



# COMMISSION AND COMMITTEE HANDBOOK



Updated August 19, 2024

# TABLE OF CONTENTS

<b>WELCOME .....</b>	<b>3</b>
Mission Statement	
About the City of Irvine	
Strategic Business Plan	
<b>CHAPTER ONE –GENERAL INFORMATION .....</b>	<b>7</b>
1.1 Purpose of Commissions and Committees .....	7
1.2 How Appointments Are Made .....	8
1.3 Eligibility Requirements/Qualifications .....	8
1.4 Term of Office .....	8
1.5 Authorizing Documents .....	9
1.6 Bylaws.....	9
1.7 Meeting Times.....	9
1.8 Meetings .....	9
1.9 Chairperson and Vice Chairperson Election .....	9
1.10 Attendance.....	9
1.11 Compensation and Expenses.....	10
1.12 Technology .....	11
<b>CHAPTER TWO –COMMISSION ROLE AND RELATIONSHIPS.....</b>	<b>12</b>
2.1 Council–Commission/Committee Relationship .....	12
2.2 Staff Responsibilities .....	12
2.3 City Clerk .....	13
2.4 City Attorney .....	13
<b>CHAPTER THREE – MEETING PROTOCOL.....</b>	<b>14</b>
3.1 Agenda Preparation and Posting.....	14
3.2 Preparation for Meetings .....	14
3.3 Rules of Debate .....	15
3.3.1 Chairperson .....	15
3.3.2 Commission/Committee Members .....	15
3.3.3 Addressing the Commission/Committee from the Floor.....	16
3.4 Decorum in Meetings .....	16
3.5 Role of Chairperson .....	17
3.6 Preparing Motions .....	18
<b>CHAPTER FOUR – LEGAL MATTERS.....</b>	<b>20</b>
4.1 The Ralph M. Brown Act .....	20
4.1.1 Meeting Types .....	21
4.1.2 Regular Meetings.....	22
4.1.3 Email Communications between Commission Members .....	23
4.1.4 Communications with the Public Outside Meetings .....	23
4.1.5 Adjournment or Continuance.....	23
4.2 Conflict of Interest/Statements of Economic Interests Form 700.....	23
4.3 Code of Ethics.....	26
4.3.1 Ethical Public Service Ordinance - Measure H .....	27
4.3.2 Ethics Training - AB1234.....	27
4.4 Campaign Contributions by Appointees and Commissioners .....	28

<b>CHAPTER FIVE – STRUCTURE OF GOVERNMENT .....</b>	<b>29</b>
5.1 City Council/City Manager Form of Government .....	29
5.2 City Organization.....	29
5.2.1 Administrative Services Department.....	29
5.2.2 City Clerk’s Department .....	29
5.2.3 City Manager’s Department.....	29
5.2.4 Communications & Engagement Department .....	30
5.2.5 Community Development Department .....	30
5.2.6 Community Services Department.....	30
5.2.7 Human Resources Department .....	30
5.2.8 Project Delivery & Sustainability Department.....	31
5.2.9 Public Safety Department.....	31
5.2.10 Public Works & Transportation Department .....	31
5.2.11 Great Park Corporation.....	31

<b>CHAPTER SIX – PUBLIC RECORDS / MEDIA RELATIONS.....</b>	<b>32</b>
6.1 Public Records .....	32
6.1.1 Electronic Mail (Email).....	32
6.2 Media .....	33
6.2.1 Press Releases.....	33
6.2.2 Irvine Community Television (ICTV) / Electronic Bulletin Board Service .....	33
6.2.3 Web Site .....	34
6.2.4 Community Magazine.....	34

**APPENDICES.....35**

- APPENDIX A: City of Irvine Ordinance 22-02**
- APPENDIX B: FPPC Overview of Conflicts of Interest Under the Political Reform Act**
- APPENDIX C: Recognizing Conflicts of Interest**
- APPENDIX D: A Guide to the Ralph M. Brown Act**
- APPENDIX E: Article VIII of the City Charter (Commissions, Committees and Agencies)**
- APPENDIX F: Municipal Code, Title 1, Division 4 (Commissions and Committees)**
- APPENDIX G: Municipal Code Sections 1-6-101 through 1-6-110 (Code of Ethics)**
- APPENDIX H: Ethical Public Service Ordinance – Measure H**
- APPENDIX I: Campaign Contributions by Appointees and Commissioners**
- APPENDIX J: Community Services Commission Bylaws**
- APPENDIX K: Diversity, Equity, and Inclusion Committee Bylaws**
- APPENDIX L: Finance Commission Bylaws**
- APPENDIX M: Investment Advisory Committee Bylaws**
- APPENDIX N: Irvine Aquatics Advisory Committee Bylaws**
- APPENDIX O: Irvine Child Care Committee Bylaws**
- APPENDIX P: Irvine Children, Youth and Families Advisory Committee Bylaws**
- APPENDIX Q: Irvine Residents with Disabilities Advisory Board Bylaws**
- APPENDIX R: Irvine Sports Committee Bylaws**
- APPENDIX S: Great Park Board Bylaws**
- APPENDIX T: Planning Commission Bylaws**
- APPENDIX U: Senior Citizens Council Bylaws**
- APPENDIX V: Sustainability Commission Bylaws**
- APPENDIX W: Transportation Commission Bylaws**



## WELCOME

Thank you for your willingness to serve as a member of a City of Irvine commission or committee. Advisory bodies play an important role in City governance and serve as a primary conduit between citizens, City staff and departments, and the City Council.

As a member, you will serve in an advisory capacity to the City Council, performing a valuable service by addressing community needs. The Mayor and City Councilmembers look forward to your contributions as we work together providing efficient municipal services that are responsive to local needs and expectations.

This handbook is designed to provide the basic protocols that apply generally to all long-standing City commissions and committees, such as the open meeting laws commonly known as the “Brown Act.” Orientation is an active process and includes initial meetings with a staff liaison who will provide you with general knowledge and understanding of public affairs. Your staff liaison will also assist you in identifying the scope and parameters of your duties and responsibilities, brief you on current business items, and provide you with foundational documentation to help you quickly adapt to your new role. Learning your role and developing an effective voice takes time and familiarity. We hope this handbook will assist you towards a satisfying and productive experience.

Your willingness to participate and offer professional expertise is deeply appreciated by the City Council, City department staff, and your community. The vitality and strength of our community is found in people like you who are willing to serve.

For more information about the City of Irvine and the numerous programs, events and services it offers, please visit our website at [cityofirvine.org](http://cityofirvine.org).

A handwritten signature in black ink, appearing to read "Carl Petersen", is written over a horizontal line.

Carl Petersen, MPA, CMC  
City Clerk



# CITY OF IRVINE MISSION STATEMENT

*The Mission of the Employees of the City of Irvine is to create and maintain a community where people can live, work and play in an environment that is safe, vibrant and aesthetically pleasing.*

*The City of Irvine's five values reflect the interests and needs of the community, and the level of service they expect and deserve.*

*Our five values are:*

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## INNOVATION

*We encourage new ideas to meet the needs of our community in a creative, progressive manner.*

## INTEGRITY

*We are guided by high standards of moral and ethical principles in all that we do.*

## PROFESSIONALISM

*We strive to be the best through excellence, leadership and training.*

## FLEXIBILITY

*We appreciate the diversity of opinion resulting from a participatory government, and strive to be versatile in our dynamic organization.*

## RESPONSIVENESS

*We believe in responding with mutual respect and sensitivity to the needs of the people we serve and to our fellow employees.*

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### OUR COMMITMENT

*To provide quality municipal services.*

### OUR BELIEF

*Cooperation and teamwork will help us achieve our mission.*

## About the City of Irvine

The City of Irvine was incorporated on December 28, 1971 under the general laws of the State of California. In 1975, the City became a charter city, deriving its authority from the California Constitution, subject to limitations established by the City Charter and by the California Legislature as to matters of statewide concern. The City operates under a City Council/City Manager form of government. The City Manager is appointed by the City Council to function as the chief administrator of the City. The City Council sets the policy directions for the City, and the City Manager is charged with implementing those directions. Additionally, the City Manager keeps the City Council informed of City operations, prepares the annual budget, oversees special programs, and coordinates the various department activities.

The City of Irvine is one of the nation's largest planned urban communities and encompasses more than 66 square miles. The City includes three independent districts: library, educational and utility services. Fire and medical services are contracted with the County of Orange.

Other government services include:

- Animal control and sheltering
- Building and safety regulation and inspection
- General administrative services
- Planning and zoning
- Police
- Public facility/capital improvement construction
- Recreation and cultural programs
- Refuse collection and recycling
- Street lighting
- Street maintenance
- Landscape maintenance
- Transportation management

## Strategic Business Plan

As a blueprint for the City's future, the Strategic Business Plan defines the Irvine City Council's goals and evaluates the City's financial capacity to achieve them. Each year, the City Council reviews the Strategic Business Plan and sets funding priorities for the upcoming fiscal year using the financial projections contained within the Plan. When funds are not available to fulfill every goal, priority services are funded first.

The City Council's priorities include:

- A clean and well-maintained environment
- A safe community
- Economic prosperity and a livable community
- Effective government

The City's Budget and Strategic Business Plan are excellent resources to familiarize you with the City's financial planning, strategic goals, objectives, and long-term vision. Both documents are available on the City web site at [cityofirvine.org](http://cityofirvine.org), through your staff liaison, or by contacting the City Clerk's Office at (949) 724-6205.



# **CHAPTER ONE**

# **GENERAL INFORMATION**

## Chapter One –General Information

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### 1.1 Purpose of Commissions and Committees

Commissions and committees play an important role in City government by assisting and advising the City Council in formulating and implementing policies. Commissions and committees also develop recommendations and present supporting information to the City Council to assist the elected policy-making body of the City in its decision-making. Certain advisory bodies, such as the Planning Commission, have the authority to make final decisions in some cases, which include certain land use permit or entitlement-related decisions; however, those decisions may also be appealed to the City Council for final consideration. Other matters that are considered by the Planning Commission, such as General Plan Amendments, require the City Council's final determination.

The formation of commissions and committees is governed by Article VIII of the City Charter and Sections 1-4-101 through 1-4-304 of the Municipal Code. The City Council establishes commissions and committees by resolution or ordinance. Commissions and committees also have the power to appoint subcommittees consisting solely of their own members to perform specified tasks within their respective general areas of concern. Committees and task forces are generally established by resolution or minute order. A task force is generally given a defined period of time to accomplish their tasks and then dissolved.

The City of Irvine has numerous commissions and committees, each with distinct responsibilities. As a new member, you should familiarize yourself with the documents governing your particular advisory body, which may include City ordinances, resolutions, bylaws, relevant element(s) of the General Plan, the City Budget, and recent staff reports. These documents are available through your staff liaison or by contacting the City Clerk's office at (949) 724-6205.

Existing commissions and committees include:

Commissions:

Community Services Commission  
Finance Commission  
Planning Commission  
Senior Citizens Council  
Sustainability Commission  
Transportation Commission

Committees:

Diversity, Equity, and Inclusion Committee  
Hotel Improvement District Committee  
Investment Advisory Committee  
Irvine Child Care Committee

## Chapter One –General Information (Cont.)

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Irvine Children, Youth, and Families Advisory Committee  
Irvine Sports Committee

### Boards

Irvine Aquatics Advisory Board  
Irvine Residents with Disabilities Advisory Board  
Great Park Board

## **1.2 How Appointments Are Made**

Unless otherwise specified in respective Commission/Committee bylaws or City Council Action, each City Councilmember has the authority to appoint one representative to each commission and committee.

In addition, any citizen interested in serving on a commission or committee that includes at-large appointees (those not appointed as a representative by a City Councilmember) are invited to complete an application form and submit it to the City Clerk's Office. Applications remain on file for one year. When an unscheduled vacancy occurs, applications of persons interested in serving on the particular body are accepted, and those on file are reviewed. All applications on file and received as a result of the vacancy are forwarded to the respective elected official for consideration. For the record, appointments are formalized in writing and filed with the City Clerk.

## **1.3 Eligibility Requirements/Qualifications**

Unless otherwise specified, any person, whether or not a resident of the City of Irvine, is eligible to serve on a committee; however, members of commissions must be residents of the City of Irvine (unless the unanimous approval of the City Council is obtained) and eligible to register to vote in municipal elections. Any person appointed by a Councilmember to serve on a commission or committee is a voting member thereof.

## **1.4 Term of Office**

Any commission or committee member appointed by a Councilmember serves at the will of that Councilmember for a term expiring upon the expiration of the Councilmember's term. Terms of office for at-large appointees are typically two-years, but may vary by committee. A commission or committee member may also resign from office for various reasons or be replaced by their appointing Councilmember prior to the expiration of his or her term.

The term of office for members of a task force is generally for the life of the task force and/or when assigned tasks have been completed to the satisfaction of the City Council.

## **Chapter One –General Information (Cont.)**

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### **1.5 Authorizing Documents**

The City Council approves the formation, composition, and responsibilities of all advisory bodies. Some advisory bodies, such as the Planning Commission, have responsibilities under State law. All advisory bodies operate under City Council auspices and are responsible to the City Council for compliance with their respective bylaws, the City Charter, City Council policies, the Municipal Code, the Zoning Code, and the Brown Act (Open Meeting Law), among other regulations.

### **1.6 Bylaws**

Generally, commission and committee operations, procedures, and duties are established in adopted bylaws. Bylaws are reviewed by the City Attorney and require formal approval by the City Council. Bylaws or policies for each commission and committee whose members include public appointees are provided in the Appendices J-W.

### **1.7 Meeting Times**

City commissions and committees meet on a regular basis, usually once or twice per month. Meetings are open to the public. The calling of a special meeting, or the cancellation of any regular meeting, must be coordinated between the Chairperson and staff, and shall be subject to notice under the Brown Act and City Council Policies/Procedures. Commission and committee members must also be notified in advance of the canceling or scheduling of meetings. Refer to Chapter Three for information regarding noticing requirements and meeting protocol.

### **1.8 Meetings**

A majority of the members of a commission or committee constitutes a quorum, unless otherwise stated in the bylaws. No business may be transacted without a quorum. A member who is unable to attend a meeting is responsible for notifying the Chairperson or staff at the earliest possible time.

### **1.9 Chairperson and Vice Chairperson Election**

Generally, each commission and committee select a Chairperson and Vice Chairperson annually, according to the respective bylaws. In some cases, a Chair Pro Tem is also selected.

### **1.10 Attendance**

For advisory bodies to function effectively and accomplish their goals, all members must be active participants, and are encouraged to attend all meetings. Any member who is absent more than the number of excused or unexcused absences allowed by the applicable bylaws shall forfeit commission or committee membership.

## Chapter One –General Information (Cont.)

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Municipal Code Section 1-4-208(b) states:

*It shall be the duty of each commissioner to take an active part in the commission's deliberation and to act in whatever capacity the commissioner may be called. Absence from three consecutive meetings without the formal consent of the commission shall be deemed to constitute the retirement of the commissioner, and the position shall automatically become vacant.*

### **1.11 Compensation and Expenses:**

Members of long-standing City Commissions are entitled to a monthly stipend that is authorized by City Council resolution. Members of short-term committees and task forces formed to address a particular project or specific area of concern do not receive a stipend.

<b>Planning Commission:</b>	\$300 per calendar month (paid quarterly) and may be allowed reasonable travel and/or other expenses actually incurred while traveling or engaged in business by the Commission (Resolution No. 23-83).
<b>Community Services Commission</b>	\$225 per calendar month (paid quarterly) and may be allowed reasonable travel and/or other expenses actually incurred while traveling or engaged in business by the Commission (Resolution No. 23-83).
<b>Finance Commission</b>	\$225 per calendar month (paid quarterly) and may be allowed reasonable travel and/or other expenses actually incurred while traveling or engaged in business by the Commission (Resolution No. 23-83).

## Chapter One –General Information (Cont.)

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<b>Senior Citizens Council</b>	\$225 per calendar month (paid quarterly) and may be allowed reasonable travel and/or other expenses actually incurred while traveling or engaged in business by the Commission (Resolution No. 23-83).
<b>Sustainability Commission</b>	\$225 per calendar month (paid quarterly) and may be allowed reasonable travel and/or other expenses actually incurred while traveling or engaged in business by the Commission (Resolution No. 23-83).
<b>Transportation Commission</b>	\$225 per calendar month (paid quarterly) and may be allowed reasonable travel and/or other expenses actually incurred while traveling or engaged in business by the Commission (Resolution No. 23-83).

### 1.12 Technology

The City continues to use technology as a mechanism to provide enhanced service delivery using efficient applications to accomplish economic efficiencies in the delivery of basic services. City Commissioners will be provided an iPad for the purpose of receiving electronic agendas as well as MS Office applications. This will enable Commissioners to receive information quickly and efficiently while simultaneously reducing paper and labor costs associated with agenda packet publication and distribution.



# **CHAPTER TWO**

## **COMMISSION/ COMMITTEE ROLE AND RELATIONSHIPS**

## **Chapter Two –Commission/Committee Role and Relationships**

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### **2.1 Council–Commission/Committee Relationship**

The primary purpose of all advisory bodies is to provide judicious advice to the City Council. The role of a commission/committee can include hearing public testimony on the City Council’s behalf, building community consensus for proposals or projects, reviewing written materials, facilitating study of critical issues, guiding the implementation of new or regulating established programs, assessing the alternatives regarding issues of community concern, and ultimately forwarding recommendations to the City Council for consideration. There are times when a commission/committee recommendation will not be sustained or will be modified by the City Council. It is important not to recognize this as a rejection of the integrity of the recommendation, but rather, as an inevitable part of the process of community decision-making.

Throughout this process, the form and formality of the relationship between commission/committee members and Councilmembers will vary. Some commission/committee members will have regular contact with individual Councilmembers as well as the appointing Councilmember, while others may serve solely in the group context. There are times when the Chairperson may address the City Council formally on behalf of the commission/committee, and other times when a commission/committee member may meet with a Councilmember individually. It is important to aim for clarity and mutual respect for the different responsibilities and roles at all times.

### **2.2 Staff Responsibilities**

Important staff responsibilities include:

- Being informed about the latest developments in their field.
- Providing background and internal perspective to the commission/committee on important issues.
- Providing administrative support, including agenda and report preparation, and recording of minutes at meetings.
- Assisting the commission/committee to move through meeting agenda items to ensure Commission business is advanced.
- Interpreting relevant City, State, and Federal laws and policies.
- Alerting commission/committee members of concerns related to Commission business.
- Presenting commission/committee recommendations to the City Council.

## **Chapter Two –Commission Role and Relationships (Cont.)**

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### **2.3 City Clerk**

The City Clerk's Office accepts and maintains commission/committee applications, updates membership rosters, and maintains a library of bylaws for the various advisory bodies. The office is also a resource to the various City departments with respect to the Ralph M. Brown Act, City Council Policies/Procedures, public records requests, and meeting procedural questions. The City Clerk is the filing officer for Fair Political Practices Commission (FPPC) Form 700 Statements of Economic Interests, Campaign Statements, and Lobbyist Reports as required by City and State laws. The City's Conflict-of-Interest Code outlines which commission/committee members are required to file FPPC Form 700.

### **2.4 City Attorney**

The City Attorney is the primary resource for understanding compliance with City, State, and Federal laws, including but not limited to the Ralph M. Brown Act and conflict of interest regulations.



# **CHAPTER THREE**

# **MEETING PROTOCOL**

## Chapter Three – Meeting Protocol

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### 3.1 Agenda Preparation and Posting

Agendas and staff reports for commission and committee meetings are prepared by staff in accordance with the City's agenda preparation guidelines (City Council Resolution No. 22-21) and the Ralph M. Brown Act ("Brown Act"), also sometimes referred to as the open meeting law. The Brown Act is explained in detail in Chapter Four.

Agendas for regular meetings must be posted no later than seven (7) days for commissions and committees prior to the meeting date/time. Agendas for special meetings must be posted no later than 24 hours prior to the meeting date/time. Your staff liaison will ensure that you are provided an agenda packet in a timely fashion prior to each commission or committee meeting. The agenda packet will include the posted meeting agenda notice, staff reports and recommended actions, and general information. Once the agenda is posted and distributed to a majority of the commission/committee members, it becomes a public record.

Meeting agendas, staff reports, notices, and minutes of each advisory body are maintained by the City in accordance with the City's records retention schedule. Following the meeting, staff will prepare the minutes and place them on a subsequent agenda for approval.

### 3.2 Preparation for Meetings

- Be prepared. Thoroughly review the agenda packet, including agenda reports and recommended actions, and any other materials *before* the meeting. The issues that come before commissions/committees are important to the community as a whole and demand your consistent attention.

Some questions to ask yourself may include:

- What is the history behind the item?
- What are some public concerns and what are the long-term interests of the community?
- What are we trying to accomplish and what are the benefits/drawbacks?
- What guidance can be found in our foundational documents?

If you have additional questions regarding the agenda or agenda report, contact your Department Director before the meeting for clarification or additional information.

## Chapter Three – Meeting Protocol (Cont.)

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- Keep an open mind. An objective, balanced, and receptive approach will help you assess the facets of a given issue, and evaluate new ideas. When receiving written and oral public testimony, it will be necessary to discern between fact and opinion, as well as between those concerns that are relevant and those that are secondary to the issue at hand. Keeping an open mind will make it easier for you to understand all sides of an issue before you make a judgment or take a position.
- Strive to appreciate differences in approach and points of view. Diversity of ideas sustains a thoughtful dialogue and a vibrant community. Likewise, take care to articulate your own ideas. Remember that your individual voice is a critical part of the whole dialogue. Again, furthering common goals takes cooperation, flexibility, and a broad-based view of the public interest. If in doubt, return to the foundational documents to guide your understanding of the complexities of an issue.
- Ask for clarification if you are unsure about something *during* the meeting. Your understanding of issues is important. Each commission and committee has a City staff liaison to provide information to assist the members throughout the decision-making process.

### 3.3 Rules of Debate

Unless otherwise provided by law, Robert's Rules of Order, Newly Revised, governs the general conduct of committee or commission meetings.

#### 3.3.1 Chairperson

The Chairperson (presiding officer) may move or second a motion, and debate as Chairperson. The Chairperson is subject to the limitations of debate that are imposed on all members and shall not be deprived of any of the rights and privileges of a member.

#### 3.3.2 Commission/Committee Members

Every commission or committee member desiring to speak shall address the Chairperson, and upon recognition by the Chairperson, shall limit comments to the question under debate, avoiding all indecorous language and references to personalities. A member, once recognized, shall not be interrupted except in accordance with rules of parliamentary procedure (for example, point of order, parliamentary inquiry, question of privilege, or appeal of Chairperson's procedural ruling).

### **3.3.3 Addressing the Commission/Committee from the Floor**

#### *Securing Permission to Speak*

A member of the public desiring to address a commission or committee shall first secure permission from the Chairperson. Any commission or committee member may also request of the Chairperson that a member of the public be recognized to speak. Remarks should be directed to the matter being considered.

#### Individuals

So that their identities are accurately reported in the record, those addressing the commission or committee are requested to give their name in an audible tone of voice and fill out a request to speak provided for that purpose. However, persons shall not be denied the opportunity to address the commission or committee because they decline to identify themselves or to fill out a request to speak. The time limit for public testimony shall be as stated in the agenda, which may be amended by the Chairperson or a majority of the commission or committee.

All remarks shall be addressed to the commission or committee as a whole and not to any individual member or to members of the audience. No person, other than a member of the commission or committee, and the person having the floor, shall be permitted to enter into any discussion without the permission of the Chairperson.

While commission or committee members may ask questions of a speaker, they should not debate matters with a speaker. All remarks shall be delivered in a respectful manner.

#### Spokesperson for Group Presentations

Organized groups that wish to make a presentation longer than the time allowed for public testimony should contact commission or committee staff prior to the meeting. Exceptions to time limits imposed upon speakers are at the discretion of the Chairperson or a majority of the commission or committee.

### **3.4 Decorum in Meetings**

- Arrive promptly to ensure the meeting is called to order on time.
- Be fair, impartial, and respectful of the public, staff, and each other. Give your full attention when others speak.
- Conclude public testimony before commission or committee members begin serious deliberation on an issue.

## Chapter Three – Meeting Protocol (Cont.)

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- Balance multiple views, neither favoring nor ignoring one individual or group over another. Your obligation is to represent a broad-based view of the community's long-range interests.
- Remember that your commission or committee exists to take actions and/or develop recommendations to the City Council in the interest of advancing City Council policies and addressing community issues. It is not simply a discussion group.

### 3.5 Role of Chairperson

The Chairperson shall preserve order and decorum at all meetings of the commission/committee, announce the decisions taken, and decide questions of order. The Chairperson is responsible for ensuring the effectiveness of the group process. A good Chairperson balances moving the discussion forward with involving all of the commission/committee members and allowing for adequate public participation. The Chairperson will also endeavor to end meetings at a reasonable hour. In the absence of the Chairperson, the Vice Chairperson shall act as presiding officer.

The Chairperson will:

- Start meetings on time and keep the agenda in mind in order to give each item sufficient time for consideration.
- Announce at the start of a meeting if the order of agenda items is to be rearranged for convenience, for response to those attending only for certain items, or for better pacing of the agenda.
- Ensure that the public understands the nature of the issue being discussed (for example, reason for discussion, process to be followed, opportunities for public input, timeline for decision).
- Keep discussion focused on the issue at hand.
- Solicit opinions from commission/committee members and encourage evaluation of new, tentative, or incomplete ideas.
- If the body's bylaws or policies impose time limits upon board members or the public, the rule may be enforced at the discretion of the Chairperson.
- Protect commission/committee members, staff, and the public from personal attacks.
- Provide structure for addressing complicated issues.
- Refer to staff or legal counsel when technical guidance is required.
- Attempt to reach decisions expeditiously on action items. At those times when action would be premature and additional analysis is needed, the Chairperson will guide discussion toward a timeline or framework for responsible action.

### 3.6 Preparing Motions

Commission/committee meetings are conducted according to parliamentary procedure. As the presiding officer, the Chairperson's rulings must be followed unless he/she is overruled by a majority vote of the body upon an appeal of a ruling.

When a commission/committee member wishes to propose an action on a particular item on the posted agenda for the commission/committee to consider, the member makes a motion.

#### Examples of Common Motions:

- **Delay consideration:** *"I move to continue the item until..."* (date specific or date uncertain).
- **Lay on the Table:** *"I move to lay the question on the table."* A motion to lay a pending question aside temporarily in order to take up something else of immediate urgency. The motion requires a 2/3 vote for adoption.
- **Limit or Extend Debate:** *"I move that debate be limited to one speech of three minutes for each member."* The motion requires a 2/3 vote for adoption.
- **Close Debate:** *"I move (or call) the previous question."* This ends debate immediately in order to call for a motion for the previous question. The motion requires a 2/3 vote for adoption.
- **Request More Study:** *"I move to refer this to staff or (committee) for further study."*
- **Request Information:** *"Point of information...."*
- **Amend a Motion:** *"I move to amend the motion by..."* If the amendment is accepted by the maker and a second is made, then it is considered a "friendly amendment" and no separate vote is required. If it is not accepted, then a separate vote to amend the main motion is required. The amendment must be voted on before the main motion.
- **Adopt a Staff Recommendation:** *"I move to adopt staff recommendation to..."*
- **Deny Staff Recommendation:** *"I move to deny staff recommendation to..."*
- **Modify Staff Recommendation:** *"I move to adopt the recommendation with the following modifications:..."*

Properly phrasing a motion can be difficult and corrections may be necessary before it is acted upon. Until the Chairperson states the motion, the member making the motion may rephrase or withdraw it.

## Chapter Three – Meeting Protocol (Cont.)

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Members may wish to write out difficult motions. If a motion gets too complicated, call a recess and have staff assist with the wording.

It is best to avoid including more than one proposal in the same motion. This is especially important when commission/committee members are likely to disagree.

Any member may make a motion to bifurcate or divide a motion in order to treat each proposal as a separate motion.

A motion goes through the following steps:

1. The member asks to be recognized by the Chairperson.
2. The member makes the motion: *“I move that we...”*
3. Another member seconds the motion: *“I second the motion.”*
4. The Chairperson restates the motion, or asks the recording secretary to do so, and asks for discussion on the motion.
5. When the Chairperson determines that there has been enough discussion, the debate may be closed with: *“I call the question.”* or *“Is there any further discussion?”*
6. If no one asks for permission to speak, the Chairperson then puts the motion to a vote: *“All those in favor say aye. All those opposed say nay.”* If voting lights are used, the Chairperson will state, “Please vote.”
7. The Chairperson should restate the motion prior to the vote to ensure the motion is clearly understood by all. Any member may request a roll call vote on a motion.
8. After the vote, the Chairperson or the recording secretary announces one of the following:
  - a. *“The motion carries unanimously.”*
  - b. *“The motion carries \_\_\_ to \_\_\_ (identifying the number of aye and nay votes, and listing individually if requested).”*
  - c. *“The motion has failed.”*



# **CHAPTER FOUR**

# **LEGAL MATTERS**

## Chapter Four – Legal Matters

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### 4.1 The Ralph M. Brown Act and City Council Ordinance No. 22-02

Most City of Irvine advisory bodies are subject to State law governing open meetings related to proceedings of local agencies. The California law governing open meetings, formally entitled the Ralph M. Brown Act and commonly referred to simply as the Brown Act, is found in California Government Code Section 54950 et seq.

The Brown Act was enacted by the Legislature to ensure that local public agencies deliberate and take action on governmental matters at meetings open to the public and in which the public may participate. To further this goal, the Brown Act generally requires that all items proposed to be discussed or voted at a local agency meeting on be noticed on a posted agenda. Agendas must include a brief description of each such item.

City Council Ordinance No. 22-02 was adopted by the City Council on April 12, 2022 revising and modifying the Municipal Code as it relates to public meetings and public records. The ordinance applies to the City Council, Great Park Board, and all City Commissions and Committees.

#### Agenda Materials

With limited exception, the public must also have access to all staff reports and writings in connection with an agenda item once they are disseminated to a majority or all of the members of an advisory body. This includes writings distributed by staff, a board member or the public after the posting of the agenda or during a meeting.

#### Public Comments

The posted agenda also shall indicate when members of the public have the opportunity to address the commission/committee. Members of the public may testify to any agenda item before action is taken. The public may also testify to non-agenda matters that fall within the jurisdiction of the advisory body. Although the commission or committee is prohibited from engaging in discussions or acting on matters not on the agenda, a member of the advisory body may briefly respond to statements or questions posed by the public; ask questions for clarification; refer the matter to staff; or direct staff to place a matter of business on a future agenda. Commission or committee members may also make brief announcements or report on his/her own activities within the purview of the advisory body.

## Chapter Four –Legal Matters (Cont.)

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### Non-Agendized Items

Discussion or action on items that are not included in the posted agenda may only occur in limited circumstances. To discuss or act on an item *not* included in the posted agenda, a commission/committee must:

- Determine that the need to take action arose after the agenda was posted, and that the action is required prior to the next meeting, with a brief explanation of the circumstances constituting the need for action and the reason the need arose after posting the agenda. This explanation should be included in the meeting minutes.
- Approve the above determinations by a vote of at least two-thirds of the members of the body, or by a unanimous vote if less than two-thirds of the members are present.
- Discuss and take action on the item if the determinations are approved.
- Include that action in the meeting's minutes.

Informational items placed on an agenda may not be acted upon at the meeting. Any member may, however, request that the informational item be placed on a future agenda for consideration.

The Legislature amends provisions of the Brown Act periodically, rendering the law increasingly complicated. It is recommended you familiarize yourself with the provisions of the Brown Act by reviewing "Open & Public IV: A "Guide to the Ralph M. Brown Act," a publication of the League of California Cities, which is included in [Appendix D](#). The full text of the Brown Act can be accessed on the Web at [leginfo.ca.gov](http://leginfo.ca.gov), by selecting "California Law," "Government Code," and entering Section "54950."

#### **4.1.1 Meeting Types**

The Brown Act regulates a legislative body's regular meetings, adjourned meetings, special meetings, and emergency meetings. In addition, City Council Policies/Procedures (Ordinance No. 22-02, City Council Resolution No. 22-21) further increases transparency and participatory democracy by expanding Brown Act requirements for the City Council, Great Park Board, and City Commissions and Committees.

- ❖ "Regular meetings" occur at the dates, times, and locations set by resolution, ordinance, bylaws or other formal action of the legislative body and are subject to seven (7) day posting requirements.
- ❖ "Adjourned meetings" are regular or special meetings that have been adjourned to a time and place specified in the order of adjournment, usually to a date prior to the next Regular Meeting.

## Chapter Four –Legal Matters (Cont.)

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- ❖ “Special meetings” are called by the chairperson or a majority of the legislative body to discuss specific items on the agenda, and are subject to 24-hour posting requirements.
- ❖ “Emergency meetings” are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities, and require a one-hour notice prior to holding the meeting.

Commission/committee staff is responsible for identifying the type of meeting and posting all notices, including the agenda and any notice of adjournment, and will make available to the public copies of agendas, notices, any supplemental documentation, and minutes in accordance with the Brown Act, the Public Records Act, City Council Ordinance No. 22-02, City Council Resolution No. 22-21, and the City’s records retention schedule.

### 4.1.2 Regular Meetings

The Brown Act requires each legislative body to set the time for regular meetings by ordinance, resolution, bylaws, or whatever specifies the conduct of that body’s business. Traditionally, this has been the bylaws of the legislative body. City Council approves all changes in bylaws, including the change of scheduled meeting dates and times.

Under City Council policy, regular meetings are generally held at City Hall or at other City facilities. Meetings may be held outside City facilities when City space is not available. Neighborhood meetings may be held outside City facilities.

The Brown Act generally requires boards, commissions and committees to conduct public meetings. A “meeting” is considered to take place any time that a quorum of the advisory body gathers to discuss that body’s business or to take action. Further, the Brown Act prohibits a quorum from meeting privately. (A “task force” may or may not be subject to the Brown Act depending upon its composition and purpose.) To this end, the Brown Act specifically prohibits “any use of direct communication, personal intermediaries or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body.” Hence the prohibition extends not only to personal contacts of the commission or committee members among themselves outside a public meeting, but also prohibits “serial” meetings whereby information is ultimately exchanged among a quorum of the members via in-person discussions, by phone or by email. The preferred course of action for members needing information should be through contact with City staff.

### **4.1.3 Email Communications between Commission Members**

Because email communications can ultimately lead to the exchange of information intended to, or which may, create collective concurrence among a quorum of commission/committee members, email communications between commission/committee members relative to commission/committee business should be avoided. While two members of a five-member board, for example, may appropriately communicate with one another by way of email, the “forwarding” of such an email message to a third member could result in a Brown Act violation.

### **4.1.4 Communications with the Public Outside of Meetings**

The Brown Act does not limit a commission or committee member acting on his or her own outside public meetings. This exception recognizes the right to confer with constituents, advocates, consultants, the media, or City staff. However, members of commissions and committee should exercise care and good judgment with respect to information learned as a result of such contacts. Decisions at public meetings should be based on a consideration only of the information, testimony and documents that has been presented to all members at or in connection with the meeting, and not on private discussions or transmittals (which are sometimes referred to as ex parte communications).

### **4.1.5 Adjournment or Continuance**

A legislative body may adjourn or continue any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the adjournment or continuance notice. A copy of the adjournment or continuance notice shall be conspicuously posted on or near the door where the meeting was held within twenty-four (24) hours after the time of adjournment or continuance. If the matter is continued to a time less than twenty-four (24) hours after the adjournment, a copy of the continuance notice shall be posted immediately following the meeting that was continued.

## **4.2 Conflict of Interest/Statements of Economic Interests Form 700**

The Political Reform Act (PRA) was adopted by the voters of California as an initiative (Proposition 9) in 1974. The Fair Political Practices Commission (FPPC) is the enforcement agency for the Political Reform Act. One of the PRA’s main purposes is to prevent financial conflicts of interest on the part of public officials. The Act requires public officials to disclose all financial interests, such as investments, interests in real estate or sources of income, which the official may possibly affect by the exercise of his or her official duties. If a public official has a conflict of interest, the PRA may require the official to disqualify himself or herself

## Chapter Four –Legal Matters (Cont.)

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from making or participating in a government decision, or using his or her official position to influence a government decision.

### What is a Conflict of Interest?

The Political Reform Act of 1974, which is codified as Government Code Section 87100 et seq., provides that no public official at any level of State or local government shall make, participate in making, or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a financial interest.

An official has a financial interest in a decision within the meaning of Section 87100 of the PRA if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- 1) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000.00) or more.
- 2) Any real property in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000.00) or more.
- 3) Any source of income, other than gifts and other loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the public official within twelve months prior to the time when the decision is made.
- 4) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- 5) Any donor, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty (\$250) or more in value provided to, received by, or promised to the public official within twelve months prior to the time when the decision is made.

For purposes of Section 87100, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own (directly, indirectly, or beneficially) a ten percent interest or greater.

### How does the Political Reform Act prevent Conflicts of Interest?

- 1) By Disclosure: The Political Reform Act requires every public official to disclose all financial interests, such as investments, interests in real estate (real property), or sources of income, which the official may possibly affect by the exercise of his or her official duties. “Gifts” as defined by the PRA that you receive or accept may also be subject to disclosure. Gifts aggregating \$50 or more in a calendar year generally must be disclosed. No public official may accept gifts aggregating \$590 or more in a calendar year from the same source. (This amount is adjusted every two years.) In addition, you may be subject to disqualification as a result of accepting gifts over that amount from the same source within the twelve month period before the proposed decision. Disclosure is made on a form called a “Statement of Economic Interests Form (Form 700).

The City of Irvine has adopted a Conflict of Interest Code which requires certain designated employees, consultants and members of specified City boards, commissions and committees who engage in governmental decisions to declare personal financial information by filing a Form 700. Form 700 must be filed upon assuming office and annually thereafter. Upon appointment, the City Clerk will provide each commission or committee member who is required to file Form 700 the necessary documents for filing. Form 700 filings are retained on file by the City Clerk and are deemed a public record.

- 2) By Disqualification: If a public official has a conflict of interest, the Political Reform Act requires the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a governmental decision.

### How can a public official determine if he or she has a Conflict of Interest?

Having a conflict of interest is not necessarily forbidden or illegal. It is the failure to disclose and/or the participation through voting or attempting to influence on issues where one has a conflict that contributes to the illegal action, subjecting the individual to possible criminal and civil penalties, and nullifying the action of the City.

When a commission or committee member suspects that he or she may have a conflict of interest, the City Attorney may be consulted. The official may be referred to the FPPC for guidance or an opinion because the advice of the City Attorney cannot be relied on to excuse a violation of the PRA.

The “FPPC Overview of Conflicts of Interest Under the Political Reform Act” and “Recognizing Conflicts of Interest?” are resources provided by the FPPC and are included in Appendices [B](#) and [C](#) for reference. These resources provide a

## Chapter Four –Legal Matters (Cont.)

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general overview of the laws regarding potential financial conflicts of interest of public officials as well as reporting requirements. The applicability of the conflict of interest laws depends on the unique facts of each particular case. Questions regarding specific situations may be directed to the City Attorney or the FPPC.

Staff will provide maps to Planning Commissioners for the purpose of determining whether a conflict of interest exists in any particular matter coming before the Planning Commission as a direct result of the proximity of the individual's property to a proposed project.

Real property in which the public official has an economic interest will be deemed "directly involved" where the real property is either the subject of the government action, or is located within 500 feet of the real property that is the subject of the governmental action. Real property is the "subject of government action" in any of the following contexts (FPPC § 18704.2):

- Zoning
- Rezoning
- Annexation
- De-annexation
- Land use entitlement
- License
- Permit
- Taxes
- Fees
- Public improvements (e.g., streets, water, sewer, etc.).

### 4.3 Code of Ethics

In 2006, the City Council passed Ordinance No. 06-01 adopting a Code of Ethics to establish clear and affirmative ethical principles and standards reflecting the core values of the community, and to support and encourage the highest personal and professional conduct at every level of municipal government. For purposes of the City's Code of Ethics, "City officials" and "employees" are defined to include the following individuals:

- Mayor
- Vice Mayor
- Councilmembers
- City Council Executive Assistants
- City Manager
- Assistant City Manager
- City Clerk

## Chapter Four –Legal Matters (Cont.)

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- Department Directors
- Deputy Department Directors
- Chief of Police
- Deputy Police Chief
- City Attorney
- Zoning Administrator
- Planning, Community Services, Finance, and Transportation Commissioners, and any other commission that is advisory in nature.

The City's Code of Ethics contains specific principles and standards of conduct to serve as guidelines for ethical behavior. Ordinance No. 06-01 which was codified as Municipal Code Section 1-6-101 et seq., can be found in [Appendix G](#).

### **4.3.1 Ethical Public Service Ordinance - Measure H**

On June 3, 2008, the City conducted a Special Election and as a result, the Irvine City Council Ethical Public Service Ordinance (Initiative Ordinance 08-03), or Measure H, was passed by Irvine voters. Measure H and codified as Irvine Municipal Code Sections 1-9-101 through 1-9-104 and is an extension of the City's Code of Ethics. A copy of the Ordinance is also included in [Appendix H](#).

Measure H prohibits elected officials, their Executive Assistants and appointed Commissioners from engaging in compensated employment or service for the purpose of lobbying for any private individual or organization before any local public agency in Orange County. In addition, the measure prevents the same individuals from having a personal investment or monetary interest in City contracts.

Measure H also requires the Mayor and City Councilmembers, their Executive Assistants and appointed Commissioners to execute a form acknowledging they have received a copy of the measure and agree to abide by its provisions. The forms are then filed with the City Clerk.

### **4.3.2 Ethics Training - AB1234**

Assembly Bill 1234 (Government Code Section 53235) which became effective in 2005, requires the City to provide ethics training for all members of a legislative body that receive compensation, salary or stipend, or reimbursement of expenses related to his/her official duties. The term "legislative body" includes not only the City Council, but also certain commissions, committees or boards. The following legislative bodies are required to receive training:

## Chapter Four –Legal Matters (Cont.)

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- City Council
- Community Services Commission
- Finance Commission
- Great Park Board
- Planning Commission
- Senior Citizens Council
- Sustainability Commission
- Transportation Commission

Applicable officials must receive two (2) hours of ethics training within one year of the first day of service, and subsequently at least once every two years. For those who are subject to this requirement, the City’s Human Resources Department will contact you to arrange for the required training.

### **4.4 Campaign Contributions by Appointees and Commissioners**

California state law (Government Code 84308) prohibits any “officer” (which includes the governing board or commission) of a public agency who is running or has run for elective office from participating in decisions affecting his or her campaign contributors. The law disqualifies the officer from participating in certain proceedings if the official has received campaign contributions of more than \$250 from a party, participant or their agents within the 12 months preceding the decision. It also requires disclosure on the record of the proceeding of all campaign contributions received from these persons during that period. In addition, Government Code Section 84308 prohibits solicitation or receipt of campaign contributions in excess of \$250 during such proceedings, or for three months after the decision, from parties, participants or their agents.

For example, Sarah Smith is a candidate for the Smalltown City Council. Smith is also on the Smalltown Planning Commission. John Builder has a permit request pending before the planning commission. Under Government Code Section 84308, Smith is prohibited from soliciting or receiving any contribution of more than \$250 from Builder or Builder’s agent. If Smith did receive a contribution of more than \$250 from Builder, Smith and Builder would be required to disclose the contribution in the record of the planning commission meeting. Smith would also have to disqualify herself from considering Builder’s permit request unless she returns that portion of the campaign contribution in excess of \$250 within 30 days after learning of the contribution and Builder’s pending permit.

Additional information about conflicts created by campaign contributions is in Appendix I or on the FPPC web site at [fppc.ca.gov](http://fppc.ca.gov).



# **CHAPTER FIVE**

# **STRUCTURE OF**

# **GOVERNMENT**

## **Chapter Five – Structure of Government**

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### **5.1 City Council/City Manager Form of Government**

The City of Irvine is a Charter City. As a Charter City, there is a differentiation between the policy-making function and the administrative function of government.

