low- or middle-income property occupied by families with numerous school-age children would produce a higher ratio. Some communities have gone beyond simply calculating a COCS ratio and have



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It is up to communities to balance goals such as maintaining affordable housing, creating jobs and conserving land. With good planning, these goals can complement rather than compete with each other.



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actually calculated the “break even” home value for their community. Not surprisingly, these values tend to be substantially higher than the median (average) home value.

According to COCS studies, the largest single expenditure category for communities is the public school system. Since open space and commercial development in themselves do not place any burden on the schools, it should not be surprising that their ratios are lower than those for the residential category.

COCS studies help address three claims or myths that are commonly made in rural or suburban communities facing growth pressures:

1. Open lands—including productive farms and forests are an interim land use that should be developed to their “highest and best use.”
2. Agricultural land gets an unfair tax break when it is assessed at its current use value for farming or ranching instead of at its potential value for residential or commercial use.
3. Residential development will lower property taxes by increasing the tax base.

While it is true that an acre of land with a new house generates more total revenue than an acre of hay, this tells us little about a community's bottom line. In areas where forestry and agriculture are major industries, it is especially important to consider the real property tax contribution of privately owned working lands.

Working and other open lands may generate less revenue than residential, commercial or industrial properties, but they require little public infrastructure and few services.

Twenty years of COCS studies show working lands generate more public revenues than they receive back in public services.

On average, residential land uses do not cover their costs thus they must be subsidized by other community land uses. *Converting agricultural land to residential land use should not be seen as a way to balance local budgets.* The findings of COCS studies are consistent with those of

conventional fiscal impact analyses, which document the high cost of residential development. COCS studies show that agricultural land is similar to other commercial and industrial uses. In every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for public services.

Communities need reliable information to help them see the full picture of their land uses. They also dispel the myths that residential development leads to lower taxes; that differential assessment programs give landowners an “unfair” tax break, and that farmland is an interim land use just waiting around for development.

One type of land use is not intrinsically better than another, and COCS studies are not meant to judge the overall public good or long-term merits of any land use or taxing structure. It is up to communities to balance goals such as maintaining affordable housing, creating jobs and conserving land. With good planning, these goals can complement rather than compete with each other. COCS studies give communities another tool to make decisions about their futures.

Resources

American Farmland Trust's (AFT) Farmland Information Center acts as a clearinghouse for information about Cost of Community Services studies. <http://www.farmland.org/services/fiscalplanning/default.asp>

AFT Fact Sheet on COCS Studies http://www.farmlandinfo.org/documents/27757/FS_COCS_11-02.pdf

Local Community Resources Fact Sheet, Cost of Community Services, University of Illinois Extension, <http://www.urbanext.uiuc.edu/lcr/LGIEN2000-0011.html>

Calculating a Cost of Community Services Ratio for You Pennsylvania Community, Pennsylvania State University <http://pubs.cas.psu.edu/FreePubs/pdfs/ua327.pdf>
Well documented process for COCS studies.

An Introduction to Cost of Community Services, University of New Hampshire Cooperative Extension, <http://extension.unh.edu/CommDev/Pubs/CstComSv.pdf>

Compiled and Edited by Holly George. <http://ucanr.org/landusefactsheets>

PROPERTY TAXES: WHY SOME LOCAL GOVERNMENTS GET MORE THAN OTHERS

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All of the funds generated by the 1% property tax rate stay in the county, though not all in county government.



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With permission, this fact sheet is adapted from several public documents and has been reviewed by professionals in the tax industry.

Property taxes are a major source of revenue for local communities. They have been part of California's tax structure since 1849.

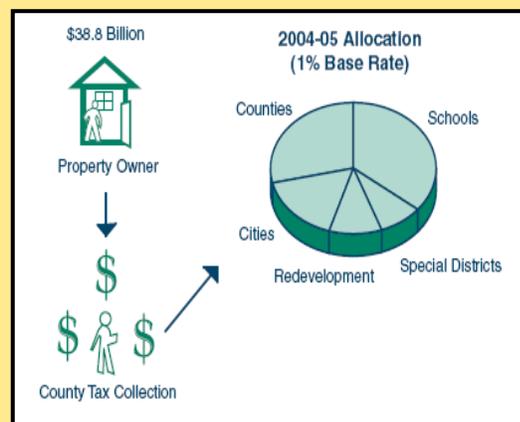
In 2005-06, the property tax raised \$38.3 billion. This amount includes \$34.9 billion under the 1 percent property tax rate and \$3.4 billion in additional property taxes levied to pay bonded indebtedness. Annually, property taxes raise about as much as the state's income tax or the combined state and local sales tax.

