

SONOMA LOCAL AGENCY FORMATION COMMISSION

Item 5.1

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Staff Report

Meeting Date:	March 1, 2023
Agenda No.	Item 5.1
Agenda Item Title:	Outside Service Area Authorizations and Accessory Dwelling Units – Staff Guidelines
Environmental Determination:	None
Staff Contact:	Mark Bramfitt and Cynthia Olson

Analysis

Background

There are many unincorporated parcels in the County that are outside of a city or district boundary that are receiving municipal services (water and/or sanitation) from that agency. Prior to the State granting authority to LAFCO over the extension of an agency's services outside of its boundary, extraterritorial services were provided through a variety of means including infrastructure agreements and assessment districts. These service extensions are notably prominent proximate to the City of Santa Rosa.

Section 56133 of the California Government Code requires a city or district to obtain written approval from LAFCO to provide new or extended services by contract or agreement outside its jurisdictional boundary.

In 2006, the Commission adopted a policy formalizing the authority of the Executive Officer to review and approve or disapprove this extension of services through the authorization of Outside Service Area Agreements (OSAA) (Attachment 1).

Section 56133(b) states that the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

In 2009, the Commission considered this section of the law and adopted a policy that adds additional conditions for authorization of an extension of this type: there must be a documented existing or potential threat to public health or safety and the authorization is for existing development only (Attachment 1).

In the simplest of terms, the authorization of an OSAA by the Commission is primarily intended to provide relief to a property owner who has suffered the loss of well or septic system capability for the development existing on the property. In some cases, the Commission has also authorized OSAA's to address groundwater contamination and the potential for environmental harm to residents. Staff has applied this policy to its review of requests to authorize OSAA's.

In recent years, the California State legislature has passed a series of laws to remove barriers to the development of housing and has specifically addressed the development of Accessory Dwelling Units (ADUs).

There are a variety of ADU classifications, e.g., "Junior" ADUs (JADUs), which are units developed within an existing structure; "attached" ADUs, which are incorporated into an expanded existing structure; and "stand-alone" ADUs, which are new, separate structures. The extension of extraterritorial utility services to these structures is a new or extended service when new connections are required, as they often are.

The State has not addressed “new or extended services” and the LAFCO process in its various enactments concerning ADUs. If a property owner would like (or needs) a new extraterritorial utility connection for an ADU, LAFCO must still authorize the extraterritorial service.

Proposed Blanket Authorization

Responding to both agency and landowner inquiries regarding the Commission’s policy on OSAs and its impact on ADU development is a significant portion of staff workload. Staff currently reviews each request on a case-by-case basis, considering State law, Commission policy and any documentation related to the original extension of service.

In a 2001 update of Cortese-Knox, Section 56133 was amended to state that the requirement for LAFCO authorization does not apply to an extended service that a city or district was providing on or before January 1, 2001. However, court precedent makes clear that this grandfathering applies to the physical extension of service, and not to agreements to provide service that has not yet been provided.

Many of the requests for the extension of service come from owners whose parcels are included within the boundary of an agreement or assessment area that was established prior to 2001. The agreements are not enough on their own to provide grandfathering, but a blanket authorization in these agreement areas could harmonize LAFCO policy with State policy, provide clarity to the public, and increase efficiency. It would also place ADUs that require a new connection on the same footing with ADUs that do not.

The areas to be included in this blanket authorization, which are all proximate to the City of Santa Rosa, are as follows:

Name	Type of Service
Broadmoor Acres	Sewer
Brooks /Ward/Buck Roads	Sewer
Industry West Complex	Sewer
South Wright Road Areas 1, 2, 3, and the Area 7 extension	Sewer
Yuba Drive	Sewer
Willowside Estates	Sewer
South of Todd Road Fire Protection Assessment District	Water
Hansen Drive Assessment District	Sewer
Middle Rincon Road Assessment District	Sewer and Water (optional)

Maps the areas are attached (Attachment 2). The specific parcels to be included in the blanket authorization will be determined in collaboration with City staff.

Staff proposes to impose the following conditions on the blanket authorization:

- The parties to the agreements establishing the service area (e.g., the city and county) have determined that extension of service to an ADU will not require an amendment to the existing agreements.

- The City has confirmed in writing that it is willing and has capacity to serve the extension of service to an ADU.
- The County of Sonoma has confirmed in writing that the addition of an ADU on the parcel is legal and can be properly permitted.

Exclusions

Staff proposed that the blanket authorization would not apply to the following:

- The extension of a public service (eg water or sewer) not previously provided.
- The extension of service to new parcels created from a lot split or other subdivision of the existing parcel
- The extension of service to a territory resulting from a lot line adjustment and/or the merging of a parcel, or portion thereof, located within the agreement area with one or more parcels, or a portion thereof, located outside of the agreement area.

SB 9 (2021) requires ministerial approval of certain lot splits. This has sometimes been referred to as the “four on one” statute, whereby an existing property with a single-family home could split the lot, add an ADU to the home, and develop a home and ADU on the split parcel. SB 9 contains a variety of other restraints, addressing environmental factors and the potential for displacement, but it was broadly intended to address the housing crisis by allowing four dwellings within single-family zoning.

Under Staff’s proposal, a service extension granted to the original parcel would allow for the service to be extended to new development (as permitted by the County and agreed to by the agency providing service) but not to the new parcel created by the split. The split parcel would have to be developed, under County guidelines, using groundwater and septic services,

For all other parcels with existing and authorized OSAs, staff will continue to review and analyze the requests for new or additional services to serve ADUs on a case-by-case basis using State law, the Commission’s policies, and the terms of the existing agreements, for direction.

Staff would propose to expand the same logic to additional geographical areas after it completes a review of the other applicable agreements.

Local Agencies Retain Land Use Planning Authority

Staff notes that the development of ADUs on properties being served by an agency outside of its boundary is governed by the County’s General Plan and zoning ordinances, as well as applicable State law. Additionally, the extension of services is also subject to plans, policies and regulations of the agency providing the utility services. While the Commission has no jurisdiction over land use, the Commission retains complete authority over extraterritorial service authorizations.

Agencies Have No Obligation to Provide Extra-Territorial Service

It should be noted that agencies (cities and special districts) have no obligation to provide municipal services outside of their boundaries. Although provision of service to modest numbers of properties outside an agency jurisdiction is generally not considered largely impactful, agencies rarely, if ever consider that service in their infrastructure and water supply planning. Staff is not aware of an Urban Water Management Plan that specifically addresses potential water use increases from provisions of OSAA's.

The City of Sonoma has severely restricted provision of water service outside of its boundary through a clause in its Urban Growth Boundary ordinance, essentially limiting applicability to two existing parcels, one of which has recently secured an OSAA.

Valley of the Moon Water District will not, as a matter of policy, countenance any provision of services under an OSAA, requiring potential applicants to seek annexation to the district.

Recommendation

Staff is requesting the Commission review and provide comments on the proposed blanket authorization regarding the request for the extension of additional public services to Accessory Dwelling Units on parcels that were provided municipal services prior to 2001. If the Commission agrees with the proposed blanket authorization, Staff will return with a resolution on consent.

Alternate Recommendation

Continue considering OSAA authorizations involving ADUs on a case-by-case basis based on existing Commission policies.

Attachments

1. Commission Policy – OSAA's
2. Maps of the Agreement/Assessment Areas