The City of Irvine operates under a City Council/City Manager form of government, which provides clear lines of authority and responsibility with the City Manager serving as chief administrator in charge of day-to-day operations of the City. The voters elect the Mayor and the City Council to formulate municipal policy. When the City Council makes a decision on an ordinance, law, or policy, the City Manager is responsible for implementing those policies.

The Mayor and City Councilmembers interact with the various City departments and City staff through the City Manager. All requests from City Councilmembers for information and staff assistance flow directly to the City Manager, who facilitates the request.

### **5.2 City Organization**

#### **5.2.1 Administrative Services Department**

The Administrative Services Department is responsible for overseeing Fiscal Services, which includes accounting, treasury, debt administration, purchasing functions, and Information Technology.

#### **5.2.2 City Clerk's Department**

The City Clerk's Department is responsible for the oversight of municipal elections, records management, central reception, duplicating, and mail operations. The City Clerk also acts as a compliance officer for federal, state, and local statutes including but not limited to the Political Reform Act, the Brown Act, and the Public Records Act.

#### **5.2.3 City Manager's Department**

The City Manager's Department is entrusted with strategic business planning, budget, public information, and administrative functions of the organization. In addition, the Department provides legislative support, policy development and implementation, and legal services, and provides administrative oversight for planning and development of Great Park.

### **5.2.4 Communications & Engagement Department**

The Communications & Engagement Department plays a crucial role in maintaining an effective flow of information between the City government and its residents, businesses, and visitors. This department is responsible for ensuring that the public is well informed about city policies, initiatives, events, programs, and services. It manages various channels of communication, including the City's website, Inside Irvine, social media platforms, press releases, digital media, video, and more, to disseminate important information to the community. Additionally, the department engages with the public through community outreach programs and public relations efforts, seeking to foster a sense of community and facilitate feedback and participation from the Irvine community. The department is also home to the City's International and Multicultural Affairs programs and Irvine Community Television.

### **5.2.5 Community Development Department**

The Community Development Department is entrusted with planning the City's residential communities and commercial/industrial centers, as well as ensuring that all construction in the City complies with building codes. Additionally, the department is responsible for implementing the City's Redevelopment and Housing Programs.

### **5.2.6 Community Services Department**

The Community Services Department delivers or coordinates the delivery of social, recreational, health and human services, and other support programs that enhance the quality of life enjoyed by Irvine's residents. The department oversees planning and construction of developer-built public parks and facilities, and designs, constructs, rehabilitates and maintains all public facilities citywide. Additionally, it is responsible for development of public policy and programs related to the wide array of municipal environmental concerns including climate change, energy conservation, water conservation, solid waste, recycling, and open space habitat restoration protection.

### **5.2.7 Human Resources Department**

The Human Resources Department is responsible for overseeing employee engagement, morale, staff development, and interdepartmental collaboration.

### **5.2.8 Project Delivery & Sustainability Department**

The Project Delivery & Sustainability Department is responsible for achieving the City's vast Capital Improvement Program and sustainability ambitions.

### **5.2.9 Public Safety Department**

The Public Safety Department is entrusted with providing the public's safety within the City's residential communities, commercial and industrial centers, and in recreational open space.

### **5.2.10 Public Works and Transportation Department**

The Public Works and Transportation Department is responsible for developing, building, and maintaining public infrastructure, including streets, sidewalks, bridges, traffic signals, bikeways and landscaping; as well as traffic matters, transit expansion, and transportation projects.

### **5.2.11 Great Park Corporation**

The Great Park Corporation is a 501(c)(3) Non-Profit Public Benefit Corporation and a 501(c)(9) Supported Organization of the City of Irvine whose mission is to develop, operate, preserve and protect Great Park for the benefit and enjoyment of all its visitors. The Great Park Board is comprised of the five members of the City Council.



# **CHAPTER SIX**

## **PUBLIC RECORDS /**

## **MEDIA RELATIONS**

## **Chapter Six – Public Records / Media Relations**

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### **6.1 Public Records**

Public records are maintained by the City Clerk as directed by the Government Code and managed through the adopted Records Retention Schedule. Each City Department also houses and manages active public records in their respective work areas.

All actions of the City Council are recorded and maintained as part of the official public record. While there are some specific exceptions, the general rule is that the information is public. City Council actions come in several forms. Formal actions are captured in the minutes of the meeting. Resolutions establish policy and provide direction. Ordinances set the code or laws under which the City is operated.

All agenda related materials, minutes and resolutions of City commissions and committees are also considered public records. These documents are prepared by the respective City Departments supporting a particular City commission or committee. The City Clerk's Office maintains these records for the long term according to retention schedules in Irvine Quick Records, the City's Electronic Records Management Program. Irvine Quick Records is accessible via the City's web site and houses over 20 million public records.

#### **6.1.1 Electronic Mail (Email)**

Electronic mail communication generally constitutes "preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business" within the meaning of Government Code Section 6254(a), unless the email communication is printed and retained in official City files. Further, the disposition of the types of records (email) generated or received by the City of Irvine, is authorized for disposition as outlined in accordance with Government Code Section 34090 et seq., upon the consent in writing by the Department Director, the Municipal Records Administrator, and the City Attorney, without further action of the City Council. (Adopted on 06-11-02 by City Council Resolution No. 02-69)

The City's current retention period for email communications residing on City computers is two years. This means that any email sent or received will be deleted from the City's server after that time.

The general rule for public officials and staff is to always be cautious and consider what you say, write or email because it may become part of the public record. It is very common to receive a request under the California Public Records Act or a subpoena asking for specific public records, including email on a variety of topics. Email, voicemail, text messaging, correspondence, other forms of communication and casual conversations are powerful tools and necessary in the workplace; however, it is

important to be aware that in the public work environment, email and text message communications may be subject to public disclosure.

### **6.2 Media**

#### **6.2.1 Press Releases**

The City's Communications & Engagement Department regularly issues press releases on a variety of City projects, programs, special events, and issues affecting the City. In addition, the department issues media advisories to the City Council advising them of contact with the media on specific topics and potential stories.

#### **6.2.2 Irvine Community Television (ICTV) / Electronic Bulletin Board Service**

Irvine Community Television (ICTV) is a 24/7 government access channel programmed and operated by the Communications & Engagement Department and is currently available to COX Cable subscribers in Irvine on channel 30, AT&T U-verse Channel 99, and via web streaming on the City's website. The station serves the citizens of Irvine by providing accurate and timely information about local issues, activities and events and serves as a forum for ongoing communication and accessibility of municipal government to residents.

The City offers a graphic video Bulletin Board service that airs when video programming is not being aired. The bulletin board is also managed by the Communications and Engagement Department. It is offered as a free public service to promote the following:

- City programs, services, employment opportunities and projects;
- Contact information for City and relevant government offices;
- Schedule for ICTV programming;
- Information about events sponsored or co-sponsored by the City of Irvine;
- Information about events and programming of interest to residents of Irvine from authorized agencies and organizations

ICTV may not promote or endorse a political candidate, whether or not a current officeholder, or a ballot measure. Advertisements on behalf of a political candidate or ballot measure are prohibited.

For additional information on ICTV programming and procedures, please contact the Communications & Engagement Department Director.

### **6.2.3 Website**

The City of Irvine’s website is coordinated through the Communications and Engagement and can be accessed at [cityofirvine.org](http://cityofirvine.org). The web site includes general information about the City, access to ICTV, current press releases, archived agendas and videos of past and present City Council meetings, and a myriad of information on City programs, projects and special events.

### **6.2.4 Community Magazine**

The City’s official community magazine, *Inside Irvine*, is mailed quarterly to all households in the City. The magazine provides a synopsis of timely information and a calendar of community events scheduled for the immediate future.

# APPENDICES

# **City of Irvine Ordinance No. 22-02**

CITY COUNCIL ORDINANCE NO. 22-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE REVISING DIVISION 15 OF TITLE 1 OF THE IRVINE MUNICIPAL CODE - PUBLIC MEETINGS AND PUBLIC RECORDS AND MAKING MODIFICATIONS TO CHAPTER 2-1 (GENERAL) OF DIVISION 2 OF TITLE 1, CHAPTER 2-3 (RULES OF ORDER) OF DIVISION 2 OF TITLE 1, CHAPTER 4-1 (IN GENERAL) OF DIVISION 4 OF TITLE 1; CHAPTER 4-2 (IN GENERAL), CHAPTER 4-2 (COMMISSIONS), AND CHAPTER 4-3 (COMMITTEES) OF DIVISION 4 OF TITLE 1, DIVISION 13 (FINANCIAL COMMISSION) OF TITLE 2, DIVISION 3 (COMMUNITY SERVICES COMMISSION) OF TITLE 3, DIVISION 3 (PLANNING COMMISSION) OF TITLE 5, AND CHAPTER 9 (TRANSPORTATION COMMISSION) OF DIVISION 3 OF TITLE 6 OF THE IRVINE MUNICIPAL CODE

WHEREAS, the City has a duty to serve the public and to accommodate those who wish to obtain information about or participate in the City's decision-making processes; and

WHEREAS, the City Council, City Commissions, and City Committees exist to conduct the people's business; and

WHEREAS, the City Council recognizes and appreciates the enormous value of direct, active participation by citizens in their government, and of the primary importance of guaranteeing public access to and participation in the operation and development of the community; and

WHEREAS, Government Code section 54953.6 provides "Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in [the Brown Act]. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body"; and

WHEREAS, the City has historically met and exceeded the requirements of California's open meeting law, the Ralph M. Brown Act (Government Code §§ 54950 *et seq.* [Brown Act]), regarding the timelines for posting meeting agendas for special meetings, and generally exceeds the Brown Act requirements for posting meeting agendas for regular meetings; and

WHEREAS, the City Council values and appreciates the input and participation of members of the public in the open meeting process, and believes that providing notice beyond the minimum requirements set forth in the Brown Act makes public participation easier and more meaningful; and

WHEREAS, revisions to the Irvine Municipal Code that will preserve public transparency while also streamlining the conduct of City business in a manner that maintains ample opportunities for participation and accountability in public processes include: (a) providing seven days advanced publication of regular meeting agendas; (b) clarifying that the Rules of Order applicable during City Council meetings apply equally to all City commissions and committees; and (c) clarifying the process for ordering agenda items and providing public comments during City Council meetings.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN as follows:

SECTION 1. The above recitals are true and correct and incorporated herein.

SECTION 2: Division 15 of Title 1 Public Meetings and Public Records is hereby replaced to read in full as follows:

**Division 15 of Title 1  
PUBLIC MEETINGS AND PUBLIC RECORDS**

**Sections:**

- Sec. 15-1-101 Findings and purpose.**
- Sec. 15-1-102 [Reserved]**
- Sec. 15-1-103 Definitions.**
- Sec. 15-1-104 Meetings to be open and public – Application of Brown Act.**
- Sec. 15-1-105 [Reserved]**
- Sec. 15-1-106 Conduct of business – Time and place for meetings.**
- Sec. 15-1-107 Notice and agenda requirements – Special meetings.**
- Sec. 15-1-108 Notice and agenda requirements – Regular meetings.**
- Sec. 15-1-109 Conduct at meetings.**
- Sec. 15-1-110 Minutes and recordings.**
- Sec. 15-1-111 Responsibility for implementation and administration.**
- Sec. 15-1-101 Findings and purpose**

The Irvine City Council finds and declares:

- A. The City has a duty to serve the public and to accommodate those who wish to obtain information about or participate in the decision-making process. The City, the City Council, City Commissions and City Committees exist to conduct the people's business.
- B. The City Council, in prescribing the provisions of this division, hereby states its recognition of the enormous value of direct, active participation by citizens in their government, and of the primary importance of guaranteeing public access to and participation in the operation and development of the community.
- C. The provisions of this division shall be interpreted to further the intent of the City Council to assure that the City's deliberations and operations are open to the public. This division is intended to clarify and supplement the Irvine City Charter, the Ralph M. Brown Act, and the California Public Records Act to assure that the people of the City of Irvine can be fully informed and thereby retain control over the instruments of local government in their city.

**Sec. 1-15-102. [RESERVED]**

**Sec. 1-15-103. Definitions.**

Words or phrases in this division shall be defined pursuant to the Ralph M. Brown Act, Government Code § 54950 *et seq.* and the Public Records Act, Government Section 6250 *et seq.* unless otherwise specified as follows:

- A. *Agenda* means the agenda of a local body which has scheduled a meeting. The agenda shall meet the requirements of Government Code § 54954.2. For closed sessions, the agenda shall meet the requirements set forth in Government Code § 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda related material. A description of an item on the agenda is adequate if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.
- B. *Agenda related materials* means the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item.

- C. *Local body* means the Irvine City Council, and every commission and committee of the City of Irvine that is otherwise subject to the Ralph M. Brown Act, Government Code § 54950 *et seq.* “Local body” shall not mean any congregation or gathering which consists solely of employees of the City of Irvine.

**Sec. 1-15-103. Definitions.**

Words or phrases in this division shall be defined pursuant to the Ralph M. Brown Act, Government Code § 54950 *et seq.* and the Public Records Act, Government Section 6250 *et seq.* unless otherwise specified as follows:

- D. *Agenda* means the agenda of a local body which has scheduled a meeting. The agenda shall meet the requirements of Government Code § 54954.2. For closed sessions, the agenda shall meet the requirements set forth in Government Code § 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda related material. A description of an item on the agenda is adequate if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.
- E. *Agenda related materials* means the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item.
- F. *Local body* means the Irvine City Council, and every commission and committee of the City of Irvine that is otherwise subject to the Ralph M. Brown Act, Government Code § 54950 *et seq.* “Local body” shall not mean any congregation or gathering which consists solely of employees of the City of Irvine.
- G. *Meeting* shall have the meaning set forth in Government Code § 54952.2(b)(1).
- H. *Notice* means the posting of an agenda in a location that is freely accessible to the public 24 hours a day and as additionally specified in Section 1-15-107 and Section 1-15-108.
- I. *On line* means accessible by computer without charge to the user.

- J. *Software or hardware impairment* means a circumstance where the City is unable to utilize computer software, hardware and/or network services to produce agendas, agenda related material or to post agendas on-line due to inoperability of software or hardware caused by the introduction of a malicious program (including but not limited to a computer virus), electrical outage affecting the City's computer network, or unanticipated system or equipment failure. "Software or hardware impairment" may also include situations when the City is unable to access the internet due to required or necessary maintenance or the installation of system upgrades that necessitates de-activating the system network; however, the City shall make reasonable efforts to avoid a delay in the preparation, distribution, or posting of agendas and agenda related material as a result of required or necessary maintenance or installation of system upgrades.

**Sec. 1-15-104. Meetings to be open and public—Application of Brown Act.**

All meetings of local bodies specified in Section 1-15-103(C) shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code § 54950 et seq.) unless greater public access is required by this division, in which case this division shall be applicable.

**Sec. 1-15-105. [RESERVED]**

**Sec. 1-15-106. Conduct of business—Time and place for meetings.**

- A. Every local body, or the authority creating each local body, shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such formal action.
- B. Except as otherwise authorized by the Ralph M. Brown Act (Government Code § 54950 et seq.), regular and special meetings of local bodies shall be held within the City of Irvine.

**Sec. 1-15-106. Conduct of business—Time and place for meetings.**

- A. Every local body, or the authority creating each local body, shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such formal action.
- B. Except as otherwise authorized by the Ralph M. Brown Act (Government Code § 54950 et seq.), regular and special meetings of local bodies shall be held within the City of Irvine.

- C. If, because of fire, flood, earthquake, or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the City Manager or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.

**Sec. 1-15-107. Notice and agenda requirements—Regular meetings.**

- A. *Seven-day advance notice requirement.* Local bodies shall provide notice no later than seven (7) days before the date of each of their respective regular meetings by:
1. Posting a copy or image of the agenda in no fewer than four (4) locations freely accessible to the public twenty-four (24) hours per day;
  2. Making a copy or image of the agenda available in the City Clerk's office and at the Irvine Police Department during regular business hours; and
  3. Posting a copy or image of the agenda on-line on the City's website; provided, however, the failure to timely post a copy or image of the agenda online because of software or hardware impairment shall not constitute a defect in the notice for a regular meeting, if the local body complies with all other posting and noticing requirements.
- C. *Agenda Modifications Prior to Brown Act Deadline.* Notwithstanding the notice provisions of Section 1-15-107(A), agendas for the local bodies may be amended or supplemented up to seventy-two (72) hours before a regular meeting to add an item that requires or would materially benefit from action prior to the next regularly-scheduled meeting of the local body, to add an item at the request of the Mayor or members of the City Council in a manner consistent with an adopted City Council policy and/or procedure, to continue an agenda item to a future regular meeting of the local body, or to remove any item from a posted agenda.
- D. *Action on items not appearing on the agenda.* Except as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.
- E. *Future meeting.* Nothing in this section shall prohibit the local body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply.

- F. *Conforming documents and errata.* Nothing in this section shall prohibit the City Attorney from conforming a document to comply with technical requirements as to form and legality, nor shall this section prohibit the distribution of an errata prepared by City staff to make corrections or clarifications to, or to provide supplemental information for, published agenda materials.
  
- G. *Submittal of additional documents.* The City Manager, City Attorney, City Clerk and their designees, in their capacities with the City, shall diligently attempt to submit public agenda related materials to the City Clerk or other responsible department in sufficient time to meet the deadlines of this section and Section 1-15-108. However, the referenced officers may submit additional documents to the local body, and that body may accept the documents if such information are relevant to the local body's decision making process. Documents submitted by outside parties may be distributed to and accepted by the local body at any time prior to or during the subject meeting. Documents submitted by outside parties prior to the meeting shall be made available to the public at the subject meeting. Documents submitted by outside parties at the meeting shall be made available to the public the following business day. Nothing in this section or in any other provision of this division shall be interpreted to require that the City Manager, City Attorney or City Clerk submit to the City Clerk any documents that are not public records.

**Sec. 1-15-108. Notice and agenda requirements—Special meetings.**

- A. Special meetings of the local body may be called at any time by the presiding officer thereof or by a majority of the members thereof in accordance with the Ralph M. Brown Act (Government Code § 54950 *et seq.*).

**Sec. 1-15-109. Conduct at meetings.**

- A. The Rules of Order of the City Council, as provided in Chapter 3 of Division 2 of this title, and the City Council Policies and Procedures for agendas and meetings, any amendments thereto, shall govern all proceedings of local bodies and are hereby incorporated into this division; provided, however, that references to the “Mayor” shall refer to the presiding officer of each local body, and references to “City Council” and/or “Council” shall refer to the local body.
  
- B. No local body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the local body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the local body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall change the operation of law in the area of defamation.

**Sec. 1-15-110. Minutes and recordings.**

- A. The City Council shall make a visual and audio recording of every open meeting. All other local bodies shall make an audio recording of every open meeting. Any recording of any open meeting shall be a public record subject to inspection and copying and shall not be erased, deleted or destroyed for at least five (5) years, provided that if during that five-year period a written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. A copy of any such recording shall be provided, free of charge, upon request.
- B. All local bodies shall record the minutes for each regular and special meeting convened under the provisions of this division. The minutes of the City Council shall be kept by the clerk of the local body with a record of each particular type of business transacted set off in paragraphs, with proper subheadings; provided that the clerk of the local body shall be required to make a record only of such business as was actually passed by a vote of the local body, and shall not be required to record any remarks of a member of the local body, or of any other person, except at the special request of a member of the local body (per Section 1-2-311(E)); provided, further, that a record shall be made of the names of persons addressing the local body, the title of the subject matter to which the remarks related, and whether they spoke in support of or in opposition to such matter.

**Sec. 1-15-111. Responsibility for administration.**

- A. The City Manager shall administer and coordinate the implementation of the provisions of this division for all local bodies, agencies and departments under his or her authority, responsibility or control.
- B. The City Clerk or other responsible department shall timely post all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it.

**Sec. 1-15-111. Precedence.**

In the event of any inconsistency between this Division and any bylaws or procedures of any City Commission or committee, this Division shall control.

**SECTION 3.** Division 2 of Title 1 City Council is amended as follows and shall in all other respects remain in full force and effect:

## CHAPTER 2-1

### GENERAL

#### **Sec. 1-2-102. Special Meetings.**

Special meetings may be called by the Mayor or a majority of the members of the City Council pursuant to the notice and agenda requirements for special meetings set forth in Division 15 of this Title, and Government Code § 54956. Only matters contained in such notice may be considered and only urgency ordinances may be adopted. No regular ordinances or orders for payment of money shall be considered at such special meetings.

#### **Sec. 1-2-103. Public meetings.**

All meetings of the City Council shall be open to the public and comply with the Ralph M. Brown Act (Government Code § 54950 *et seq.*) and with Division 15 of this Title 1 except “closed session” matters, as provided by law. Such closed sessions may be held only during the course of a duly called meeting.

## CHAPTER 2-3

### RULES OF ORDER

#### **Sec. 1-2-301. Agenda.**

All meetings of the City Council shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in (Division 15 of this Title 1). Except as provided in Section 15-1-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

#### **Sec. 1-2-309. Preparation of minutes.**

The minutes of the City Council shall be kept by the City Clerk with a record of each particular type of business transacted set off in paragraphs, with proper subheadings; provided that the City Clerk shall be required to make a record only of such business as was actually passed by a vote of the Council, and shall not be required to record any remarks of a member of the Council, or of any other person, except at the special request of a member of the Council (Section 1-2-311(E) is applicable); provided, further, that a record shall be made of the names of persons addressing the Council, the title of the subject matter to which the remarks related, and whether they spoke in support of or in opposition to such matter. Such minutes shall meet the minimum standards set forth in Chapter 2 of Division 2 of this Title, Section 15-1-108(B) (Minutes and Recordings).

**Sec. 1-2-313. Addressing the Council.**

A. *Securing permission, right to address Council.* Any person desiring to address the City Council shall first secure the permission of the presiding officer so to do; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Council upon obtaining recognition by the presiding officer:

1. *Staff reports.* Interested parties or their authorized representatives may address the Council with regard to written communications referred to in the report of the City Manager or any department head.
2. *Public hearings.* Interested persons or their authorized representatives may address the Council in regard to matters then under consideration.
3. *Oral communications.* Taxpayers or residents of the City, or their authorized representatives, may address the Council by oral communication on any matter concerning the City's business, or any matter over which the Council has control

B. *Manner of addressing of Council; time limit, spokesperson for group.* Each person addressing the Council on agendized items and non-agendized items that are within the subject matter jurisdiction of the City shall step up to the microphone in front of the rail and limit his or her comments to the time specified in an adopted City Council policy or procedure. No person, other than a member of the Council, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters that have been presented at the time by any other member of said group, to limit the numbers of persons addressing the Council, so as to avoid unnecessary repetition before the Council.

C. *Addressing the Council after close of public hearing.* After a public hearing has been closed and before action is taken by the Council, no person shall address the Council without first securing the permission of the presiding officer so to do.

**Sec. 1-2-314. Decorum.**

A. *By Council members.* While the Council is in session, the members must preserve order and decorum; and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council or disturb any member while speaking or refuse to obey the orders of the Council or the presiding officer, except as otherwise herein provided.

B. *By other persons.* The primary purpose of oral communications is to allow citizens the opportunity to formally communicate with the City Council as a whole, for matters that cannot be handled during the regular working hours of the City government. Each person who addresses the City Council shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the City Council, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any City Council meeting shall, at the discretion of the presiding officer or a majority of the City Council, be barred from further addressing the City Council at the meeting. If such conduct thereafter continues so as to disrupt the orderly conduct of the public's business, the Mayor shall order the person removed from the City Council chambers. Aggravated cases may be prosecuted on appropriate complaint signed by the Mayor, a member of the City Council or any other authorized City representative. The members of Council may, pursuant to Government Code § 54957.9, order the meeting room cleared and continue with the session when the orderly conduct of the meeting becomes unfeasible and order cannot be restored.

**SECTION 4.** Division 4 of Title 1 Commissions and Committees is amended as follows and shall in all other respects remain in full force and effect:

#### **CHAPTER 4-1**

#### **IN GENERAL**

**Sec. 1-4-104. Application of State law and Irvine Municipal Code Enhancements to State Law.**

All commissions and committees shall be subject to those sections of the California Government Code known as the "Ralph M. Brown Act" (Government Code § 54950 *et seq.*), and shall conduct their business in conformity therewith. All local bodies as defined in Section 15-1-103(C) shall comply with the additional requirements of Division 15 of Title 1, and shall conduct their business in conformity therewith.

#### **CHAPTER 4-2**

#### **COMMISSIONS**

**Sec. 1-4-207. Meetings.**

The commission shall meet at such times as may be established by the City Council. All meetings shall be opened to the public and shall conform to the provisions of the "Ralph M. Brown Act" (Government Code § 54950 *et seq.*) and to the extent such commission constitutes a local body under Section 15-1-103(C), it shall comply with the additional requirements of the Division 15 of Title 1. Special meetings may be called by the chair of the commission or upon the written request of at least a majority of its members.

**Sec. 1-4-208. Procedures.**

- A. Unless otherwise specifically provided by law or elsewhere in the Code, including the provisions of Division 15 of Title 1, Robert's Rules of Order, Newly Revised, shall govern the general conduct of meetings of commissions. The adoption of Robert's Rules of Order is for the purpose of establishing a procedural framework for the conduct of meetings only. Any failure to adhere thereto shall in no way affect the validity of any action taken by the commission.
- B. It shall be the duty of each commissioner to take an active part in the commission's deliberation and to act in whatever capacity the commissioner may be called. Absence from three consecutive meetings without the formal consent of the commission shall be deemed to constitute the retirement of the commissioner, and the position shall automatically become vacant.

**CHAPTER 4-3**

**COMMITTEES**

**Sec. 1-4-302. Structure.**

The structure, composition, number of members, manner of their appointment or selection, and other matters necessary to the creation and operation of each committee shall be determined in each case by the authority which establishes such committee, subject, however, to compliance with this division and Division 15 of Title 1

SECTION 5. Division 13 of Title 2 Finance Commission is amended as follows and shall in all other respects remain in full force and effect:

**Sec. 2-13-108. Meetings and procedures.**

- A. The Finance Commission shall meet regularly at least once each month, at a time and place to be fixed by the City Council, and shall hold such other meetings as from time-to-time shall be called in the manner and form required by law, including the provisions of Division 15 of Title 1.
- B. The meetings and procedures of the Finance Commission shall be subject to and governed by the resolutions and ordinances of the City Council establishing rules and regulations for commissions and committees.

SECTION 6. Division 3 of Title 3 Community Services Commission is amended as follows and shall in all other respects remain in full force and effect:

**Sec. 3-3-109. Meetings and procedures.**

- A. The Community Services Commission shall meet regularly at least once each month, on a day to be fixed by the City Council, and shall hold such other meetings as from time-to-time shall be called in the manner and form required by law, including the provisions of Division 15 of Title 1.
- B. The meetings and procedures of the Community Services Commission shall be subject to and governed by the rules and regulations for commissions and committees set forth in Chapter 2 of Division 4 of Title 1 of the Code.

SECTION 7. Division 3 of Title 5 Commission (Planning) is amended as follows and shall in all other respects remain in full force and effect:

**Sec. 5-3-107. Meetings and procedures.**

- A. The Planning Commission shall meet regularly at least once each month, on a day and place to be fixed by the City Council, and shall hold such other meetings as from time-to-time shall be called in the manner and form required by law, including the provisions of Division 15 of Title 1.
- B. The meetings of the Planning Commission shall be subject to and governed by the rules and regulations for commissions and committees set forth in Chapter 2 of Division 4 of Title 1 of the Code.

SECTION 8. Chapter 9 of Division 3 of Title 6 (Transportation Commission) is amended as follows and shall in all other respects remain in full force and effect:

**Sec. 6-3-906. Meetings and procedures.**

- A. The Transportation Commission shall meet regularly twice per month, on a day and place to be fixed by the City Council, and shall hold such other meetings as from time-to-time as called in the manner and form required by law, including the provisions of Division 15 of Title 1.
- B. The meetings and procedures of the Transportation Commission shall be subject to and governed by the rules and regulations for commissions and committees set forth in Chapter 2 of Division 4 of Title 1 of the Code, as well as any bylaws which are approved by the City Council.

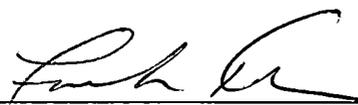
SECTION 9. CEQA Determination. In adopting this Ordinance, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations Sections 15061(b)(3) and 15378, in that it can be seen with certainty that the Municipal Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

SECTION 10: This Ordinance shall become effective thirty (30) days after adoption.

SECTION 11: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

SECTION 12. The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect as provided by law.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Irvine, California, on the 12th day of April, 2022.

  
\_\_\_\_\_  
MAYOR OF THE CITY OF IRVINE

ATTEST:

  
\_\_\_\_\_  
CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing ordinance was introduced for first reading on the 22<sup>nd</sup> day of March 2022, and duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 12th day of April, 2022.

AYES:	4	COUNCILMEMBERS:	Carroll, Kim, Kuo, and Khan
NOES:	1	COUNCILMEMBERS:	Agran
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

  
\_\_\_\_\_  
CITY CLERK OF THE CITY OF IRVINE

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)  
COUNTY OF ORANGE ) ss  
CITY OF IRVINE )

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that on the 12<sup>th</sup> day of April, 2022, I caused to have published and posted a foregoing true and correct copy of Ordinance No. 22-02 of the City of Irvine in the following public places in the City:

- 1) Bulletin Board in Walnut Village Shopping Center, Culver and Walnut, Irvine.
- 2) Bulletin Board in University Park Shopping Center, Culver at Michelson, Irvine.
- 3) Bulletin Board in Northwood Shopping Center, Irvine Boulevard at Yale, Irvine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City Council of the City of Irvine, California, the 12<sup>th</sup> day of April, 2022.



CITY CLERK OF THE CITY OF IRVINE

# **FPPC Overview of Conflicts of Interest Under the Political Reform Act**



# An Overview of Conflicts of Interest Under the Political Reform Act

May 2022

## Contents

I. The Basic Prohibition.....	2
II. Making, Participating in Making, or Attempting to Influence a Decision.....	2
A. General Definitions.....	2
B. Exceptions.....	3
III. Financial Interests.....	4
IV. Foreseeability of Financial Effect.....	5
A. Explicitly Involved.....	5
B. Not Explicitly Involved.....	5
V. Materiality Standards.....	6
A. Business Entity Interests.....	6
B. Real Property Interests.....	7
C. Source of Income Interests.....	9
D. Source of Gift Interests.....	11
E. Interest in Personal Finances.....	12
VI. The Public Generally Exception.....	13
VII. Legally Required Participation.....	16
VIII. Segmentation.....	17
IX. Disqualification Requirements.....	18

## I. The Basic Prohibition

Government Code Section 87100 of the Political Reform Act (the “Act”)<sup>1</sup> prohibits a public official at any level of state or local government from making, participating in making, or attempting to use the official’s position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest. Government Code Section 87103 provides that an official has a “financial interest” within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official’s interests as identified and distinguishable from the decision’s effect on the public generally.

Taken together, these provisions of the Act prohibit an official from taking part in a decision if it is reasonably foreseeable that the decision would have a material financial effect on one or more of the official’s financial interests identified in Section 87103 distinguishable from the decision’s effect on the public generally.

## II. Making, Participating in Making, or Attempting to Influence a Decision

Regulation 18704 defines “making a decision,” “participating in a decision,” and “using official position to attempt to influence a decision” for purposes of the Act’s conflict of interest provisions. If an official has a disqualifying conflict of interest under Section 87100, the official is prohibited from making, participating in making, or attempting in any way to use the official’s official position to influence the decision.

### A. General Definitions

**Making a Decision:** An official makes a decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits the official’s agency to any course of action, or enters into any contractual agreement on behalf of the agency. (Regulation 18704(a).)

**Participating in a Decision:** An official participates in a decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review. (Regulation 18704(b).)

**Using Official Position to Attempt to Influence a Decision:** An official uses an official position to influence a decision if the official contacts or appears before: (1) any official in the official’s agency, or in an agency subject to the authority or budgetary control of the official’s agency, for the purpose of affecting a decision; or (2) any official in any other government agency for the purpose of affecting a decision, and the official purports to act within the official’s authority or on behalf of the official’s agency in making the contact. (Regulation 18704(c).)

## B. Exceptions

Regulation 18704(d) provides that “making, participating in, or using official position to influence a decision” do not include any of the following:

**Ministerial:** Actions that are solely ministerial, secretarial, or clerical. (Regulation 18704(d)(1).)

**Appearances as a Member of the General Public:** An appearance by an official as a member of the general public before an agency in the course of its prescribed governmental function if the official is appearing on matters related solely to the official’s personal interests, including interests in:

- Real property owned entirely by the official, members of the official’s immediate family, or the official and members of the official’s immediate family;
- A business owned entirely by the official, members of the official’s immediate family, or the official and members of the official’s immediate family; or
- A business over which the official, members of the official’s immediate family, or the official and members of the official’s immediate family solely or jointly exercise full direction and control. (Regulation 18704(d)(2).)

**Terms of Employment:** Actions by an official relating to the official’s compensation or the terms or conditions of the official’s employment or consulting contract. However, an official may not make a decision to appoint, hire, fire, promote, demote, or suspend without pay or take disciplinary action with financial sanction against the official or the official’s immediate family, or set a salary for the official or the official’s immediate family different from salaries paid to other employees of the agency in the same job classification or position. (Regulation 18704(d)(3).)

**Public Speaking:** Communications by an official to the general public or media. (Regulation 18704(d)(4).)

**Academic Decisions:** Teaching decisions, including an instructor’s selection of books or other educational materials at the official’s own school or institution, or other similar decisions incidental to teaching; or decisions by an official who has teaching or research responsibilities at an institution of higher education relating to the official’s professional responsibilities, including applying for funds, allocating resources, and all decisions relating to the manner or methodology with which the official’s academic study or research will be conducted. (Regulation 18704(d)(5).) However, this exception does not apply to an official who has institution-wide administrative responsibilities as to the approval or review of academic study or research at the institution unrelated to the official’s own work. (*Ibid.*)

**Architectural and Engineering Documents:** Drawings or submissions of an architectural, engineering, or similar nature prepared by an official for a client to submit in a proceeding before the official’s agency if: (i) the work is performed pursuant to the official’s profession; and (ii) the official does not make any contact with the agency other

than contact with agency staff concerning the process or evaluation of the documents prepared by the official. (Regulation 18704(d)(6)(A).)

Also, an official's appearance before a design or architectural review committee or similar body of which the official is a member to present drawings or submissions of an architectural, engineering, or similar nature prepared for a client if: (i) the committee's sole function is to review architectural designs or engineering plans and to make recommendations to a planning commission or other agency; (ii) the committee is required by law to include architects, engineers, or persons in related professions, and the official was appointed to the body to fulfill this requirement; and (iii) the official is a sole practitioner. (Regulation 18704(d)(6)(B).)

**Additional Consulting Services:** Recommendations by a consultant regarding additional services for which the consultant or consultant's employer would receive additional income if the agency has already contracted with the consultant, for an agreed upon price, to make recommendations concerning services of the type offered by the consultant or the consultant's employer, and the consultant does not have any other economic interest, other than in the firm, that would be foreseeably and materially affected by the decision. (Regulation 18704(d)(7).)

### III. Financial Interests

The first step in determining whether an official has a disqualifying conflict of interest under the Act is identifying the official's financial interests with respect to the decision at issue. Section 87103 identifies the following financial interests which may give rise to an official's disqualifying conflict of interest under the Act:

- A business entity in which the official has a direct or indirect investment worth \$2,000 or more (Section 87103(a)); or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)).
- Real property in which the official has an interest worth \$2,000 or more. (Section 87103(b).)
- A source of income totaling \$500 or more in value provided or promised to, or received by, the official within the 12 months prior to the time when the decision is made. (Section 87103(c).)
- A giver of a gift or gifts totaling \$500<sup>2</sup> or more in value provided or promised to, or received by, the official within the 12 months prior to the time when the decision is made. (Section 87103(e).)
- The official's personal finances and those of "immediate family," defined in Section 82029 as the spouse and dependent children. (Section 87103.)

## IV. Foreseeability of Financial Effect

### A. Explicitly Involved

A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is explicitly involved in the decision. (Regulation (18701(a).) An official's financial interest is "explicitly involved" in a decision if the interest is a "named party in, or the subject of," the decision, and an interest is the "subject of a proceeding" if the decision involves the issuance, renewal, denial, or revocation of any license, permit, other entitlement to, or contract with, the interest.<sup>3</sup> Additionally, an official's real property interest is explicitly involved in any decision affecting the real property as described in Regulation 18702.2(a)(1) through (6), discussed further below. (*Ibid.*)

### B. Not Explicitly Involved

When an official's financial interest is not explicitly involved in a decision, the financial effect of the decision is reasonably foreseeable if the effect can be recognized as a realistic possibility and more than hypothetical or theoretical. The effect need not be likely to be reasonably foreseeable. (Regulation 18701(b).)

Factors to be considered when determining if a decision's effect on an official's not explicitly involved interest is reasonably foreseeable include, but are not limited to, the following:

- The extent to which the occurrence of the effect is contingent upon intervening events (other than future governmental decisions by the official's agency or an agency subject to the budgetary control of the official's agency). (Regulation 18701(b)(1).)
- Whether the official should anticipate a financial effect on the financial interests at issue as a potential outcome under normal circumstances when using appropriate due diligence and care. (Regulation 18701(b)(2).)
- Whether the official has an interest of the type that would typically be affected by the terms of the decision. (Regulation 18701(b)(3).)
- Whether the decision is of the type that would be expected to have a financial effect on businesses and individuals similarly situated to those businesses and individuals in which the official has a financial interest. (*Ibid.*)
- Whether a reasonable inference can be made that the financial effects of the decision on the official's financial interest might compromise an official's ability to fulfill their duty to act in the best interests of the public. (Regulation 18701(b)(4).)
- Whether the decision will provide or deny an opportunity, or create an advantage for one of the official's financial interests. (Regulation 18701(b)(5).)

- Whether the official has the type of financial interest that would cause a similarly situated person to weigh the advantages and disadvantages of the decision on the official's financial interest in formulating a position. (Regulation 18701(b)(6).)

## V. Materiality Standards

Regulation 18702(a) provides that the next step in the analysis is to determine if the decision's reasonably foreseeable financial effect on the official's financial interest is material. If the official's interest is in:

- A business entity, then apply the materiality standards of Regulation 18702.1. (Regulation 18702(a)(1).)
- A real property, then apply the materiality standards of Regulation 18702.2. (Regulation 18702(a)(2).)
- A source of income, then apply the materiality standards of Regulation 18702.3. (Regulation 18702(a)(3).)
- A source of a gift or gifts, then apply the materiality standards of 18702.4. (Regulation 18702(a)(4).)
- Their personal finances or those of immediate family, then apply materiality standard of 18702.5. (Regulation 18702(a)(5).)

### A. Business Entity Interests

Regulation 18702.1 sets forth the materiality standards applicable to a decision's reasonably foreseeable financial effect on a business in which an official has an interest, and provides that the effect is material if any of the following standards is met:

- The business is explicitly involved in the decision, meaning that the business is "a named party in, or the subject of, the decision, including any decision in which the business:
  - Initiates the proceeding by filing an application, claim, appeal, or other request for action concerning the business with the official's agency. (Regulation 18702.1(a)(1)(A).)
  - Offers to sell a product or service to the official's agency. (Regulation 18702.1(a)(1)(B).)
  - Bids on, or enters into, a contract with the official's agency, or is identified as a subcontractor on a bid or contract with the agency. (Regulation 18702.1(a)(1)(C).)
  - Is the named or intended manufacturer or vendor of any products to be purchased by the official's agency with an aggregate cost of \$1,000 in any 12-month period. (Regulation 18702.1(a)(1)(D).)

- Applies for a permit, license, grant, tax credit, exception, variance, or other entitlement from the official's agency. (Regulation 18702.1(a)(1)(E).)
- Is the subject of any inspection, action, or proceeding under the regulatory authority of the official's agency. (Regulation 18702.1(a)(1)(F).)
- Is subject to an action taken by the official's agency that is directed at the entity. (Regulation 18702.1(a)(1)(G).)
- The decision may result in an increase or decrease of the business's annual gross revenues, or the value of its assets and liabilities, in an amount equal to or more than:
  - \$1,000,000; or
  - Five percent of the business's annual gross revenues, and the increase or decrease is \$10,000 or more. (Regulation 18702.1(a)(2).)
- The decision may cause the business to incur or avoid additional expenses or to reduce or eliminate expenses in amount equal to or more than:
  - \$250,000; or
  - One percent of the business's annual gross revenues, and the increase or decrease is at least \$2,500. (Regulation 18702.1(a)(3).)
- The official knows or has reason to know that business has an interest in real property and:
  - The property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6); or
  - There is clear and convincing evidence the decision would have a substantial effect on the property. (Regulation 18702.1(a)(4).)

Thus, if the decision's reasonably foreseeable financial effect on an official's business interest meets any of the four standards above, that effect is material, and the official is disqualified from taking part in the decision.

**Small Shareholder Exception:** Regulation 18702.1(b) sets forth the "Small Shareholder Exception," which provides that a decision's reasonably foreseeable financial effect on an official's financial interest in a business is not material under Regulation 18702.1(a)(1) or (a)(4)(A) if both:

- The official's only financial interest in the business is an "investment interest" under Section 87103(a) valued at \$25,000 or less; and
- The official's interest in the business is less than one percent of the business's shares.

If the Small Shareholder Exception applies, the official is not disqualified.

## B. Real Property Interests

Regulation 18702.2 provides the materiality standards applicable to a decision's reasonably foreseeable financial effect on real property in which an official has an interest as either an owner or lessee.

**Explicitly Involved Real Property Interest:** It is reasonably foreseeable a decision will have a material financial effect on an official's interest in real property any time the interest is explicitly involved in the decision. Therefore, the decision's reasonably foreseeable effect is material in any of the types of decisions described in Regulation 18702.2(a)(1) to (6), including a decision that:

- Involves the adoption of or amendment to a development plan or criteria applying to the property. (Regulation 18702.2(a)(1).)
- Determines the property's zoning or rezoning, other than a zoning decision applicable to all properties designated in that category; annexation or de-annexation; inclusion in or exclusion from any city, county, district, or local government subdivision or other boundaries, other than elective district boundaries. (Regulation 18702.2(a)(2).)
- Would impose, repeal, or modify any taxes, fees, or assessments that apply to the property. (Regulation 18702.2(a)(3).)
- Authorizes the sale, purchase, or lease of the property. (Regulation 18702.2(a)(4).)
- Involves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the property or any variance that changes the permitted use of, or restrictions placed on, the property. (Regulation 18702.2(a)(5).)
- Involves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the property will receive new or improved services that provide a benefit or detriment disproportionate to other properties receiving the services. (Regulation 18702.2(a)(6).)

**Not Explicitly Involved Real Property Interest:** A decision's reasonably foreseeable financial effect on an official's interest in real property is material if it is of a type described in Regulation 18702.2(a)(7) through (8), (b) or (c), including a decision that:

- Involves property located 500 feet or less from the official's property unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property. (Regulation 18702.2(a)(7).)
- Involves property located more than 500 feet but less than 1,000 feet from the official's property, and the decision would change the official's property's: development potential; income producing potential; highest and best use; character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or market value (Regulation 18702.2(a)(8)(A) through (E).)

- Involves property located 1,000 feet or more from the property line of the official's property if there is clear and convincing evidence the decision would have a substantial effect on the official's property. (Regulation 18702.2(b).)
- Involves property leased by the official and the decision will:
  - Change the termination date of the lease;
  - Increase or decrease the potential rental value of the property;
  - Change the official's actual or legally allowable use of the property; or
  - Change the official's use and enjoyment of the property. (Regulation 18702.2(c)(1) through (4).)

**Real Property Interest 1,000 Feet or More from Property Involved in Decision:** As mentioned above, Regulation 18702.2(b) sets forth a presumption that the financial effect of a decision involving property located 1,000 feet or more from the property line of the official's property is not material. That presumption, however, may be rebutted with clear and convincing evidence the decision would have a substantial effect on the official's real property interest.