Property taxes are used exclusively for local purposes, unlike income and sales taxes. All property taxes are allocated within the county where they are collected. Taxes are distributed to schools (K-12 & community colleges), counties, cities, special districts and redevelopment agencies.

The distribution of property taxes for several counties (2005-06) is on page 3. Knowing the distribution percentage of the dollar helps but the other issues are the amount of money generated by the total valuation in the county, the percentage of the county which is privately owned and therefore possibly available for development or increased value, the kinds of services provided by government, the resident population vs. the second home population and their expectations of the services that should be available. Also, there are increasing costs of those services due to state or federal government regulations where local government

has no control - landfills as a big example. Economies of scale have to be considered, the impact of providing services in a rural vs. urban environment are different.

Property Taxes Are Distributed to Many Entities Within a County



(source: California Legislative Analyst's Office and LAO's Cal Facts 2006)

- Property taxes are collected by each county government. Revenues are then distributed only to entities within that county: school districts, county government, redevelopment agencies, cities and special districts.
 - The property tax rate is limited to 1 percent by the Constitution, plus any additional rate necessary to pay for voter-approved debt.
 - In 2005-06, the average tax rate across the state was 1.098 percent. Until the state's deficit-financing bonds are completely paid off, about one tenth of the schools' share of property taxes is redirected to cities and counties to repay some lost revenue from the sales tax shift. The state backfills the school loses. This triple flip was approved by voters 3/2004
- Assessment practices and property

Some communities provide a full array of services and others cities and counties rely upon special districts to provide some or all of these services.



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tax rates are uniform across the state yet there are significant differences between communities in how this money is distributed.

There are four major factors influencing this variation:

1. The number and value of homes and businesses in the area.
2. The extent to which a local government provides municipal services.
3. The extent to which land is included in a redevelopment area.
4. State laws governing the sharing of property taxes by entities serving a community.

All local governments are not the same. Communities with more land development and higher-value land developments receive more property taxes. Assessed value is generally the market value of a property at the time of purchase adjusted annually by a maximum of 2% for inflation. Typically, communities with more land developments require more public services, such as streets, water systems, and police and fire protection. Not all California cities, counties, and special districts have the same responsibilities. Some communities provide a full array of services and others cities and counties rely upon special districts to provide some or all of these services.

In addition to variations in program responsibilities, counties also differ in the number of people living in cities. In some counties, like

Alameda and Los Angeles, most of the people live in cities and receive many municipal services from their city government. Other counties have few or no cities. These counties have relatively more responsibilities.

Property Tax Base

The property tax applies to all classes of property—residential, commercial, industrial, agricultural, open space, timberland, vacant land and certain personal property.

Real property includes land, buildings, fixtures, mineral rights and other components.

Personal property includes things like equipment, machinery, and aircraft and is generally limited to businesses. Property owned by governments or charities, household personal property, automobiles, securities, and business inventories are exempt from property tax.

Possessory Interests are private interests in publicly owned lands and are taxable. Some examples include: US Forest Service property like ski resorts, stores, and cabins; boat slips at public marinas; tie-downs at public airports; grazing land permits; and mineral rights in public lands. This interest exists as a result of possession, exclusive use, or a right to possession or exclusive use of land and or improvements without outright ownership of the land or a life estate in the property.

Property Assessment

Most property (real and personal) is

California Property Tax Allocation					
<i>(Dollars in Billions)</i>					
Fiscal Years ^a	Revenue	Tax Distribution			
		Schools	Counties	Cities	Other ^b
1977-78	\$10.3	53%	30%	10%	7%
1979-80	5.7	39	32	13	16
1994-95	19.3	52	19	11	18
2005-06	38.3	55	17	10	18

^a Information for 1977-78 includes debt levies.
^b Redevelopment agencies and special districts.

Source of Figures: *California Tax Primer*, 2007 and http://www.boe.ca.gov/annual/pdf/2006/table14_06.pdf

assessed locally by the county assessors, although some property—including railroads and utilities—is assessed by the state.

Prior to the passage of Proposition 13, local governments were authorized to levy individual property tax rates. In 1978, Prop 13 imposed assessment restrictions on the property tax that limit local government’s ability to raise revenues from this tax.

Property tax is an *Ad Valorem Tax* meaning the tax assessed is based on the dollar value of an item or activity. Sales tax is another example. Ad valorem taxes contrast with per-unit taxes, such as California’s alcoholic beverage and cigarette taxes, which are assessed at a fixed dollar amount per unit of the item purchased.

Tax Collection

Secured Roll locally assessed - residential, commercial, all private property & State Board Rolls---utilities, railroads, communications, pipelines, etc.

Unsecured Roll is primarily tenant-owned personal property and fixtures such as office or mining equipment and machinery, boats, aircraft and possessory interests.