**Exceptions for Planning Objectives or Policy:** A decision's reasonably foreseeable financial effect on an official's real property interest is not material, and therefore the official is not disqualified from the decision, if the decision solely concerns:

- Repairs, replacement or maintenance of existing streets, water, sewer, storm drainage or similar facilities. (Regulation 18702.2(d)(1).)
- Adoption or amendment of a general plan, as defined in Regulation 18702.2(e)(2), if certain specified conditions are met. (See Regulation 18702.2(d)(2).)

**Common Area Exception to the Definition of Interest in Real Property:** Regulation 18702.2(e)(4) provides that an "interest in real property," as defined in Section 82033, does not include "any common area as part of the official's ownership interest in a common interest development as defined in the Davis-Stirling Common Interest Development Act (Civil Code Sections 4000 et seq.)"

### C. Source of Income Interests

Regulation 18702.3 sets forth the materiality standards applicable to a decision's reasonably foreseeable financial effect on a source of income to an official, and provides that the effect is material if any of the following criteria is met:

- The source is explicitly involved in the decision because it is "a named party in, or the subject of, the decision," including a claimant, applicant, respondent, or contracting party. (Regulation 18702.3(a)(1).)
- The source is an individual and any of the following applies:

- The decision may affect the individual’s income, investments, or other assets or liabilities by \$1,000 or more (excluding an interest in a business entity or real property). (Regulation 18702.3(a)(2)(A).)
- The official knows or has reason to know that the individual has an interest in a business entity that will be financially affected under the materiality standards applicable to a business set forth in Regulation 18702.1. (Regulation 18702.3(a)(2)(B).)
- The official knows or has reason to know that the individual: (i) has a real property interest and the property is explicitly involved in the decision; or (ii) there is clear and convincing evidence the decision would have a substantial effect on the property. (Regulation 18702.3(a)(2)(C).)
- The source is a nonprofit organization and any of the following applies:
  - The decision may result in an increase or decrease of the organization’s annual gross receipts, or the value of the organization’s assets or liabilities, in an amount equal to or more than: (i) \$1,000,000; or (ii) five percent of the organization’s annual gross receipts and the increase or decrease is equal to or greater than \$10,000. (Regulation 18702.3(a)(3)(A).)
  - The decision may cause the organization to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than: (i) \$250,000; or (ii) one percent of the organization’s annual gross receipts and the change in expenses is equal to or greater than \$2,500. (Regulation 18702.3(a)(3)(B).)
  - The official knows or has reason to know that the organization has a real property interest and: (i) the property is explicitly involved in the decision; (ii) there is clear and convincing evidence the decision would have a substantial effect on the property. (Regulation 18702.3(a)(3)(C).)
- The source is a business that will be financially affected under the materiality standards applicable to a business set forth in Regulation 18702.1 (Regulation 18702.3(a)(4).)
- If there is a nexus between the decision and income received by the official or official’s spouse. Otherwise referred to as the nexus test, any reasonably foreseeable financial effect on an official’s source of income interest is material if the decision “will achieve, defeat, aid, or hinder a purpose or goal of the source and the official or the official’s spouse receive or is promised the income for achieving the purpose or goal. (Regulation 18702.3(b).)

**Exception for Retail Sales:** Section 87103.5(a) provides that a retail customer of a business engaged in retail sales of good or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the business if: the retail customers of the business constitute a significant segment of the public generally, and the amount of income received from an individual customer is not distinguishable from the amount of income received from its other customers.

Section 87103.5(b) sets forth a similar retail sales exception for a jurisdiction with a population of 10,000 or less that is located within a county with 350 or fewer retail businesses.

For purposes of applying Section 87103.5, Regulation 18702.3(c) provides that the retail customers of a business entity constitute a significant segment of the public generally if the business is open to the public and provides goods or services to customers that comprise a broad base of persons representative of the jurisdiction. (Regulation 18702.3(c)(1).)

Income from an individual customer is not distinguishable from the amount of income received from other customers when the official is unable to recognize a significant monetary difference between the business provided by the individual customer and the other customers of the business. (Regulation 18702.3(c)(2).) An official is unable to recognize a significant monetary difference when the business:

- Is of the type that sales to any one customer will not have a significant impact on the business's annual net sales; or
- Has no records that distinguish customers by amount of sales, and the official has no other information that the customer provides significantly more income to the business than an average customer. (*Ibid.*)

**Income from a Government Entity:** The materiality standards of Regulation 18702.3 do not apply where a government entity qualifies as a source of income as defined in Section 82030, including where an official is paid by the entity as a consultant or contractor. (Regulation 18702.3(d).) Under Regulation 18703(e)(7), an official with an interest in such an entity is disqualified from taking part in a decision only if there is a unique effect on the official. (*Ibid.*)

## D. Source of Gift Interests

Regulation 18702.4 provides the materiality standards applicable to a decision's reasonably foreseeable financial effect on the source of a gift to an official, and provides that the decision's effect is material if:

- The source is explicitly involved in the decision because the source "is named or otherwise identified as the subject of the proceeding," including a claimant, applicant, respondent, or contracting party. (Regulation 18702.4(a).)
- The source is an individual that will be financially affected under the materiality standard applicable to a decision's reasonably foreseeable financial effect on an official's personal finances set forth in Regulation 18702.5 or the official knows or has reason to know that the individual has an interest in a business or real property that will be financially affected under the materiality standards provided in Regulation 18702.1 or 18702.2, respectively. (Regulation 18702.4(b))

- The source is a nonprofit organization that will receive a measurable financial benefit or loss as a result of the decision or the official knows or has reason to know that the nonprofit has an interest in real property that will be financially affected under the materiality standards in Regulation 18702.2. (Regulation 18702.4(c).)
- The source is a business that will be financially affected under the materiality standards in Regulation 18702.1. (Regulation 18702.4(d).)

## E. Interest in Personal Finances

Regulation 18702.5(a) provides the materiality standard applicable to a decision's reasonably foreseeable financial effect on an official's personal finances, including those of immediate family. Also known as the personal financial effect rule, a reasonably foreseeable effect on the official's personal finances is material if the decision may result in the official or the official's immediate family receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.

**Exceptions:** Under Regulation 18702.5(b), however, a decision's effect on an official's personal finances and those of immediate family is not material if the decision would:

- Affect only the salary, per diem, or reimbursement for expenses the official or their immediate family member receives from a federal, state, or local government agency, unless the decision is:
  - To appoint (except as specified), hire, fire, promote, demote, suspend without pay or otherwise take disciplinary action with financial sanction against the official or their immediate family; or
  - To set a salary for the official or a member of their immediate family which is different from salaries paid to other employees of the government agency in the same job classification or position, or when the mem of the official's immediate family is the only person in the job classification or position. (Regulation 18702.5(b)(1).)
- Appoint the official to be a member of any group or body created by law or formed by the official's agency for a special purpose. However, if the official will receive a stipend for attending meeting of the group or body aggregating \$500 or more in any 12-month period, the effect is material unless the appointing body posts all of the following on its website:
  - A list of each appointed position and its term. (Regulation 18702.5(b)(2)(A).)
  - The amount of the stipend for each appointed position. (Regulation 18702.5(b)(2)(B).)
  - The name of the official who has been appointed to the position. (Regulation 18702.5(b)(2)(C).)

- The name of any official who has been appointed to be an alternate for the position. (Regulation 18702.5(b)(2)(D).)
- Appoint the official to be an officer of the governing body of which the official is already a member (such as a decision to appoint a city councilmember to be the city’s mayor.) (Regulation 18702.5(b)(3).)
- Establish or change the benefits or retirement plan of the official or the official’s immediate family member, and the decision applies equally to all employees or retirees in the same bargaining unit or other representative group. (Regulation 18702.5(b)(4).)
- Result in the payment of any travel expenses incurred by the official or their immediate family while attending a meeting as an authorized representative of an agency. (Regulation 18702.5(b)(5).)
- Permit the official’s use of any government property, including automobiles or other modes of transportation, mobile communication devices, or other agency-provided equipment for carrying out the official’s duties, including any nominal, incidental, negligible, or inconsequential personal use while on duty. (Regulation 18702.5(b)(6).)
- Result in the official’s receipt of any personal reward from their use of a personal charge card or participation in any other membership rewards program, so long as the reward is associated with the official’s approved travel expenses and is no different from the reward offered to the public. (Regulation 18702.5(b)(7).)

**Effect on Personal Finances and a Business or Real Property Interest:** If a decision would have a reasonably foreseeable financial effect on a business or real property interest of an official, any related effect on the official’s personal finances is not considered separately, and the effect is only analyzed under the respective materiality standards for business and real property interests, i.e. Regulations 18702.1 and 18702.2. (Regulation 18702.5(c).)

## VI. The Public Generally Exception

Under Section 87103, if a decision’s financial effect on an official’s financial interest is indistinguishable from the decision’s effect on the public generally, the official is not disqualified from taking part in the decision. Regulation 18703 sets forth the “Public Generally Exception.”

**The General Rule:** A decision’s financial effect on an official’s financial interest is indistinguishable from its effect on the public generally if the official establishes that a “significant segment” of the public is affected and the “effect on the official’s interest is not unique” compared to the effect on the significant segment. (Regulation 18703(a).)

A “significant segment” of the public is defined as:

- At least 25 percent of:
  - All businesses or nonprofit entities within the official's jurisdiction;
  - All real property, commercial real property, or residential real property within the official's jurisdiction; or
  - All individuals within the official's jurisdiction. (Regulation 18703(b)(1).)
- At least 15 percent of residential real property within the official's jurisdiction if the only interest the official has in the decision is the official's primary residence. (Regulation 18703(b)(2).)

A unique effect on an official's financial interest includes a disproportionate effect on:

- The development potential or use of the official's real property, or the income producing potential of the official's real property or business;
- An official's business or real property resulting from the proximity of a project that is the subject of a decision;
- An official's interests in business entities or real properties resulting from the cumulative effect of the official's multiple interests in similar entities or properties that is substantially greater than the effect on a single interest;
- An official's interest in a business or real property resulting from the official's substantially greater business volume or larger real property size when a decision affects all interests by the same or similar rate or percentage;
- A person's income, investments, assets or liabilities, or real property if the person is a source of income or gifts to the official; and
- An official's personal finances or those of immediate family. (Regulation 18703(c)(1)-(6).)

"Jurisdiction" means:

- The jurisdiction of the state or local government agency as defined in Section 82035;
- The designated geographical area the official was elected to represent; or
- The area to which the official's authority and duties are limited if not elected. (Regulation 18703(d).)

**Specific Rules for Special Circumstances:** Regulation 18703(e) also provides seven Specific Rules for Special Circumstances which govern the Public Generally Exception's applicability in those special circumstances. Under these rules, a decision's financial effect is deemed indistinguishable from its effect on the public generally if there is no unique effect on the official's interest and the official establishes:

- **Public Services and Utilities:** The decision sets or adjusts the amount of an assessment, tax, fee, or rate for water, utility, or other similar public services that is applied equally, proportionally, or by the same percentage to the official's interest and other businesses, properties, or individuals subject to the assessment, tax, fee, or rate. However, an official is not permitted to take part in a decision that would impose the assessment, tax, or fee, or determine the boundaries of a property or who is subject to the assessment, tax, or fee. An official is only permitted to take part in setting or adjusting the assessment, tax, or fee amount, once other related decisions have already been made. (Regulation 18703(e)(1).)
- **General Use or Licensing Fees:** The decision affects the official's personal finances as a result of an increase or decrease to a general fee or charge, such as parking rates, permits, license fees, application fees, or any general fee that applies to the entire jurisdiction. (Regulation 18703(e)(2).)
- **Limited Neighborhood Effects:** The decision affects residential real property limited to a specific location, encompassing more than 50, or five percent, of the residential real properties in the official's jurisdiction, and the decision establishes, amends, or eliminates ordinances that restrict on-street parking, impose traffic controls, deter vagrancy, reduce nuisance or improve public safety, provided the body making the decision gathers sufficient evidence to support the need for the action at a specific location. (Regulation 18703(e)(3).)
- **Rental Properties:** The decision is limited to establishing, eliminating, amending, or otherwise affecting the respective rights or liabilities of tenants and owners of residential rental property, including a decision regarding a rent control ordinance or tenant protection measures, provided all of the following criteria are met:
  - The decision applies to all residential rental properties within the official's jurisdiction other than those excepted by the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50, et seq.). (Regulation 18703(e)(4)(A).)
  - The official owns three or fewer residential rental units. (Regulation 18703(e)(4)(B).)
  - Only interests resulting from the official's leasehold interest as a lessor of residential real property and the lessee or owner of the official's primary residence are affected by the decision. (Regulation 18703(e)(4)(C).)
- **Required Representative Interest:** The decision is made by a board or commission and the law that establishes the board or commission requires certain appointees have a representative interest in a particular industry, trade, or profession or other identified interest, and the public official is an appointed member representing that interest. This provision applies only if the effect is on the industry, trade, or profession or other identified interest represented. (Regulation 18703(e)(5).)

- **State of Emergency:** The decision is made pursuant to an official proclamation of a state of emergency when required to mitigate against the effects directly arising out of the emergency. (Regulation 18703(e)(6).)
- **Governmental Entities:** The decision affects a federal, state, or local government entity in which the official has an interest. (Regulation 18703(e)(7).)

## VII. Legally Required Participation

Section 87101 provides that the prohibition of Section 87100 does not prevent an official from making or participating in the making of a decision to the extent the official's participation is legally required for the action or decision to be made. However, the existence of a tied vote does not make the disqualified official's participation legally required.

**No Alternative Source of Decision:** Regulation 18705(a) provides that an official who is financially interested in a decision may establish that the official is legally required to make or to participate in the making of a decision within the meaning of Section 87101 only if there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.

**“Quorum” Defined:** Regulation 18705(d) provides that a “quorum” is the minimum number of members required to conduct business. When the vote of a supermajority is required to adopt an item, a “quorum” is the minimum number of members needed to adopt the item.

**Narrowly Construed:** Regulation 18705(c) requires the regulation be narrowly construed, and specifically provides that the regulation shall not to be construed:

- To permit an official who is otherwise disqualified under Section 87100 to vote to break a tie. (Regulation 18705(c)(1).)
- To allow a member of any agency who is otherwise disqualified under Section 87100 to vote if a quorum can be convened of other members of the agency who are not disqualified, whether or not those other members are actually present at the time of the disqualification. (Regulation 18705(c)(2).)

**Random Means of Selection:** Regulation 18705(c)(3) requires participation by the smallest number of officials with a conflict that are “legally required” for the decision to be made under Section 87101 and permits a “random means of selection” (e.g. drawing straws) to be used to select only the number of officials necessary to make the decision. When an official is selected, that official is selected for the duration of the proceedings in all related matters until their participation is no longer legally required, or the need for invoking the exception no longer exists. (Regulation 18705(c)(3).)

**Public Identification of an Otherwise Disqualified Official’s Financial Interests in a Decision:** Regulation 18705(b) provides that when an official who has a financial interest in a decision is legally required to make or participate in making that decision, the official must state the existence of the potential conflict as follows:

- The official must disclose the existence of the conflict of interest and describe with particularity the nature of the official’s disqualifying financial interest or interests. This requirement is satisfied if the official discloses:
  - The type of financial interest or interests involved in the decision, and;
  - Other specified information identifying the interest depending on the type of interest at issue.
- The official or another officer or employee of the agency must summarize the circumstances under which the conflict may arise.
- The official or another officer or employee of the agency must disclose the legal basis for the determination that there is no alternative source of decision.

**Manner of Disclosure:** The disclosures required by Regulation 18705(b) must be disclosed as follows:

- If the decision is made during an open session of a public meeting, the disclosures must be made orally before the decision is made;
- If the decision is made during a closed session of a public meeting, the disclosures must be made orally during open session either before the body goes into closed session or immediately thereafter;
- If the decision takes place outside of a public meeting, the disclosures must be made in writing; and
- In all three circumstances immediately above, the disclosures must be made part of the public record, as specified. (Regulation 18705(b)(4).)

## VIII. Segmentation

Under the Act’s conflict of interest provisions, each governmental decision must be analyzed independently to determine if the decision will have a disqualifying effect on an official’s financial interest. (*In re Owen* (1976) 2 FPPC Ops. 77.) Accordingly, an agency may segment a decision in which an official has a disqualifying conflict of interest to allow the official to participate in associated decisions which would not have a disqualifying effect on the official’s interests under Regulation 18706.

**Required Conditions for Segmentation:** Regulation 18706(a) provides that an agency may segment a decision in which an official is financially interested, to allow the official

to participate in associated decisions in which the official is not financially interested, provided all the following conditions are met:

- The decision in which the official is financially interested can be broken down into separate decisions that are not inextricably interrelated to the decision in which the official has a disqualifying financial interest;
- The decision in which the official is financially interested is segmented from the other decisions;
- The decision in which the official is financially interested is considered first and a final decision is reached by the agency without the disqualified official's participation in any way; and
- Once the decision in which the official is financially interested has been made, the official's participation in associated decisions does not result in a reopening of, or otherwise financially affect, the decision from which the official was disqualified.

**“Inextricably Interrelated”:** Regulation 18706(b) provides that decisions are “inextricably interrelated” when the result of one decision will effectively determine, affirm, nullify, or alter the result of another decision.

**Budget and General Plan Decisions Affecting Entire Jurisdiction:** Regulation 18706(c) provides that once all separate decisions related to a budget or general plan affecting the entire jurisdiction have been finalized, the official may participate in the final vote to adopt or reject the agency's budget or general plan.

## IX. Disqualification Requirements

Section 87105 governs the recusal of a public official specified in Section 87200 from a decision from which the official has been disqualified. Subdivisions (a)(1)-(3) of that section require the disqualified official to: identify the potential conflict of interest to publicly identify the official's financial interest or interests at issue; recuse from voting, discussing or attempting to influence the matter; and leave the room until after the matter is concluded. Subdivision (a)(4) excludes members of the Legislature from these recusal requirements.

Regulation 18707 provides further direction and guidance on the recusal requirements applicable to a public official specified in Section 87200 who is disqualified from a decision relating to an agenda item noticed for consideration at a public meeting subject to open meeting laws (i.e. the Bagley-Keene Act (Section 11120 et seq.) or the Brown Act (Section 54950 et seq.)).

**Form and Content of Public Identification:** The disqualified official must publicly identify each type of financial interest, identified in Section 87103, held by the official

that gives rise to the disqualifying conflict of interest. (Regulation 18707(a)(1).) The identification must be oral and part of the public record (Regulation 18707(a)(1)(B)), and provide the following information, as applicable:

- For a business interest: the name of the business, a general description of its activities, and any position held by the official. (Regulation 18707(a)(1)(A)(i).)
- For a real property interest: the property's address, assessor's number, or identification that the property is the official's personal residence. (Regulation 18707(a)(1)(A)(ii).)
- For a source of income interest: the name of the source of income. (Regulation 18707(a)(1)(A)(iii).)
- For a source of gift interest: the name of the source of gift. (Regulation 18707(a)(1)(A)(iv).)
- For all interests: the nature of the expense, liability, asset, or income affected. (Regulation 18707(a)(1)(A)(v).)

**Timing:** The public identification required by Regulation 18707(a)(1) must be made immediately prior to consideration of the agenda item. (Regulation 18707(a)(2).)

- Partial absence from a meeting does not excuse the disqualified official's public identification requirement. (*Ibid.*)
- If the official leaves a meeting in advance of an agenda item from which the official is disqualified, the official must provide the public identification required by Regulation 18707(a)(1) prior to leaving the meeting. (Regulation 18707(a)(2).)
- If the official first joins a meeting after consideration of the agenda item, the official must provide the public identification immediately upon joining the meeting. (*Ibid.*)

**Recusal and Leaving the Room:** The disqualified official must recuse, leave the room after the public identification required by Regulation 18707(a)(1), and refrain from participation in the decision. (Regulation 18707(a)(3).) The disqualified official does not count toward achieving a quorum while the item is discussed. (*Ibid.*)

- For an agenda item on a consent calendar (uncontested items), the official may remain in the room during the consent calendar. (Regulation 18707(a)(3)(A).)
- If the official has a "personal interest" in the agenda item, as defined in Regulation 18704(d)(2) and wishes to speak or appear as a member of the general public, the official may leave the dais and speak or observe from the area reserved for members of the public after making the public identification required by Regulation 18707(a)(1) and recusing. (Regulation 18707(a)(3)(B).)

**Special Rules for Closed Session:** The public identification required by Regulation 18707(a)(1) must be made orally during the open session before the body goes into

closed session and may be limited to a declaration that the official's recusal is because of a conflict of interest under Section 87100. (Regulation 18707(a)(4).) The declaration must be made part of the official public record. (*Ibid.*) The official must not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the decision. (*Ibid.*)

**Other Decisions:** For a decision other than an agenda item involving a public official specified in Section 87200 (governed by Regulation 18707(a)), Regulation 18707(b) provides the following:

- If the official determines not to act because of a financial interest, the official's determination may be accompanied by an oral or written disclosure of the interest.
- The official's presence will not be counted toward achieving a quorum.
- During a closed meeting of the agency, a disqualified official must not be present when the decision is considered, or knowingly obtain or review a recording or any other nonpublic information regarding the decision.
- An agency may adopt a local rule requiring the official to step down from the dais or leave the chambers.

**Confidential Information:** Regulation 18707(c) expressly provides that nothing in Regulation 18707 is intended to cause any disclosure that would reveal the confidences of a closed session or any other privileged information contemplated by law, including privileged information under Regulation 18740.

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission (the "Commission") are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> We note that the annual gift limit is adjusted biennially. The current gift limit is prescribed in Regulation 18940.2. The adjusted annual gift limit amount in effect for the period January 1, 2021, to December 31, 2022, is \$520.

<sup>3</sup> For an official's interest in a business entity or real property, Regulation 18702.1(a) and Regulation 18702.2(a)(1)-(6), provide additional guidance for determining if the interest is explicitly involved.

# Recognizing Conflict of Interest

# Recognizing Conflicts of Interest

## A Guide to the Conflict of Interest Rules of the Political Reform Act

Fair Political Practices Commission

August 2015



This guide is provided by the Fair Political Practices Commission (FPPC) as a general overview of a public official's obligations under the conflict of interest rules provided for in the Political Reform Act (the Act).<sup>1</sup> It is intended to help the user spot situations and issues that may give rise to a conflict. The guide will provide answers to some of the more common questions:

- What is a conflict of interest under the Act?
- Who must be vigilant about conflicts of interest?
- What precautions can be taken to prevent conflicts?
- A conflict of interest exists, what now?
- Where to go for help?

A word of caution - officials should not rely solely on this guide to ensure compliance with the Act, but should also consult the statutes of the Act, the FPPC's regulations, and if necessary, seek legal advice.

## What is a conflict of interest under the Act?

In 1974, the voters enacted the Political Reform Act.<sup>2</sup> In adopting the Act, the voters recognized that conflicts of interest in governmental decision-making by public officials posed a significant danger.

“The people find and declare ...

- a) State and local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth;
- b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them....”<sup>3</sup>

Under the Act, a public official will have a statutory conflict of interest with regard to a particular government decision if it is foreseeable that the outcome of the decision will have a financial impact on the official's personal finances or other financial interests.<sup>4</sup> In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. In fact, preventing conflicts of interest was of such vital importance to the voters that the Act not only prohibits actual bias in decision-making but also “seeks to forestall ... the appearance of possible improprieties.”<sup>5</sup>

## Who must be vigilant about conflicts of interest?

*Public Officials:* The reach of the Act's conflict of interest rules is commonly misunderstood or understated. The Act applies to all "public officials," which is defined as "every member, officer, employee or consultant of a state or local government agency."<sup>6</sup>

It is universally recognized that certain elected public officials, such as city councilmembers, city managers and city attorneys, must refrain from decision-making where a conflict of interest exists. These persons hold high-level positions of trust in government. However, the Act's conflict of interest prohibition reaches much further than high-level state and local officials. The Act's conflict of interest disclosure and disqualification rules apply to thousands of local and state public employees and officials working throughout California.

*The Public:* The Act relies on individual citizens to monitor the decision-making of their elected and appointed representatives to identify whether they have a conflict of interest with respect to a specific decision. Much of the enforcement of the Act's conflict of interest provisions is based on citizen complaints.<sup>7</sup>

## What precautions can be taken to prevent conflicts of interest?

In order to prevent a conflict of interest, a public official should: 1) identify and fully disclose the financial interests that may cause a conflict; 2) understand the different types of financial interests that may be the basis for a conflict; and 3) consider whether the decision's effect on the official's financial interest is reasonably foreseeable and material. Each step is discussed in greater detail below.

### **1. Identify and fully disclose the financial interests that may cause a conflict.**

*Public Officials:* The most important thing an official can do to comply with this law is to recognize the types of interests from which a conflict of interest can arise. By learning to recognize these interests, an official will be able to spot potential problems and seek help from the agency's legal counsel or from the FPPC.

In fact, officials can take steps to protect themselves and the public from conflict of interest decisions well in advance of making a specific governmental decision. The Act requires that public officials annually disclose their financial interests on a Form 700 (Statement of Economic Interests). This is a requirement because the voters who enacted the law recognized that an important purpose of the Act was to ensure adequate disclosure:

“Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.”<sup>8</sup>

The financial interests disclosed include many of the interests that form the basis for a conflict and require disqualification under the Act. No one has a conflict of interest under the Act on general principles or because of personal bias regarding a person or subject – conflicts under the Act are based on financial interests. By thoroughly completing the Form 700, the official is on notice of the type of financial interests he or she holds that may cause a conflict of interest. If the official has no interests that governmental decisions can financially affect, the official will not have a conflict of interest.

*The Public:* Requiring officials to publicly disclose their financial interests allows the general public to monitor an official’s conduct. In other words, any individual citizen can obtain a copy of the Form 700 filed by their local or state official to determine whether the official has a conflict of interest with respect to a specific decision. This serves as an important enforcement mechanism for the Act’s disqualification requirements.

## 2. Understand the different types of financial interests that may be the basis for a conflict.

There are five types of interests<sup>9</sup> that may result in disqualification:

- ***Business Investment, Employment or Management.*** An official has a financial interest in a business entity in which the official, or the official’s spouse, registered domestic partner, or dependent children or an agent has invested \$2,000 or more.<sup>10</sup> An official also has a financial interest in a business entity for which the official is a director, officer, partner, trustee, employee, or holds any position of management.
- ***Real Property.*** An official has a financial interest in real property in which the official, or the official’s spouse, registered domestic partner, or dependent children, or an agent has invested \$2,000 or more, and also in certain leasehold interests of terms of more than a month (excluding a month-to-month lease and leases for terms of less than a month).<sup>11</sup>
- ***Sources of Income.*** An official has a financial interest in anyone, whether an individual or an organization, from whom the official has received (or from whom the official has been promised) \$500 or more in income within 12 months prior to the decision. A “source of income” includes a community property interest in the spouse’s or registered domestic partner’s income. Therefore, a person from

whom the official's spouse or registered domestic partner receives income of \$1,000 or more, such that the official's community property share is \$500 or more, may also be a source of a conflict of interest.<sup>12</sup>

In addition, if the spouse, registered domestic partner or dependent children own 10 percent or more of a business, the official is considered to be receiving "pass-through income" from the business's clients. In other words, under such circumstances, the business's clients may be considered sources of income to the official as well.

- **Gifts.** An official has a financial interest in anyone, whether an individual or an organization, who has given gifts to the official that total \$460 or more<sup>13</sup> within 12 months prior to the decision.
- **Personal Finances.** An official has a financial interest in decisions that affect the official's personal expenses, income, assets, or liabilities, as well as those of the official's immediate family. This is known as the "personal financial effects" rule.

### Quick Tip:

Not all of the financial interests that may cause a conflict of interest are disclosed on a Form 700. A good example is an official's home. It is common for financial effects on an official's home to trigger a conflict of interest. Officials are not, however, required to disclose their home on the Form 700.<sup>1</sup>

### **3. Consider whether the decision's effect on the official's financial interest is reasonably foreseeable and material.**

The next steps all focus on the specific governmental decision in question. At the heart of deciding whether an official has a conflict of interest in a specific decision is determining whether an effect on the financial interest is reasonably foreseeable (might realistically happen or is too remote a possibility) and is material (financially important enough). Determining whether a decision's effects are foreseeable and material will depend on the nature of the specific decision and the relationship of the official's interest to the effects of the governmental decisions.

**IS IT REASONABLY FORESEEABLE?<sup>14</sup>**

Is it a realistic possibility that the decision will actually affect the official’s financial interest or is it too remote or theoretical? Two alternative tests answer this question depending on whether an interest is explicitly involved in a decision.

<p><b><u>An Interest is Explicitly Involved in a Decision If:</u></b></p> <ol style="list-style-type: none"> <li>1) The interest is a named party in or the subject of a governmental decision, or</li> <li>2) The decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the interest, or</li> <li>3) The decision affects the real property of the official as described in Regulation 18702.2(a)(1)-(6).</li> </ol>	<p style="text-align: center;"><b><u>Then</u></b></p> <p>It is reasonably foreseeable that the decision will have a material financial effect on the interest.</p>
<p><b><u>If Not Explicitly Involved in the Decision</u></b></p> <p>All other decisions, other than those above, are considered not explicitly involved in the decision.</p>	<p style="text-align: center;"><b><u>Then</u></b></p> <p>If an interest is not explicitly involved in a decision, the financial effect on the interest is reasonably foreseeable only if the effect can be recognized as a realistic possibility and more than hypothetical or theoretical. A financial effect need not be likely to be considered reasonably foreseeable. However, if the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable.</p>

**Quick Tip:**

For purposes of being vigilant to avoid conflict of interest decisions, keep the general rule in mind – if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable.

**IS IT MATERIAL?**

The FPPC has adopted various rules (general and specific) for deciding what kinds of financial effects are important enough to trigger a conflict of interest. Generally, for each of the five interests set forth above, a separate materiality standard exists. The following charts reflect the materiality standards that apply to each type of interest.

**Interests in Business Entities<sup>15</sup>**

(Including investments in, employment or positions with, or income from business entities)

<p><b>If Business Explicitly Involved = Financial Effect Assumed to be Material</b></p> <p>A material financial effect is assumed if the business:</p> <ol style="list-style-type: none"> <li>1) Initiates the proceeding by filing an application, claim, appeal, or request for other government action;</li> <li>2) Offers to make a sale of a service or a product to the official’s agency;</li> <li>3) Bids on or enters into a written contract with the official’s agency;</li> <li>4) Is the named manufacturer in a purchase order of any product purchased by the official’s agency or the sales provider of any products to the official’s agency that aggregates to \$1,000 or more in any 12-month period;</li> <li>5) Applies for a permit, license, grant, tax credit, exception, variance, or other entitlement that the official’s agency is authorized to issue;</li> <li>6) Is the subject of any inspection, action, or proceeding subject to the regulatory authority of the official’s agency; or</li> <li>7) Is otherwise subject to an action the official’s agency takes, the effect of which is directed solely at the business entity in which the official has an interest.</li> </ol> <p><b>NOTE:</b> In all other circumstances, the business is considered not explicitly involved in the decision and the financial effect is not assumed to be material.</p>	<p><b>⊘ Not Assumed Material if Business Not Explicitly Involved</b></p> <p>In all other cases, a financial effect is material <i>if</i> a prudent person with sufficient information would find it is reasonably foreseeable that the decision’s financial effect would contribute to a change in the price of the entity’s publicly traded stock, or the value of a privately-held business entity.</p>
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**Interests in Real Property<sup>16</sup>**

NOTE: There are different materiality standards depending on whether it is an ownership or leasehold interest.

**Ownership Interests in Real Property**

<p>A material financial effect is assumed if...</p>	<p>The decision:</p> <ol style="list-style-type: none"><li>1) Involves adopting or amending a general or specific plan, that includes the official's property;</li><li>2) Determines the property's zoning or rezoning, annexation or de-annexation, or inclusion in or exclusion from any city, county, district, or other local government subdivision, or other boundaries (other than a zoning decision applicable to all properties designated in that category);</li><li>3) Imposes, repeals, or modifies any taxes, fees, or assessments that apply to the property;</li><li>4) Authorizes the sale, purchase, or lease of the property;</li><li>5) Involves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the property or any variance that changes the permitted use of, or restrictions placed on it;</li></ol> <p>NOTE: For a financial effect resulting from a governmental decision regarding permits or licenses issued to the official's business entity when operating on the official's real property, the materiality standards under Regulation 18702.1 applicable to business entities would apply instead.</p> <ol style="list-style-type: none"><li>6) Involves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the property in which the official has an interest will receive new or improved services that are distinguishable from improvements and services that are provided to or received by other similarly situated properties in the official's jurisdiction or the official will otherwise receive a disproportionate benefit or detriment by the decision.</li></ol>
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<p><b>Unless it is nominal, inconsequential or insignificant, a material financial effect is also assumed if...</b></p>	<p>The decision:</p> <ol style="list-style-type: none"> <li>1) Changes the development potential of the real property;</li> <li>2) Changes the income-producing potential of the real property;</li> </ol> <p>NOTE: If the real property contains a business entity, including rental property, and the nature of the business entity remains unchanged, the materiality standards under Regulation 18702.1 applicable to business entities would apply instead.</p> <ol style="list-style-type: none"> <li>3) Changes the highest and best use of the parcel of real property in which the official has a financial interest;</li> <li>4) Changes the character of the parcel of real property by substantially altering traffic levels or intensity of use, including parking, of property surrounding the official's real property parcel, the view, privacy, noise levels, or air quality, including odors, or any other factors that would affect the market value of the real property parcel in which the official has a financial interest;</li> <li>5) Affects real property value located within 500 feet of the official's property line. However, if the real property is commercial property and contains a business entity, the materiality standards under Regulation 18702.1 applicable to business entities would apply instead;<sup>17</sup></li> <li>6) Causes a reasonably prudent person, using due care and consideration under the circumstances, to believe that the governmental decision was of such a nature that its reasonably foreseeable effect would influence the market value of the official's property.</li> </ol>
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**Leasehold Interests in Real Property<sup>18</sup>**

<p>A material financial effect is assumed if...</p>	<p>The decision:</p> <ol style="list-style-type: none"> <li>1) Changes the termination date of the lease;</li> <li>2) Increases or decreases the potential rental value of the property;</li> <li>3) Increases or decreases the rental value of the property, and official has right to sublease it;</li> <li>4) Changes the official's actual or legally allowable use of the real property; or</li> <li>5) Impacts the official's use and enjoyment of the real property.</li> </ol>
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**Sources of Income**

NOTE: There are different standards depending if income is for goods and services or the sale of personal or real property.

**Income Received for Goods and Services Provided in the Ordinary Course of Business, including a Salary<sup>19</sup>**

<p>A material financial effect is assumed if...</p>	<p>The source of income is:</p> <ol style="list-style-type: none"> <li>1) A claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding;</li> <li>2) An individual and the individual will be financially affected under the standards applied to an official in Regulation 18702.5, or the official knows or has reason to know that the individual has an interest in a business entity or real property that will be financially affected under the standards applied to those financial interests in Regulation 18702.1 or 18702.2, respectively;</li> <li>3) A nonprofit that will receive a measurable financial benefit or loss, or the official knows or has reason to know that the nonprofit has an interest in real property that will be financially affected under the standards applied to a real property interest in Regulation 18702.2; or</li> <li>4) A business entity and the business will be financially affected under the standards applied to a business interest in Regulation 18702.1.</li> </ol>
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**Income from the Sale of Personal or Real Property of the Official or the Official's Spouse if Community Property<sup>20</sup>**

<p>A material financial effect is assumed if...</p>	<p>The official knows or has reason to know that the source of income:</p> <ol style="list-style-type: none"> <li>1) Is a claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding;</li> <li>2) Has an interest in a business entity that will be financially affected under the standards applied to a financial interest in Regulation 18702.1; or</li> <li>3) Has an interest in real property that will be financially affected under the standards applied to a financial interest in Regulation 18702.2.</li> </ol>
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**Sources of Gifts<sup>21</sup>**

(Including Gifts from Individuals, Nonprofits, and Business Entities)

<p>A material financial effect can be assumed if...</p>	<p>The source is:</p> <ol style="list-style-type: none"> <li>1) A claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding;</li> <li>2) An individual who will be financially affected under the standards applied to an official in Regulation 18702.5, or the official knows or has reason to know that the individual has an interest in a business entity or real property that will be financially affected under the standards applied to those interests in Regulation 18702.1 or 18702.2, respectively;</li> <li>3) An nonprofit that will receive a measurable financial benefit or loss, or the official knows or has reason to know that the nonprofit has an interest in real property that will be financially affected under the standards applied to a financial interest in Regulation 18702.5; or</li> <li>4) A business entity will be financially affected under the standards in Regulation 18702.1.</li> </ol>
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**Interests in Personal Finances<sup>22</sup>**

(Including the Personal Finances of Immediate Family Members)

<p>The financial effect is material if...</p>	<p>The official or the official’s immediate family member will receive a measurable financial benefit or loss from the decision unless it is nominal, inconsequential, or insignificant.</p>
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**Quick Tip:**

There are many rules and many exceptions (so numerous we can’t discuss them all here). At a big picture level, remember:

- In most cases, if the financial interest is directly or explicitly involved in the decision, the materiality standard is met. This is because an interest that is directly or explicitly involved in a governmental decision presents a more obvious conflict.
- On the other hand, if the financial interest is not directly or explicitly involved, the materiality standard is generally based on a reasonable person standard.

### 4. Consider whether an exception applies.

Once an official has determined that he or she has a conflict of interest in a particular decision, the official can examine if an exception permits the official's participation despite the conflict. Not all conflicts of interest prevent the official from lawfully taking part in the government decision.

- *The Public Generally Exception:*<sup>23</sup> Even if an official otherwise has a conflict of interest, the official is not disqualified from the participating in the decision if the “public generally” exception applies. This public generally exception applies when the financial effect on a public official or the official's interests is indistinguishable from its effect on the public generally.

**NOTE:** The “public generally” exception must be considered with care. An official may not just assume that it applies. There are rules for identifying the specific segments of the general population with which the official must compare the official's financial interest, and specific rules for deciding whether the financial impact will uniquely affect the public official as compared to the public generally. Again, officials should contact their agency counsel or the FPPC concerning these specific rules.

- *Legally Required to Participate:*<sup>24</sup> Even if an official has a disqualifying conflict of interest, is the participation legally required? In certain rare circumstances, an official may be called upon to take part in a decision despite the fact that the official has a disqualifying conflict of interest. This “legally required participation” rule applies only in certain very specific circumstances in which the government agency would be paralyzed or unable to act. The FPPC or the agency's counsel must generally make this determination and will instruct the official on how to proceed.

## A conflict of interest exists, what now?

Once an official determines that they have a conflict of interest and that an exception does not apply, the official must disqualify from all of the following:<sup>25</sup>

- *Making the governmental decision.* A public official makes a governmental decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits his or her agency to any course of action, or enters into any contractual agreement on behalf of his or her agency.

- *Participating in making the governmental decision.* A public official participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review.
- *Influencing the governmental decision.* A public official uses his or her official position to influence a governmental decision if he or she: contacts or appears before (1) any official in his or her agency or in an agency subject to the authority or budgetary control of his or her agency for the purpose of affecting a decision; or (2) any official in any other government agency for the purpose of affecting a decision, and the public official acts or purports to act within his or her authority or on behalf of his or her agency in making the contact.

Certain officials (including city council members, planning commissioners, and members of the boards of supervisors) have a mandated manner in which they must disqualify from a decision.<sup>26</sup> They must publicly identify in detail the interest that creates the conflict, step down from the dais, and must then leave the room. The official must identify the interest following the announcement of the agenda item to be discussed or voted upon, but before either the discussion or vote commences.

If the decision is to take place during a closed session, the identification of the financial interest must be made during the public meeting prior to the closed session but is limited to a declaration that the official has a conflict of interest. The financial interest that is the basis for the conflict need not be disclosed. The official may not be present during consideration of the closed session item and may not obtain or review any nonpublic information regarding the decision.

There are limited exceptions that allow a public official to participate even when a conflict is present, such as participating as a member of the general public, speaking to the press, or discussing one's own governmental employment. The exceptions are limited and fact-specific, and may require advice from the agency's counsel or the FPPC.

## Final thoughts

Generally speaking, here are the keys for public officials to meet their obligations under the Act's conflict of interest laws:

- Know the purpose of the law, which is to prevent biases, actual and apparent, that result from the financial interests of the decision-makers.
- Learn to spot potential trouble early. Understand which financial interests could give rise to a conflict of interest.

- Understand the “big picture” of the rules. For example, know why the rules distinguish between explicitly involved interests, and why the public generally exception exists.
- Realize the importance of the facts. Deciding whether an official has a disqualifying conflict of interest depends just as much - if not more - on the facts of the particular situation as it does on the law.
- Don’t try to memorize all of the specific conflict of interest rules. The rules are detailed, and the penalties for violating them are significant. Rather, look the rules up or ask about the particular rules applicable to a given case.
- Ask for advice. It is available from the agency’s legal counsel and from the FPPC.

### Where to go for help?

<b>Email Advice (informal)</b>	<a href="mailto:advice@fppc.ca.gov">advice@fppc.ca.gov</a>
<b>Written Advice (formal and informal)</b>	<b>Fair Political Practices Commission 428 J Street, Suite 620 Sacramento, CA 95814</b>

<sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 - 91014, and all statutory references are to this code. The FPPC regulations are contained in §§ 18110 - 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

<sup>2</sup> Enacted through Proposition 9 at the June 4, 1974 Primary Election.

<sup>3</sup> § 81001.

<sup>4</sup> § 87100.

<sup>5</sup> *Witt v. Morrow* (1977) 70 Cal. App. 3d 817 at 822–823: “Morrow asserts it is unconstitutional to automatically disqualify a public official from participating in decisions which may affect the investments of an entity which pays him .... However, the whole purpose of the Political Reform Act of 1974 is to preclude a government official from participating in decisions where it appears he may not be totally objective because the outcome will likely benefit a corporation or individual by whom he is also employed.”

<sup>6</sup> § 82048.

<sup>7</sup> § 83115.

<sup>8</sup> § 81002(c).

<sup>9</sup> § 87103.

<sup>10</sup> Under § 87103, an official has an "indirect interest" in real property owned by a business entity or trust in which the official, the official's immediate family, or their agents own directly, indirectly, or beneficially a 10-percent interest or greater.

<sup>11</sup> § 82033.

<sup>12</sup> § 82030.

<sup>13</sup> The Commission adjusts the gift threshold on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index.

<sup>14</sup> Regulation 18701.

<sup>15</sup> Regulation 18702.1

<sup>16</sup> Regulation 18702.2(a).

<sup>17</sup> Particular facts can rebut this presumption depending on advice given by the FPPC.

<sup>18</sup> Regulation 18702.2(b).

<sup>19</sup> Regulation 18702.3(a).

<sup>20</sup> Regulation 18702.3(b).

<sup>21</sup> Regulation 18702.4.

<sup>22</sup> Regulation 18702.5.

<sup>23</sup> Regulation 18703.

<sup>24</sup> § 87101 and Regulation 18705.

<sup>25</sup> Regulation 18704.

<sup>26</sup> § 87105 and Regulation 18707 applicable to persons holding positions specified in § 87200.

# **A Guide to the Ralph M. Brown Act**

# Open & Public VI

A GUIDE TO THE RALPH M. BROWN ACT

REVISED JANUARY 2024



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<b>CHAPTER 1: IT IS THE PEOPLE’S BUSINESS</b> .....	5
<b>CHAPTER 2: LEGISLATIVE BODIES</b> .....	11
<b>CHAPTER 3: MEETINGS</b> .....	17
<b>CHAPTER 4: AGENDAS, NOTICES, AND PUBLIC PARTICIPATION</b> .....	29
<b>CHAPTER 5: CLOSED SESSIONS</b> .....	41
<b>CHAPTER 6: REMEDIES</b> .....	55

# TABLE OF CONTENTS

<b>CHAPTER 1: IT IS THE PEOPLE’S BUSINESS</b> .....	<b>5</b>
The right of access .....	6
Broad coverage .....	6
Narrow exemptions .....	7
Public participation in meetings .....	7
Controversy .....	8
Beyond the law — good business practices.....	8
Achieving balance .....	9
Historical note .....	9
<b>CHAPTER 2: LEGISLATIVE BODIES</b> .....	<b>11</b>
What is a “legislative body” of a local agency? .....	12
What is <u>not</u> a “legislative body” for purposes of the Brown Act? .....	14
<b>CHAPTER 3: MEETINGS</b> .....	<b>17</b>
Brown Act meetings.....	18
Six exceptions to the meeting definition .....	18
Collective briefings.....	21
Retreats, trainings, and workshops of legislative bodies.....	21
Serial meetings.....	22
Informal gatherings .....	24
Technological conferencing .....	25
Location of meetings.....	26
<b>CHAPTER 4: AGENDAS, NOTICES, AND PUBLIC PARTICIPATION.....</b>	<b>29</b>
Agendas for regular meetings.....	30
Mailed agenda upon written request.....	31
Notice requirements for special meetings .....	32
Notices and agendas for adjourned and continued meetings and hearings .....	32
Notice requirements for emergency meetings .....	33
Notice of compensation for simultaneous or serial meetings .....	33
Educational agency meetings .....	33
Notice requirements for tax or assessment meetings and hearings.....	33

Non-agenda items.....	34
Responding to the public .....	35
The right to attend and observe meetings .....	36
Records and recordings .....	37
The public’s right to speak during a meeting .....	38
<b>CHAPTER 5: CLOSED SESSIONS .....</b>	<b>41</b>
Agendas and reports.....	42
Litigation.....	43
Real estate negotiations .....	45
Public employment .....	46
Labor negotiations .....	47
Labor negotiations — school and community college districts .....	48
Other Education Code exceptions .....	48
Joint powers authorities.....	48
License applicants with criminal records .....	49
Public security.....	49
Multijurisdictional law enforcement agency .....	49
Hospital peer review and trade secrets.....	49
Other legislative bases for closed session.....	50
Who may attend closed sessions .....	50
The confidentiality of closed session discussions .....	51
<b>CHAPTER 6: REMEDIES .....</b>	<b>55</b>
Invalidation of action taken.....	56
Declaratory relief to determine whether past action violated the act.....	57
Civil action to prevent future violations.....	57
Costs and attorney’s fees .....	58
Misdemeanor penalties.....	58
Voluntary resolution .....	59





# Chapter 1

## IT IS THE PEOPLE’S BUSINESS

The right of access.....	6
Broad coverage .....	6
Narrow exemptions .....	7
Public participation in meetings .....	7
Controversy.....	8
Beyond the law — good business practices .....	8
Achieving balance .....	9
Historical note.....	9

# Chapter 1

## IT IS THE PEOPLE'S BUSINESS



### The right of access

Two key parts of the Brown Act have not changed since its adoption in 1953. One is the act's initial section, declaring the Legislature's intent:

*"In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.*

*"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."<sup>1</sup>*

The people reconfirmed that intent 50 years later in the November 2004 election by adopting Proposition 59, amending the California Constitution to include a public right of access to government information:

*"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."<sup>2</sup>*

The Brown Act's other unchanged provision is a single sentence:

*"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."<sup>3</sup>*

That one sentence is by far the most important of the entire Brown Act. If the opening is the soul, that sentence is the heart of the Brown Act.

### Broad coverage

The Brown Act covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. Some types of private organizations are covered, as are newly elected members of a legislative body, even before they take office.

Similarly, meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device through which a majority of a legislative body discusses, deliberates, or takes action on an item of business outside of a noticed meeting. They include meetings held from remote locations by teleconference or videoconference.

**PRACTICE TIP:** The key to the Brown Act is a single sentence. In summary, all meetings shall be **open and public** except when the Brown Act authorizes otherwise.

New communication technologies present new Brown Act challenges. For example, common email practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by members of a legislative body in an internet chatroom or blog dialogue. Social Media posts, comments, and “likes” can result in a Brown Act violation. Communicating during meetings using electronic technology (such as laptop computers, tablets, or smart phones) may create the perception that private communications are influencing the outcome of decisions, and some state legislatures have banned the practice. On the other hand, widespread video streaming and videoconferencing of meetings has greatly expanded public access to the decision-making process.

### Narrow exemptions

The express purpose of the Brown Act is to ensure that local government agencies conduct the public’s business openly and publicly. Courts and the California Attorney General usually broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions to its general rules.<sup>4</sup>

Generally, public officials should think of themselves as living in glass houses, and that they may only draw the curtains when it is in the public interest to preserve confidentiality. Closed sessions may be held only as specifically authorized by the provisions of the Brown Act itself.

The Brown Act, however, is limited to meetings among a majority of the members of multimember government bodies when the subject relates to local agency business. It does not apply to independent conduct of individual decision-makers. It does not apply to social, ceremonial, educational, and other gatherings as long as a majority of the members of a body do not discuss issues related to their local agency’s business. Meetings of temporary advisory committees — as distinguished from standing committees — made up solely of less than a quorum of a legislative body are not subject to the Brown Act.

The law does not apply to local agency staff or employees, but they may facilitate a violation by acting as a conduit for discussion, deliberation, or action by the legislative body.<sup>5</sup>

The law, on the one hand, recognizes the need of individual local officials to meet and discuss matters with their constituents and staff. On the other hand, it requires — with certain specific exceptions to protect the community and preserve individual rights — that the decision-making process be public. Sometimes the boundary between the two is not easy to draw.

### Public participation in meetings

In addition to requiring the public’s business to be conducted in open, noticed meetings, the Brown Act also extends to the public the right to participate in meetings. Individuals, lobbyists, and members of the news media possess the right to attend, record, broadcast, and participate in public meetings. The public’s participation is further enhanced by the Brown Act’s requirement that a meaningful agenda be posted in advance of meetings, by limiting discussion and action to matters listed on the agenda, and by requiring that meeting materials be made available.

Legislative bodies may, however, adopt reasonable regulations on public testimony and the conduct of public meetings, including measures to address disruptive conduct and limits on the time allotted to each speaker. For more information, see chapter 4.

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**PRACTICE TIP:** Think of the government’s house as being made of glass. The curtains may be drawn only to further the public’s interest. A local policy on the use of laptop computers, tablets, and smart phones during Brown Act meetings may help avoid problems.

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## Controversy

Not surprisingly, the Brown Act has been a source of confusion and controversy since its inception. News media and government watchdogs often argue the law is toothless, pointing out that there has never been a single criminal conviction for a violation. They often suspect that closed sessions are being misused.

Some public officials complain that the Brown Act makes it difficult to respond to constituents and requires public discussions of items better discussed privately, such as why a particular person should not be appointed to a board or commission. Many elected officials find the Brown Act inconsistent with their private business experiences. Closed meetings can be more efficient; they eliminate grandstanding and promote candor. The techniques that serve well in business — the working lunch, the sharing of information through a series of phone calls or emails, the backroom conversations and compromises — are often not possible under the Brown Act.

As a matter of public policy, California (along with many other states) has concluded that there is more to be gained than lost by conducting public business in the open. Government behind closed doors may well be efficient and businesslike, but it may be perceived as unresponsive and untrustworthy.

**PRACTICE TIP:** Transparency is a foundational value for ethical government practices. The Brown Act is a floor, not a ceiling, for conduct.

## Beyond the law — good business practices

Violations of the Brown Act can lead to invalidation of an agency's action, payment of a challenger's attorney fees, public embarrassment, even criminal prosecution. But the Brown Act is a floor, not a ceiling, for conduct of public officials. This guide is focused not only on the Brown Act as a minimum standard, but also on meeting practices or activities that, legal or not, are likely

to create controversy. Problems may crop up, for example, when agenda descriptions are too brief or vague, when an informal get-together takes on the appearance of a meeting, when an agency conducts too much of its business in closed session or discusses matters in closed session that are beyond the authorized scope, or when controversial issues arise that are not on the agenda.

The Brown Act allows a legislative body to adopt practices and requirements for greater access to meetings for itself and its subordinate committees and bodies that are more stringent than the law itself requires.<sup>6</sup> Rather than simply restate the basic requirements of the Brown Act, local open meeting policies should strive to anticipate and prevent problems in areas where the Brown Act does not provide full guidance. As with the adoption of any other significant policy, public comment should be solicited.

A local policy could build on these basic Brown Act goals:

- A legislative body's need to get its business done smoothly.
- The public's right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time.



- A local agency's right to confidentially address certain negotiations, personnel matters, claims, and litigation.
- The right of the press to fully understand and communicate public agency decision-making.

A detailed and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law — but if the law were enough, this guide would be unnecessary. A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law and look at its unique circumstances to determine if there is a better way to prevent potential problems and promote public trust. At the very least, local agencies need to think about how their agendas are structured in order to make Brown Act compliance easier. They need to plan carefully to make sure public participation fits smoothly into the process.

### Achieving balance

The Brown Act should be neither an excuse for hiding the ball nor a mechanism for hindering efficient and orderly meetings. The Brown Act represents a balance among the interests of constituencies whose interests do not always coincide. It calls for openness in local government, yet should allow government to function responsively and productively.

There must be both adequate notice of what discussion and action are to occur during a meeting as well as a normal degree of spontaneity in the dialogue between elected officials and their constituents.

The ability of an elected official to confer with constituents or colleagues must be balanced against the important public policy prohibiting decision-making outside of public meetings.

In the end, implementation of the Brown Act must ensure full participation of the public and preserve the integrity of the decision-making process, yet not stifle government officials and impede the effective and natural operation of government.

### Historical note

In late 1951, *San Francisco Chronicle* reporter Mike Harris spent six weeks looking into the way local agencies conducted meetings. State law had long required that business be done in public, but Harris discovered secret meetings or caucuses were common. He wrote a 10-part series titled "Your Secret Government" that ran in May and June 1952.

Out of the series came a decision to push for a new state open-meeting law. Harris and Richard (Bud) Carpenter, legal counsel for the League of California Cities, drafted such a bill and Assembly Member Ralph M. Brown agreed to carry it. The Legislature passed the bill, and Governor Earl Warren signed it into law in 1953.

The Ralph M. Brown Act, known as the Brown Act, has evolved under a series of amendments and court decisions, and has been the model for other open-meeting laws, such as the Bagley-Keene Act, enacted in 1967 to cover state agencies.

Assembly Member Brown is best known for the open-meeting law that carries his name. He was elected to the Assembly in 1942 and served 19 years, including the last three years as Speaker. He then became an appellate court justice.

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**PRACTICE TIP:** The Brown Act should be viewed as a tool to facilitate the business of local government agencies. Local policies that go beyond the minimum requirements of law may help instill public confidence and avoid problems.

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Updates to this publication responding to changes in the Brown Act or new court interpretations are available at <https://www.calcities.org/home/resources/open-government2>. A current version of the Brown Act may be found at <https://leginfo.ca.gov>.

### ENDNOTES

- 1 Cal. Gov. Code, § 54950.
- 2 Cal. Const., Art. 1, § 3, subd. (b)(1).
- 3 Cal. Gov. Code, § 54953, subd. (a).
- 4 This principle of broad construction when it furthers public access and narrow construction if a provision limits public access is also stated in the amendment to the State's Constitution adopted by Proposition 59 in 2004. California Const., Art. 1, § 3, subd. (b)(2).
- 5 Cal. Gov. Code, § 54952.2, subds. (b)(2) and (c)(1); *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533.
- 6 Cal. Gov. Code, § 54953.7.



# Chapter 2

## LEGISLATIVE BODIES

What is a “legislative body” of a local agency? ..... 12

What is not a “legislative body” for purposes of the Brown Act? ..... 14

# Chapter 2

## LEGISLATIVE BODIES

*The Brown Act applies to the legislative bodies of local agencies. It defines “legislative body” broadly to include just about every type of decision-making body of a local agency.<sup>1</sup>*



### What is a “legislative body” of a local agency?

A “legislative body” includes the following:

- The “**governing body** of a local agency” and certain of its subsidiary bodies; “or any other local body created by state or federal statute.”<sup>2</sup> This includes city councils, boards of supervisors, school boards, and boards of trustees of special districts. A “local agency” is any city, county, city and county, school district, municipal corporation, successor agency to a redevelopment agency, district, political subdivision, or other local public agency.<sup>3</sup> A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.<sup>4</sup> The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.<sup>5</sup> Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.<sup>6</sup>

- **Newly elected members** of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office.<sup>7</sup> Thus, meetings between incumbents and newly elected members of a legislative body, such as a meeting between two outgoing members and a member-elect of a five-member body, could violate the Brown Act.

**Q.** On the morning following the election to a five-member legislative body of a local agency, two successful candidates, neither an incumbent, meet with an incumbent member of the legislative body for a celebratory breakfast. Does this violate the Brown Act?

**A.** *It might, and absolutely would if the conversation turns to agency business. Even though the candidates-elect have not officially been sworn in, the Brown Act applies. If purely a social event, there is no violation, but it would be preferable if others were invited to attend to avoid the appearance of impropriety.*

**PRACTICE TIP:** The prudent presumption is that an advisory committee or task force is subject to the Brown Act. Even if one clearly is not, it may want to comply with the Brown Act. Public meetings may reduce the possibility of misunderstandings and controversy.

- **Appointed bodies** — whether permanent or temporary, decision-making or advisory — including planning commissions, civil service commissions, and other subsidiary committees, boards, and bodies. Volunteer groups, executive search committees, task forces, and blue ribbon committees created by formal action of the governing body are legislative bodies. When the members of two or more legislative bodies are appointed to serve on an entirely separate advisory group, the resulting body may be subject to the Brown Act. In one reported case, a city council created a committee of two members of the city council and two members of the city planning commission to review qualifications of prospective planning commissioners and make recommendations to the council. The court held that their joint mission made them a legislative body subject to the Brown Act. Had the two committees remained separate and met only to exchange information and report back to their respective boards, they would have been exempt from the Brown Act.<sup>8</sup>
- **Standing committees** of a legislative body, irrespective of their composition, which have either (1) a continuing subject matter jurisdiction or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.<sup>9</sup> Even if it comprises less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates committees on budget and finance or on public safety that are not limited in duration or scope, those are standing committees subject to the Brown Act. Further, according to the California Attorney General, function over form controls. For example, a statement by the legislative body that the advisory committee “shall not exercise continuing subject matter jurisdiction” or the fact that the committee does not have a fixed meeting schedule is not determinative.<sup>10</sup> “Formal action” by a legislative body includes authorization given to the agency’s executive officer to appoint an advisory committee pursuant to agency-adopted policy.<sup>11</sup> A majority of the members of a legislative body may attend an open and public meeting of a standing committee of that body, provided the members who are not part of the standing committee only observe.<sup>12</sup> For more information, see chapter 3.
- The governing body of any **private organization** either (1) created by the legislative body in order to exercise authority that may lawfully be delegated by such body to a private corporation, limited liability company, or other entity or (2) that receives agency funding and whose governing board includes a member of the legislative body of the local agency appointed by the legislative body as a full voting member of the private entity’s governing board.<sup>13</sup> These include some nonprofit corporations created by local agencies.<sup>14</sup> If a local agency contracts with a private firm for a service (for example, payroll, janitorial, or food services), the private firm is not covered by the Brown Act.<sup>15</sup> When a member of a legislative body sits on a board of a private organization as a private person and is not appointed by the legislative body, the board will not be subject to the Brown Act. Similarly, when the legislative body appoints someone other than one of its own members to such boards, the Brown Act does not apply. Nor does it apply when a private organization merely receives agency funding.<sup>16</sup>

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**PRACTICE TIP:** It can be difficult to determine whether a subcommittee of a body falls into the category of a standing committee or an exempt temporary committee. Suppose a committee is created to explore the renewal of a franchise or a topic of similarly limited scope and duration. Is it an exempt temporary committee or a nonexempt standing committee? The answer may depend on factors such as how meeting schedules are determined, the scope of the committee’s charge, or whether the committee exists long enough to have “continuing jurisdiction.”

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- Q.** The local chamber of commerce is funded in part by the city. The mayor sits on the chamber's board of directors. Is the chamber board a legislative body subject to the Brown Act?
- A.** *Maybe. If the chamber's governing documents require the mayor to be on the board and the city council appoints the mayor to that position, the board is a legislative body. If, however, the chamber board independently appoints the mayor to its board, or the mayor attends chamber board meetings in a purely advisory capacity, it is not.*
- Q.** If a community college district board creates an auxiliary organization to operate a campus bookstore or cafeteria, is the board of the organization a legislative body?
- A.** *Yes. But if the district instead contracts with a private firm to operate the bookstore or cafeteria, the Brown Act would not apply to the private firm.*

- **Certain types of hospital operators.** A lessee of a hospital (or portion of a hospital) first leased under Health and Safety Code subsection 32121(p) after Jan. 1, 1994, which exercises "material authority" delegated to it by a local agency, whether or not such lessee is organized and operated by the agency or by a delegated authority.<sup>17</sup>

### What is not a "legislative body" for purposes of the Brown Act?

- A temporary advisory committee composed **solely of less than a quorum** of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act.<sup>18</sup> Temporary committees are sometimes called *ad hoc* committees, a term not used in the Brown Act. Examples include an advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.<sup>19</sup>
- Groups advisory to a single decision-maker or appointed by staff are not covered. The Brown Act applies only to committees created by formal action of the legislative body and not to committees created by others. A committee advising a superintendent of schools would not be covered by the Brown Act. However, the same committee, if created by formal action of the school board, would be covered.<sup>20</sup>

- Q.** A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?
- A.** *No, because the committee has not been established by formal action of the legislative body.*
- Q.** During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager. Does the Brown Act apply to this committee?
- A.** *Possibly, because the direction from the city council might be regarded as a formal action of the body, notwithstanding that the city manager controls the committee.*

- Individual decision-makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads is not subject to the Brown Act since such assemblies are not those of a legislative body.<sup>21</sup>
- Public employees, each acting individually and not engaging in collective deliberation on a specific issue, such as the drafting and review of an agreement, do not constitute a legislative body under the Brown Act, even if the drafting and review process was established by a legislative body.<sup>22</sup>
- County central committees of political parties are also not Brown Act bodies.<sup>23</sup>

Legal counsel for a governing body is not a member of the governing body, therefore, the Brown Act does not apply to them. But counsel should take care not to facilitate Brown Act violations by members of the governing body.<sup>24</sup>

## ENDNOTES

- 1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1127.
- 2 Cal. Gov. Code, § 54952, subs. (a) and (b).
- 3 Cal. Gov. Code, § 54951; Cal. Health & Saf. Code, § 34173, subd. (g) (successor agencies to former redevelopment agencies subject to the Brown Act). But see Cal. Ed. Code § 35147, which exempts certain school councils and school site advisory committees from the Brown Act and imposes upon them a separate set of rules.
- 4 *Torres v. Board of Commissioners of Housing Authority of Tulare County* (1979) 89 Cal.App.3d 545, 549-550.
- 5 71 Ops.Cal.Atty.Gen. 96 (1988); 73 Ops.Cal.Atty.Gen. 1 (1990).
- 6 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354, 362.
- 7 Cal. Gov. Code, § 54952.1.
- 8 *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799, 804-805.
- 9 Cal. Gov. Code, § 54952, subd. (b)
- 10 79 Ops.Cal.Atty.Gen. 69 (1996).
- 11 *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 793.
- 12 Cal. Gov. Code § 54952, subd. (c)(6).
- 13 Cal. Gov. Code, § 54952, subd. (c)(1). Regarding private organizations that receive local agency funding, the same rule applies to a full voting member appointed prior to February 9, 1996, who, after that date, is made a nonvoting board member by the legislative body. Cal. Gov. Code § 54952, subd. (c)(2).
- 14 Cal. Gov. Code, § 54952(c)(1)(A); *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300; *Epstein v. Hollywood Entertainment Dist. II Business Improvement District* (2001) 87 Cal.App.4th 862, 876; see also 85 Ops.Cal.Atty.Gen. 55 (2002).
- 15 *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300 fn. 5.
- 16 "The Brown Act, Open Meetings for Local Legislative Bodies," California Attorney General's Office (2003), p. 7.

- 17 Cal. Gov. Code, § 54952, subd. (d).
- 18 Cal. Gov. Code, § 54952, subd. (b); see also *Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors* (1993) 6 Cal.4th 821, 832.
- 19 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1129.
- 20 56 Ops.Cal.Atty.Gen. 14, 16-17 (1973).
- 21 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870, 878-879.
- 22 *Golightly v. Molina* (2014) 229 Cal.App.4th 1501, 1513.
- 23 59 Ops.Cal.Atty.Gen. 162, 164 (1976).
- 24 *GFRCO, Inc. v. Superior Court of Riverside County* (2023) 89 Cal.App.5th 1295, 1323; *Stockton Newspapers, Inc. v. Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95, 105 (a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting).



# Chapter 3

## MEETINGS

Brown Act meetings .....	18
Six exceptions to the meeting definition.....	18
Collective briefings.....	21
Retreats, trainings, and workshops of legislative bodies .....	21
Serial meetings .....	22
Informal gatherings .....	24
Technological conferencing .....	25
Location of meetings .....	26

# Chapter 3

## MEETINGS



The Brown Act **only** applies to meetings of local legislative bodies. It defines a meeting as “any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take any action on any item that is within the subject matter jurisdiction of the legislative body.”<sup>1</sup> The term *meeting* is not limited to gatherings at which action is taken but includes deliberative gatherings as well. A hearing before an individual hearing officer is not a meeting under the Brown Act because it is not a hearing before a legislative body.<sup>2</sup>

### Brown Act meetings

Brown Act meetings include a legislative body’s regular meetings, special meetings, emergency meetings, and adjourned meetings.

- **“Regular meetings”** are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.<sup>3</sup>
- **“Special meetings”** are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act’s notice requirements for special meetings and are subject to 24-hour posting requirements.<sup>4</sup>
- **“Emergency meetings”** are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.<sup>5</sup>
- **“Adjourned meetings”** are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.<sup>6</sup>

### Six exceptions to the meeting definition

The Brown Act creates six exceptions to the meeting definition:<sup>7</sup>

#### *Individual contacts*

The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on their own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff, or a colleague.

Individual contacts, however, cannot be used to do in stages what would be prohibited in one step. For example, a series of individual contacts that leads to discussion, deliberation, or action among a majority of the members of a legislative body is prohibited. Such serial meetings are discussed below.

## Conferences

The second exception allows a legislative body majority to attend a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies of the type represented by the legislative body.

Among other things, this exception permits legislative body members to attend annual association conferences of city, county, school, community college, and other local agency officials, as long as those meetings are open to the public. However, a majority of members cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction.

## Community meetings

The third exception allows a legislative body majority to attend an open and publicized meeting held by another organization to address a topic of local community concern. A majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the legislative body's subject matter jurisdiction. Under this exception, a legislative body majority may attend a local service club meeting or a local candidates' night if the meetings are open to the public.

**"I see we have four distinguished members of the city council at our meeting tonight," said the chair of the Environmental Action Coalition. "I wonder if they have anything to say about the controversy over enacting a slow growth ordinance?"**

*The Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization. The Brown Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization. There is a fine line between what is permitted and what is not; hence, members should exercise caution when participating in these types of events.*

- Q.** The local chamber of commerce sponsors an open and public candidate debate during an election campaign. Three of the five agency members are up for reelection and all three participate. All of the candidates are asked their views on a controversial project scheduled for a meeting to occur just after the election. May the three incumbents answer the question?
- A.** Yes, because the chamber of commerce, not the city, is organizing the debate. The city should not sponsor the event or assign city staff to help organize or run the event. Also, the Brown Act does not constrain the incumbents from expressing their views regarding important matters facing the local agency as part of the political process the same as any other candidates. Finally, incumbents participating in the event should take care to limit their remarks to the program set by the chamber and safeguard due process by indicating they will keep an open mind regarding specific applications that might come before the council.
- Q.** May the three incumbents accept an invitation from the editorial board of a local paper to all candidates to meet as a group and answer questions about and/or debate city issues?
- A.** No, unlike the chamber of commerce event, this would not be allowed under the Brown Act because it is not an open and publicized meeting.

### Other legislative bodies

The fourth exception allows a majority of a legislative body to attend an open and publicized meeting of (1) another body of the local agency and (2) a legislative body of another local agency.<sup>8</sup> Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their subject matter jurisdiction. This exception allows, for example, a city council or a majority of a board of supervisors to attend a controversial meeting of the planning commission.

Nothing in the Brown Act prevents the majority of a legislative body from sitting together at such a meeting. They may choose not to, however, to preclude any possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation. Further, aside from the Brown Act, there may be other reasons, such as due process considerations, why the members should avoid giving public testimony, trying to influence the outcome of proceedings before a subordinate body, or discussing the merits with interested parties.

- Q.** The entire legislative body intends to testify against a bill before the Senate Local Government Committee in Sacramento. Must this activity be noticed as a meeting of the body?
- A.** *No, because the members are attending and participating in an open meeting of another governmental body that the public may attend.*
- Q.** The members then proceed upstairs to the office of their local assembly member to discuss issues of local interest. Must this session be noticed as a meeting and be open to the public?
- A.** *Yes, because the entire body may not meet behind closed doors except for proper closed sessions. The same answer applies to a private lunch or dinner with the assembly member.*

### Standing committees

The fifth exception authorizes the attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting, and they must sit where members of the public sit).<sup>9</sup>

- Q.** The legislative body establishes a standing committee of two of its five members that meets monthly. A third member of the legislative body wants to attend these meetings and participate. May she?
- A.** *She may attend, but only as an observer; she may not participate.*
- Q.** Can the legislative body establish multiple standing committees with partially overlapping jurisdiction?
- A.** *Yes. One result of this overlap in jurisdiction may be that three or more of the members of the legislative body ultimately end up discussing an issue as part of a standing committee meeting. This is allowed under the Brown Act provided each standing committee meeting is publicly noticed and no more than two of the five members discuss the issue at any given standing committee meeting.*

### **Social or ceremonial events**

The final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the legislative body.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attend the function, but whether business of a specific nature within the subject matter jurisdiction of the body is discussed. As long as no such business is discussed, there is no violation of the Brown Act.

### **Grand Jury Testimony**

In addition, members of a legislative body, either individually or collectively, may give testimony in private before a grand jury.<sup>10</sup> This is the equivalent of a seventh exception to the Brown Act's definition of a "meeting."

### **Collective briefings**

None of these exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements. Staff may provide written briefings (e.g., staff updates, emails from the city manager, confidential memos from the city attorney) to the full legislative body, but apart from privileged memos, the written materials may be subject to disclosure as public records as discussed in chapter 4.

### **Retreats, trainings, and workshops of legislative bodies**

Gatherings by a majority of legislative body members at the legislative body's retreats, study sessions, trainings, or workshops are subject to the requirements of the Brown Act. This is the case whether the gathering focuses on long-range agency planning, discussion of critical local issues, satisfying state-mandated ethics training requirements, or team building and group dynamics.<sup>11</sup>



- Q.** The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?
- A.** *No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.*

### Serial meetings

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings include only a portion of a legislative body, but eventually they comprise a majority. The Brown Act provides that “[a] majority of the members of a legislative body shall not, outside a meeting ... use a series of communications of any kind, directly or through

intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.”<sup>12</sup> The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful observation of and participation in legislative body decision-making.

The serial meeting may occur by either a “daisy chain” or a “hub and spoke” sequence. In the daisy chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D, and so on until a quorum has discussed, deliberated, or taken action on an item within the legislative body’s subject matter jurisdiction. The hub and spoke process involves at least two scenarios. In the first scenario, Member A (the hub) sequentially contacts Members B, C, D, and so on (the spokes) until a quorum has been contacted. In the second scenario, a staff member (the hub), functioning as an intermediary for the legislative body

or one of its members, communicates with a majority of members (the spokes) one by one for discussion, deliberation, or a decision on a proposed action.<sup>13</sup> Another example of a serial meeting is when a chief executive officer (the hub) briefs a majority of members (the spokes) prior to a formal meeting and, in the process, information about the members’ respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague (but not with a majority of the body, counting the member) or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.”<sup>14</sup>

The Brown Act is violated, however, if several one-on-one meetings or conferences lead to a discussion, deliberation, or action by a majority. In one case, a violation occurred when a quorum



Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

of a city council, by a letter that had been circulated among members outside of a formal meeting, directed staff to take action in an eminent domain proceeding.<sup>15</sup>

A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act.<sup>16</sup> Such a memo, however, may be a public record.<sup>17</sup>

**The phone call was from a lobbyist. “Say, I need your vote for that project in the south area. How about it?”**

**“Well, I don’t know,” replied Board Member Aletto. “That’s kind of a sticky proposition. You sure you need my vote?”**

**“Well, I’ve got Bradley and Cohen lined up and another vote leaning. With you, I’d be over the top.”**

**Moments later, the phone rings again. “Hey, I’ve been hearing some rumbles on that south area project,” said the newspaper reporter. “I’m counting noses. How are you voting on it?”**

*The lobbyist and the reporter are facilitating a violation of the Brown Act. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members’ positions by asking, “You sure you need my vote?” The prudent course is to avoid such leading conversations and to caution lobbyists, staff, and news media against revealing such positions of others.*

**The mayor sat down across from the city manager. “From now on,” he declared, “I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don’t want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting.”**

*Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting “with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.”<sup>18</sup> Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation, or action taken among the majority of the legislative body.*

**“Thanks for the information,” said Council Member Kim. “These zoning changes can be tricky, and now I think I’m better equipped to make the right decision.”**

**“Glad to be of assistance,” replied the planning director. “I’m sure Council Member Jones is OK with these changes. How are you leaning?”**

**“Well,” said Council Member Kim, “I’m leaning toward approval. I know that two of my colleagues definitely favor approval.”**

**PRACTICE TIP:** When briefing legislative body members, staff must exercise care not to disclose other members’ views and positions.

*The planning director should not disclose Jones' prospective vote, and Kim should not disclose the prospective votes of two colleagues. Under these facts, there likely has been a serial meeting in violation of the Brown Act.*

- Q.** Various social media platforms and websites include forums where agency employees and officials can discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?
- A.** Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate, or take action on matters of agency business.
- Q.** A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?
- A.** No, the Brown Act expressly allows a majority of a body to call a special meeting, though the members should avoid discussing the merits of what is to be taken up at the meeting.

Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the “reply all” option that may inadvertently result in a Brown Act violation. Staff should consider using the “bcc” (blind carbon copy) option when addressing an email to multiple members of the legislative body and remind recipients not to “reply all.”

Social media should also be used with care. A member of the legislative body cannot respond directly to any communication on an internet-based social media platform that is made, posted, or shared by any other member of the legislative body. This applies to matters within the subject matter jurisdiction of the legislative body. For example, if one member of a legislative body “likes” a social media post of one other member of the same body, that could violate the Brown Act, depending on the nature of the post.<sup>19</sup>

Finally, electronic communications (such as text messaging) among members of a legislative body during a public meeting should be discouraged. If such communications are sent to a majority of members of the body, either directly or through an intermediary, on a matter on the meeting agenda, that could violate the Brown Act. Electronic communications sent to less than a majority of members of the body during a quasi-judicial proceeding could potentially raise due process concerns, even if not per se prohibited by the Brown Act. Additionally, some legislative bodies have rules governing electronic communications during meetings of the legislative body and how their members should proceed if they receive a communication on an agenda item that is not part of the record or not part of an agenda packet.

### Informal gatherings

Members of legislative bodies are often tempted to mix business with pleasure — for example, by holding a post-meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act.<sup>20</sup> A gathering at which a quorum of the legislative body discusses matters within their jurisdiction violates the Brown Act even if that gathering occurs in a public place. The Brown Act is not satisfied by public visibility alone. It also requires public notice and an opportunity to attend, hear, and participate.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

*A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues — which might be difficult. This kind of situation should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive’s presence does not lessen the potential for a violation of the Brown Act.*

### Technological conferencing

Except for certain non-substantive purposes, such as scheduling a special meeting, a conference call including a majority of the members of a legislative body is an unlawful meeting. But in an effort to keep up with modern technologies, the Brown Act specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session.<sup>21</sup> While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary with the body. No person has a right under the Brown Act to have a meeting by teleconference.

Teleconference is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.”<sup>22</sup> In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following teleconferencing requirements:<sup>23</sup>

- Teleconferencing may be used for all purposes during any meeting.
- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction.
- Additional teleconference locations may be made available for the public.
- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable.
- Agendas must be posted at each teleconference location, even if a hotel room or a residence.
- Each teleconference location, including a hotel room or residence, must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location.
- All votes must be by roll call.



*Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.*

**Q.** A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C., to New York. May she?

**A.** *She may not participate or vote because she is not in an open, noticed, and posted teleconference location.*

Until Jan. 1, 2026, teleconferencing may also be used on a limited basis where a member indicates their need to participate remotely for “just cause” (e.g., childcare or a contagious illness) or due to

“emergency circumstances” (e.g., a physical or family medical emergency).

This teleconferencing option has extremely detailed requirements, and careful review is needed. If the City experiences a technical issue that prevents members of the public from viewing the meeting and/or offering comments virtually, then no further action can be taken until the technical issue is resolved.<sup>24</sup>

The use of teleconferencing to conduct a legislative body meeting presents a variety of issues beyond the scope of this guide to discuss in detail.

Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.



### Location of meetings

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.<sup>25</sup>

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:<sup>26</sup>

- Comply with state or federal law or a court order, or attend a judicial conference or administrative proceeding in which the local agency is a party.
- Inspect real or personal property that cannot be conveniently brought into the local agency’s territory, provided the meeting is limited to items relating to that real or personal property.

**Q.** The agency is considering approving a major retail mall. The developer has built other similar malls and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?

**A.** *Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be allowed to attend.*

- Participate in multiagency meetings or discussions; however, such meetings must be held within the boundaries of one of the participating agencies, and all of those agencies must give proper notice.
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries, or meet at its principal office if that office is located outside the territory over which the agency has jurisdiction.

- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.
- Visit the office of its legal counsel for a closed session on pending litigation when to do so would reduce legal fees or costs.<sup>27</sup>

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential employee from another district.<sup>28</sup> A school board may also interview members of the public residing in another district if the board is considering employing that district's superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.<sup>29</sup>

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.<sup>30</sup> State law has also allowed for virtual meetings under certain emergency situations.<sup>31</sup>

## ENDNOTES

- 1 Cal. Gov. Code, § 54952.2, subd. (a).
- 2 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870.
- 3 Cal. Gov. Code, § 54954, subd. (a).
- 4 Cal. Gov. Code, § 54956.
- 5 Cal. Gov. Code, § 54956.5.
- 6 Cal. Gov. Code, § 54955.
- 7 Cal. Gov. Code, § 54952.2, subd. (c).
- 8 Cal. Gov. Code, § 54952.2, subd. (c)(4).
- 9 Cal. Gov. Code, § 54952.2, subd. (c)(6). See 81 Ops.Cal.Atty.Gen. 156 (1998).
- 10 Cal. Gov. Code, § 54953.1.
- 11 “*The Brown Act*,” California Attorney General (2003), p. 10.
- 12 Cal. Gov. Code, § 54952.2, subd. (b)(1).
- 13 *Stockton Newspapers, Inc. v. Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95.
- 14 Cal. Gov. Code, § 54952.2, subd. (b)(2).
- 15 *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518.
- 16 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363.
- 17 Cal. Gov. Code, § 54957.5, subd. (a).
- 18 Cal. Gov. Code, § 54952.2, subd. (b)(2).
- 19 Cal. Gov. Code, § 54952.2, subd. (b)(3).

- 20 Cal. Gov. Code, § 54952.2; 43 Ops.Cal.Atty.Gen. 36 (1964).
- 21 Cal. Gov. Code, § 54953, subd. (b)(1).
- 22 Cal. Gov. Code, § 54953, subd. (b)(4).
- 23 Cal. Gov. Code, § 54953. Until Jan. 1, 2024, the legislative body could use teleconferencing “during a proclaimed state of emergency” by the Governor in specified circumstances, and teleconference locations were exempt from certain requirements, such as identification in and posting of the agenda.
- 24 Cal Gov. Code, § 54953, subd. (f) (which will become Govt. §54953(e) as of Jan. 1, 2024).
- 25 Cal. Gov. Code, § 54954, subd. (b).
- 26 Cal. Gov. Code, § 54954, subd. (b)(1)-(7).
- 27 94 Ops.Cal.Atty.Gen. 15 (2011).
- 28 Cal. Gov. Code, § 54954, subd. (c).
- 29 Cal. Gov. Code, § 54954, subd. (d).
- 30 Cal. Gov. Code, § 54954, subd. (e).
- 31 Cal. Gov. Code, § 54953, subd. (e) (exp. January 1, 2026).



# Chapter 4

## AGENDAS, NOTICES, AND PUBLIC PARTICIPATION

Agendas for regular meetings .....	30
Mailed agenda upon written request .....	31
Notice requirements for special meetings .....	32
Notices and agendas for adjourned and continued meetings and hearings .....	32
Notice requirements for emergency meetings .....	33
Notice of compensation for simultaneous or serial meetings .....	33
Educational agency meetings .....	33
Notice requirements for tax or assessment meetings and hearings .....	33
Non-agenda items .....	34
Responding to the public .....	35
The right to attend and observe meetings .....	36
Records and recordings .....	37
The public's right to speak during a meeting .....	38

# Chapter 4

## AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.

### Agendas for regular meetings

Every regular meeting of a legislative body of a local agency — including advisory committees, commissions, or boards, as well as standing committees of legislative bodies — must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least 72 hours before the regular meeting in a location “freely accessible to members of the public.”<sup>1</sup> The courts have not definitively interpreted the “freely accessible” requirement. The California Attorney General has interpreted this

provision to require posting in a location open and accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend.<sup>2</sup> This provision may be satisfied by posting on a touch screen electronic kiosk accessible without charge to the public 24 hours a day during the 72-hour period.<sup>3</sup> While posting an agenda on an agency’s internet website will not, by itself, satisfy the “freely accessible” requirement since there is no universal access to the internet, an agency has a supplemental obligation to post the agenda on its website if (1) the local agency has a website and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body or (b) has members that are compensated, with one or more members that are also members of a governing body.<sup>4</sup>

**Q.** May the meeting of a governing body go forward if its agenda was either inadvertently not posted on the city’s website or if the website was not operational during part or all of the 72-hour period preceding the meeting?

**A.** *At a minimum, the Brown Act calls for “substantial compliance” with all agenda posting requirements, including posting to the agency website.<sup>5</sup> Should website technical difficulties arise, seek a legal opinion from your agency attorney. The California Attorney General has opined that technical difficulties that cause the website agenda to become inaccessible for a portion of the 72 hours preceding a meeting do not automatically or inevitably lead to a Brown Act violation, provided the agency can demonstrate substantial compliance.<sup>6</sup> This inquiry requires a fact-specific examination of whether the agency or its legislative body made “reasonably effective efforts to notify interested persons of a public meeting” through online posting and other available means.<sup>7</sup> The Attorney General’s opinion suggests that this examination would include an evaluation of how long a technical problem persisted, the efforts made to correct the problem or otherwise ensure that the public was informed, and the actual effect the problem had on public*

*awareness, among other factors.<sup>8</sup> For these reasons, obvious website technical difficulties might not require cancellation of a meeting, provided that the agency meets all other Brown Act posting requirements and the agenda is available on the website once the technical difficulties are resolved.*

The agenda must state the meeting time and place and must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.”<sup>9</sup> For a discussion of descriptions for open and closed-session agenda items, see chapter 5. Special care should be made to describe on the agenda each distinct action to be taken by the legislative body, while an overbroad description of a “project” must be avoided if the “project” is actually a set of distinct actions, in which case each action must be listed separately on the agenda.<sup>10</sup> For example, the listing of an “initiative measure” alone on an agenda was found insufficient where the agency was also deciding whether to accept a gift from the measure proponent to pay for the election.<sup>11</sup>

**PRACTICE TIP:** Putting together a meeting agenda requires careful thought.

**Q.** The agenda for a regular meeting contains the following items of business:

- Consideration of a report regarding traffic on Eighth Street.
- Consideration of a contract with ABC Consulting.

Are these descriptions adequate?

**A.** *If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read, “Consideration of a contract with ABC Consulting in the amount of \$50,000 for traffic engineering services regarding traffic on Eighth Street.”*

**Q.** The agenda includes an item entitled City Manager’s Report, during which time the city manager provides a brief report on notable topics of interest, none of which is listed on the agenda.

Is this permissible?

**A.** *Yes, as long as it does not result in extended discussion or action by the body.*

A brief general description may not be sufficient for closed-session agenda items. The Brown Act provides safe harbor language for the various types of permissible closed sessions.<sup>12</sup> Substantial compliance with the safe harbor language is recommended to protect legislative bodies and elected officials from legal challenges.

### **Mailed agenda upon written request**

The legislative body, or its designee, must mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted or upon distribution to all, or a majority of all, of the members of the legislative body, whichever occurs first. If the local agency has an internet website, this requirement can be satisfied by emailing a copy of, or website link to, the agenda or agenda packet if the person making the request asks for it to be emailed. Further, if requested, these materials must be made available in appropriate alternative formats to persons with disabilities.

A request for notice is valid for one calendar year and renewal requests must be filed following January 1 of each year. The legislative body may establish a fee to recover the cost of providing the service. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.<sup>13</sup>



### Notice requirements for special meetings

There is no express agenda requirement for special meetings, but the notice of the special meeting effectively serves as the agenda and limits the business that may be transacted or discussed. Written notice must be sent to each member of the legislative body (unless waived in writing by that member) and to each local newspaper of general circulation and each radio and television station that has requested such notice in writing. This notice must be delivered at least 24 hours before the time of the meeting by personal delivery or any other means that ensures receipt.

The notice must state the time and place of the meeting as well as all business to be transacted or discussed. It is recommended that the business to be transacted or discussed be described in the same manner that an item for a regular meeting would be described on the agenda, that is, with a brief general description. Some items must appear on a regular, not special, meeting agenda (e.g., general law city adoption of an ordinance or consideration of local agency executive compensation).<sup>14</sup>

As noted above, closed session items should be described in accordance with the Brown Act's safe harbor provisions to protect legislative bodies and elected officials from challenges of noncompliance with notice requirements.

The special meeting notice must also be posted at least 24 hours prior to the special meeting using the same methods as posting an agenda for a regular meeting: at a site that is freely accessible to the public, and on the agency's website if (1) the local agency has a website and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body or (b) has members that are compensated, with one or more members that are also members of a governing body.<sup>15</sup>

### Notices and agendas for adjourned and continued meetings and hearings

A regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.<sup>16</sup> If no time is stated, the meeting is continued to the hour for regular meetings. Whoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced.<sup>17</sup> A copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.

A hearing can be continued to a subsequent meeting. The process is the same as for continuing adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the order or notice of continuance must be posted immediately following the meeting.<sup>18</sup>

## Notice requirements for emergency meetings

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.<sup>19</sup> News media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.

News media may make a practice of having written requests on file for notification of special or emergency meetings. Absent such a request, a local agency has no legal obligation to notify news media of special or emergency meetings — although notification may be advisable in any event to avoid controversy.

## Notice of compensation for simultaneous or serial meetings

A legislative body that has convened a meeting and whose membership constitutes a quorum of another legislative body, may convene a simultaneous or serial meeting of the other legislative body only after a clerk or member of the convened legislative body orally announces (1) the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the meeting of the other legislative body; and (2) that the compensation or stipend is provided as a result of convening the meeting of that body.<sup>20</sup>

No oral disclosure of the amount of the compensation is required if the entire amount of such compensation is prescribed by statute and no additional compensation has been authorized by the local agency. Further, no disclosure is required with respect to reimbursements for actual and necessary expenses incurred in the performance of the member's official duties, such as for travel, meals, and lodging.