Supplemental Roll (most variable) assesses changes in ownership and new construction.

The State determines how property taxes are shared. The responsibility for allocating the property tax was assigned to the state by Prop 13.

Property Tax Rate

Under Proposition 13, the countywide property tax rate is limited to 1% of assessed value. Additional levies are permitted for voter-approved general obligation debt. For 2005-06, the average California countywide tax rate was 1.098%, with the highest at 1.159% for the County of Alameda.

Property Tax Allocation

The share of the 1 percent property tax rate received by individual local governments varies significantly throughout the state. This table shows the distribution of property taxes within a few selected counties.

Most of the variation reflects differences in property tax rates and assessed values during the mid-1970s, the period used as the basis for the state’s mandated tax allocation formulas. The share of property tax allocated to education agencies (schools and community colleges) versus other local governments has changed over time (*see table pg 2*).



2005-06 General Property Tax Dollar^a for Select California Counties

County	City	County Govt ^b	School ^b	Other Districts	Total
Butte	.05	.12	.62	.21	1.0
Los Angeles	.16	.21	.45	.18	1.0
Orange	.10	.06	.64	.20	1.0
Plumas	.01	.20	.69	.10	1.0
Sierra	.01	.50	.35	.14	1.0
All Counties	.10	.17	.55	.18	1.0

- a. Includes ad valorem levies for debt service on land and/or improvements only, but excludes special assessments levied on other than an ad valorem basis (e.g. per parcel).
- b. County levies for school purposes such as junior college tuition and countywide school levies are included with school levies. http://www.boe.ca.gov/annual/pdf/2006/table15_06.pdf

Before 1978, local agencies determined their property tax rate and the distribution of these revenues. In 1978, Proposition 13 set the 1% maximum rate and legislation determined how property taxes are shared. Beginning in 1979, the state basically prorated property tax revenues among local agencies based on property taxes received in 1978 and backfilled the reduced tax revenues to schools with State aid.

In the early 1990s, the State shifted property tax proceeds from local government to schools to pay the State General Fund obligation to fund education. These are in a special fund (Educational Revenue



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Augmentation Fund) called ERAF that is distributed to local schools.

In 2004, the State shifted property taxes from ERAF to cities and counties to partially offset revenue losses from 1) the ongoing reduction in the vehicle license fees and 2) the redirection of some local sales tax revenue for payment of the state's deficit-financing bonds (the "triple flip").

Each year, the State Board of Equalization calculates the CPI percentage and notifies the County Assessors of the increase or decrease (up to 2%) for valuation of most properties.

There are additional charges that show up on some people's tax bill. These are associated with special district or county user fees or voter approved bond debt, etc.

Property Tax Policy Issues

The property tax has numerous issues associated with it, including:

Fairness of Tax. Under current assessment methods, owners of identical properties can pay vastly different taxes based solely on when they purchased their property.

Variation in Property Tax Shares.

Individual local governments vary greatly in the share of the property tax they receive. Most of this variation reflects differences in local property tax rates and values during the mid-1970s. Local governments have no authority to modify the tax allocation formulas in response to modern needs and preferences. State authority to modify these

allocation formulas was greatly reduced due to voter approval of Proposition 1A in 2004.

Administrative Complexities.

The property tax's complex allocation formulas and many statutory provisions regarding assessment practices make it one of the state's most difficult taxes to administer.

Property Tax Burden Borne by Homeowners. The total share of the property tax paid by homeowners (versus business and other property owners) has increased modestly over the last three decades. The economic factors underlying this change are not known, but could include different rates of investment in homes vs other properties and different ownership transfer rates.

Resources

County Auditors, Assessors and Tax Collectors are excellent local resources.

The Legislative Analyst's Office (LAO) is a nonpartisan office which provides information to the California Legislature. To request publications call 916/445-4656 or www.lao.ca.gov

Cal Facts 2006, California's Economy and Budget in Perspective http://www.lao.ca.gov/2006/cal_facts/2006_calfacts_state_local.htm

California's Tax System: A Primer, April 2007 http://www.lao.ca.gov/2007/tax_primer/tax_primer_040907.aspx

Demystifying the California Property Tax Apportionment System: A Step-by-Step Guide through the AB 8 Process, March 2006, <http://www.ac.ocgov.com/dcptas.pdf>

California Property Tax an Overview, Publication 29, California State Board of Equalization, Sept 2005. <http://www.boe.ca.gov/proptaxes/pdf/pub29.pdf>

The Board of Equalization has lots of tax information <http://www.boe.ca.gov/>

Compiled and Edited by Holly George. <http://ucanr.org/landusefactsheets>