## Educational agency meetings

The Education Code contains some special agenda and special meeting provisions.<sup>21</sup> However, they are generally consistent with the Brown Act. An item is probably void if not posted.<sup>22</sup> A school district board must also adopt regulations to make sure the public can place matters affecting the district's business on meeting agendas and can address the board on those items.<sup>23</sup>

## Notice requirements for tax or assessment meetings and hearings

The Brown Act prescribes specific procedures for adoption by a city, county, special district, or joint powers authority of any new or increased tax or assessment imposed on businesses.<sup>24</sup> Although written broadly, these Brown Act provisions do not apply to new or increased real property taxes or assessments, as those are governed by the California Constitution, Article XIII C or XIII D, enacted by Proposition 218. At least one public meeting must be held to allow public testimony on the tax or assessment. In addition, there must also be at least 45 days notice of a public hearing at which the legislative body proposes to enact or increase the tax or assessment. Notice of the public meeting and public hearing must be provided at the same time and in the same document. The public notice relating to general taxes must be provided by newspaper publication. The public notice relating to new or increased business assessments must be provided through a



mailing to all business owners proposed to be subject to the new or increased assessment. The agency may recover the reasonable costs of the public meetings, hearings, and notice.

The Brown Act exempts certain fees, standby or availability charges, recurring assessments, and new or increased assessments that are subject to the notice and hearing requirements of the Constitution.<sup>25</sup> As a practical matter, the Constitution's notice requirements have preempted this section of the Brown Act.

### Non-agenda items

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda:<sup>26</sup>

- When a majority decides there is an “emergency situation” (as defined for emergency meetings).
- When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action, and the need to take action “came to the attention of the local agency subsequent to the agenda being posted.” This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline.
- When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

The exceptions are narrow, as indicated by this list. The first two require a specific determination by the legislative body. That determination can be challenged in court and, if unsubstantiated, can lead to invalidation of an action.

**“I’d like a two-thirds vote of the board so we can go ahead and authorize commencement of phase two of the East Area Project,” said Chair Lopez.**

**“It’s not on the agenda. But we learned two days ago that we finished phase one ahead of schedule — believe it or not — and I’d like to keep it that way. Do I hear a motion?”**

*The desire to stay ahead of schedule generally would not satisfy “a need for immediate action.” Too casual an action could invite a court challenge by a disgruntled resident. The prudent course is to place an item on the agenda for the next meeting and not risk invalidation.*

**“We learned this morning of an opportunity for a state grant,” said the chief engineer at the regular board meeting, “but our application has to be submitted in two days. We’d like the board to give us the go-ahead tonight, even though it’s not on the agenda.”**

*A legitimate immediate need can be acted upon even though not on the posted agenda by following a two-step process:*

**PRACTICE TIP:** Subject to very limited exceptions, the Brown Act prohibits any action or discussion of an item not on the posted agenda.

- First, make two determinations: (1) that there is an immediate need to take action and (2) that the need arose after the posting of the agenda. The matter is then placed on the agenda.
- Second, discuss and act on the added agenda item.

## Responding to the public

The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda. What happens when a member of the public raises a subject not on the agenda?

While the Brown Act does not allow discussion or action on items not on the agenda, it does allow members of the legislative body, or its staff, to “briefly respond” to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting (subject to the body’s rules or procedures), ask a question for clarification, make a brief announcement, or briefly report on their own activities.<sup>27</sup> However, caution should be used to avoid any discussion or action on such items.



**Council Member Jefferson: I would like staff to respond to Resident Joe’s complaints during public comment about the repaving project on Elm Street. Are there problems with this project?**

**City Manager Frank: The public works director has prepared a 45-minute PowerPoint presentation for you on the status of this project and will give it right now.**

**Council Member Brown: Take all the time you need; we need to get to the bottom of this. Our residents are unhappy.**

*It is clear from this dialogue that the Elm Street project was not on the council’s agenda but was raised during the public comment period for items not on the agenda. Council Member Jefferson properly asked staff to respond; the city manager should have given at most a brief response. If a lengthy report from the public works director was warranted, the city manager should have stated that it would be placed on the agenda for the next meeting. Otherwise, both the long report and the likely discussion afterward will improperly embroil the council in a matter that is not listed on the agenda.*

### The right to attend and observe meetings

A number of Brown Act provisions protect the public's right to attend, observe, and participate in meetings.

Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise "fulfill any condition precedent" to attending a meeting. Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.<sup>28</sup>

No meeting can be held in a facility that prohibits attendance based on race, religion, color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the public must make a payment or purchase in order to be present.<sup>29</sup> This does not mean, however, that the public is entitled to free entry to a conference attended by a majority of the legislative body.<sup>30</sup>

While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.<sup>31</sup>

Action by secret ballot, whether preliminary or final, is flatly prohibited.<sup>32</sup>

All actions taken by the legislative body in open session, and the vote of each member thereon, must be disclosed to the public at the time the action is taken.<sup>33</sup>

**Q.** The agenda calls for election of the legislative body's officers. Members of the legislative body want to cast unsigned written ballots that would be tallied by the clerk, who would announce the results. Is this voting process permissible?

**A.** *No. The possibility that a public vote might cause hurt feelings among members of the legislative body or might be awkward — or even counterproductive — does not justify a secret ballot.*

The legislative body may remove persons from a meeting who willfully interrupt or disrupt proceedings.<sup>34</sup> Ejection is justified only when audience members actually disrupt the proceedings,<sup>35</sup> or, alternatively, if the presiding member of the legislative body warns a person that their behavior is disruptive and that continued disruption may result in their removal (but no prior warning is required if there is a use of force or true threat of force).<sup>36</sup> If order cannot be restored after ejecting disruptive persons, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to readmit an individual or individuals not responsible for the disturbance.<sup>37</sup>

## Records and recordings

The public has the right to review agendas and other writings distributed by any person to a majority of the legislative body in connection with a matter subject to discussion or consideration at a meeting. Except for privileged documents, those materials are public records and must be made available upon request without delay.<sup>38</sup> A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.<sup>39</sup>

- Q.** In connection with an upcoming hearing on a discretionary use permit, counsel for the legislative body transmits a memorandum to all members of the body outlining the litigation risks in granting or denying the permit. Must this memorandum be included in the packet of agenda materials available to the public?
- A.** *No. The memorandum is a privileged attorney-client communication.*
- Q.** In connection with an agenda item calling for the legislative body to approve a contract, staff submits to all members of the body a financial analysis explaining why the terms of the contract favor the local agency. Must this memorandum be included in the packet of agenda materials available to the public?
- A.** *Yes. The memorandum has been distributed to the majority of the legislative body, relates to the subject matter of a meeting, and is not a privileged communication.*

A legislative body may discuss or act on some matters without considering written materials. But if writings are distributed to a majority of a legislative body in connection with an agenda item, they must also be available to the public. A nonexempt or otherwise non-privileged writing distributed to a majority of the legislative body less than 72 hours before the meeting must be made available for inspection at the time of distribution at a public office or location designated for that purpose, and the agendas for all meetings of the legislative body must include the address of this office or location.<sup>40</sup> The location designated for public inspection must be open to the public, not a locked or closed office. Alternatively, the documents can be posted on the city's website for public review if statutory requirements are met.<sup>41</sup>

A writing distributed during a meeting must be made public:

- At the meeting if prepared by the local agency or a member of its legislative body.
- After the meeting if prepared by some other person.<sup>42</sup>

This requirement does not prevent assessing a fee or deposit for providing a copy of a public record pursuant to the California Public Records Act except where required to accommodate persons with disabilities.<sup>43</sup>

Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the California Public Records Act; however, it may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording is to be provided without charge on a video or tape player made available by the local agency.<sup>44</sup> The agency may impose its ordinary charge for copies that is consistent with the California Public Records Act.<sup>45</sup>

In addition, the public is specifically allowed to use audio or videotape recorders or still or motion picture cameras at a meeting to record meetings of legislative bodies, absent a reasonable finding by the body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.<sup>46</sup>

**PRACTICE TIP:** Public speakers cannot be compelled to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card or identify themselves for the record but must respect a speaker's desire for anonymity.

Similarly, a legislative body cannot prohibit or restrict the public broadcast of its open and public meetings without making a reasonable finding that the noise, illumination, or obstruction of view would persistently disrupt the proceedings.<sup>47</sup>

### The public's right to speak during a meeting

Every agenda for a regular meeting must allow members of the public to speak on any item of interest, as long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it.<sup>48</sup>

- Q.** Must the legislative body allow members of the public to show videos or make a PowerPoint presentation during the public comment part of the agenda, as long as the subject matter is relevant to the agency and is within the established time limit?
- A.** *Probably, although the agency is under no obligation to provide equipment.*

Moreover, the Brown Act, as well as case law, prevents legislative bodies from prohibiting public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body itself.<sup>49</sup> However, this prohibition does not provide immunity for defamatory statements.<sup>50</sup>

- Q.** May the presiding officer prohibit a member of the audience from publicly criticizing an agency employee by name during public comments?
- A.** *No, as long as the criticism pertains to job performance.*
- Q.** During the public comment period of a regular meeting of the legislative body, a resident urges the public to support and vote for a candidate vying for election to the body. May the presiding officer gavel the speaker out of order for engaging in political campaign speech?
- A.** *There is no case law on this subject. Some would argue that purely campaign issues are outside the subject matter jurisdiction of the body within the meaning of Section 54954.3(a). Others take the view that the speech must be allowed under paragraph (c) of that section where relevant to the governing of the agency and an implicit criticism of the incumbents' performance of city business.*

The legislative body may adopt reasonable regulations, including a limit on the total time permitted for public comment and a limit on the time permitted per speaker.<sup>51</sup> Such regulations should be enforced fairly and without regard to speakers' viewpoints. The legislative body has discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit could be shortened to accommodate a lengthy agenda or lengthened to allow additional time for discussion on a complicated matter.<sup>52</sup>

The public does not need to be given an opportunity to speak on an item that has already been considered by a committee made up exclusively of members of the legislative body at a regular (but not special) public meeting if all interested members of the public had the opportunity to

speak on the item before or during its consideration, and if the item has not been substantially changed.<sup>53</sup>

Notices and agendas for special meetings must also give members of the public the opportunity to speak before or during consideration of an item on the agenda but need not allow members of the public an opportunity to speak on other matters within the jurisdiction of the legislative body.<sup>54</sup>

## ENDNOTES

- 1 Cal. Gov. Code, § 54954.2, subd. (a)(1).
- 2 78 Ops.Cal.Atty.Gen. 327 (1995).
- 3 88 Ops.Cal.Atty.Gen. 218 (2005).
- 4 Cal. Gov. Code, §§ 54954.2, subd. (a)(1) and 54954.2, subd. (d).
- 5 Cal. Gov. Code, § 54960.1, subd. (d)(1).
- 6 99 Ops.Cal.Atty.Gen. 11 (2016).
- 7 *North Pacifica LLC v. California Coastal Commission* (2008) 166 Cal.App.4th 1416, 1432.
- 8 99 Ops.Cal.Atty.Gen. 11 (2016).
- 9 Cal. Gov. Code, § 54954.2, subd. (a)(1).
- 10 *San Joaquin Raptor Rescue v. County of Merced* (2013) 216 Cal.App.4th 1167 (legislative body's approval of California Environmental Quality Act [CEQA] action [mitigated negative declaration] without specifically listing it on the agenda violates the Brown Act, even if the agenda generally describes the development project that is the subject of the CEQA analysis). See also *GI Industries v. City of Thousand Oaks* (2022) 84 Cal.App.5th 814 (depublished) (Brown Act requires CEQA finding of exemption to be listed on agenda items that are projects under CEQA).
- 11 *Hernandez v. Town of Apple Valley* (2017) 7 Cal.App.5th 194.
- 12 Cal. Gov. Code, § 54954.5.
- 13 Cal. Gov. Code, § 54954.1.
- 14 Cal. Gov. Code, §§ 36934; 54956, subd. (b).
- 15 Cal. Gov. Code, § 54956, subds. (a) and (c).
- 16 Cal. Gov. Code, § 54955.
- 17 Cal. Gov. Code, § 54954.2, subd. (b)(3).
- 18 Cal. Gov. Code, § 54955.1.
- 19 Cal. Gov. Code, § 54956.5.
- 20 Cal. Gov. Code, § 54952.3.
- 21 Cal. Edu. Code, §§ 35144, 35145, and 72129.
- 22 *Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196.
- 23 Cal. Edu. Code, § 35145.5
- 24 Cal. Edu. Code, § 54954.6
- 25 See Cal. Const. Art. XIII C, XIII D; Cal. Gov. Code, § 54954.6, subd. (h).
- 26 Cal. Gov. Code, § 54954.2, subd. (b).
- 27 Cal. Gov. Code, § 54954.2, subd. (a)(2); *Cruz v. City of Culver City* (2016) 2 Cal.App.5th 239 (six-minute colloquy on non-agenda item with staff answering questions and advising that matter could be placed on future agenda fell within exceptions to discussing or acting upon non-agenda items).



- 28 Cal. Gov. Code, § 54953.3.
- 29 Cal. Gov. Code, § 54961, subd. (a); Cal. Gov. Code, § 11135, subd. (a).
- 30 Cal. Gov. Code, § 54952.2, subd. (c)(2).
- 31 Cal. Gov. Code, § 54953, subd. (b).
- 32 Cal. Gov. Code, § 54953, subd. (c).
- 33 Cal. Gov. Code, § 54953, subd. (c)(2).
- 34 Cal. Gov. Code, §§ 54957.9, 54957.95.
- 35 *Norse v. City of Santa Cruz* (9th Cir. 2010) 629 F.3d 966 (silent and momentary Nazi salute directed toward mayor is not a disruption); *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800 (city council may not prohibit “insolent” remarks by members of the public absent actual disruption); but see *Kirkland v. Luken* (S.D. Ohio 2008) 536 F.Supp.2d 857 (finding no First Amendment violation by mayor for turning off microphone and removing speaker who used foul and inflammatory language that was deemed as “likely to incite the members of the audience during the meeting, cause disorder, and disrupt the meeting”).
- 36 Cal. Gov. Code, § 54957.95.
- 37 Cal. Gov. Code, § 54957.9.
- 38 Cal. Gov. Code, § 54957.5.
- 39 Cal. Gov. Code, § 54957.5, subd. (d).
- 40 Cal. Gov. Code, § 54957.5(b); see also *Sierra Watch v. Placer County* (2021) 69 Cal.App.5th 1.
- 41 Cal. Gov. Code § 54957.5.
- 42 Cal. Gov. Code, § 54957.5, subd. (c).
- 43 Cal. Gov. Code, § 54957.5, subd. (d).
- 44 Cal. Gov. Code, § 54953.5, subd. (b).
- 45 Cal. Gov. Code, § 54957.5, subd. (d).
- 46 Cal. Gov. Code, § 54953.5, subd. (a).
- 47 Cal. Gov. Code, § 54953.6.
- 48 Cal. Gov. Code, § 54954.3, subd. (a).
- 49 Cal. Gov. Code, § 54954.3, subd. (c); *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800.
- 50 Cal. Gov. Code, § 54954.3, subd. (c).
- 51 *Ribakoff v. City of Long Beach* (2018) 27 Cal.App.5th 150 (public comment time limit of three minutes for each speaker did not violate First Amendment).
- 52 Cal. Gov. Code, § 54954.3, subd. (b); *Chaffee v. San Francisco Public Library Commission* (2005) 134 Cal.App.4th 109; 75 Ops.Cal.Atty.Gen. 89 (1992).
- 53 Cal. Gov. Code, § 54954.3, subd. (a); *Preven v. City of Los Angeles* (2019) 32 Cal.App.5th 925.
- 54 Cal. Gov. Code, § 54954.3, subd. (a).



# Chapter 5

## CLOSED SESSIONS

Agendas and reports.....	42
Litigation.....	43
Real estate negotiations .....	45
Public employment .....	46
Labor negotiations .....	47
Labor negotiations — school and community college districts.....	48
Other Education Code exceptions.....	48
Joint powers authorities .....	48
License applicants with criminal records .....	49
Public security.....	49
Multijurisdictional law enforcement agency .....	49
Hospital peer review and trade secrets .....	49
Other legislative bases for closed session .....	50
Who may attend closed sessions .....	50
The confidentiality of closed session discussions.....	51

# Chapter 5

## CLOSED SESSIONS

A closed session is a meeting of a legislative body conducted in private without the attendance of the public or press. A legislative body is authorized to meet in closed session only to the extent expressly authorized by the Brown Act.<sup>1</sup>



As summarized in chapter 1 of this guide, it is clear that the Brown Act must be interpreted liberally in favor of open meetings, and exceptions that limit public access (including the exceptions for closed session meetings) must be narrowly construed.<sup>2</sup> The most common purposes of the closed session provisions in the Brown Act are to avoid revealing confidential information (e.g., prejudicing the city's position in litigation or compromising the privacy interests of employees). Closed sessions should be conducted keeping those narrow purposes in mind. It is not enough that a subject is sensitive, embarrassing, or controversial. Without specific authority in the Brown Act for a closed session, a matter to be considered by a legislative body must be discussed in public. However, there is no prohibition in putting overlapping exceptions on an agenda in order to provide an opportunity for more robust closed session discussions. As an example, a city council cannot give direction to the city manager about a property

negotiation during a performance evaluation exception. However, if both real property negotiation and performance evaluation exceptions are on the agenda, those discussions might be conducted. Similarly, a board of police commissioners cannot meet in closed session to provide general policy guidance to a police chief, even though some matters are sensitive and the commission considers their disclosure contrary to the public interest.<sup>3</sup>

In this chapter, the grounds for convening a closed session are called "exceptions" because they are exceptions to the general rule that meetings must be conducted openly. In some circumstances, none of the closed session exceptions applies to an issue or information the legislative body wishes to discuss privately. In these cases, it is not proper to convene a closed session, even to protect confidential information. For example, although the Brown Act does authorize closed sessions related to specified types of contracts (e.g., specified provisions of real property agreements, employee labor agreements, and litigation settlement agreements),<sup>4</sup> the Brown Act does not authorize closed sessions for other contract negotiations.

### Agendas and reports

Closed session items must be briefly described on the posted agenda, and the description must state the specific statutory exemption.<sup>5</sup> An item that appears on the open meeting portion of the agenda may not be taken into closed session until it has been properly put on the agenda as a

**PRACTICE TIP:** Some problems over closed sessions arise because secrecy itself breeds distrust. The Brown Act does not require closed sessions and legislative bodies may do well to resist the tendency to call a closed session simply because it may be permitted. A better practice is to go into closed session only when necessary.

closed session item or unless it is properly added as a closed-session item by a two-thirds vote of the body after making the appropriate urgency findings.<sup>6</sup>

The Brown Act supplies a series of fill-in-the-blank sample agenda descriptions for various types of authorized closed sessions that provide a “safe harbor” from legal attacks. These sample agenda descriptions cover license and permit determinations, real property negotiations, existing or anticipated litigation, liability claims, threats to security, public employee appointments, evaluations and discipline, labor negotiations, multijurisdictional law enforcement cases, hospital boards of directors, medical quality assurance committees, joint powers agencies, and audits by the California State Auditor’s Office.<sup>7</sup>

If the legislative body intends to convene in closed session, it must include the section of the Brown Act authorizing the closed session in advance on the agenda, and it must make a public announcement prior to the closed session discussion. In most cases, the announcement may simply be a reference to the agenda item.<sup>8</sup> The legislative body must take public comment on the closed session item before convening in a closed session.

Following a closed session, the legislative body must provide an oral or written report on certain actions taken and the vote of every elected member present. The timing and content of the report vary according to the reason for the closed session and the action taken.<sup>9</sup> The announcements may be made at the site of the closed session, as long as the public is allowed to be present to hear them.

If there is a standing or written request for documentation, any copies of contracts, settlement agreements, or other documents finally approved or adopted in closed session must be provided to the requestor(s) after the closed session if final approval of such documents does not rest with any other party to the contract or settlement. If substantive amendments to a contract or settlement agreement approved by all parties requires retyping, such documents may be held until retyping is completed during normal business hours, but the substance of the changes must be summarized for any person inquiring about them.<sup>10</sup>

The Brown Act does not require minutes, including minutes of closed sessions. However, a legislative body may adopt an ordinance or resolution to authorize a confidential “minute book” be kept to record actions taken at closed sessions.<sup>11</sup> If one is kept, it must be made available to members of the legislative body, provided that the member asking to review minutes of a particular meeting was not disqualified from attending the meeting due to a conflict of interest.<sup>12</sup> A court may order the disclosure of minute books for the court’s review if a lawsuit makes sufficient claims of an open meeting violation.

## Litigation

The Brown Act expressly authorizes closed sessions to discuss what is considered pending litigation.<sup>13</sup> The rules that apply to holding a litigation closed session involve complex, technical definitions and procedures. Essentially, a closed session can be held by the body to confer with, or receive advice from, its legal counsel when open discussion would prejudice the position of the local agency in litigation in which the agency is, or could become, a party.<sup>14</sup> The litigation exception under the Brown Act is narrowly construed and does not permit activities beyond a legislative body’s conferring with its own legal counsel and required support staff.<sup>15</sup> For example, it is not permissible to hold a closed session in which settlement negotiations take place between a legislative body, a representative of an adverse party, and a mediator.<sup>16</sup>

**PRACTICE TIP:** Pay close attention to closed session agenda descriptions. Using the wrong label can lead to invalidation of an action taken in closed session if not substantially compliant.

The California Attorney General has opined that if the agency's attorney is not a participant, a litigation closed session cannot be held.<sup>17</sup> In any event, local agency officials should always consult the agency's attorney before placing this type of closed session on the agenda in order to be certain that it is being done properly.

Before holding a closed session under the pending litigation exception, the legislative body must publicly state the basis for the closed session by identifying one of the following three types of matters: existing litigation, anticipated exposure to litigation, or anticipated initiation of litigation.<sup>18</sup>

### *Existing litigation*

- Q.** May the legislative body agree to settle a lawsuit in a properly noticed closed session without placing the settlement agreement on an open session agenda for public approval?
- A.** Yes, but the settlement agreement is a public document and must be disclosed on request. Furthermore, a settlement agreement cannot commit the agency to matters that are required to have public hearings.<sup>19</sup>

Existing litigation includes any adjudicatory proceedings before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. The clearest situation in which a closed session is authorized is when the local agency meets with its legal counsel to discuss a pending matter that has been filed in a court or with an administrative agency and names the local

agency as a party. The legislative body may meet under these circumstances to receive updates on the case from attorneys, participate in developing strategy as the case develops, or consider alternatives for resolution of the case. Generally, an agreement to settle litigation may be approved in closed session. However, an agreement to settle litigation cannot be approved in closed session if it commits the city to take an action that is required to have a public hearing.<sup>20</sup>

### *Anticipated exposure to litigation against the local agency*

Closed sessions are authorized for legal counsel to inform the legislative body of a significant exposure to litigation against the local agency, but only if based on "existing facts and circumstances" as defined by the Brown Act.<sup>21</sup> The legislative body may also meet under this exception to determine whether a closed session is authorized based on information provided by legal counsel or staff. In general, the "existing facts and

circumstances" must be publicly disclosed unless they are privileged written communications or not yet known to a potential plaintiff. If an agency receives a documented threat of litigation, and intends to discuss that matter in closed session, the record of a litigation threat must be included in the body's agenda packet.<sup>22</sup>



### **Anticipated initiation of litigation by the local agency**

A closed session may be held under the exception for the anticipated initiation of litigation when the legislative body seeks legal advice on whether to protect the agency's rights and interests by initiating litigation.

Certain actions must be reported in open session at the same meeting following the closed session. Other actions, such as when final approval rests with another party or the court, may be announced when they become final and upon inquiry of any person.<sup>23</sup> Each agency attorney should be aware of and make the disclosures that are required by the particular circumstances.

### **Real estate negotiations**

A legislative body may meet in closed session with its negotiator to discuss the purchase, sale, exchange, or lease of real property by or for the local agency. A "lease" includes a lease renewal or renegotiation. The purpose is to grant authority to the legislative body's negotiator on price and terms of payment.<sup>24</sup> Caution should be exercised to limit discussion to price and terms of payment without straying to other related issues, such as site design, architecture, or other aspects of the project for which the transaction is contemplated.<sup>25</sup>

**Q.** May other terms of a real estate transaction, aside from price and terms of payment, be addressed in closed session?

**A.** *No. However, there are differing opinions over the scope of the phrase "price and terms of payment" in connection with real estate closed sessions. Many agency attorneys argue that any term that directly affects the economic value of the transaction falls within the ambit of "price and terms of payment." Others take a narrower, more literal view of the phrase.*

The agency's negotiator may be a member of the legislative body itself. Prior to the closed session, or on the agenda, the legislative body must identify its negotiators, the real property that the negotiations may concern,<sup>26</sup> and the names of the parties with whom its negotiator may negotiate.<sup>27</sup>

After real estate negotiations are concluded, the approval and substance of the agreement must be publicly reported. If its own approval makes the agreement final, the body must report in open session at the public meeting during which the closed session is held. If final approval rests with another party, the local agency must report the approval and the substance of the agreement upon inquiry by any person as soon as the agency is informed of it.<sup>28</sup>

**"Our population is exploding, and we have to think about new school sites," said Board Member Jefferson.**

**"Not only that," interjected Board Member Tanaka, "we need to get rid of a couple of our older facilities."**

**"Well, obviously the place to do that is in a closed session," said Board Member O'Reilly. "Otherwise we're going to set off land speculation. And if we even mention closing a school, parents are going to be in an uproar."**

*A closed session to discuss potential sites is not authorized by the Brown Act. The exception is limited to meeting with its negotiator over specific sites — which must be identified at an open and public meeting.*

**PRACTICE TIP:** Discussions of who to appoint to an advisory body and whether or not to censure a fellow member of the legislative body must be held in the open.

## Public employment

The Brown Act authorizes a closed session “to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee.”<sup>29</sup> The purpose of this exception — commonly referred to as the “personnel exception” — is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the legislative body; thus, it is restricted to discussing individuals, not general personnel policies.<sup>30</sup> The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception.<sup>31</sup> That authority may be delegated to a subsidiary appointed body.<sup>32</sup>

An employee must be given at least 24 hours’ notice of any closed session convened to hear specific complaints or charges against them. This occurs when the legislative body is reviewing evidence, which could include live testimony, and adjudicating conflicting testimony offered as evidence. A legislative body may examine (or exclude) witnesses,<sup>33</sup> and the California Attorney General has opined that, when an affected employee and advocate have an official or essential role to play, they may be permitted to participate in the closed session.<sup>34</sup> The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session.<sup>35</sup> If the employee is not given the 24-hour prior notice, any disciplinary action is null and void.<sup>36</sup>

However, an employee is not entitled to notice and a hearing where the purpose of the closed session is to consider a performance evaluation. The Attorney General and the courts have determined that personnel performance evaluations do not constitute complaints and charges, which are more akin to accusations made against a person.<sup>37</sup>

**Q.** Must 24 hours’ notice be given to an employee whose negative performance evaluation is to be considered by the legislative body in closed session?

**A.** No, the notice is reserved for situations where the body is to hear complaints and charges from witnesses.

Correct labeling of the closed session on the agenda is critical. A closed session agenda that identified discussion of an employment contract was not sufficient to allow dismissal of an employee.<sup>38</sup> An incorrect agenda description can result in invalidation of an action and much embarrassment.

For purposes of the personnel exception, “employee” specifically includes an officer or an independent contractor who functions as an officer or an employee. Examples of the former include a city manager, district general manager, or superintendent. Examples of the latter include a legal counsel or engineer hired on contract to act as local agency attorney or chief engineer.

Elected officials, appointees to the governing body or subsidiary bodies, and independent contractors other than those discussed above are not employees for purposes of the personnel exception.<sup>39</sup> Action on individuals who are not “employees” must also be public — including discussing and voting on appointees to committees, debating the merits of independent contractors, or considering a complaint against a member of the legislative body itself.

The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay. That means, among other things, there can be no personnel closed sessions on a salary change (other than a disciplinary reduction) between any unrepresented individual and the legislative body. However, a legislative body may address the compensation of an unrepresented individual, such as a city manager, in a closed session as part of a labor negotiation (discussed later in this chapter), yet another example of the importance of using correct agenda descriptions.

Reclassification of a job must be public, but an employee’s ability to fill that job may be considered in closed session.

Any closed session action to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee must be reported at the public meeting during which the closed session is held. That report must identify the title of the position, but not the names of all persons considered for an employment position.<sup>40</sup> However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.<sup>41</sup>

**“I have some important news to announce,” said Mayor Garcia. “We’ve decided to terminate the contract of the city manager effective immediately. The council has met in closed session, and we’ve negotiated six months’ severance pay.”**

**“Unfortunately, that has some serious budget consequences, so we’ve had to delay phase two of the East Area Project.”**

*This may be an improper use of the personnel closed session if the council agenda described the item as the city manager’s evaluation. In addition, other than labor negotiations, any action on individual compensation must be taken in open session. Caution must be exercised not to discuss in closed session issues, such as budget impacts in this hypothetical, beyond the scope of the posted closed session notice.*

## Labor negotiations

The Brown Act allows closed sessions for some aspects of labor negotiations. Different provisions (discussed below) apply to school and community college districts.

A legislative body may meet in closed session to instruct its bargaining representatives, which may be one or more of its members,<sup>42</sup> on employee salaries and fringe benefits for both represented (“union”) and unrepresented employees. For represented employees, it may also consider working conditions that by law require negotiation. For the purpose of labor negotiation closed sessions, an “employee” includes an officer or an independent contractor who functions as an officer or an employee, but independent contractors who do not serve in the capacity of an officer or employee are not covered by this closed session exception.<sup>43</sup>

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**PRACTICE TIP:** The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay.

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**PRACTICE TIP:** Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

These closed sessions may take place before or during negotiations with employee representatives. Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

During its discussions with representatives on salaries and fringe benefits, the legislative body may discuss available funds and funding priorities, but only to instruct its representative. The body may also meet in closed session with a conciliator who has intervened in negotiations.<sup>44</sup>

The approval of an agreement concluding labor negotiations with represented employees must be reported after the agreement is final and has been accepted or ratified by the other party. The report must identify the item approved and the other party or parties to the negotiation.<sup>45</sup> The labor closed sessions specifically cannot include final action on proposed compensation of one or more unrepresented employees.

### Labor negotiations — school and community college districts

Employee relations for school districts and community college districts are governed by the Rodda Act, where different meeting and special notice provisions apply. The entire board, for example, may negotiate in closed sessions.

Four types of meetings are exempted from compliance with the Rodda Act:

1. A negotiating session with a recognized or certified employee organization.
2. A meeting of a mediator with either side.
3. A hearing or meeting held by a fact finder or arbitrator.
4. A session between the board and its bargaining agent, or the board alone, to discuss its position regarding employee working conditions and instruct its agent.<sup>46</sup>

Public participation under the Rodda Act also takes another form.<sup>47</sup> All initial proposals of both sides must be presented at public meetings and are public records. The public must be given reasonable time to inform itself and to express its views before the district may adopt its initial proposal. In addition, new topics of negotiations must be made public within 24 hours. Any votes on such a topic must be followed within 24 hours by public disclosure of the vote of each member.<sup>48</sup> The final vote must be in public.

### Other Education Code exceptions

The Education Code governs student disciplinary meetings by boards of school districts and community college districts. District boards may hold a closed session to consider the suspension or discipline of a student if a public hearing would reveal personal, disciplinary, or academic information about the student contrary to state and federal pupil privacy law. The student's parent or guardian may request an open meeting.<sup>49</sup>

Community college districts may also hold closed sessions to discuss some student disciplinary matters, awarding of honorary degrees, or gifts from donors who prefer to remain anonymous.<sup>50</sup> Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.<sup>51</sup>

**PRACTICE TIP:** Attendance by the entire legislative body before a grand jury would not constitute a closed session meeting under the Brown Act.

## Joint powers authorities

The legislative body of a joint powers authority may adopt a policy regarding limitations on disclosure of confidential information obtained in closed session, and may meet in closed session to discuss information that is subject to the policy.<sup>52</sup>

## License applicants with criminal records

A closed session is permitted when an applicant who has a criminal record applies for a license or license renewal and the legislative body wishes to discuss whether the applicant is sufficiently rehabilitated to receive the license. The applicant and the applicant's attorney are authorized to attend the closed session meeting. If the body decides to deny the license, the applicant may withdraw the application. If the applicant does not withdraw it, the body must deny the license in public, either immediately or at its next meeting. No information from the closed session can be revealed without consent of the applicant, unless the applicant takes action to challenge the denial.<sup>53</sup>

## Public security

Legislative bodies may meet in closed session to discuss matters posing a threat to the security of public buildings; essential public services, including water, sewer, gas, or electric service; or to the public's right of access to public services or facilities over which the legislative body has jurisdiction. Closed session meetings for these purposes must be held with designated security or law enforcement officials, including the Governor, Attorney General, district attorney, agency attorney, sheriff or chief of police, or their deputies or agency security consultant or security operations manager.<sup>54</sup> Action taken in closed session with respect to such public security issues is not reportable action.

## Multijurisdictional law enforcement agency

A joint powers agency formed to provide law enforcement services (involving drugs; gangs; sex crimes; firearms trafficking; felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft) to multiple jurisdictions may hold closed sessions to discuss case records of an ongoing criminal investigation, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.<sup>55</sup>

The exception applies to the legislative body of the joint powers agency and to any body advisory to it. The purpose is to prevent impairment of investigations, to protect witnesses and informants, and to permit discussion of effective courses of action.<sup>56</sup>

## Hospital peer review and trade secrets

Two specific kinds of closed sessions are allowed for district hospitals and municipal hospitals under other provisions of law:<sup>57</sup>

1. A meeting to hear reports of hospital medical audit or quality assurance committees or for related deliberations. However, an applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing.
2. A meeting to discuss "reports involving trade secrets" — provided no action is taken.



A “trade secret” is defined as information that is not generally known to the public or competitors and that (1) “derives independent economic value, actual or potential” by virtue of its restricted knowledge; (2) is necessary to initiate a new hospital service or program or facility; and (3) would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

The provision prohibits use of closed sessions to discuss transitions in ownership or management, or the district’s dissolution.<sup>58</sup>

### Other legislative bases for closed session

Since any closed session meeting of a legislative body must be authorized by the Legislature, it is important to review the Brown Act carefully to determine if there is a provision that authorizes a closed session for a particular subject matter. There are some less frequently

encountered topics that are authorized to be discussed by a legislative body in closed session under the Brown Act, including a response to a confidential final draft audit report from the Bureau of State Audits,<sup>59</sup> consideration of the purchase or sale of particular pension fund investments by a legislative body of a local agency that invests pension funds,<sup>60</sup> hearing a charge or complaint from a member enrolled in a health plan by a legislative body of a local agency that provides Medical services,<sup>61</sup> discussions by a county board of supervisors that governs a health plan licensed pursuant to the Knox-Keene Health Care Services Plan Act related to trade secrets or contract negotiations concerning rates of payment,<sup>62</sup> and discussions by an insurance pooling joint powers agency related to a claim filed against, or liability of, the agency or a member of the agency.<sup>63</sup>

**PRACTICE TIP:** Meetings are either open or closed. There is nothing “in between.”<sup>64</sup>

### Who may attend closed sessions

Meetings of a legislative body are either fully open or fully closed; there is nothing in between. Therefore, local agency officials and employees must pay particular attention to the authorized attendees for the particular type of closed session. As summarized above, the authorized attendees may differ based on the topic of the closed session. Closed sessions may involve only the members of the legislative body and only agency counsel, management and support staff, and consultants necessary for consideration of the matter that is the subject of closed session, with very limited exceptions for adversaries or witnesses with official roles in particular types of hearings (e.g., personnel disciplinary hearings and license hearings). In any case, individuals who do not have an official or essential role in the closed session subject matters must be excluded from closed sessions.<sup>65</sup>

**Q.** May the lawyer for someone suing the agency attend a closed session in order to explain to the legislative body why it should accept a settlement offer?

**A.** *No, attendance in closed sessions is reserved exclusively for the agency’s advisors.*

## The confidentiality of closed session discussions

The Brown Act explicitly prohibits the unauthorized disclosure of confidential information acquired in a closed session by any person present, and offers various remedies to address breaches of confidentiality.<sup>66</sup> It is incumbent upon all those attending lawful closed sessions to protect the confidentiality of those discussions. One court has held that members of a legislative body cannot be compelled to divulge the content of closed session discussions through the discovery process.<sup>67</sup> Only the legislative body acting as a body may agree to divulge confidential closed session information. With regard to attorney-client privileged communications, the entire body is the holder of the privilege, and only the entire body can decide to waive the privilege.<sup>68</sup>

Before adoption of the Brown Act provision specifically prohibiting disclosure of closed session communications, agency attorneys and the Attorney General long opined that officials have a fiduciary duty to protect the confidentiality of closed session discussions. The Attorney General issued an opinion that it is “improper” for officials to disclose information regarding pending litigation that was received during a closed session,<sup>69</sup> though the Attorney General has also concluded that a local agency is preempted from adopting an ordinance criminalizing public disclosure of closed session discussions.<sup>70</sup> In any event, in 2002, the Brown Act was amended to prescribe particular remedies for breaches of confidentiality. These remedies include injunctive relief and, if the breach is a willful disclosure of confidential information, disciplinary action against an employee and referral of a member of the legislative body to the grand jury.<sup>71</sup>

The duty of maintaining confidentiality, of course, must give way to the responsibility to disclose improper matters or discussions that may come up in closed sessions. In recognition of this public policy, under the Brown Act, a local agency may not penalize a disclosure of information learned during a closed session if the disclosure (1) is made in confidence to the district attorney or the grand jury due to a perceived violation of law; (2) is an expression of opinion concerning the propriety or legality of actions taken in closed session, including disclosure of the nature and extent of the illegal action; or (3) is information that is not confidential.<sup>72</sup>

The interplay between these possible sanctions and an official’s First Amendment rights is complex and beyond the scope of this guide. Suffice it to say that this is a matter of great sensitivity and controversy.

**“I want the press to know that I voted in closed session against filing the eminent domain action,” said Council Member Chang.**

**“Don’t settle too soon,” reveals Council Member Watson to the property owner, over coffee. “The city’s offer coming your way is not our bottom line.”**

*The first comment to the press may be appropriate if it is a part of an action taken by the city council in closed session that must be reported publicly.<sup>73</sup> The second comment to the property owner is not. Disclosure of confidential information acquired in closed session is expressly prohibited and harmful to the agency.*

**PRACTICE TIP:** There is a strong interest in protecting the confidentiality of proper and lawful closed sessions.

## ENDNOTES

- 1 Cal. Gov. Code, § 54962.
- 2 Cal. Const. , Art. 1, § 3.
- 3 61 Ops.Cal.Atty.Gen. 220 (1978); but see Cal. Gov. Code, § 54957.8 (multijurisdictional law enforcement agencies are authorized to meet in closed session to discuss the case records of ongoing criminal investigations and other related matters).
- 4 Cal. Gov. Code, § 54957.1.
- 5 Cal. Gov. Code, § 54954.5.
- 6 Cal. Gov. Code, § 54954.2.
- 7 Cal. Gov. Code, § 54954.5.
- 8 Cal. Gov. Code, §§ 54956.9, 54957.7.
- 9 Cal. Gov. Code, § 54957.1, subd. (a).
- 10 Cal. Gov. Code, § 54957.1, subd. (b).
- 11 Cal. Gov. Code, § 54957.2.
- 12 *Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3d 1050; 2 Cal. Code Regs. § 18707.
- 13 But see *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363 (protection of the attorney-client privilege alone cannot by itself be the reason for a closed session).
- 14 Cal. Gov. Code, § 54956.9; *Shapiro v. Board of Directors of Center City Development Corp.* (2005) 134 Cal.App.4th 170 (agency must be a party to the litigation).
- 15 82 Ops.Cal.Atty.Gen. 29 (1999).
- 16 *Page v. Miracosta Community College District* (2009) 180 Cal.App.4th 471.
- 17 “*The Brown Act*,” California Attorney General (2003), p. 40.
- 18 Cal. Gov. Code, § 54956.9, subd. (g).
- 19 See e.g., *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785; *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172.
- 20 *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172.
- 21 Cal. Gov. Code, § 54956.9, subd. (e).
- 22 *Fowler v. City of Lafayette* (2020) 46 Cal.App.5th 360.
- 23 Cal. Gov. Code, § 54957.1.
- 24 Cal. Gov. Code, § 54956.8.
- 25 *Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904. See also 93 Ops.Cal.Atty.Gen. 51 (2010) (redevelopment agency may not convene a closed session to discuss rehabilitation loan for a property already subleased to a loan recipient, even if the loan incorporates some of the sublease terms and includes an operating covenant governing the property); 94 Ops.Cal.Atty.Gen. 82 (2011) (real estate closed session may address form, manner, and timing of consideration and other items that cannot be disclosed without revealing price and terms).
- 26 73 Ops.Cal.Atty.Gen. 1 (1990).
- 27 Cal. Gov. Code, §§ 54956.8, 54954.5, subd. (b).
- 28 Cal. Gov. Code, § 54957.1, subd. (a)(1).
- 29 Cal. Gov. Code, § 54957, subd. (b).
- 30 63 Ops.Cal.Atty.Gen. 153 (1980); but see *Duvall v. Board of Trustees* (2000) 93 Cal.App.4th 902 (board may discuss personnel evaluation criteria, process and other preliminary matters in closed session but only if related to the evaluation of a particular employee).

- 31 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 85 Ops.Cal.Atty.Gen. 77 (2002).
- 32 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 80 Ops.Cal.Atty.Gen. 308 (1997). Interviews of candidates to fill a vacant staff position conducted by a temporary committee appointed by the governing body may be done in closed session.
- 33 Cal. Gov. Code, § 54957, subd. (b)(3).
- 34 88 Ops.Cal.Atty.Gen. 16 (2005).
- 35 *Morrison v. Housing Authority of the City of Los Angeles* (2003) 107 Cal.App.4th 860.
- 36 Cal. Gov. Code, § 54957, subd. (b); but see *Bollinger v. San Diego Civil Service Commission* (1999) 71 Cal.App.4th 568 (notice not required for closed session deliberations regarding complaints or charges when there was a public evidentiary hearing prior to closed session).
- 37 78 Ops.Cal.Atty.Gen. 218 (1995); *Bell v. Vista Unified School District* (2000) 82 Cal.App.4th 672; *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876; *Fischer v. Los Angeles Unified School District* (1999) 70 Cal.App.4th 87.
- 38 *Moreno v. City of King* (2005) 127 Cal.App.4th 17.
- 39 Cal. Gov. Code, § 54957.
- 40 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165.
- 41 Cal. Gov. Code, § 54957.1, subd. (a)(5).
- 42 Cal. Gov. Code, § 54957.6.
- 43 Cal. Gov. Code, § 54957.6, subd. (b); see also 98 Ops.Cal.Atty.Gen. 41 (2015) (a project labor agreement between a community college district and workers hired by contractors or subcontractors is not a proper subject of closed session for labor negotiations because the workers are not “employees” of the district).
- 44 Cal. Gov. Code, § 54957.6; 51 Ops.Cal.Atty.Gen. 201 (1968).
- 45 Cal. Gov. Code, § 54957.1, subd. (a)(6).
- 46 Cal. Gov. Code, § 3549.1.
- 47 Cal. Gov. Code, § 3540.
- 48 Cal. Gov. Code, § 3547.
- 49 Cal. Edu. Code, § 48918; but see *Rim of the World Unified School District v. Superior Court* (2003) 104 Cal.App.4th 1393 (Section 48918 preempted by the Federal Family Educational Right and Privacy Act in regard to expulsion proceedings).
- 50 Cal. Edu. Code, § 72122.
- 51 Cal. Edu. Code, § 60617.
- 52 Cal. Gov. Code, § 54956.96.
- 53 Cal. Gov. Code, § 54956.7.
- 54 Cal. Gov. Code, § 54957.
- 55 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354.
- 56 Cal. Gov. Code, § 54957.8.
- 57 Cal. Gov. Code, § 54962.
- 58 Cal. Health and Saf. Code, § 32106.
- 59 Cal. Gov. Code, § 54956.75.
- 60 Cal. Gov. Code, § 54956.81.

- 61 Cal. Gov. Code, § 54956.86.
- 62 Cal. Gov. Code, § 54956.87.
- 63 Cal. Gov. Code, § 54956.95.
- 64 Ops.Cal.Atty.Gen. 34 (1965)
- 65 82 Ops.Cal.Atty.Gen. 29 (1999); 2022 WL 1814322, 105 Ops. Cal.Atty.Gen. 89 (2022).
- 66 Cal. Gov. Code, § 54963.
- 67 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 327. See also Cal. Gov. Code, § 54963.
- 68 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363.
- 69 80 Ops.Cal.Atty.Gen. 231 (1997).
- 70 76 Ops.Cal.Atty.Gen. 289 (1993).
- 71 Cal. Gov. Code, § 54963.
- 72 Cal. Gov. Code, § 54963.
- 73 Cal. Gov. Code, § 54957.1.



# Chapter 6

## REMEDIES

Invalidation of action taken .....	56
Declaratory relief to determine whether past action violated the act.....	57
Civil action to prevent future violations.....	57
Costs and attorney's fees .....	58
Misdemeanor penalties .....	58
Voluntary resolution.....	59

# Chapter 6

## REMEDIES



A violation of the Brown Act can lead to invalidation of the agency's action, payment of a challenger's attorney fees, public embarrassment, and even criminal prosecution. As explained below, a legislative body often has an opportunity to correct a violation prior to the filing of a lawsuit. Compliance ultimately results from regular training and a good measure of self-regulation on the part of public officials. This chapter discusses the remedies available to the public when that self-regulation is ineffective.

### Invalidation of action taken

Any interested person, including the district attorney, may seek to invalidate certain actions of a legislative body on the grounds that they violate the Brown Act.<sup>1</sup> The following actions cannot be invalidated:

- Those taken in substantial compliance with the law. No Brown Act violation is found when the given notice substantially complies with the Brown Act, even when the notice erroneously cites the wrong Brown Act section but adequately advises the public that the legislative body will meet with legal counsel to discuss potential litigation in closed session.<sup>2</sup>
- Those involving the sale or issuance of notes, bonds, or other indebtedness, or any related contracts or agreements.<sup>3</sup>
- Those creating a contractual obligation, including a contract awarded by competitive bid for other than compensation for professional services, upon which a party has in good faith relied to its detriment.<sup>4</sup>
- Those connected with the collection of any tax.<sup>5</sup>
- Those in which the complaining party had actual notice at least 72 hours prior to the regular meeting or 24 hours prior to the special meeting, as the case may be, at which the action is taken.<sup>6</sup>

Before filing a court action seeking invalidation, a person who believes that a violation has occurred must send a written "cure or correct" demand to the legislative body. This demand must clearly describe the challenged action and the nature of the claimed violation. This demand must be sent within 90 days of the alleged violation, or within 30 days if the action was taken in open session but in violation of Section 54954.2, which requires (subject to specific exceptions) that a legislative body may act only on items posted on the agenda.<sup>7</sup> The legislative body then has up to 30 days to cure and correct its action.<sup>8</sup> The purpose of this requirement is to offer the body an opportunity to consider whether a violation has occurred and, if so, consider correcting the action to avoid the costs of litigation. If the legislative body does not act, any lawsuit must be filed within the next 15 days.<sup>9</sup>

Although just about anyone has standing to bring an action for invalidation,<sup>10</sup> the challenger must show prejudice as a result of the alleged violation.<sup>11</sup> An action to invalidate fails to state a cause of action against the agency if the body deliberated but did not take an action.<sup>12</sup>

### Declaratory relief to determine whether past action violated the act

Any interested person, including the district attorney, may file a civil action to determine whether a past action of a legislative body constitutes a violation of the Brown Act and is subject to a mandamus, injunction, or declaratory relief action.<sup>13</sup> Before filing an action, the interested person must, within nine months of the alleged violation of the Brown Act, submit a “cease and desist” letter to the legislative body clearly describing the past action and the nature of the alleged violation.<sup>14</sup> The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action.<sup>15</sup> If the body fails to take any action within the 30-day period or takes an action other than an unconditional commitment, the interested person has 60 days to file an action.<sup>16</sup>

The legislative body’s unconditional commitment must be approved at a regular or special meeting as a separate item of business and not on the consent calendar.<sup>17</sup> The unconditional commitment must be substantially in the form set forth in the Brown Act.<sup>18</sup> No legal action may thereafter be commenced regarding the past action.<sup>19</sup> However, an action of the legislative body in violation of its unconditional commitment constitutes an independent violation of the Brown Act, and a legal action consequently may be commenced without following the procedural requirements for challenging past actions.<sup>20</sup>

The legislative body may rescind its prior unconditional commitment by a majority vote of its membership at a regular meeting as a separate item of business not on the consent calendar. At least 30 days written notice of the intended rescission must be given to each person to whom the unconditional commitment was made and to the district attorney. Upon rescission, any interested person may commence a legal action regarding the past actions without following the procedural requirements for challenging past actions.<sup>21</sup>

### Civil action to prevent future violations

The district attorney or any interested person can file a civil action asking the court to do the following:

- Stop or prevent violations or threatened violations of the Brown Act by members of the legislative body.
- Determine the applicability of the Brown Act to actions or threatened future action of the legislative body.
- Determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law.
- Compel the legislative body to audio-record its closed sessions.<sup>22</sup>

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**PRACTICE TIP:** A lawsuit to invalidate must be preceded by a demand to cure and correct the challenged action in order to give the legislative body an opportunity to consider its options. The Brown Act does not specify how to cure or correct a violation; the best method is to rescind the action being complained of and start over, or reaffirm the action if the local agency relied on the action and rescinding the action would prejudice the local agency.

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It is not necessary for a challenger to prove a past pattern or practice of violations by the local agency in order to obtain injunctive relief. A court may presume when issuing an injunction that a single violation will continue in the future when the public agency refuses to admit to the alleged violation or to renounce or curtail the practice.<sup>23</sup> A court may not compel elected officials to disclose their recollections of what transpired in a closed session.<sup>24</sup>

Upon finding a violation of the Brown Act pertaining to closed sessions, a court may compel the legislative body to audio record its future closed sessions.<sup>25</sup> In a subsequent lawsuit to enforce the Brown Act alleging a violation occurring in closed session, a court may upon motion of the plaintiff review the audio recording if it finds there is good cause to think the Brown Act has been violated and make public a certified transcript of the relevant portion of the closed session recording.<sup>26</sup>

### Costs and attorney's fees

A plaintiff who successfully invalidates an action taken in violation of the Brown Act or who successfully enforces one of the Brown Act's civil remedies may seek court costs and reasonable attorney's fees. Courts have held that attorney's fees must be awarded to a successful plaintiff unless special circumstances exist that would make a fee award against the public agency unjust.<sup>27</sup> When evaluating how to respond to assertions that the Brown Act has been violated, elected officials and their lawyers should assume that attorney's fees will be awarded against the agency if a violation of the Brown Act is proven.

An attorney's fee award may only be directed against the local agency and not the individual members of the legislative body. If the local agency prevails, it may be awarded court costs and attorney's fees if the court finds the lawsuit was clearly frivolous and lacking in merit.<sup>28</sup>

### Misdemeanor penalties

A violation of the Brown Act is a misdemeanor if (1) a member of the legislative body attends a meeting where action is taken in violation of the Brown Act, and (2) the member intends to deprive the public of information that the member knows or has reason to know the public is entitled to.<sup>29</sup>

"Action taken" is not only an actual vote but also a collective decision, commitment, or promise by a majority of the legislative body to make a positive or negative decision.<sup>30</sup> If the meeting involves mere deliberation without the taking of action, there can be no misdemeanor penalty.

A violation occurs for a tentative as well as final decision.<sup>31</sup> In fact, criminal liability is triggered by a member's participation in a meeting in violation of the Brown Act — not whether that member has voted with the majority or minority, or has voted at all.

As with other misdemeanors, the filing of a complaint is up to the district attorney. Although criminal prosecutions of the Brown Act are uncommon, district attorneys in some counties aggressively monitor public agencies' adherence to the requirements of the law.

Some attorneys and district attorneys take the position that a Brown Act violation may be pursued criminally under Government Code section 1222.<sup>32</sup> There is no case law to support this view. If anything, the existence of an express criminal remedy within the Brown Act would suggest otherwise.<sup>33</sup>

**PRACTICE TIP:** Attorney's fees will likely be awarded if a violation of the Brown Act is proven.

## Voluntary resolution

Successful enforcement actions for violations of the Brown Act can be costly to local agencies. The district attorney or even the grand jury occasionally becomes involved. Publicity surrounding alleged violations of the Brown Act can result in a loss of confidence by constituents in the legislative body and its members. It is in the agency's interest to consider re-noticing and rehearing, rather than litigating, an item of significant public interest, particularly when there is any doubt about whether the open meeting requirements were satisfied.

Overall, agencies that regularly train their officials and pay close attention to the requirements of the Brown Act will have little reason to worry about enforcement.



Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

## ENDNOTES

- 1 Cal. Gov. Code, § 54960.1. Invalidation is limited to actions that violate the following sections of the Brown Act: section 54953 (the basic open meeting provision), sections 54954.2 and 54954.5 (notice and agenda requirements for regular meetings and closed sessions), 54954.6 (tax hearings), 54956 (special meetings), and 54596.5 (emergency situations). Violations of sections not listed above cannot give rise to invalidation actions, but they are subject to the other remedies listed in section 54960.1.
- 2 *Castaic Lake Water Agency v. Newhall County Water District* (2015) 238 Cal.App.4th 1196, 1198.
- 3 Cal. Gov. Code, § 54960.1(d)(2).
- 4 Cal. Gov. Code, § 54960.1(d)(3).
- 5 Cal. Gov. Code, § 54960.1(d)(4).
- 6 Cal. Gov. Code, § 54960.1(d)(5).
- 7 Cal. Gov. Code, § 54960.1, subs. (b), (c)(1).
- 8 Cal. Gov. Code, § 54960.1, subd. (c)(2).
- 9 Cal. Gov. Code, § 54960.1, subd. (c)(4).
- 10 *McKee v. Orange Unified School District* (2003) 110 Cal.App.4th 1310, 1318-1319.
- 11 *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 556, 561.
- 12 *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116-17, 1118.
- 13 Cal. Gov. Code, § 54960.2, subd. (a); Senate Bill No. 1003, Section 4 (2011-2012 Session).
- 14 Cal. Gov. Code, § 54960.2, subs. (a)(1), (2).
- 15 The legislative body may provide an unconditional commitment after the 30-day period. If the commitment is made after the 30-day period, however, the plaintiff is entitled to attorneys' fees and costs. Cal. Gov. Code, § 54960.2, subd. (b).
- 16 Cal. Gov. Code, § 54960.2, subd. (a)(4).
- 17 Cal. Gov. Code, § 54960.2, subd. (c)(2).

- 18 Cal. Gov. Code, § 54960.2, subd. (c)(1).
- 19 Cal. Gov. Code, § 54960.2, subd. (c)(3).
- 20 Cal. Gov. Code, § 54960.2, subd. (d).
- 21 Cal. Gov. Code, § 54960.2, subd. (e).
- 22 Cal. Gov. Code, § 54960, subd. (a).
- 23 *California Alliance for Utility Safety and Education (CAUSE) v. City of San Diego* (1997) 56 Cal.App.4th 1024; *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518, 524; *Accord Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904, 916 and fn.6.
- 24 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 334-36.
- 25 Cal. Gov. Code, § 54960, subd. (b).
- 26 Cal. Gov. Code, § 54960, subd. (c).
- 27 *Los Angeles Times Communications, LLC v. Los Angeles County Board of Supervisors* (2003) 112 Cal. App.4th 1313, 1327-29 and cases cited therein.
- 28 Cal. Gov. Code, § 54960.5.
- 29 Cal. Gov. Code, § 54959. A misdemeanor is punishable by a fine of up to \$1,000 or up to six months in county jail, or both (California Penal Code section 19). Employees of the agency who participate in violations of the Brown Act cannot be punished criminally under section 54959. However, at least one district attorney instituted criminal action against employees based on the theory that they criminally conspired with the members of the legislative body to commit a crime under section 54949.
- 30 Cal. Gov. Code, § 54952.6.
- 31 61 Ops.Cal.Atty.Gen. 283 (1978).
- 32 California Government Code section 1222 provides that “[e]very wilful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor.”
- 33 The principle of statutory construction known as *expressio unius est exclusio alterius* supports the view that section 54959 is the exclusive basis for criminal liability under the Brown Act.





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**Article VIII of the  
City Charter  
(Commissions,  
Committees and  
Agencies)**

## ARTICLE VIII. COMMISSIONS, COMMITTEES AND AGENCIES

Section 800. In general.

The commissions and committees heretofore established by the Council shall continue to exist and exercise the powers and perform the duties conferred upon them; provided, however, that the Council may abolish any and all of said commissions and committees and may alter the structure, membership, powers and duties thereof.

In addition, the Council may create such other agencies as in its judgment are required and may grant to them such powers and duties as are not inconsistent with the provisions of this Charter.

Section 801. Appropriations.

The Council shall include in its annual budget such appropriations of funds as the Council shall determine to be sufficient for the efficient and proper functioning of commissions, committees and agencies.

Section 802. The appointment, removal, terms of office and procedural rules.

The election, appointment, removal, and terms of office of commissions, committee and agency members and the rules and regulations pertaining to the conduct of commission, committee or agency business shall be as prescribed by ordinance or resolution of the City Council.

Section 803. Existing membership.

The members of the commissions and committees holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors are appointed and qualify, subject to being removed from office as provided herein.

Section 804. Compensation. Vacancies.

The members of commissions and agencies shall receive such compensation as may be specified by the Council and shall also receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures are authorized by the Council.

**Municipal Code,  
Title I, Division 4  
(Commissions and  
Committees)**

## **Division 4 COMMISSIONS AND COMMITTEES<sup>1</sup>**

### **CHAPTER 1. IN GENERAL**

#### **Sec. 1-4-101. Applicability.**

The provisions of this division are applicable to all commissions and committees appointed by or otherwise operating under authority of the City Council or its delegatee.

(Code 1976, § I.F-101; Res. No. 396, § 1, 3-11-75)

#### **Sec. 1-4-102. General statement of policy.**

A. The City Council, in prescribing the provisions of this division, hereby states its recognition of the enormous value of direct, active participation by citizens in their government, and of the willing, capable assistance citizens have demonstrated a desire to render toward the operation and development of their own community. The Council hereby further states its recognition of the value and equity in receiving help and advice in such regard from persons who are not residents of the community, but have a just and legitimate interest in its affairs.

B. These rules shall be interpreted to further the intent of the Council that citizen judgment, expertise and effort be given fair, reasonable and efficient channels to reach and benefit the government of the City.

(Code 1976, § I.F-102; Res. No. 396, § 2, 3-11-75)

#### **Sec. 1-4-103. Eligibility.**

Unless otherwise specified, any person, whether or not a resident of the City, shall be eligible to serve on committees; but only residents of the City shall be eligible to serve on commissions unless the unanimous approval of the City Council is obtained. No person shall be permitted to serve or remain on any commission or committee that has authority to make a final decision on behalf of the City if that person is or becomes a person with one of the following relationships to a City Councilmember: Spouse, domestic partner, father, step-father, mother, step-mother, grandmother, grandfather, grandchild, brother, step-brother, sister, step-sister, father-in-law, mother-in-law, aunt, uncle, cousin, step-child or child. Any person appointed to or selected for a commission, or committee in conformity with these rules and regulations shall be a voting member thereof. As used in this rule, a resident of the City is any person eligible to register to vote in municipal elections.

(Code 1976, § I.F-103; Res. No. 396, § 5.1, 3-11-75; Ord. No. 86-15, § 1, 9-9-86; Ord. No. 22-05, § 3, 4-26-22; Ord. No. 23-05, § 3, 2-14-23)

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<sup>1</sup>Cross reference(s)—Administrative services, tit. 2; Irvine Public Facilities and Infrastructure Authority, § 2-7-608 et seq.; Community Services Commission, § 3-3-101 et seq.; Disaster Council, § 4-9-103; Planning Commission, § 5-3-101 et seq.; Subdivision Committee, § 5-5-104; Building Appeals Board Committee, § 5-9-216.

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### **Sec. 1-4-104. Application of State law and Irvine Municipal Code Enhancements to State Law.**

All commissions and committees shall be subject to those sections of the California Government Code known as the "Ralph M. Brown Act" ( Government Code § 54950 et seq. ), and shall conduct their business in conformity therewith. All local bodies as defined in Section 1-15-103(C) shall comply with the additional requirements of Division 15 of Title 1, and shall conduct their business in conformity therewith.

(Code 1976, § I.F-104; Res. No. 396, § 5.2, 3-11-75; Ord. No. 18-10 , § 3, 11-13-18; Ord. No. 22-02 , § 4, 4-12-22)

### **Sec. 1-4-105. Public statements.**

No commission or committee shall make a financial commitment, a political or other endorsement, or a statement of position on legislation pending before any governmental body, federal, State or local, without first securing the express consent of the City Council. Nothing in these rules and regulations shall be construed, however, to inhibit or forbid political or other activity, in a purely individual capacity, by any member of a commission or committee, so long as such member does not purport to speak for, or as a member of, such commission or committee.

(Code 1976, § I.F-105; Res. No. 396, § 5.3, 3-11-75)

### **Sec. 1-4-106. Reserved.**

### **Sec. 1-4-107. Reports; dissents.**

When any commission or committee submits a report or recommendation to another agency of the City, dissenting members shall be entitled to have their viewpoints fully, fairly and accurately presented as a part thereof.

(Code 1976, § I.F-106; Res. No. 396, § 5.4, 3-11-75)

### **Sec. 1-4-108. Subcommittees.**

The provisions of Sections 1-4-103 through 1-4-105 and Section 1-4-107 shall also apply to subcommittees of commissions and committees and their members.

(Code 1976, § I.F-107; Res. No. 396, § 5.5, 3-11-75)

## ***CHAPTER 2. COMMISSIONS***

### **Sec. 1-4-201. Creation.**

Commissions may be created only by resolution or ordinance of the City Council, and shall be terminated only by express ordinance of the City Council. They shall be continuing bodies operating in general areas of concern and having the power and duties designated by the City Council. They may be assigned more than one task concurrently, but the absence of one or more assigned tasks at any time (or the completion of and submission of a report regarding all their assigned tasks) shall not affect their continuing status.

(Code 1976, § I.F-201; Res. No. 396, § 3.1, 3-11-75)

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### **Sec. 1-4-202. Appointment.**

The number of persons appointed from time-to-time to any commission shall be fixed by the City Council in the resolution or ordinance establishing the commission. Members of commissions shall be appointed at least 10 days prior to the first regularly scheduled meeting of such commission in January of each calendar year. The commissioner shall be appointed as follows, unless otherwise provided in the ordinance or resolution establishing the commission:

- A. Each member of the City Council shall appoint one commissioner who shall serve at the pleasure of the member of the City Council who appointed such commissioner; and
- B. Such appointment shall be made by filing a written statement with the City Clerk setting forth:
  - 1. The fact of such appointment;
  - 2. The name of the person being appointed; and
  - 3. The date as of which such appointment is to be effective.

(Code 1976, § I.F-202; Res. No. 396, § 3.2, 3-11-75; Ord. No. 236, § 3, 3-13-79; Ord. No. 92-17, § 10, 9-22-92)

### **Sec. 1-4-203. Term.**

Any Council member-appointed commissioner serves at the will of that Council member for a term expiring upon the expiration of the Council member's term; provided that a commissioner's term shall terminate on the date either that the commissioner resigns from office or that the Council member replaces the commissioner prior to the expiration of the commissioner's term.

(Code 1976, § I.F-203; Res. No. 396, § 3.3, 3-11-75; Ord. No. 99-06, § 1, 2-23-99)

### **Sec. 1-4-204. Removal.**

A member of a commission may be discharged from his or her position and duties at any time, and without cause, by the member of the Council who appointed such commissioner by their filing with the City Clerk a written statement setting forth:

- A. The facts of such removal;
- B. The name of the person being removed; and
- C. The date such removal is to be effective.

(Code 1976, § I.F-204; Res. No. 396, § 3.3, 3-11-75)

### **Sec. 1-4-205. Officers.**

Each commission shall have a chair and vice-chair, each of whom shall be a member of the commission. Such officers shall be elected by the membership of the commission at their first regular meeting in January of each calendar year.

(Code 1976, § I.F-205; Res. No. 396, § 3.4, 3-11-75; Ord. No. 83-19, § 1, 12-13-83; Ord. No. 92-17, § 11, 9-22-92)

### **Sec. 1-4-206. Reserved.**

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### **Sec. 1-4-207. Meetings.**

The commission shall meet at such times as may be established by the City Council. All meetings shall be opened to the public and shall conform to the provisions of the "Ralph M. Brown Act" ( Government Code § 54950 et seq. ) and to the extent such commission constitutes a local body under Section 1-15-103(C), it shall comply with the additional requirements of the Division 15 of Title 1. Special meetings may be called by the chair of the commission or upon the written request of at least a majority of its members.

(Code 1976, § I.F-206; Res. No. 396, § 3.5, 3-11-75; Ord. No. 18-10 , § 3, 11-13-18; Ord. No. 22-02 , § 4, 4-12-22)

### **Sec. 1-4-208. Procedures.**

- A. Unless otherwise specifically provided by law or elsewhere in the Code, including the provisions of Division 15 of Title 1, Robert's Rules of Order, Newly Revised, shall govern the general conduct of meetings of commissions. The adoption of Robert's Rules of Order is for the purpose of establishing a procedural framework for the conduct of meetings only. Any failure to adhere thereto shall in no way affect the validity of any action taken by the commission.
- B. It shall be the duty of each commissioner to take an active part in the commission's deliberation and to act in whatever capacity the commissioner may be called. Absence from three consecutive meetings without the formal consent of the commission shall be deemed to constitute the retirement of the commissioner, and the position shall automatically become vacant.

(Code 1976, § I.F-207; Res. No. 396, § 3.6, 3-11-75; Ord. No. 18-10 , § 3, 11-13-18; Ord. No. 22-02 , § 4, 4-12-22)

### **Sec. 1-4-209. Quorum; commission voting.**

A majority of the members of the commission shall constitute a quorum. A majority vote of the members present at a duly constituted meeting shall be required to carry a motion, proposal, or resolution. All official members present shall vote on every question presented to the commission. Under no circumstances shall any member of the commission take any action or make any statement committing the commission as a whole unless expressly authorized to do so by vote of the commission.

(Code 1976, § I.F-208; Res. No. 396, § 3.7, 3-11-75)

### **Sec. 1-4-210. Duties.**

Commissions shall from time-to-time receive specific assignments from the City Council. In addition, commissions may generate tasks, on their initiative, within their general areas of concern, subject to coordination with the City Manager, or his or her delegate, to avoid duplication of effort or jurisdiction with other commissions or committees and to confirm that the proposed task is, in fact, within the commission's area of concern. Where tasks are assigned to a commission by the City Council, a written report regarding the results thereof and recommendations, where appropriate, should be furnished, upon completion of such task, to the City Council.

(Code 1976, § I.F-209; Res. No. 396, § 3.8, 3-11-75)

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**Sec. 1-4-211. Power of appointment.**

Commissions shall have power to appoint subcommittees of their own members and to appoint committees (as hereinafter defined) to perform tasks within their respective general areas of concern, but only in conformity with the provisions of this division.

(Code 1976, § I.F-210; Res. No. 396, § 3.9, 3-11-75)

**Sec. 1-4-212. Reserved.**

**Sec. 1-4-213. Additional regulations.**

Commissions may adopt a resolution establishing additional regulations governing the conduct of its meetings provided such regulations are not in conflict with the rules and regulations herein established and further provided that such resolution shall be approved by the City Council.

(Code 1976, § I.F-211; Res. No. 396, § 3.10, 3-11-75)

***CHAPTER 3. COMMITTEES***

**Sec. 1-4-301. General.**

Committees may be established from time-to-time to perform one or more specific assigned tasks. Committees may be appointed and tasks assigned by the City Council or a commission (but, in the case of a commission, only for the purpose of performing specific tasks within the respective general areas of concern of the commission). Upon completion of an assigned task, the committee shall forward a written report regarding the results thereof to the assigning authority, together with recommendations where appropriate. Upon submission of its report, and formal acceptance thereof by the assigning authority, the committee (unless it then has one or more other specifically assigned tasks which it has not completed) is automatically dissolved.

(Code 1976, § I.F-301; Res. No. 396, § 4.1, 3-11-75)

**Sec. 1-4-302. Structure.**

The structure, composition, number of members, manner of their appointment or selection, and other matters necessary to the creation and operation of each committee shall be determined in each case by the authority which establishes such committee, subject, however, to compliance with this division and Division 15 of Title 1.

(Code 1976, § I.F-302; Res. No. 396, § 4.2, 3-11-75; Ord. No. 18-10, § 4, 11-13-18; Ord. No. 22-02, § 4, 4-12-22)

**Sec. 1-4-303. Establishment; consultation with City Manager.**

No committee shall be established without prior consultation between the City Manager, or his or her delegate, and the authority proposing to establish such committee:

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- A. To determine that such committee's proposed assignment or assignments will not substantially duplicate an assignment of another committee already in existence, or a task on which a commission is then engaged; and
  - B. If the authority proposing to establish the committee is a commission, to determine that the proposed assignment or assignments are within the general area of concern of the commission. Where a proposed assignment is closely or logically related to work already assigned to an existing committee, then, unless exceptional circumstances justify a new committee, such assignment shall be given to the already-existing committee.

(Code 1976, § I.F-303; Res. No. 396, § 4.3, 3-11-75)

#### **Sec. 1-4-304. Appointments.**

Committees may appoint their own subcommittees, but only from their own membership. A committee shall not, however, assign to a subcommittee any matter not directly related to the specific assignment or assignments given to that committee by an appropriate authority under these rules and regulations. No committee shall generate its own assignments or tasks.

(Code 1976, § I.F-304; Res. No. 396, § 4.4, 3-11-75)

**Municipal Code  
Sections 1-6-101  
through 1-6-110  
(Code of Ethics)**

## Division 6 CODE OF ETHICS

### Sec. 1-6-101. Declaration of policy.

- A. The proper operation of democratic government requires that public officials and public employees be independent, impartial, responsible, and accountable to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office and public employment not be used for personal gain; and that the citizens and businesses of the City have confidence in the integrity of their government.
- B. As used in this division, "City officials and employees" shall mean and include the following individuals: the Mayor; the Vice Mayor, the Interim Mayor; members of the City Council; City Council Executive Assistants; the City Manager; Assistant City Managers; the City Clerk; Department Directors; Deputy Department Directors; the Police Chief; the Deputy Police Chief, the City Attorney; the Zoning Administrator; and members of the Planning Commission, the Community Services Commission, the Finance Commission, and any other commission that is advisory in nature.
- C. The following principles are intended to encourage the highest standard of conduct to serve as guidelines for ethical behavior:
1. *Public interest.* Public office and public employment is a trust to be used to advance the public interest, and not to be used for personal gain.
  2. *Objective judgment.* Decisions are to be made on the merits, free of partiality or prejudice, and unimpeded by conflicts of interest.
  3. *Accountability.* Government is to be conducted openly, efficiently, equitably, and honorably so the public can make informed judgments and hold public officials accountable.
  4. *Democracy.* City officials and employees shall demonstrate honor and respect for democratic principles, and observe the letter and spirit of laws.
  5. *Public trust.* City officials and employees shall safeguard public confidence in the integrity of government by upholding the highest standards of personal and professional conduct.
  6. *Professional conduct.* City officials and employees shall support the maintenance of a positive and constructive workplace environment and demonstrate a high degree of professionalism when dealing with citizens. The Mayor is charged with maintaining order and decorum during public meetings in accordance with Robert's Rules of Order as adopted by the City. Subject to the limitations provided in California Government Code § 54954.3(c), a provision of the Brown Act, City officials and employees are encouraged to conduct themselves in a manner that is responsive, respectful and befitting their public position.
- D. The purpose of this division is to establish ethical standards of conduct for City officials and employees by setting forth those acts or actions that are incompatible, inconsistent, or in conflict with the foregoing principles and the best interests of the City.

(Ord. No. 06-01, § 1, 1-24-06; Ord. No. 20-02 , § 5, 2-11-20)

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### **Sec. 1-6-102. Responsibilities of public office and employment.**

City officials and employees are agents of public purpose and hold office or employment for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of the State of California, and to carry out impartially the laws of the nation, State and the City, and thus to foster respect for all governments. They shall make their decisions and take their actions fairly and impartially and base them on the merits and substance of each matter. They are bound to observe in their official acts, the highest standards of performance and to discharge faithfully the duties of their office and employment, regardless of personal considerations. Recognizing that the public interest must be their primary concern, their conduct in both their official and private affairs should be above reproach.

(Ord. No. 06-01, § 1, 1-24-06)

### **Sec. 1-6-103. No preferential treatment.**

- A. City officials and employees shall not accept more favorable treatment than other residents of the City. Any transactions should be obtained on terms consistent with those available to the general public.
- B. All citizens and businesses in the City are entitled to fair and equal treatment. City officials and employees shall not give preferential consideration or special advantages to any person or organization beyond those that are available to any other person or organization.

(Ord. No. 06-01, § 1, 1-24-06)

### **Sec. 1-6-104. City allegiance and proper conduct.**

- A. *Incompatible employment or service.* Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local agency (county, city or special district) located in the County of Orange.
  - 1. This paragraph A shall not be applicable to lobbying as an in-house employee on behalf of his or her employer (as opposed to a client of the employer).
  - 2. For purposes of this paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.
  - 3. Notwithstanding any other provision of this division, this paragraph A shall not become effective until January 1, 2007.
- B. *Interest in City contracts.* City officials and employees shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

(Ord. No. 06-01, § 1, 1-24-06)

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### **Sec. 1-6-105. Disclosure of confidential information.**

City officials and employees shall respect and maintain the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information or records without proper and legally required authorization, nor use such information or records to advance their personal, financial or other private interests, or the private gain or advantage of others. Public records may be requested through the City Clerk/Office of Records and Information consistent with the rights of citizens under the California Public Records Act.

(Ord. No. 06-01, § 1, 1-24-06)

### **Sec. 1-6-106. Use of City resources.**

City officials and employees shall not use City-owned equipment, automobiles, trucks, instruments, tools, supplies, machines, including computers and related computer systems, or any other item that is the property of the City for other than City business, nor shall City officials and employees allow any unauthorized person or organization to rent, borrow or use any such City resources.

(Ord. No. 06-01, § 1, 1-24-06)

### **Sec. 1-6-107. Future employment.**

A. *General prohibitions.* It shall be improper for City officials and employees, for a period of two years following the termination of their office or employment, to:

1. Represent, appear or lobby before any City agency, official or employee for compensation on behalf of any person or any organization. For purposes of this paragraph A, "lobby" shall mean making any oral or written communication (including an electronic communication) to an official of the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the City, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.
2. Accept employment or otherwise receive compensation from a person or organization that entered into a contract with the City within one year prior to the termination of the office or employment, where the former official or employee personally and substantially participated in the award of the contract.
3. Participate as a competitor in any competitive selection process for a City contract where the former official or employee recommended or approved the project or the work that is the subject of the contract, nor shall any City contract be awarded to such a former official or employee.

B. *Exceptions.* The provisions of paragraph A shall not preclude the hiring of a former City employee as a consultant to the City, provided that such hiring is approved in advance by the City Council. Nor shall paragraph A apply to any City official or employee who left office or whose City employment or service terminated prior to the effective date of this section; provided, however, that a person who returns to City office, employment or service on or after the effective date of this section shall be subject to the requirements hereof.

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- C. *Enforcement.* Notwithstanding the provisions of Section 1-6-110, any former City official or employee who knowingly violates the provisions of this section may be liable in a civil action brought by the District Attorney, the City Attorney, or by a special prosecutor authorized by the City Council, for a fine of up to \$10,000 per violation, in addition to such other penalties or remedies as may be available.

(Ord. No. 06-01, § 1, 1-24-06)

**Sec. 1-6-108. No nepotism.**

- A. All hiring decisions shall be made on the basis of merit and in accordance with the City's Personnel Rules and Procedures, which establish limits and guidelines on the employment of relatives, in order to avoid problems associated with supervision, safety or morale.
- B. City officials and employees shall not influence or attempt to influence the awarding of a City contract to or execution of a City agreement with a relative as defined in Section 2 of the City's Personnel Rules and Procedures.

(Ord. No. 06-01, § 1, 1-24-06)

**Sec. 1-6-109. Whistle blower protection.**

To the extent not otherwise prohibited by State law, City officials and employees shall not use or threaten to use any official authority or influence to discourage, restrain or interfere with or to effect a reprisal against any person, including, but not limited to, a City official or employee, for the purpose or with the intent of preventing such person from acting in good faith to report or otherwise bring to the attention of the City or other appropriate agency, office or department, any information that, if true, would constitute a gross waste of City funds, a gross abuse of authority, a specified and substantial danger to public health or safety due to any act or omission of an City official or employee, or the use of a City office or position or of City resources for personal gain.

(Ord. No. 06-01, § 1, 1-24-06)

**Sec. 1-6-110. Enforcement.**

- A. This division expresses standards of ethical conduct expected for City officials and employees. As an expression of such standards, this division is intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.
- B. A violation of this division shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.
- C. All suspected violations of this division that also pertain to provisions of the Political Reform Act (California Government Code § 81000 et seq. ) should be reported to the Fair Political Practices Commission of the State of California.
- D. All suspected violations of this division that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the Office of the Orange County District Attorney.
- E. Except as otherwise expressly provided by this division or by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of this division:

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(Supp. No. 15)

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1. Alleged violations of this division committed by a member of the City Council, a member of a City commission, or the City Manager should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation and endeavoring to avoid future violations in the event one has occurred.
  2. Alleged violations of this division committed by the City Clerk, a City Council Executive Assistant, an Assistant City Manager, the City Attorney, a Department Director, or a Deputy Department Director should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, or his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager or the appointing authority may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.
  3. In the event that the City Attorney or City Manager (or his or her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

(Ord. No. 06-01, § 1, 1-24-06)

# **Ethical Public Service Ordinance – Measure H**

INITIATIVE ORDINANCE NO. 08-03  
(Approved by the Voters on June 3, 2008)

AN ORDINANCE OF THE CITY OF IRVINE PROHIBITING THE MAYOR AND THE MEMBERS OF THE CITY COUNCIL, AND THEIR EXECUTIVE ASSISTANTS AND APPOINTED COMMISSIONERS, FROM (1) ENGAGING IN COMPENSATED EMPLOYMENT OR SERVICE FOR LOBBYING FOR ANY PRIVATE PERSON OR ORGANIZATION BEFORE ANY LOCAL PUBLIC AGENCY LOCATED IN THE COUNTY OF ORANGE, AND (2) HAVING A PERSONAL INVESTMENT OR MONETARY INTEREST IN CITY CONTRACTS

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the Irvine City Council Ethical Public Service Ordinance.

Section 2. Purpose. This Ordinance is adopted to ensure that the Mayor and members of the City Council, as elected representatives, and their Executive Assistants and appointed Commissioners, are engaged in public service not for private, personal gain, but to advance the interests of Irvine residents and the entire Irvine community.

Section 3. City allegiance and proper conduct.

A. *Incompatible employment or service.* Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local public agency (county, city or special district) located in the County of Orange.

1. Paragraph A shall not be applicable to lobbying as an in-house employee on behalf of his or her employer (as opposed to a client of the employer).

2. For purposes of paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption

of specifications, awards, grants, or contracts.

B. *Interest in City contracts.* The Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

C. *Knowledge of and agreement to abide by provisions.* The Mayor and members of the City Council and their Executive Assistants and appointed Commissioners shall at the time of their election or appointment or upon the effective date of this Section 3, whichever occurs earlier, sign an appropriate form prepared by the City Clerk reciting their knowledge of the provisions of this Section 3 and their agreement to abide by such provisions.

#### Section 4. Enforcement of City allegiance and proper conduct provisions.

A. The provisions of Section 3 above express standards of ethical conduct expected for City officials and employees. As an expression of such standards, the provisions of Section 3 are intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.

B. A violation of the provisions of Section 3 above shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.

C. All suspected violations of Section 3 above that also pertain to provisions of the Political Reform Act (California Government Code section 81000 et seq.) should be reported to the Fair Political Practices Commission of the State of California.

D. All suspected violations of Section 3 above that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the office of the Orange County District Attorney.

E. Except as otherwise expressly provided by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of Section 3 above:

1. Alleged violations of Section 3 committed by the Mayor, a member of the City Council or a member of a City commission should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation and endeavoring to avoid future violations in

the event one has occurred.

2. Alleged violations of Section 3 committed by a City Council Executive Assistant should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, or his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager or the appointing authority may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.

3. In the event that the City Attorney or City Manager (or his/her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

Section 5. Effective date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

Section 6. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended to diminish or otherwise alter applicable requirements of state and federal law.

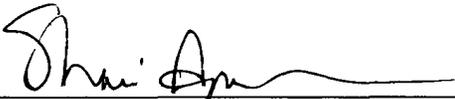
Section 7. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance, including but not limited to enforcement provisions. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

Section 9. Codification. Upon adoption of this Ordinance pursuant to the approval of the City's voters, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to appropriately codify this Ordinance in the City's Municipal Code.

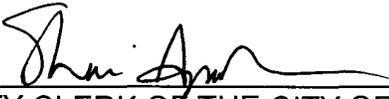
ADOPTED by the vote of the people of the City of Irvine on June 3, 2008 at a Special Municipal Election as certified by the City Council of the City of Irvine on the 8th day of July, 2008, and becomes effective 10 days thereafter on July 18, 2008.

ATTEST:

  
\_\_\_\_\_  
CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on June 3, 2008, as certified by the City Council of the City of Irvine on the 8<sup>th</sup> day of July, 2008, and that the ordinance becomes effective 10 days thereafter on July 18, 2008.

  
\_\_\_\_\_  
CITY CLERK OF THE CITY OF IRVINE

# **Campaign Contributions by Appointees and Commissioners**

## Campaign Contributions Conflicts

June 1999

# Campaign Contributions May Cause Conflicts for Appointees and Commissioners

## Section 84308

Government Code section 84308 disqualifies any "officer" of a public agency, who is running or has run for elective office, from participating in decisions affecting his or her campaign contributors. The law *disqualifies* the officer from participating in certain proceedings if the official has received campaign contributions of more than \$250 from a party, participant or their agents within the 12 months preceding the decision. It also requires *disclosure* on the record of the proceeding of all campaign contributions received from these persons during that period. In addition, section 84308 *prohibits* solicitation or receipt of campaign contributions in excess of \$250 during such proceedings, or for three months after the decision, from parties, participants or their agents.

*Sarah Smith is a candidate for the Smalltown City Council. Smith is also on the Smalltown Planning Commission. John Builder has a permit request pending before the planning commission. Under section 84308, Smith is prohibited from soliciting or receiving any contribution of more than \$250 from Builder or Builder's agent. If Smith did receive a contribution of more than \$250 from Builder, Smith and Builder would be required to disclose the contribution in the record of the planning commission meeting. Smith would also have to disqualify herself from considering Builder's permit request unless she returns that portion of the campaign contribution in excess of \$250 within 30 days after learning of the contribution and Builder's pending permit.*

## Who is Covered?

Section 84308 covers all elected and appointed "officers" of an "agency" and their alternates, as well as candidates for elective public office. The term "officer" is very broadly defined under section 84308. It includes the governing board or commission of any public agency, as well as the head of an agency. One important exemption applies to members of the governor's cabinet, but *only* when they act in the capacity of secretary of an agency. (Reg. 18438.1.)<sup>(1)</sup>

The scope of the statute is narrowed considerably, however, by the definition of the term "agency." Due to exemptions from the definition of agency (discussed below), the law applies most often to appointed members of local boards and commissions, such as planning commissions.

Section 84308 primarily regulates *agencies*, *not* individuals. As a result, a person who is a member of an exempted agency (such as an elected city council), is covered by the law when he or she acts as a voting member of *another* agency.

## What Agencies Are Not Covered?

Section 84308 expressly exempts from its coverage the following agencies:

- the judicial branch
- the Legislature
- the Board of Equalization<sup>(2)</sup>
- constitutional officers
- local agencies whose members are elected by the voters (e.g., city councils and county boards of supervisors)

The exemption for these agencies extends to *committees* of the agencies, if only members of the governing body of the agency are on the committee. It also applies when the governing body, *in its entirety*, sits as the governing body of another agency (e.g., a board of supervisors designates itself as the redevelopment agency for the county). In these cases, the officers are *not appointed* to the other agency. However, as stated above, if a member of an exempt agency also serves as an appointed member of another, non-exempt agency, the prohibitions of section 84308 do apply.

*Section 84308 applies to city councilmembers who also serve as members of the City of Brea Redevelopment Agency, unless the redevelopment agency is made up of the city council in its entirety without any other members. (Markman I-94-223.)*

*In determining whether a board or commission is exempt for purposes of Section 84308, the focus should be on the actual make-up of the board or commission. For instance, the governing board of a sanitation district that may consist of both elected and appointed members, but which, in fact, consists solely of members of the board of supervisors, is exempt under section 84308. (Dixon A-96-203.)*

## **Prohibited Conduct**

Section 84308 prohibits officers from soliciting, accepting or directing campaign contributions of more than \$250 from any party, participant or agent of a party or participant, while a proceeding is pending before the officer's agency and for three months following the date of that decision. This prohibition applies even where the contribution is directed to *another* candidate. Similarly, a party, a participant, or an agent cannot make a campaign contribution of more than \$250 to an officer during the course of the proceedings and for three months following the decision.

FPPC regulation 18438.6 defines when behavior becomes "soliciting, accepting or directing contributions." In short, for section 84308 to apply, contributions must be made to and accepted by an officer for his or her own candidacy or controlled committee.

An officer "solicits" a contribution only if he or she knows or has reason to know that the person being solicited is a party or participant (or an agent of either) and personally requests the contribution or knowingly allows his or her agent to do so. A prohibited solicitation under section 84308 does not include a request made in a mass mailing to the public, at a public gathering or in a published newspaper or other vehicle of mass media.

A person "directs" a contribution if he or she acts as the agent of another person or committee, other than his or her own controlled committee, in accepting a contribution on behalf of, or transmitting a contribution to, such other person or committee.

*A planning commissioner is prohibited under section 84308 from soliciting, accepting or directing contributions for a candidate for the state office of Secretary of State, if the person making the contribution is a party, participant or an agent of a party or participant in a proceeding before the planning commission. (Calvert A-94-263.)*

## Disqualification

An officer will be disqualified from participating in a decision when, prior to making the decision, he or she learns that a party or participant in a proceeding (either individually or with or through an agent) has made a contribution of more than \$250 to the officer within the preceding 12 months. However, if the officer returns the contribution (or that portion of the contribution which is over \$250) within 30 days from the time he or she learns of the contribution and the proceeding, then disqualification is not required. (Regulation 18438.7 discusses an officer's knowledge of pending proceedings, parties and participants to the proceeding, and their contributions.)

*A developer has filed for a conditional use permit from the city's land use agency. The developer gave a land use agency officer a \$750 campaign contribution two months before he filed for the permit. The campaign contribution did not violate section 84308 since it was given prior to the developer's request for a permit (which initiates a proceeding under section 84308). Both the officer and the developer are required to disclose the contribution and the officer must disqualify himself from considering the conditional use permit, unless the officer returns at least \$500 of the \$750 (reducing the amount to \$250) within 30 days of learning of both the contribution and the proceeding.*

## Disclosing Contributions

Prior to rendering any decision, each officer who received a campaign contribution of more than \$250 within the preceding 12 months from a party, participant or agent of a party or participant must disclose the fact on the record of the proceeding. If there is a public hearing, the officer should make the disclosure on the public record at the beginning of the hearing. However, if no public hearing is held, the disclosure should be included in the written record of the proceeding.

Likewise, a party or participant to a proceeding must disclose on the record of the proceeding any campaign contribution of more than \$250 made within the preceding 12 months by the party or participant, or his or her agent, to any officer of the agency. The FPPC has prepared sample disclosure forms for this purpose which you may call the agency to request.

## Proceeding

A proceeding involves action to grant, deny, revoke, restrict or modify "licenses, permits, or other entitlements for use." (Reg. 18438.2.) Section 84308 defines the phrase "licenses, permits, or other entitlements for use" to mean proceedings on all business, profession, trade and land use licenses and permits, and other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts) and all franchises.

Examples of the types of decisions covered by the law include decisions on professional license revocations, conditional use permits, rezoning of real estate parcels, zoning variances, tentative subdivision and parcel maps, consulting contracts, cable television franchises, building and development permits, public street abandonments, and private development plans.

Decisions on general plans, general building or development standards or other rules of general application are not covered by section 84308. In addition, "proceedings" do not include purely ministerial decisions, in which no discretion is exercised.

The prohibitions of section 84308 apply to proceedings that are "pending" before the agency with which the officer is affiliated. A proceeding is pending when: (1) an application has been filed, the proceeding has been commenced, or the issue has otherwise been submitted to the jurisdiction

of an agency for its determination or other action; and (2) the proceeding is of a type that the officers of the agency are required by law to make a decision about or the matter has been submitted to those officers for their decision. (Reg. 18438.2(b).)

*Once the staff of an agency has started reviewing a request for proposal ("RFP"), the contract proceeding has commenced and is pending before the agency. From that point forward (and until three months following the date a final decision is rendered), no officer of the agency may accept, solicit or direct a contribution in excess of \$250 from any participant who attempts to influence the review of the RFP. (Alperin A-96-083.)*

## **Party**

A party is any person (including a business entity) who files an application for, or is the subject of, a proceeding involving a license, permit or other entitlement for use.

When a closed corporation is a party (or participant) in a proceeding before a board, commission, or agency, the majority shareholder of the corporation is also treated as a party (or participant), and all prohibitions and disclosures required under section 84308 will apply to the majority shareholder. (§84308(d).)

## **Participant**

A participant is any person who is not an actual party to the proceeding, but who:

(1) actively supports or opposes a particular decision (e.g., lobbies the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence the officers of the agency); and (2) has a financial interest in the outcome of the decision. A person does not lobby, testify or otherwise act to influence the officers or employees of an agency by communications made to the public, other than those made in the proceedings before the agency. (Reg. 18438.4(d).)

*Paul Peters and Nancy North are neighbors. North has applied for a conditional use permit to allow her to conduct an auto repair business on her driveway. In opposing North's application before the planning commission, Peters testified that granting the permit would substantially reduce the fair market value of his property. He also presented a petition signed by 20 neighbors opposed to granting the permit. North is a party. Peters is not an actual party to the proceeding, but since he testified in opposition to North's request, and has a financial interest in the outcome of the proceeding, he is a participant. The neighbors who merely signed the petition are not participants.*

## **Agent**

An agent is an individual or firm who represents a party or a participant in a proceeding. If an agent is an employee or member of a law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents. Campaign contributions made by a party or participant are aggregated with those made by the party or participant's agent within the 12 months preceding the decision or the period of the agency relationship, whichever is shorter. (Reg. 18438.3.)

*An attorney representing a party in a proceeding and that attorney's law firm are considered agents of the party. The law firm has a PAC that wishes to make contributions to an official who sits on the board before which the proceeding is occurring. If the law firm and the PAC are*

*directed and controlled by a majority of the same persons, the contributions of the two entities will be aggregated for purposes of section 84308. If the combined contributions of the law firm and the PAC to the official would exceed \$250, the PAC's contribution would be prohibited. (Sutton A-95-156.)*

*A spouse is an agent for purposes of section 84308. If the spouse of an official solicits contributions of more than \$250 from a person the official knows or has reason to know is a party, a participant, or an agent of a party or participant, a prohibited solicitation will result. (Calvert A-94-263.)*

*A person is the "agent" of a party to, or a participant in, a proceeding only if he or she represents that person in connection with the proceeding. An attorney representing clients before the coastal commission is an agent of those clients. If the attorney's contributions made to a member of the coastal commission exceed \$250 within the prohibited time period, the official must disqualify himself from the proceeding. (Karas I-94-211.)*

## **Fair Political Practices Commission 916. 322.5660**

428 J Street, Ste. 620, Sacramento, CA 95814

[www.fppc.ca.gov](http://www.fppc.ca.gov)

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1. Citations contained in this fact sheet refer to the Political Reform Act, Cal. Gov. Code §§81000-91015, to Fair Political Practices Commission regulations, contained in Title 2, Division 6 of the California Code of Regulations, and to FPPC advice letters, available on Westlaw (Ca-Eth) and Lexis (CaFair). You should not rely solely on this fact sheet to ensure compliance with the Political Reform Act, but should also consult the Act and Commission regulations.

2. Though the Board of Equalization is not covered by section 84308, it is subject to Government Code section 15626, a similar statute that prohibits Board of Equalization members from acting on adjudicatory proceedings if they have received a contribution of \$250 or more from a party or participant.

# **Community Services Commission Bylaws**

CITY COUNCIL RESOLUTION NO. 08-90

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
IRVINE AMENDING THE BYLAWS OF THE COMMUNITY  
SERVICES COMMISSION

WHEREAS, Section 1-4-213 of the Code of the City of Irvine authorizes City Commissions to adopt rules and regulations for the conduct of its meetings, provided that such rules and regulations do not conflict with the City Code, and further provided that the City Council approves such rules and regulations; and

WHEREAS, on February 13, 1973, the City Council adopted Resolution No. 137 approving the powers, duties and bylaws of the Community Services Commission;

WHEREAS, on August 28, 1973, the City Council adopted Resolution No. 195 approving the powers, duties and bylaws of the Community Services Commission and rescinding Resolution No. 137;

WHEREAS, on March 12, 1974, the City Council adopted Resolution No. 262 approving the powers, duties and bylaws of the Community Services Commission and rescinding Resolution No. 195;

WHEREAS, on March 11, 1975, the City Council adopted Resolution No. 397 approving the powers, duties and bylaws of the Community Services Commission and rescinding Resolution No. 262;

WHEREAS, on February 25, 1992, the City Council of the City of Irvine adopted Resolution No. 92-18 approving the Bylaws of the Community Services Commission of the City of Irvine; and

WHEREAS, on May 27, 1997, the City Council of the City of Irvine adopted Resolution No. 97-35 amending the bylaws of the Community Services Commission of the City of Irvine;

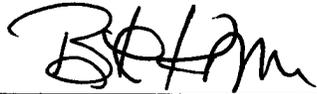
WHEREAS, at its meeting of August 6, 2008, the Community Services Commission voted to amend Section 8.0, Meetings, Section 8.1, Regular Meetings, of the Bylaws; and

WHEREAS, the amended Bylaws are consistent with the Code of the City of Irvine.

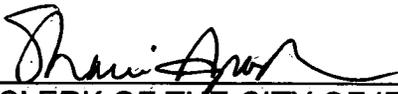
NOW, THEREFORE, the City Council of the City of Irvine does hereby resolve as follows:

Section 1. The amended Bylaws of the Community Services Commission of the City of Irvine, presented as Attachment 1, are hereby approved.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 12<sup>th</sup> day of August, 2008.

  
\_\_\_\_\_  
MAYOR OF THE CITY OF IRVINE

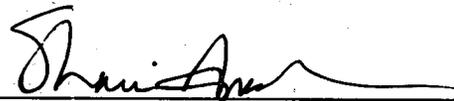
ATTEST:

  
\_\_\_\_\_  
CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 12<sup>th</sup> day of August, 2008.

AYES: 5 COUNCILMEMBERS: Agran, Choi, Kang, Shea and Krom  
NOES: 0 COUNCILMEMBERS: None  
ABSENT: 0 COUNCILMEMBERS: None

  
\_\_\_\_\_  
CITY CLERK OF THE CITY OF IRVINE

**COMMUNITY SERVICES COMMISSION**  
**City Council Resolution No. 08-90**

The Community Services Commission meets every 1<sup>st</sup> and 3<sup>rd</sup> Wednesday at 5:30 p.m. in the City Council Chamber.

**1.0 COMMISSION CREATION, TITLE AND AUTHORITY**

- 1.1 **Creation** - The Irvine Community Services Commission is created under Section 3-3-101 of the Irvine Code of Ordinances.
- 1.2 **Title** - This body officially shall be known as the "Irvine Community Services Commission." The terms "Community Services Commission" and "Commission," where used in these Bylaws, also shall refer to and mean the Irvine Community Services Commission.
- 1.3 **Powers and Duties** - The powers and duties of the Irvine Community Services Commission are set forth in Section 3-3-104 of the Irvine Code of Ordinances.

**2.0 MEMBERS, OFFICERS AND STAFF**

- 2.1 **Members** - The Irvine Community Services Commission consists of five members appointed by the City Council. Each member of the City Council shall appoint one Commissioner who shall serve at the pleasure of the member of the City Council who appointed such Commissioner.

A. **Appointment** – An appointment to the Community Services Commission shall be made by filing a written statement with the City Clerk setting forth:

- (1) The fact of such appointments;
- (2) The name of the person being appointed; and
- (3) The date as of which such appointment is to be effective.

All Commissioners shall be appointed for a term of one (1) year, or until the expiration of the term of the member of the Council who appointed them, whichever occurs first; provided, however, a Commissioner is appointed and qualifies for office. Commissioners may be reappointed to any number of one year terms, consecutive or not.

B. **Removal** – A Commissioner may be discharged from his position and duties at any time, and without cause, by the member of the City Council who appointed such Commissioner by their filing with the City Clerk a written statement setting forth:

- (1) The facts of such removal;
- (2) The name of the person being removed; and

(3) The date such removal is to be effective.

C. Vacancy – members - Should any vacancy occur among the members of this Community Services Commission other than by expiration, the Secretary immediately shall notify the City Manager. The City Council member who originally appointed the Commissioner who vacated his or her seat shall fill the vacancy by appointment for the unexpired portion of the term. Any absence for three (3) consecutive meetings without the consent of the Commission shall be deemed an abandonment of the seat on the Commission, and constitute a vacancy. After two (2) consecutive absences without the consent of the Commission, the Commission Secretary shall notify the City Council member who appointed the Commissioner of the absences in writing, and the fact that one more consecutive unauthorized absence shall constitute abandonment of that Commissioner's seat, and create a vacancy.

B. Vacancy - Chair or Vice Chair - Should the Chair or Vice Chair, cease to be members of the Commission, the remaining members shall elect a Chair or Vice Chair at the second regular meeting thereafter, by a majority vote of members present, providing there is a quorum. The officer so elected shall serve for the unexpired portion of the term of office.

2.2 Officers - Officers of the Commission shall consist of a Chair, Vice Chair, and Secretary. The Chair and Vice Chair shall be elected by the Commission at the annual meeting by plurality vote, providing there is a quorum present. The Secretary shall be the Director of Community Services, or designee, and the term shall correspond to his/her official tenure.

A. Chair - Shall preside at all meetings and hearings of the commission; call special meetings in accordance with these Rules of Procedure; appoint committees and act as an ex-officio member of all committees so appointed; and sign documents in accordance with these Rules of Procedure and as prescribed by City Code or State law. He or she may represent the Commission before the City Council or appoint other members to do so.

B. Vice Chair - Shall perform all of the duties of the chair in case of his absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.

C. Secretary - The Director of Community Services shall serve as Secretary to the Commission and as such administer the preparation of agenda, staff reports, minutes, and all other functions relative to the work and operation of the Community Services Commission.

2.3 Staff

A. The Director of Community Services - Shall be an ex-officio member of the Commission and as such shall provide technical service to the Commission and shall attend or designate appropriate staff to attend all meetings.

B. Other Staff Resources – The Director of Community Services may, from time to time, as appropriate, ask other City staff, either within or outside the Community Services Department, to act as advisors or consultants to the Commission.

C. Clerk - Shall serve as the recording Secretary of the Community Services Commission, and shall be responsible for taking and transcribing minutes, recording all votes, and receiving all documentary evidence.

### 3.0 INITIATING AN AGENDA ITEM

The Commission has the authority on its own initiative to discuss and/or act on any matter within its statutory authority. The normal procedure for initiating an item for Commission consideration is as set forth below:

- 3.1 Commissioner Request - Any Community Services Commissioner may initiate an item for Commission consideration by making such a request to the Secretary of the Community Services Commission by no later than the legal deadline for noticing and placing the matter on the agenda.
- 3.2 Public Requests – Matters coming from the public, including communications from community associations and civic organizations, to be assured of consideration and action at a meeting of the Commission, must be received in writing at least fourteen (14) days preceding the Commission meeting.
- 3.3 Staff Requests – City staff may initiate a request to have the Commission consider an item within the Commission jurisdiction by making a request through the Community Services Director at least 14 days prior to the meeting at which consideration is to take place.

### 4.0 COMMISSION MEETING PROCEDURE

- 4.1 Call to Order - Meetings shall be called to order by the Chair of the Commission or, in his or her absence, the Vice Chair. If both are absent, the Commission members present shall select a Chair Pro Tem to conduct the meeting, so long as a quorum is present.
- 4.2 Regular Meetings - All regular meetings shall be conducted in the order set forth in the following paragraphs. While the Commission will not normally hold public hearings there is no prohibition against doing so, if appropriate. The Chair, or a majority of the Commission, may direct an agenda item to be taken out of order, if it would serve the public to do so, under the following circumstances:
  - (a) A significant interest in a particular item;
  - (b) A significant number of people present for the hearing of a particular item;
  - (c) The length of the hearing anticipated with respect to a particular agenda item.

A. Call to Order - The Chair shall call the meeting to order.

- B. Roll Call - The Secretary shall record attendance
- C. Pledge of Allegiance - The Chair or his/her designee shall lead the Pledge of Allegiance to the Flag of the United States of America.
- D. Moment of Silence – The Chair shall call for a moment of silence.
- E. Introductions – Community Services Commissioners or staff may make introductions.
- F. Presentations – The staff may make presentations to the Commission.
- G. Announcements – Commissioners or Director may make announcements relating to Commission or City business.
- H. Committee Reports – The Commission may receive any Committee reports.
- I. Agenda Review - The Chair shall review the agenda and solicit any deletions or additions. Additions may be made so long as such additions do not require the Community Services Commission to “act” as defined in Section 6.3B of these Bylaws.
- J. Consent Calendar – All items which are considered routine in nature or which do not require discussion by the Commission or the public shall be placed on the Consent Calendar. Any Community Services Commissioner or member of the public may withdraw any item from the Consent Calendar by oral request prior to a vote on the Consent Calendar. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.
- K. Public Comment - The Chair shall ask if any person wishes to speak to the Commission on any item not listed on the agenda. Comment is limited to three (3) minutes per speaker.
- L. Commission Business - Any item relating to the functioning of the Commission which is not on the Consent Calendar shall be included on the agenda as “Commission Business.”
- M. Task Force Reports – Commission reports, if any, on attendance at Task Force meetings.
- N. Director Reports – Items responding to Commission requests or updates on ongoing matters.
- O. Additional Matters - Any items not fitting within the above categories.

- P. Adjournment - Chair solicits motion to adjourn to next meeting.

## 5.0 PRESENTATIONS BEFORE THE COMMISSION

### 5.1 Rules of Presentation.

#### A. Addressing Commission.

- (1) Securing permission. right to address Commission. Any person desiring to address the Commission shall first secure the permission of the presiding officer; provided, however, that under the following headings of. business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Commission upon obtaining recognition by the presiding officer:
- (a) Staff reports. Interested parties or their authorized representatives may address the Commission with regard to written communications referred to in the staff reports.
- (b) Public comment. Any person may address the Commission by oral communication on any matter over which the Commission has jurisdiction.
- (2) Manner of addressing Commission; time limit. spokesperson for group. Persons addressing the Commission shall step up to the microphone at the table, give their name and address in an audible tone of voice for the record, and, unless further time is granted by the presiding officer, limit their address to five (5) minutes; providing, however, that when making public comment on items not on the agenda, each person addressing the Commission shall limit his or her remarks to three (3) minutes, unless further time is granted by the presiding officer. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than a member of the Commission, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Commission on the same subject matter, it shall be proper for the presiding officer to request that a spokesman be chosen by the group to address the Commission, and in case additional matters are to be presented at the time by any other member of said group, to limit the number of persons addressing the Commission, so as to avoid unnecessary repetition before the Commission. The presiding officer may interrupt a speaker and instruct him to redirect his remarks or cause him to terminate his remarks when they are not relevant to the matter before the Commission.

B. Decorum.

- (1) By Commission Members. While the Commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the Commissioner or disturb any member while speaking or refuse to obey the orders of the Commission or the presiding officer, except as otherwise provided in these Bylaws.
- (2) By other persons. Persons who substantially impair or disturb a Commission meeting by intentionally committing acts in violation of the provisions of these Bylaws or of implicit customs or usages governing the conduct of Community Service Commission meetings shall be advised of such violation and requested to curtail such acts by the presiding officer. If, after such advice and request, such persons refuse or fail to curtail such acts, the presiding officer may cause any peace officer present to eject them from the council chamber or place them under arrest and be charged with a violation of California Penal Code Section 403. In the event that the meeting is interrupted so as to render the orderly conduct of such meeting infeasible, and order cannot be restored, the Commission may order the room cleared and continue in session.

6.0 PUBLIC NOTICES

6.1 Posting of Notice and Agenda.

- A. Posting of Notice and Agenda – For every regular or special meeting, the Secretary of the Community Services Commission or his or her designee shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting.
- B. Location of Posting - The notice and agenda shall be posted at the Police office at 1 Civic Center Plaza in the City of Irvine.
- C. Posting for Regular Meetings - For any regular meeting of the Community Services Commission, the notice and agenda shall be posted no later than seventy two (72) hours prior to the time set for the meeting.
- D. Posting for Special Meetings - For any special meeting of the Community Services Commission, the notice and agenda shall be posted in a location that is freely accessible to the public no later than twenty four (24) hours prior to the time set for the meeting.

- E. Posting for Emergency Meetings - In case of an emergency as described in Section 8.7 of these Bylaws, the Commission may, pursuant to Government Code Section 54956.5, hold an emergency meeting without complying with the normal notice or posting requirements.
- F. Affidavit of Posting - Immediately following the posting of the notice and agenda, the City Clerk or his or her designee shall complete an Affidavit of Posting, in a form to be developed by the City Clerk. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The City Clerk shall retain all such affidavits, together with a copy of each notice and agenda so posted, in his or her files.

## 6.2 Agenda - Contents.

- A. Description of Matters - All items of business to be discussed at a meeting of the Community Services Commission shall be briefly described on the agenda. The description need not set out the specific action or alternatives which will be considered by the Community Services Commission, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the agenda.
- B. Limitation of Actions by Agenda - No action shall be taken by the Community Services Commission, on any item not appearing on a posted agenda, subject only to the following exceptions:
  - (1) Upon a determination by a majority vote of the Commission that an emergency situation exists, as defined in Section 54956.5 of the California Government Code.
  - (2) Upon a determination by a two-thirds vote of the Commission, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted.
  - (3) The item was posted for a prior meeting of the Commission which occurred not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.
  - (4) "Action taken" as used herein shall mean a collective decision made by a majority of the Members of the Community Services Commission, a collective commitment or promise by a majority of the Members of the Community Services Commission to make a positive or a negative decision, or an actual vote by a majority of the Members of the Community Services Commission upon a motion, proposal, resolution, order, or ordinance. With regards to

matters not on the agenda, the Members of the Community Services Commission may ask questions of persons who raise such matters during the Public Comment period or otherwise, *infra*, but such questions should be limited to informational purposes, and the Community Services Commission should avoid discussions of the merits or giving directions regarding such subjects. With regards to matters raised by Members of the Community Services Commission under Staff and Community Services Commission Reports, such matters which are not on the Agenda should normally be placed on future agenda. These matters may not be discussed and no action may be placed on such matters without being placed on a subsequent Agenda. The above notwithstanding, "Action Taken" shall not refer to a request by the Community Services Commission that Staff return with information at some future date.

## 7.0 STANDING RULES

7.1 Quorum - At any meeting of the Community Services Commission, a quorum shall consist of three of the appointed members of the Commission. No action shall be taken in the absence of a quorum, except that those members present shall be entitled by motion to adjourn the meeting to another date.

### 7.2 Voting

A. One vote per member - The Chair, Vice Chair, and each Commissioner shall be entitled to one vote.

B. Proxy votes - No proxy votes are permitted.

C. Roll Call - A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the Commission. Upon the request of any Commission, a Roll Call vote shall be taken and recorded on any vote. Whenever a Roll Call vote is in order, the Clerk shall call the names of the members in alphabetical order-except that the name of the presiding officer shall be called last.

D. Conflict of Interest - All commission members shall be subject to, and conform with, state conflict of interest provisions as set forth in the Political Reform Act of 1974, Government Code Section 87100 et seq. and Title 2 California Code of Regulations Section 18700 et seq. Furthermore, Commission members shall be subject to Government Code Section 1090 et seq., which prohibits any public official from being financially interested in a contract or sale in both his or her public and private capacities, unless such interest is a "remote interest" as set forth in Section 1091, or a "non-interest" as set forth in Section 1090.5.

E. Majority vote - A majority vote of the members present shall be necessary for the adoption of any proposed action,

resolution or other voting matter except where otherwise set forth in these Bylaws.

- F. Tie Votes - Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.
- G. Absence from Meeting - Any member absent from all or a portion of a meeting shall not be allowed to vote at a subsequent meeting on any agenda item discussed while the member was absent until said member has listened to the tapes of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff or otherwise adequately familiarized himself with the subject matter of the agenda item.
- H. Silence constitutes affirmative vote. Unless a member of the Commission has a disqualifying conflict of interest and abstains from voting, pursuant to paragraph D above, no member shall be permitted to abstain from voting and any unauthorized abstention shall be recorded as an affirmative vote.

### 7.3 Signature

- A. Minutes – Shall also be signed by the Secretary or his or her staff.
- B. Other Correspondence – Shall be sent out over the signature of the Director of Community Services or an officer of the Commission, so officially designated.

### 7.4 Procedural Questions - The Secretary shall rule on all procedural questions.

### 7.5 Suspension of Rules - The Commission may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling state law.

### 7.6 Parliamentary Procedure.

- A. Presiding officer may debate and vote. The presiding officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members of the Commission and shall not be deprived of any of the rights and privileges of a member of the Commission by reason of acting as the presiding officer.
- B. Getting the floor; Improper references to be avoided. Every member of the Commission desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.
- C. Interruptions. A member of the Commission once recognized shall not be interrupted when speaking unless it be a call to

order, or as herein otherwise provided. A member of the Commission called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.

- D. Motion to reconsider. A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. Such motion must be made by a Commissioner on the prevailing side of the vote, but may be seconded by any member of the commission and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Commission from making or remaking the same or other motion at a subsequent meeting of the Commission.
- E. When remarks of Commission entered in minutes. A member of the Commission shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Commission entered in the minutes. Such an abstract shall contain the statement of each other Commission member who addresses the subject at that time.
- F. When synopsis of debate entered in minutes. The presiding officer, with consent of the Commission, may direct a synopsis of the discussion on any subject under consideration by the Commission.
- G. Rules of order. Except as otherwise provided in this chapter, "Robert's Rules of Order, Newly Revised," shall govern the conduct of the meetings of the Commission. However, no resolution, proceeding or other action of the Commission shall be invalidated, or the legality thereof, otherwise affected, by the failure or omission to observe or follow said rules.

## 8.0 MEETINGS

- 8.1 Regular Meetings - Regular meetings of the Community Services Commission shall be held in the City Council Chambers, City Hall; 1 Civic Center Plaza, Irvine, California, at 5:30 P.M., on the first and third Wednesday of each month. At such meetings, all matters properly on the Agenda, shall be considered, as set forth in Section 4.0 of these Bylaws. Unless a majority of the members present votes otherwise, the meetings of the Commission shall adjourn at or before 11:00 p.m. If the business of the Commission has not been completed by 11:00 p.m., the Commission may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the Commission adjourns shall be continued to a subsequent regular meeting of the Commission.

- 8.2 Adjourned Meetings - Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.
- 8.3 Special Meetings - A special meeting may be called at any time by the Chairman of the Commission, or by a majority of the Commission's members, by delivering personally or by mail, or facsimile transmission written notice to each member of the Commission and to each local newspaper of general circulation, radio or television station requesting notice in writing at least 24 hours before the time of the meeting, as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the Commission. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes, files with the ex-officio secretary a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.
- 8.4 Annual Meeting - The Annual Meeting of the Community Services Commission shall be the first regular meeting in the month of January of each year. Such meeting shall commence with the election of a Chair, and Vice Chair, for the ensuing year and such other business as shall be scheduled by the Commission.
- 8.5 Meetings on Holidays - When a regular meeting falls on a holiday, the meeting shall be held on the next city business day or on a day to which the previous meeting was adjourned.
- 8.6 Cancellation of Meeting - Whenever reasons exist, lack of a quorum, no business for Commission consideration, or other good and valid reason, a meeting may be canceled by the Chair. Such cancellation may be made at any time prior to the meeting but must be in writing and submitted to the Secretary at least twenty-four (24) hours prior to the scheduled meeting, and shall state the reason for said cancellation.
- 8.7 Special Emergency Meetings - Special Emergency Meetings may be called by the Chair or by a majority of the Community Services Commission where prompt action is necessary due to the disruption or threatened disruption of public facilities as that phrase is used in Government Code Section 54956.5.
- 8.8 Adjourned Meetings - The Community Services Commission may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all Members are absent from any regular or adjourned regular meeting, the Secretary of the Community Services Commission may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered personally to each Commissioner member at least three

(3) hours before the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within 24 hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to -state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

- 8.9 Closed Sessions - The Community Services Commission may hold closed sessions during a regular or special meeting when authorized by State law and only to consider matters within the Commission's jurisdiction. If a closed session is included on the agenda, the description of the item must identify the statutory basis for the closed session. During closed session, the Community Services Commission may exclude any person or persons which it is authorized by State law to exclude from a closed session. However, no minutes of the proceedings of the Community Services Commission during a closed session are required. The minutes of the Community Services Commission meeting shall reflect that the closed session occurred and the authority for the closed session. There shall be no closed session during any emergency meeting.

# **Diversity, Equity, and Inclusion Committee Bylaws**

**BY-LAWS  
OF THE  
DIVERSITY, EQUITY, AND INCLUSION COMMITTEE  
OF THE  
CITY OF IRVINE**

## PREAMBLE

The Bylaws of the Diversity Equity and Inclusion of the City of Irvine (“Bylaws”) were adopted by the City Council of the City of Irvine pursuant to Resolution No. 21-05 and pursuant to Irvine Municipal Code (“IMC”) Sections 1-4-301 and 1-17-105.

### **1. DIVERSITY, EQUITY, AND INCLUSION COMMITTEE CREATION, TITLE, AND AUTHORITY**

1.1 Creation: The Diversity, Equity, and Inclusion Committee (“Committee”) was created under, and continues to exist under Division 17 of Title 1 of the IMC.

1.1.1 Irvine Municipal Code: IMC, Title 1, Division 4, which generally governs or otherwise regulates the Committee’s powers, duties, limitations, and general purpose is attached to these Bylaws as APPENDIX A. IMC Title 1, Division 17 more specifically describes the creation, composition, appointment, duties, and meeting procedures for the Committee, and is attached as APPENDIX B. Both Title 1, Division 4 and Title 1, Division 17 are subject to change, consistent with City Council policies and State law.

1.2 Title: The Diversity, Equity, and Inclusion Committee officially shall be known as the “DEI Committee.” The term “DEI Committee,” where used in these Bylaws, also shall refer to and mean the “Diversity, Equity, and Inclusion Committee.”

1.3 Duties: The DEI Committee shall have the duty to:

1.3.1 Act in an advisory capacity to the City Council in matters pertaining to diversity, equity, and inclusion, including without limitation ending racial and other disparities, creating fairness in hiring and promotions, creating greater opportunities with contracting, and providing equitable service to all residents.

1.3.2 With assistance from City staff, gather data and information to formulate recommendations to the City Council for the establishment of measurable equity goals and outcomes.

1.3.3 Review and recommend revisions to current City policies to ensure that the City advances the values of diversity, equity, and inclusion.

1.3.4 Review and recommend revisions to outreach processes for contracting with women, minority, and disadvantaged-owned businesses through the City's business licensing program.

1.3.5 Monitor and make recommendations to the City Council with regard to hate crimes and incidents.

1.3.6 Monitor and make recommendations to the City Council with regard to cultural events and programming.

1.3.7 Monitor and make recommendations to the City Council with regard to the elimination of all forms of discrimination against women.

1.3.8 Perform such other duties or studies as may be directed by the City Council.

1.4 Individual Member Duties: It shall be the duty of each Committee Member to take an active part in the Committee's deliberations and to act in whatever capacity the Committee Member may be called. Absence from three consecutive meetings without the formal consent of the Committee shall be deemed to constitute the retirement of the Committee Member, and the position shall automatically be vacant and therefore subject to the vacancy procedures as set forth in Section 2.1.4 below.

## **2. MEMBERS, OFFICERS AND STAFF**

### **2.1 Committee Members:**

2.1.1 Appointment: The DEI Committee shall be comprised of seven members, all of which shall reside or work in the City. DEI Committee members shall be appointed as follows: (1) Each member of the City Council shall appoint one member of the DEI Committee, and (2) two members of the DEI Committee shall be appointed at-large using the following process: (a) first, City staff shall conduct a public recruitment process; (b) second, City staff shall make appointment recommendations to the remaining five members of the DEI Committee; (c) third, staff shall present to the City Council the appointment recommendations of the DEI Committee; (d) the City Council shall by majority vote appoint the two at-large members of the DEI Committee.

2.1.2 The City Manager shall appoint a staff member as liaison to the DEI Committee.

2.1.3 Term and Removal: Each DEI Committee member appointed by an individual City Council member serves at the will of such City Council member for a term expiring upon the expiration of such City Council member's term; provided, however, that a DEI Committee member's term shall terminate on the date either that the DEI Committee member resigns from office or that the appointing City Council member replaces the DEI Committee member prior to the expiration of the DEI Committee member's term. At large DEI

Committee members serve at the will of a majority of the City Council for a term that expires on February 1<sup>st</sup> of the next odd numbered year following such at-large DEI Committee member's appointment.

2.1.4 Vacancy: Should any vacancy occur among the members of the DEI Committee, the City Manager or his/her designee shall immediately notify the City Council member who appointed the DEI Committee member (or the Council as a whole, if a vacancy occurs for an at-large DEI Committee member). Such City Council member (or the Council as a whole, if a vacancy occurs for an at-large DEI Committee member) shall fill the vacancy by appointment for the unexpired portion of the term.

2.2 Officers: Officers of the DEI Committee shall consist of a Chair and Vice Chair. The Chair and Vice Chair shall be elected by the membership of the DEI Committee at the first regular meeting in March of each calendar year.

2.2.1 Chair: The Chair shall preside at all meetings and hearings of the DEI Committee; call special meetings in accordance with these Bylaws. The Chair may represent the DEI Committee before the City Council or appoint other members to do so.

2.2.2 Vice Chair: The Vice Chair shall perform all of the duties of the Chair in the Chair's absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.

2.2.3 Officer Vacancy: Should the Chair or Vice Chair cease to be a member of the DEI Committee, the remaining DEI Committee members shall elect a Chair or Vice Chair at the second regular meeting thereafter, by a majority vote of members present. The Chair or Vice Chair so elected shall serve in that office until the next regularly scheduled election of officers.

2.3 Staff:

2.3.1 Staff Liaison: The City Manager shall assign a staff liaison to the DEI Committee who shall be an *ex-officio* member of the DEI Committee and as such shall provide technical service to the DEI Committee and shall attend all meetings.

2.3.2 City Manager and City Attorney: The City Manager and City Attorney shall be advisors or consultants to the DEI Committee and as such may be called upon as follows:

2.3.2.1. City Manager: Upon request of the Chair for specific matters.

2.3.2.2. City Attorney: Upon request of the Chair for specific matters and as a consultant to the professional staff.

### **3. MEETINGS AND AGENDAS**

3.1 Agendas: All meetings of the DEI Committee shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in the IMC, Title 1, Division 15. Except as provided in IMC Section 1-15-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

#### **3.2 Initiating an Agenda Item:**

3.2.1 DEI Committee Member-Initiated Items: DEI Committee Members wishing to place items on the agenda shall adhere to the following:

3.2.1.1. Agendized items shall be within the scope of the duties specifically assigned to the DEI Committee under IMC Section 1-17-104

3.2.1.2. Agenda requests for items not requiring a staff report shall be presented in a memorandum to the Staff Liaison, with a copy to the Chair and members of the DEI Committee, no less than one week prior to the next scheduled DEI Committee meeting.

3.2.1.3. Agenda requests for items requiring a staff report shall be presented in a memorandum to the Staff Liaison, with a copy to the Chair and members of the DEI Committee, no less than two weeks prior to the next scheduled DEI Committee meeting.

3.2.2 DEI-Initiated Items: DEI-initiated agenda items shall be requested by a motion adopted by a majority of the DEI in a duly noticed DEI meeting.

3.2.3 Staff-Initiated Agenda Items: Staff may initiate such agenda items as are mandated by direction of the City Council, the IMC, City policy, and/or the processing of regular business of the City of Irvine with regard to matters within the jurisdiction of the DEI Committee.

#### **3.3 Meetings:**

3.3.1 Regular Meetings: Regular meetings of the DEI Committee shall be held in the XXXX, City Hall, 1 Civic Center Plaza, Irvine, California, and remotely via Zoom as allowable per AB 361, at 5 p.m., on the 4<sup>th</sup> Thursday of each month. Unless a majority of the members present votes otherwise, the meetings of the DEI

Committee shall adjourn at or before 7 p.m. If the business of the DEI Committee has not been completed by 7 p.m., the DEI Committee may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the DEI Committee adjourns shall be continued to a subsequent regular meeting of the DEI Committee .

3.3.2 Adjourned Meetings: Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.

3.3.3 Special Meetings: Special meetings of the DEI Committee may be called by the Chair or upon the written request of at least a majority of the DEI Committee members. Special meetings shall be held at a time and place, and in the manner, required by IMC Title 1, Division 15.

3.3.4 Annual Meeting: The Annual Meeting of the DEI Committee shall be the first regular meeting in March of each year. Such meeting shall commence with the election of a Chair and Vice Chair for the ensuing year and such other business as shall be scheduled by the DEI Committee.

3.3.5 Meetings on Holidays: When a regular meeting falls on a holiday, the meeting shall be held on the next city business day or on a day to which the previous meeting was adjourned.

3.3.6 Cancellation of Meetings: Whenever reasons exist, (for example, lack of a quorum, no business for DEI Committee consideration, or other good and valid reason), a meeting may be canceled.

3.3.7

3.3.8 Additional Rules and Procedures: The meetings and procedures of the DEI Committee shall be subject to and governed by the resolutions and ordinances of the City Council establishing rules and regulations for commissions and committees. If and to the extent there is a conflict between these Bylaws and the rules and regulations for DEI Committee meetings established by the City Council, the rules and regulations for DEI Committee meetings established by the City Council shall govern.

#### 3.4 Meeting Procedures:

3.4.1 Duties of Presiding Officer: The Chair, or in the Chair's absence the Vice Chair, shall be the presiding officer, and shall assume the place and duties of such office immediately following selection. The Chair shall preserve strict order and decorum at all meetings of the DEI

Committee, state questions coming before the DEI Committee, announce its decision on all subjects and decide all questions of order, subject, however, to an appeal to the DEI Committee as a whole, in which event a majority vote of the DEI Committee members present shall govern and conclusively determine such question of order. The Chair shall vote on all questions, and on roll the Chair's name shall be called last. The seating arrangement for the DEI Committee shall be determined by the Chair.

3.4.2 Regular Meeting Order of Business: All regular meetings shall be conducted in the order set forth in the following paragraphs. The Chair, or a majority of the DEI Committee, may direct an agenda item to be taken out of order.

3.4.2.1. Call to Order: The meeting of the DEI Committee shall be called to order by the Chair, in the Chair's absence, the Vice Chair.

3.4.2.2. Roll Call: The Recording Secretary shall record the attendance.

3.4.2.3. Pledge of Allegiance: The Chair or the Chair's designee shall lead the Pledge of Allegiance to the Flag of the United States of America.

3.4.2.4. Additions or Deletions to the Agenda: Additions may be made so long as such additions are in accordance with IMC Title 1, Division 15..

3.4.2.5. Public Comment: The Chair shall ask if any person wishes to speak to the DEI Committee on any item not listed on the agenda. Comment is limited in the same manner as public comments before the City Council are prescribed.

3.4.2.6. Presentations: The Staff shall make presentations to the DEI Committee.

3.4.2.7. Consent Calendar: Any item which does not require specific findings of fact as required by law, may be placed on the Consent Calendar. The approval of minutes shall be included within this category. Any Committee Member may withdraw an item from the Consent Calendar for discussion. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.

### 3.4.3 Decorum:

3.4.3.1. By DEI Committee Members: While the DEI Committee is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the DEI Committee, disturb any member while speaking or refuse to obey the orders of the DEI Committee or the presiding officer, except as otherwise provided in these Bylaws.

3.4.3.2. By Other Persons: Persons who substantially impair or disturb a DEI Committee meeting by intentionally committing acts in violation of the provisions of these Bylaws or of implicit customs or usages governing the conduct of DEI Committee meetings shall be advised of such violation and requested to curtail such acts by the presiding officer. If, after such advice and request, such persons refuse or fail to curtail such acts, the presiding officer may cause any peace officer present to eject them from the council chamber or place them under arrest and be charged with a violation of California Penal Code Section 403. In the event that the meeting is interrupted so as to render the orderly conduct of such meeting infeasible, and order cannot be restored, the DEI Committee may order the room cleared and continue in session.

### 3.5 Standing Rules:

3.5.1 Quorum: At any meeting of the DEI Committee, a quorum shall consist of four of the appointed and at-large members of the DEI Committee. No action shall be taken in the absence of a quorum, except that those members present shall be entitled by motion to adjourn the meeting to another date.

#### 3.5.2 Voting:

3.5.2.1. One Vote Per Member: The Chair, Vice Chair, and each DEI Committee member shall be entitled to one vote.

3.5.2.2. Proxy Vote: No proxy votes are permitted.

3.5.2.3. Roll Call: A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the DEI Committee. Upon the request of any DEI Committee member, a Roll Call vote shall be taken and recorded on any vote. Whenever a Roll Call vote is in order, the Clerk shall call the names of the members

in alphabetical order, except that the name of the presiding officer shall be called last.

- 3.5.2.4. Disqualification and Abstention from Voting: Except as otherwise provided by law, no member of the DEI Committee shall be permitted to abstain from voting unless such disqualification shall be identified as a legal conflict of interest mandating such disqualification, or by unanimous vote of the remainder of the DEI Committee present. Unapproved disqualifications and abstentions shall be recorded by the City Clerk as an affirmative vote.
- 3.5.2.5. Majority Vote: A majority vote of the members present shall be necessary for the recommendation of any proposed action, resolution or other voting matter except where otherwise set forth in these Bylaws or controlling law.
- 3.5.2.6. Tie Votes: Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.
- 3.5.2.7. Absence from Meeting: Any member absent from a meeting shall not be allowed to vote on any matter discussed at that meeting (and continued to a subsequent meeting) until said member has listened to the tapes of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff.
- 3.5.2.8. Silence Constitutes an Affirmative Vote: Unless a member of the DEI Committee has been permitted to and abstains from voting, pursuant to paragraph 3.2.5.4 above, such member's silence shall be recorded as an affirmative vote.

### 3.5.3 Signature:

- 3.5.3.1. Official Signature: Any resolution of the DEI Committee, duly recorded in the minutes, or where otherwise required by law, shall be signed by the officer presiding over the meeting at which the resolution was adopted.

In form, the official signature shall be substantially as follows:

DIVERSITY, EQUITY, AND INCLUSION  
COMMITTEE

\_\_\_\_\_  
(signature)  
\_\_\_\_\_  
(name, title)  
\_\_\_\_\_

3.5.3.2. Minutes: The minutes of each DEI Committee meeting shall be signed by the officer presiding over the meeting at which the minutes are approved.

3.5.3.3. Other Documents: In all other matters, the Chair shall have the power to execute, verify or attest to documents on behalf of this DEI Committee.

3.5.4 Procedural Questions: The presiding officer shall rule on all procedural questions.

3.5.5 Suspension of Rules: The DEI Committee may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling state law.

3.5.6 Rules of Debate:

3.5.6.1. Presiding Officer May Debate and Vote: The presiding officer may move, second and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members of the DEI Committee, and shall not be deprived of any of the rights and privileges of a member of the DEI Committee by reason of acting as the presiding officer.

3.5.6.2. Getting the Floor; Improper References to be Avoided: Every member of the DEI Committee desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.

3.5.6.3. Interruptions: A member of the DEI Committee, once recognized, shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the DEI Committee called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.

3.5.6.4. Motion to Reconsider: A motion to reconsider any action taken by the DEI Committee may be made only on the day such action was taken. Such motion must be made by one of the prevailing side, but may be seconded by any member of the DEI Committee and may be made at any time and have precedence over all other motions. It shall be debatable.

Nothing herein shall be construed to prevent any member of the DEI Committee from making or remaking the same or other motion at a subsequent meeting of the DEI Committee.

3.5.6.5. When Remarks of Committee Members Entered in Minutes:

A member of the DEI Committee shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the DEI Committee entered in the minutes. Such an abstract shall contain the statement of each other DEI Committee member who addresses the subject at that time.

3.5.6.6. When Synopsis of Debate Entered in Minutes:

The Recording Secretary may be directed by the presiding officer, with consent of the DEI Committee, to enter in the minutes a synopsis of the discussion on any subject under consideration by the DEI Committee.

3.5.6.7. Rules of Order:

Except as otherwise provided in these Bylaws, Robert's Rules of Order, Newly Revised shall govern the conduct their scope of the DEI Committee's powers and duties under these Bylaws.

**APPENDIX A**

IRVINE MUNICIPAL CODE, TITLE 1, DIVISION 4

## Division 4 COMMISSIONS AND COMMITTEES<sup>1</sup>

### CHAPTER 1. IN GENERAL

#### Sec. 1-4-101. Applicability.

The provisions of this division are applicable to all commissions and committees appointed by or otherwise operating under authority of the City Council or its delegatee.

(Code 1976, § I.F-101; Res. No. 396, § 1, 3-11-75)

#### Sec. 1-4-102. General statement of policy.

- A. The City Council, in prescribing the provisions of this division, hereby states its recognition of the enormous value of direct, active participation by citizens in their government, and of the willing, capable assistance citizens have demonstrated a desire to render toward the operation and development of their own community. The Council hereby further states its recognition of the value and equity in receiving help and advice in such regard from persons who are not residents of the community, but have a just and legitimate interest in its affairs.
- B. These rules shall be interpreted to further the intent of the Council that citizen judgment, expertise and effort be given fair, reasonable and efficient channels to reach and benefit the government of the City.

(Code 1976, § I.F-102; Res. No. 396, § 2, 3-11-75)

#### Sec. 1-4-103. Eligibility.

Unless otherwise specified, any person, whether or not a resident of the City, shall be eligible to serve on committees; but only residents of the City shall be eligible to serve on commissions unless the unanimous approval of the City Council is obtained. No person shall be permitted to serve or remain on any commission or committee if that person is or becomes a person with one of the following relationships to a City Councilmember: Spouse, domestic partner, father, step-father, mother, step-mother, grandmother, grandfather, grandchild, brother, step-brother, sister, step-sister, father-in-law, mother-in-law, aunt, uncle, cousin, step-child or child. Any person appointed to or selected for a commission, or committee in conformity with these rules and regulations shall be a voting member thereof. As used in this rule, a resident of the City is any person eligible to register to vote in municipal elections.

(Code 1976, § I.F-103; Res. No. 396, § 5.1, 3-11-75; Ord. No. 86-15, § 1, 9-9-86; Ord. No. 22-05, § 3, 4-26-22)

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<sup>1</sup>Cross reference(s)—Administrative services, tit. 2; Irvine Public Facilities and Infrastructure Authority, § 2-7-608 et seq.; Community Services Commission, § 3-3-101 et seq.; Disaster Council, § 4-9-103; Planning Commission, § 5-3-101 et seq.; Subdivision Committee, § 5-5-104; Building Appeals Board Committee, § 5-9-216.

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**Sec. 1-4-104. Application of State law and Irvine Municipal Code Enhancements to State Law.**

All commissions and committees shall be subject to those sections of the California Government Code known as the "Ralph M. Brown Act" ( Government Code § 54950 et seq. ), and shall conduct their business in conformity therewith. All local bodies as defined in Section 1-15-103(C) shall comply with the additional requirements of Division 15 of Title 1, and shall conduct their business in conformity therewith.

(Code 1976, § I.F-104; Res. No. 396, § 5.2, 3-11-75; Ord. No. 18-10 , § 3, 11-13-18; Ord. No. 22-02 , § 4, 4-12-22)

**Sec. 1-4-105. Public statements.**

No commission or committee shall make a financial commitment, a political or other endorsement, or a statement of position on legislation pending before any governmental body, federal, State or local, without first securing the express consent of the City Council. Nothing in these rules and regulations shall be construed, however, to inhibit or forbid political or other activity, in a purely individual capacity, by any member of a commission or committee, so long as such member does not purport to speak for, or as a member of, such commission or committee.

(Code 1976, § I.F-105; Res. No. 396, § 5.3, 3-11-75)

**Sec. 1-4-106. Reserved.**

**Sec. 1-4-107. Reports; dissents.**

When any commission or committee submits a report or recommendation to another agency of the City, dissenting members shall be entitled to have their viewpoints fully, fairly and accurately presented as a part thereof.

(Code 1976, § I.F-106; Res. No. 396, § 5.4, 3-11-75)

**Sec. 1-4-108. Subcommittees.**

The provisions of Sections 1-4-103 through 1-4-105 and Section 1-4-107 shall also apply to subcommittees of commissions and committees and their members.

(Code 1976, § I.F-107; Res. No. 396, § 5.5, 3-11-75)

***CHAPTER 2. COMMISSIONS***

**Sec. 1-4-201. Creation.**

Commissions may be created only by resolution or ordinance of the City Council, and shall be terminated only by express ordinance of the City Council. They shall be continuing bodies operating in general areas of concern and having the power and duties designated by the City Council. They may be assigned more than one task concurrently, but the absence of one or more assigned tasks at any time (or the completion of and submission of a report regarding all their assigned tasks) shall not affect their continuing status.

(Code 1976, § I.F-201; Res. No. 396, § 3.1, 3-11-75)

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### **Sec. 1-4-202. Appointment.**

The number of persons appointed from time-to-time to any commission shall be fixed by the City Council in the resolution or ordinance establishing the commission. Members of commissions shall be appointed at least 10 days prior to the first regularly scheduled meeting of such commission in January of each calendar year. The commissioner shall be appointed as follows, unless otherwise provided in the ordinance or resolution establishing the commission:

- A. Each member of the City Council shall appoint one commissioner who shall serve at the pleasure of the member of the City Council who appointed such commissioner; and
- B. Such appointment shall be made by filing a written statement with the City Clerk setting forth:
  - 1. The fact of such appointment;
  - 2. The name of the person being appointed; and
  - 3. The date as of which such appointment is to be effective.

(Code 1976, § I.F-202; Res. No. 396, § 3.2, 3-11-75; Ord. No. 236, § 3, 3-13-79; Ord. No. 92-17, § 10, 9-22-92)

### **Sec. 1-4-203. Term.**

Any Council member-appointed commissioner serves at the will of that Council member for a term expiring upon the expiration of the Council member's term; provided that a commissioner's term shall terminate on the date either that the commissioner resigns from office or that the Council member replaces the commissioner prior to the expiration of the commissioner's term.

(Code 1976, § I.F-203; Res. No. 396, § 3.3, 3-11-75; Ord. No. 99-06, § 1, 2-23-99)

### **Sec. 1-4-204. Removal.**

A member of a commission may be discharged from his or her position and duties at any time, and without cause, by the member of the Council who appointed such commissioner by their filing with the City Clerk a written statement setting forth:

- A. The facts of such removal;
- B. The name of the person being removed; and
- C. The date such removal is to be effective.

(Code 1976, § I.F-204; Res. No. 396, § 3.3, 3-11-75)

### **Sec. 1-4-205. Officers.**

Each commission shall have a chair and vice-chair, each of whom shall be a member of the commission. Such officers shall be elected by the membership of the commission at their first regular meeting in January of each calendar year.

(Code 1976, § I.F-205; Res. No. 396, § 3.4, 3-11-75; Ord. No. 83-19, § 1, 12-13-83; Ord. No. 92-17, § 11, 9-22-92)

### **Sec. 1-4-206. Reserved.**

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### **Sec. 1-4-207. Meetings.**

The commission shall meet at such times as may be established by the City Council. All meetings shall be opened to the public and shall conform to the provisions of the "Ralph M. Brown Act" ( Government Code § 54950 et seq. ) and to the extent such commission constitutes a local body under Section 1-15-103(C), it shall comply with the additional requirements of the Division 15 of Title 1. Special meetings may be called by the chair of the commission or upon the written request of at least a majority of its members.

(Code 1976, § I.F-206; Res. No. 396, § 3.5, 3-11-75; Ord. No. 18-10 , § 3, 11-13-18; Ord. No. 22-02 , § 4, 4-12-22)

### **Sec. 1-4-208. Procedures.**

- A. Unless otherwise specifically provided by law or elsewhere in the Code, including the provisions of Division 15 of Title 1, Robert's Rules of Order, Newly Revised, shall govern the general conduct of meetings of commissions. The adoption of Robert's Rules of Order is for the purpose of establishing a procedural framework for the conduct of meetings only. Any failure to adhere thereto shall in no way affect the validity of any action taken by the commission.
- B. It shall be the duty of each commissioner to take an active part in the commission's deliberation and to act in whatever capacity the commissioner may be called. Absence from three consecutive meetings without the formal consent of the commission shall be deemed to constitute the retirement of the commissioner, and the position shall automatically become vacant.

(Code 1976, § I.F-207; Res. No. 396, § 3.6, 3-11-75; Ord. No. 18-10 , § 3, 11-13-18; Ord. No. 22-02 , § 4, 4-12-22)

### **Sec. 1-4-209. Quorum; commission voting.**

A majority of the members of the commission shall constitute a quorum. A majority vote of the members present at a duly constituted meeting shall be required to carry a motion, proposal, or resolution. All official members present shall vote on every question presented to the commission. Under no circumstances shall any member of the commission take any action or make any statement committing the commission as a whole unless expressly authorized to do so by vote of the commission.

(Code 1976, § I.F-208; Res. No. 396, § 3.7, 3-11-75)

### **Sec. 1-4-210. Duties.**

Commissions shall from time-to-time receive specific assignments from the City Council. In addition, commissions may generate tasks, on their initiative, within their general areas of concern, subject to coordination with the City Manager, or his or her delegate, to avoid duplication of effort or jurisdiction with other commissions or committees and to confirm that the proposed task is, in fact, within the commission's area of concern. Where tasks are assigned to a commission by the City Council, a written report regarding the results thereof and recommendations, where appropriate, should be furnished, upon completion of such task, to the City Council.

(Code 1976, § I.F-209; Res. No. 396, § 3.8, 3-11-75)

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**Sec. 1-4-211. Power of appointment.**

Commissions shall have power to appoint subcommittees of their own members and to appoint committees (as hereinafter defined) to perform tasks within their respective general areas of concern, but only in conformity with the provisions of this division.

(Code 1976, § I.F-210; Res. No. 396, § 3.9, 3-11-75)

**Sec. 1-4-212. Reserved.**

**Sec. 1-4-213. Additional regulations.**

Commissions may adopt a resolution establishing additional regulations governing the conduct of its meetings provided such regulations are not in conflict with the rules and regulations herein established and further provided that such resolution shall be approved by the City Council.

(Code 1976, § I.F-211; Res. No. 396, § 3.10, 3-11-75)

***CHAPTER 3. COMMITTEES***

**Sec. 1-4-301. General.**

Committees may be established from time-to-time to perform one or more specific assigned tasks. Committees may be appointed and tasks assigned by the City Council or a commission (but, in the case of a commission, only for the purpose of performing specific tasks within the respective general areas of concern of the commission). Upon completion of an assigned task, the committee shall forward a written report regarding the results thereof to the assigning authority, together with recommendations where appropriate. Upon submission of its report, and formal acceptance thereof by the assigning authority, the committee (unless it then has one or more other specifically assigned tasks which it has not completed) is automatically dissolved.

(Code 1976, § I.F-301; Res. No. 396, § 4.1, 3-11-75)

**Sec. 1-4-302. Structure.**

The structure, composition, number of members, manner of their appointment or selection, and other matters necessary to the creation and operation of each committee shall be determined in each case by the authority which establishes such committee, subject, however, to compliance with this division and Division 15 of Title 1.

(Code 1976, § I.F-302; Res. No. 396, § 4.2, 3-11-75; Ord. No. 18-10 , § 4, 11-13-18; Ord. No. 22-02 , § 4, 4-12-22)

**Sec. 1-4-303. Establishment; consultation with City Manager.**

No committee shall be established without prior consultation between the City Manager, or his or her delegate, and the authority proposing to establish such committee:

- 
- A. To determine that such committee's proposed assignment or assignments will not substantially duplicate an assignment of another committee already in existence, or a task on which a commission is then engaged; and
  - B. If the authority proposing to establish the committee is a commission, to determine that the proposed assignment or assignments are within the general area of concern of the commission. Where a proposed assignment is closely or logically related to work already assigned to an existing committee, then, unless exceptional circumstances justify a new committee, such assignment shall be given to the already-existing committee.

(Code 1976, § I.F-303; Res. No. 396, § 4.3, 3-11-75)

#### **Sec. 1-4-304. Appointments.**

Committees may appoint their own subcommittees, but only from their own membership. A committee shall not, however, assign to a subcommittee any matter not directly related to the specific assignment or assignments given to that committee by an appropriate authority under these rules and regulations. No committee shall generate its own assignments or tasks.

(Code 1976, § I.F-304; Res. No. 396, § 4.4, 3-11-75)

**APPENDIX B**

IRVINE MUNICIPAL CODE, TITLE 1, DIVISION 17

## **Division 17 DIVERSITY, EQUITY, AND INCLUSION COMMITTEE**

### **Sec. 1-17-101. Creation.**

There is hereby created a standing Diversity, Equity, and Inclusion Committee for the City.

( Ord. No. 22-01 , § 2, 1-25-22)

### **Sec. 1-17-102. Composition.**

The Diversity, Equity, and Inclusion Committee shall be comprised of seven members, all of which shall reside or work in the City.

( Ord. No. 22-01 , § 2, 1-25-22)

### **Sec. 1-17-103. Appointment.**

- A. Each member of the City Council shall appoint one member of the Diversity, Equity, and Inclusion Committee, who shall serve at the pleasure of the member of the City Council who appointed such committee member.
- B. Two at-large members of the Diversity, Equity, and Inclusion Committee shall each be appointed using the following process. First, City staff shall conduct a public recruitment process. Second, City staff shall make appointment recommendations to the remaining five members of the Diversity, Equity, and Inclusion Committee. Third, staff shall present to the City Council the appointment recommendations of the Diversity, Equity, and Inclusion Committee. Fourth, the City Council shall by majority vote appoint the two at-large members of the Diversity, Equity, and Inclusion Committee for terms that shall expire, unless renewed, on February 1<sup>st</sup> of each odd-numbered year.

( Ord. No. 22-01 , § 2, 1-25-22)

### **Sec. 1-17-104. Duties.**

The Diversity, Equity and Inclusion Committee shall have the duty to:

- A. Act in an advisory capacity to the City Council in matters pertaining to diversity, equity, and inclusion, including without limitation ending racial and other disparities, creating fairness in hiring and promotions, creating greater opportunities with contracting, and providing equitable service to all residents.
- B. With assistance from City staff, gather data and information to formulate recommendations to the City Council for the establishment of measurable equity goals and outcomes.
- C. Review and recommend revisions to current City policies to ensure that the City advances the values of diversity, equity, and inclusion.
- D. Review and recommend revisions to outreach processes for contracting with women, minority, and disadvantaged-owned businesses through the City's business licensing program.
- E. Monitor and make recommendations to the City Council with regard to hate crimes and incidents.

- 
- F. Monitor and make recommendations to the City Council with regard to the elimination of all forms of discrimination against women.
  - G. Perform such other duties or studies as may be directed by the City Council.

( Ord. No. 22-01 , § 2, 1-25-22)

**Sec. 1-17-105. Meeting and procedures.**

- A. The Diversity, Equity, and Inclusion Committee shall meet regularly at least once each month at a time and place selected by City staff, and shall hold such other meetings as from time-to-time shall be called in the manner and form required by law.
- B. The meetings and procedures of the Diversity, Equity, and Inclusion Committee shall be subject to and governed by the resolutions and ordinances of the City Council establishing rules and regulations for commissions and/or committees.

( Ord. No. 22-01 , § 2, 1-25-22)

# **Finance Commission Bylaws**

**BY-LAWS  
OF THE  
FINANCE COMMISSION  
OF THE  
CITY OF IRVINE**

**TABLE OF CONTENTS**  
**BY-LAWS**  
**IRVINE FINANCE COMMISSION**

	<u>Page</u>
1.0 COMMISSION CREATION, TITLE, AND AUTHORITY.....	1
2.0 MEMBERS, OFFICERS AND STAFF .....	1
3.0 INITIATING AN AGENDA ITEM .....	3
4.0 COMMISSION MEETING PROCEDURE.....	3
5.0 PRESENTATIONS BEFORE THE COMMISSION.....	5
7.0 STANDING RULES .....	7
8.0 MEETINGS.....	10

## PREAMBLE

The By-Laws of the Finance Commission of the City of Irvine (“**By-Laws**”) were most recently amended by the City Council of the City of Irvine pursuant to Resolution No. 21-63 and pursuant to Irvine Municipal Code (“**IMC**”) Sections 1-4-213 and 2-13-108.

### 1.0 COMMISSION CREATION, TITLE, AND AUTHORITY

- 1.1 Creation: The Irvine Finance Commission was created under, and continues to exist under, Section VI. F-201 of the Irvine Code of Ordinances (the predecessor section to IMC section 2-13-101 of the Irvine City Code).
- 1.2 Title: The Commission officially shall be known as the “Irvine Finance Commission.” The terms “**Finance Commission**” and “**Commission**,” where used in these By-Laws, also shall refer to and mean the Irvine Finance Commission.
- 1.3 Powers, Duties, and Limitations: The powers, duties, and limitations of the Commission are set forth in IMC Sections 1-4-201 and 2-13-104.
- 1.4 Compensation and Expenses: Each member of the Commission shall receive as compensation, a sum set by the City Council and may be allowed reasonable travel and other expenses actually incurred while traveling or engaged in business authorized by the Commission.
- 1.5 Powers of Appointment: The Commission shall have the power to appoint subcommittees of not more than two of their own members, and to appoint committees, as defined in IMC section 1-4-301, to perform tasks within their scope of the Commission’s powers and duties under these By-Laws.

### 2.0 MEMBERS, OFFICERS AND STAFF

#### 2.1 Commission Members:

- 2.1.1 Appointment: The Commission consists of five members who are residents of the City of Irvine and are appointed by the City Council in conformance with IMC Sections 1-4-202 and 2-13-102.
- 2.1.2 Term and Removal: Each Commission Member serves at the will of the City Council member that appoints that Commission Member for a term expiring upon the expiration of the City Council member’s term; providing that a Commission Member’s term shall terminate on the date either that the Commission Member resigns from office or that the City Council member replaces the Commission Member prior to the expiration of the Commission Member’s term.

- 2.1.3 Vacancy: Should any vacancy occur among the members of the Commission, the Director of Financial Management and Strategic Planning shall immediately notify the City Manager and the City Manager shall immediately notify the City Council member who appointed the Commissioner. Such City Council member shall fill the vacancy by appointment for the unexpired portion of the term.
- 2.2 Officers: Officers of the Commission shall consist of a Chair and Vice Chair. The Chair and Vice Chair shall be elected by the membership of the Commission at the first regular meeting in January of each calendar year.
  - 2.2.1 Chair: The Chair shall preside at all meetings and hearings of the Commission, call special meetings in accordance with these By-Laws; appoint committees and act as an *ex-officio* member of all committees so appointed; and sign documents in accordance with these By-Laws and as prescribed by City Code or State law. He or she may represent the Commission before the City Council or appoint other members to do so.
  - 2.2.2 Vice Chair: The Vice Chair shall perform all of the duties of the Chair in his or her absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.
  - 2.2.3 [RESERVED]
  - 2.2.4 [RESERVED]
  - 2.2.5 Vacancy (Chair or Vice Chair): Should the Chair or Vice Chair cease to be members of the Commission, the remaining Commission Members shall elect a Chair or Vice Chair at the second regular meeting thereafter, by a majority vote of members present. The Chair or Vice Chair so elected shall serve in that office until the next regularly scheduled election of officers pursuant to IMC Section 1-4-205.
- 2.3 Staff:
  - 2.3.1 Director of Financial Management and Strategic Planning: The Director of Financial Management and Strategic Planning shall be an *ex-officio* member of the Commission and as such shall provide technical service to the Commission and shall attend all meetings.
  - 2.3.2 City Manager and City Attorney: The City Manager and City Attorney shall be advisors or consultants to the Commission and as such may be called upon as follows:
    - 2.3.2.1 City Manager: Upon request of the Chair for specific matters.

2.3.2.2 City Attorney: Upon request of the Chair for specific matters and as a consultant to the professional staff.

2.3.3 Recording Secretary: The Recording Secretary shall be responsible for taking and transcribing minutes, recording all votes, and receiving all documentary evidence.

### 3.0 INITIATING AN AGENDA ITEM

3.1 Commissioner Initiated Agenda Items: Commissioners wishing to place items on the Commission agenda shall adhere to the following:

3.1.1 All Commission member initiated items must either be (i) jointly initiated by two Commission members, or (ii) initiated by the Chair.

3.1.2 Agenda requests for items not requiring a staff report shall be presented in a memorandum to the Director of Financial Management and Strategic Planning, with a copy to the Chair and members of the Commission, no less than one week prior to the next scheduled Commission Meeting.

3.1.3 Agenda requests for items requiring a staff report shall be presented in a memorandum to the Director of Financial Management and Strategic Planning, with a copy to the Chair and members of the Commission, no less than two weeks prior to the next scheduled Commission Meeting.

3.2 City Council Initiated Agenda Items: City Council-initiated agenda items shall be requested by a motion adopted by a majority of the City Council in a duly noticed City Council meeting.

3.3 Staff Initiated Agenda Items: Staff may initiate such agenda items as are mandated by direction of the City Council, the Irvine Municipal Code, City policy, and/or the processing of regular business of the City of Irvine with regard to matters within the jurisdiction of the Commission.

3.4 [RESERVED]

### 4.0 COMMISSION MEETING PROCEDURE

4.1 Agenda: All meetings of the Commission shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in the Irvine Sunshine Ordinance (IMC, Title 1, Division 15). Except as provided in IMC Section 1-15-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

- 4.2 Duties of Presiding Officer: The Chair, or in the Chair's absence the Vice Chair, shall be the presiding officer, and shall assume the place and duties of such office immediately following selection. The Chair shall preserve strict order and decorum at all meetings of the Commission, state questions coming before the Commission, announce its decision on all subjects and decide all questions of order, subject, however, to an appeal to the Commission as a whole, in which event a majority vote of the Commission members present shall govern and conclusively determine such question of order. The Chair shall vote on all questions, and on roll call his or her name shall be called last. The seating arrangement for the Commission shall be determined by the Chair.
- 4.3 Regular Meeting Order of Business: All regular meetings shall be conducted in the order set forth in the following paragraphs. The Chair, or a majority of the Commission, may direct an agenda item to be taken out of order.
- 4.3.1 Call to Order: The meeting of the Commission shall be called to order by the Chair of the Commission or, in his or her absence, the Vice Chair.
- 4.3.2 Roll Call: The Recording Secretary shall record the attendance.
- 4.3.3 Pledge of Allegiance: The Chair or the Chair's designee shall lead the Pledge of Allegiance to the Flag of the United States of America.
- 4.3.4 Additions or Deletions to the Agenda: Additions may be made so long as such additions do not require Commission action.
- 4.3.5 Public Comment: The Chair shall ask if any person wishes to speak to the Commission on any item not listed on the agenda. Comment is limited to three (3) minutes per speaker.
- 4.3.6 Presentations: The Staff shall make presentations to the Commission.
- 4.3.7 Consent Calendar: Any item which does not require specific findings of fact as required by law, may be placed on the Consent Calendar. The approval of minutes shall be included within this category. Any Commissioner may withdraw an item from the Consent Calendar for discussion. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.
- 4.3.8 [RESERVED]

4.3.9 [RESERVED]

4.3.10 Commission Business: Any item subject to the powers and duties of the Commission as required by law and which is not on the consent calendar shall be included on the agenda as Commission Business.

4.3.11 Staff Reports: Items responding to Commission requests and Staff Reports or updates on ongoing matters.

4.3.12 Commissioner Reports: Any non-public hearing item to be discussed or reported on at the request of a Commissioner.

4.3.13 Additional Matters: Any items not fitting within the above categories.

4.3.14 Adjournment: Chair solicits motion to adjourn to next meeting.

## 5.0 PRESENTATIONS BEFORE THE COMMISSION

### 5.1 Rules of Presentation.

#### 5.1.1 Addressing Commission:

5.1.1.1 Securing Permission, Right to Address Commission: Any person desiring to address the Commission shall first secure the permission of the presiding officer; provided, however, that under the following headings of, business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Commission upon obtaining recognition by the presiding officer:

(i) Staff Reports: Interested parties or their authorized representatives may address the Commission with regard to written communications referred to in the report of the City Manager or any department director.

(ii) [RESERVED].

(iii) Public Comment: Any person may address the Commission by oral communication on any matter over which the Commission has control; provided, however, that preference shall be given to those persons who have notified the Recording Secretary of their desire to speak in order that the

same may appear on the minutes of the Commission.

- 5.1.1.2 Manner of Addressing Commission; Time Limit, Spokesman for Group: Persons addressing the Commission shall step up to the microphone at the table, give their name in an audible tone of voice for the record, and, unless further time is granted by the presiding officer, limit their address to three (3) minutes, unless further time is granted by the presiding officer. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than a member of the Commission, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Commission on the same subject matter, it shall be proper for the presiding officer to request that a spokesman be chosen by the group to address the Commission, and in case additional matters are to be presented at the time by any other member of said group, to limit the number of persons addressing the Commission, so as to avoid unnecessary repetition before the Commission. The presiding officer may interrupt a witness and instruct him to redirect his remarks or cause him to terminate his remarks when they are not relevant to the matter before the Commission.

- 5.1.1.3 [RESERVED]

5.1.2 Decorum:

- 5.1.2.1 By Commission Members: While the Commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the Commission disturb any member while speaking or refuse to obey the orders of the Commission or the presiding officer, except as otherwise provided in these By-Laws.

- 5.1.2.2 By Other Persons: Persons who substantially impair or disturb a Commission meeting by intentionally committing acts in violation of the provisions of these By-

Laws or of implicit customs or usages governing the conduct of Commission meetings shall be advised of such violation and requested to curtail such acts by the presiding officer. If, after such advice and request, such persons refuse or fail to curtail such acts, the presiding officer may cause any peace officer present to eject them from the council chamber or place them under arrest and be charged with a violation of California Penal Code Section 403. In the event that the meeting is interrupted so as to render the orderly conduct of such meeting infeasible, and order cannot be restored, the Commission may order the room cleared and continue in session.

6.0 [RESERVED]

7.0 STANDING RULES

7.1 Quorum: At any meeting of the Commission, a quorum shall consist of three of the appointed members of the Commission. No action shall be taken in the absence of a quorum, except that those members present shall be entitled by motion to adjourn the meeting to another date.

7.2 Voting:

7.2.1 One Vote Per Member: The Chair, Vice Chair and each Commissioner shall be entitled to one vote.

7.2.2 Proxy Votes: No proxy votes are permitted.

7.2.3 Roll Call: A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the Commission. Upon the request of any Commission, a Roll Call vote shall be taken and recorded on any vote. Whenever a Roll Call vote is in order, the Clerk shall call the names of the members in alphabetical order, except that the name of the presiding officer shall be called last.

7.2.4 Disqualification and Abstention from Voting: Except as otherwise provided by law, no member of the Commission shall be permitted to abstain from voting unless such disqualification shall be identified as a legal conflict of interest mandating such disqualification, or by unanimous vote of the remainder of the Commission present. Unapproved disqualifications and abstentions shall be recorded by the City Clerk as an affirmative vote.

- 7.2.5 Majority Vote: A majority vote of the members present shall be necessary for the recommendation of any proposed action, resolution or other voting matter except where otherwise set forth in these By-Laws or controlling law.
- 7.2.6 Tie Votes: Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.
- 7.2.7 Absence from Meeting: Any member absent from a meeting shall not be allowed to vote on any matter discussed at that meeting (and continued to a subsequent meeting) until said member has listened to the tapes of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff.
- 7.2.8 Silence Constitutes an Affirmative Vote: Unless a member of the Commission has been permitted to and abstains from voting, pursuant to paragraphs (D) and (G) above, such member's silence shall be recorded as an affirmative vote.

7.3 Signature:

- 7.3.1 Official Signature: Any resolution of the Commission, duly recorded in the minutes, or where otherwise required by law, shall be signed by the officer presiding over the meeting at which the resolution was adopted.

In form, the official signature shall be substantially as follows:

IRVINE FINANCE COMMISSION

\_\_\_\_\_  
(signature)

(name, title)

- 7.3.2 Minutes: The minutes of each Commission meeting shall be signed by the officer presiding over the meeting at which the minutes are approved.
- 7.3.3 Other Documents: In all other matters, the Chair shall have the power to execute, verify or attest to documents on behalf of this Commission.

- 7.4 Procedural Questions: The presiding officer shall rule on all procedural questions.

- 7.5 Suspension of Rules: The Commission may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling state law.
- 7.6 Rules of Debate:
- 7.6.1 Presiding Officer May Debate and Vote: The presiding officer may move, second and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members of the Commission, and shall not be deprived of any of the rights and privileges of a member of the Commission by reason of acting as the presiding officer.
- 7.6.2 Getting the Floor; Improper References to be Avoided: Every member of the Commission desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.
- 7.6.3 Interruptions: A member of the Commission once recognized shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Commission called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.
- 7.6.4 Motion to Reconsider: A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. Such motion must be made by one of the prevailing side, but may be seconded by any member of the Commission and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Commission from making or remaking the same or other motion at a subsequent meeting of the Commission.
- 7.6.5 When Remarks of Council Entered in Minutes: A member of the Commission shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Commission entered in the minutes. Such an abstract shall contain the statement of each other Commission member who addresses the subject at that time.
- 7.6.6 When Synopsis of Debate Entered in Minutes: The Recording Secretary may be directed by the presiding officer, with consent of the Commission, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Commission.
- 7.6.7 Rules of Order: Except as otherwise provided in these By-Laws, Robert's Rules of Order, Newly Revised shall govern the conduct

of the meetings of the Commission. However, resolution, recommendation, proceeding or other action of the Commission shall be invalidated, or the legality thereof, otherwise affected, by the failure or omission to observe or follow said rules.

## 8.0 MEETINGS

- 8.1 Regular Meetings: Regular meetings of the Commission shall be held in the City Council Chambers, City Hall, 1 Civic Center Plaza, Irvine, California, at 5:30 p.m., on the first and third Monday of each month. Unless a majority of the members present votes otherwise, the meetings of the Commission shall adjourn at or before 11:00 p.m. If the business of the Commission has not been completed by 11:00 p.m., the Commission may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the Commission adjourns shall be continued to a subsequent regular meeting of the Commission.
- 8.2 Adjourned Meetings: Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.
- 8.3 Special Meetings: Special meetings of the Commission may be called by the Chair of the Commission or upon the written request of at least a majority of the Commission's members. Special meetings shall be held at a time and place, and in the manner, required by the Irvine Sunshine Ordinance (IMC, Title 1, Division 15).
- 8.4 Annual Meeting: The Annual Meeting of the Commission shall be the first regular meeting in January of each year. Such meeting shall commence with the election of a Chair and Vice Chair for the ensuing year and such other business as shall be scheduled by the Commission.
- 8.5 Meetings on Holidays: When a regular meeting falls on a holiday, the meeting shall be held on the next city business day or on a day to which the previous meeting was adjourned.
- 8.6 Cancellation of Meetings: Whenever reasons exist, (for example, lack of a quorum, no business for Commission consideration, or other good and valid reason), a meeting may be canceled.
- 8.7 [RESERVED]
- 8.8 Closed Sessions: The Commission may hold closed sessions during a regular or special meeting when authorized by State law and when approved in advance by the City Attorney.
- 8.9 Additional Rules and Procedures: The meetings and procedures of the Commission shall be subject to and governed by the resolutions and

ordinances of the City Council establishing rules and regulations for commissions. If and to the extent there is a conflict between these By-Laws and the rules and regulations for commission meetings established by the City Council, the rules and regulations for commission meetings established by the City Council shall govern.

# **Investment Advisory Committee Bylaws**

**BYLAWS OF THE  
INVESTMENT ADVISORY COMMITTEE OF THE CITY OF IRVINE**

ARTICLE I - PURPOSE

The purpose of the Investment Advisory Committee is to oversee the management of the investment portfolio through regular quarterly meetings. The Committee will review investment transactions, discuss economic conditions and strategies regarding the management of the portfolio, and report to individual Councilmembers on the meetings.

ARTICLE II - STRUCTURE

The Committee shall be comprised of five members. Each Councilmember shall be responsible for appointing one member to the Committee with the term of the member running concurrent with the term of the Councilmember making the appointment.

The Chairperson and Vice Chairperson of the Committee shall be elected by a majority vote of the members and shall hold the seat for a one-year term. These positions may be elected for two consecutive terms. At the end of the second consecutive term, the members shall elect a new Chairperson and Vice Chairperson.

ARTICLE III - MEETINGS

The meetings shall be held at least quarterly at Irvine City Hall. Each meeting shall be held prior to the presentation of the quarterly report to Council on the status of the portfolio. Three members of the Committee must be present to constitute a quorum.

ARTICLE IV - PARLIAMENTARY PROCEDURE

The rules contained in the current edition of Robert's Rules of Order, newly revised, shall govern the Committee in all cases to which they are applicable and where they are not inconsistent with these Bylaws.

ARTICLE V - AMENDMENT OF BYLAWS

These Bylaws may be amended by a majority vote of the Committee.

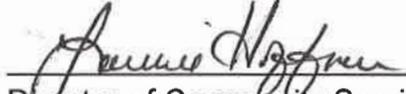
# **Irvine Aquatics Advisory Committee Bylaws**



## IRVINE AQUATICS ADVISORY BOARD BYLAWS

Community Services Resolution Number: 18-06

Community Services Commission Approved: 06/06/2018

  
Director of Community Services

### 1.0 NAME

The name of this advisory body of the City of Irvine shall be the Irvine Aquatics Advisory Board (hereinafter "Board").

### 2.0 LOCATION

The principal office for the transaction of business is hereby fixed and located at One Civic Center Plaza in Irvine, California.

### 3.0 PURPOSE, MISSION, AND DUTIES

3.1 Purpose - The Board's purpose is to serve as an advisory body of the City of Irvine, reporting to the Community Services Commission (hereinafter "Commission"). The Board shall represent the entire community in their deliberations and actions.

3.2 Mission - The Board's mission is to ensure an equitable allocation of pool space and maximum participation for all Irvine youth regardless of choice in program or ability.

3.3 Duties - The Board's duties include, but shall not be limited to, providing input into the needs of the community pertaining to Irvine's youth aquatics programs, facilities and services.

The Board shall be responsible for reviewing architectural drawings for proposed parks (public and private) with aquatic amenities to ensure the aquatic amenities are appropriately designed to meet the needs of the Irvine community pertaining to Irvine's youth aquatic programs, facilities and services. The Board shall also be responsible for reviewing and recommending, on a quarterly basis, an allocation schedule for the City's aquatic facilities that ensures a fair and efficient distribution is provided to all aquatic programs, regardless of choice in sport. The Board shall further advise City staff and the staff of Irvine Unified School District, City Commissioners and other officials of their findings and recommendations for necessary actions to meet the City of Irvine's needs, and to address deficiencies in the aquatics functions within the boundary of the City of Irvine.

The Board shall also report annually to the Commission on its goals and accomplishments.

#### **4.0 GENERAL STATEMENT OF POLICY**

Provisions of the Irvine Municipal Code, Title I, Division 4-Commissions and Committees, are applicable to all Commissions and Committees appointed by, or otherwise operating under authority of the City of Irvine, City Council and/or its properly appointed delegate.

#### **5.0 MEMBERSHIP**

The Board is comprised of voting and non-voting members. There are no term limits for Board Members as they serve at the will of their organizations.

5.1 Organization Members - Irvine-based youth aquatics organizations (hereinafter "Member Organizations") shall be entitled to one representative on the Board, designated by the Member Organization's president, or its equivalent. Member Organizations must meet the following requirements:

5.1.1 The Category II Organization requirements outlined in the Public Facilities Reservation and Fee Policy.

5.1.2 The Member Organization's primary mission must include youth aquatics team sport activities.

5.1.3 Member Organizations must be present at no less than three-fourths (3/4) of regularly scheduled Board meetings in one calendar year. Failure to adhere to this attendance requirement will result in the Member Organization losing voting privileges for six (6) months. An organization losing voting privileges shall not lose pool allocation rights.

5.2. Liaison Members - The City of Irvine and the Irvine Unified School District shall designate staff as a Liaison Member to the Board. The City and District are non-voting members.

5.3 Resignation, Vacancies, and Removal

5.3.1 Resignation - Any Board Member or officer may resign at any time by giving written notice to the Chair or Vice Chair.

5.3.2 Vacancies - In the event a vacancy is created, it shall be filled by the same method by which the vacancy was previously filled, at a timeline established by the Board.

- 5.3.3. Removal - In the event a Board Member fails to attend three (3) consecutive meetings, the Board may, by motion, move to remove the Board Member from the Board. A majority vote of the Board Members present at a duly constituted meeting shall be required to carry such a motion.

## 6.0 VOTING

- 6.1 One Vote Per Member - Board Members shall be entitled to one vote. Representatives are not permitted to cast votes representing more than one Organization.
- 6.2 Proxy Votes - When representatives cannot attend, the Organization may send a proxy from its own Organization to cast its vote.

## 7.0 OFFICERS

Officers of the Board shall include a Chair and a Vice Chair, each of whom shall be a voting member of the Board. The Board shall elect the officers every other year.

- 7.1 Election - Regular election of officers shall be held at the January meeting of even-numbered years. The term of office shall be two (2) years, commencing upon election.
- 7.2 Chair - The Chair shall be responsible for the general supervision, direction, and control of the business and affairs of this Board. The Chair shall preside over all meetings and represent the Board to the Commission, the City Council and City staff.
- 7.3 Vice Chair - In the absence or resignation of the Chair, the Vice Chair shall perform all of the duties of the Chair, and in so acting, shall have all of the authority of the Chair. The Vice Chair shall have such other powers and perform such other duties as may be prescribed by the Board.

## 8.0 MEETINGS

All meetings shall be open to the public and shall conform to the provisions of the "Ralph M. Brown Act".

- 8.1 Agenda - Agenda items may be submitted thirty (30) days in advance by any Board Member upon notification to the Chair or City liaison. The agenda shall be established with items as coordinated by the Chair and City liaison. When agenda items requiring a vote are distributed less than thirty (30) days prior to a meeting, Board Members shall have the right to consult their Organization's Board of Directors, or the functional equivalent, prior to a final vote.

- 8.2 Procedures - Robert's Rules of Order shall govern the general conduct of meetings.
- 8.3 Quorum - A majority of the Board Members shall constitute a quorum. A majority vote of Board Members present at a duly constituted meeting shall be required to carry a motion, proposal and/or resolution.
- 8.4 Regular Meetings - The Board shall meet on the fourth Wednesday in January, April, and October, and on the third Wednesday in July. All regular meeting agendas shall be posted in a location accessible to the public at least 72 hours before the time of the meeting and must describe the business to be transacted.
- 8.5 Special Meetings - A special meeting may be called at any time by the Chair or by a majority of the members of the Board, by delivering personally, by mail, or by email written notice to each member as required by law, and by posting the agenda in a location freely accessible to the public at least 24 hours before the meeting. The special meeting notice must specify both the time and the place of the meeting and the business to be transacted.

## 9.0 BYLAWS

Amendments to these bylaws are subject to approval and adoption by the Commission by a majority of the members present at a duly constituted meeting of the Commission.

COMMUNITY SERVICES COMMISSION RESOLUTION NO. 18-06

A RESOLUTION OF THE COMMUNITY SERVICES COMMISSION OF THE CITY OF IRVINE, CALIFORNIA, AMENDING THE BYLAWS OF THE IRVINE AQUATICS ADVISORY BOARD

WHEREAS, the City Council authorized the Community Services Commission to serve as the governing body of the Irvine Aquatics Advisory Board; and

WHEREAS, the Irvine Aquatics Advisory Board has approved revisions to its Bylaws to assure relevance to its mission; and

WHEREAS, the Bylaws amended are consistent with the City Council direction as to the mission of the Committee; and

NOW, THEREFORE, the Community Services Commission of the City of Irvine, DOES HEREBY RESOLVE as follows:

SECTION 1. That the above recitals are true and correct and are incorporated herein.

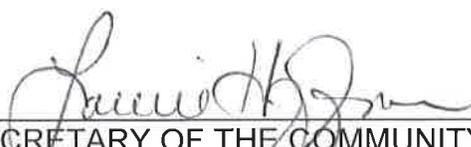
SECTION 2. Based on the above findings, the Community Services Commission of the City of Irvine DOES HEREBY RECOMMEND the adoption of the amended Bylaws of the Irvine Aquatics Advisory Board, attached hereto as Exhibit A.

SECTION 3. The Secretary to the Community Services Commission shall certify to the passage of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the Community Services Commission of the City of Irvine at a regular meeting held on the 6<sup>th</sup> day of June 2018 by the following roll-call vote:

AYES:	5	COMMISSIONERS:	Trussell, Schultz, Johnson-Norris, Konte, and Owens
NOES:	0	COMMISSIONERS:	None
ABSENT:	0	COMMISSIONERS:	None
ABSTAIN:	0	COMMISSIONERS:	None

  
\_\_\_\_\_  
CHAIR OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

  
\_\_\_\_\_  
SECRETARY OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

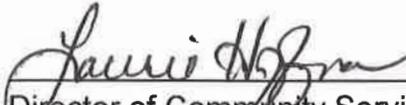
# **Irvine Child Care Committee Bylaws**



## IRVINE CHILD CARE COMMITTEE BYLAWS

Community Services Resolution Number: 18-04

Community Services Commission Approved: 06/06/2018

  
Director of Community Services

### 1.0 NAME

The name of this advisory body of the City of Irvine shall be the Irvine Child Care Committee (hereinafter "Committee").

### 2.0 LOCATION

The principal office for the transaction of business is hereby fixed and located at One Civic Center Plaza in Irvine, California.

### 3.0 PURPOSE, MISSION, AND DUTIES

3.1 Purpose - The Committee's purpose is to serve as an advisory body of the City of Irvine, reporting to the Community Services Commission (hereinafter "Commission"). The Committee shall provide input on the needs of the community pertaining to child care related issues.

3.2 Mission - The Committee's mission is to develop recommendations related to the availability of affordable quality child care and early education in Irvine.

3.3 Duties - The Committee's duties include, but shall not be limited to, working collaboratively with City departments and community organizations to enhance the provision of child care and early education services, providing outreach, and serving as a liaison to the community by informally sharing information learned at meetings, promoting City events for families and early childhood educators and sharing questions, concerns and ideas from the community with the Committee.

The Committee shall appoint one representative from their membership to serve on the Irvine Child Development Center Operating Board and one representative to serve on the Irvine Children, Youth and Families Advisory Committee, as appropriate.

The Committee shall report annually to the Commission on its goals and accomplishments.

#### **4.0 GENERAL STATEMENT OF POLICY**

Provisions of the Irvine Municipal Code, Title I, Division 4-Commissions and Committees, are applicable to all Commissions and Committees appointed by, or otherwise operating under authority of the City of Irvine, City Council and/or its properly appointed delegate.

#### **5.0 MEMBERSHIP**

The Committee shall consist of no more than fourteen (14) voting members consisting of Appointee and Liaison representatives, and shall serve pursuant to Section 5310 of the California Organizations Code. Accordingly, the Membership on the Committee is comprised of representatives meeting the following requirements and procedures:

##### **5.1 Appointee Members**

5.1.1 One representative from each of the following educational Organizations, Irvine Unified School District, University of California, Irvine, and Irvine Valley College, shall be appointed by their respective organizations and serve a term of office in accordance with that appointment.

5.1.2 Each member of the City Council shall appoint one member to the Committee for a total of five (5) members, to serve at the pleasure of their Council Member.

5.2 Liaison Members - Shall be selected through the following procedure: All interested persons who reside or are employed in the City of Irvine shall submit written applications and all applicants will be invited to an oral interview with a minimum of three (3) Committee Members and one (1) optional representative from the Community Services Commission. Term of office shall be a period of two years. Reappointment to another term is possible by complying with the procedure outlined herein.

5.2.1 Community Members - Two (2)

5.2.2 Center- or Home-based Child Care Provider Members who operate or work in a child care program licensed by the State of California Community Care Licensing Division - Two (2)

5.2.3 Parent/Guardian Members having children under the age of 12 at the time of application submittal - Two (2)

##### **5.3 Resignation, Vacancies, and Removal**

5.3.1 Resignation - Any Committee Member or officer may resign at any time by giving written notice to the Chair or Vice Chair.

5.3.2 Vacancies - In the event a vacancy is created, it shall be filled by the same method by which the vacancy was previously filled, at a timeline established by the Committee.

5.3.3. Removal - In the event a Committee Member fails to attend three (3) consecutive meetings, the Committee may, by motion, move to remove the Committee Member from the Committee. A majority vote of the Committee Members present at a duly constituted meeting shall be required to carry such a motion.

## 6.0 VOTING

6.1 One Vote Per Member - Committee Members shall be entitled to one vote.

6.2 Proxy Votes - No proxy votes are permitted.

## 7.0 OFFICERS

Officers of the Committee shall include a Chair and a Vice Chair, each of whom shall be a voting member of the Committee. The officers shall be elected by the Committee annually.

7.1 Election - Regular election of officers shall be held annually. The term of office shall be one (1) year, commencing upon election.

7.2 Chair - The Chair shall be responsible for the general supervision, direction, and control of the business and affairs of this Committee. The Chair shall preside over all meetings and represent the Committee to the Commission, the City Council and City staff.

7.3 Vice Chair - In the absence or resignation of the Chair, the Vice Chair shall perform all of the duties of the Chair, and in so acting, shall have all of the authority of the Chair. The Vice Chair shall have such other powers and perform such other duties as may be prescribed by the Committee.

## 8.0 MEETINGS

All meetings shall be open to the public and shall conform to the provisions of the "Ralph M. Brown Act".

8.1 Agenda - Agenda items may be submitted thirty (30) days in advance by any Committee Member upon notification to the Chair or City liaison. The agenda shall be established with items as coordinated by the Chair and City liaison.

8.2 Procedures - Robert's Rules of Order shall govern the general conduct of meetings.

- 8.3 Quorum - A majority of the Committee Members shall constitute a quorum. A majority vote of Committee Members present at a duly constituted meeting shall be required to carry a motion, proposal and/or resolution.
- 8.4 Regular Meetings - The Committee shall meet six (6) times each year per an annual schedule approved by the Committee at the last meeting of the previous year. All regular meeting agendas shall be posted in a location accessible to the public at least 72 hours before the time of the meeting and must describe the business to be transacted.
- 8.5 Special Meetings - A special meeting may be called at any time by the Chair or by a majority of the members of the Committee, by delivering personally, by mail, or by email written notice to each member and by circulating the agenda as required by law, and by posting the agenda in a location freely accessible to the public at least 24 hours before the meeting. The special meeting notice must specify both the time and the place of the meeting and the business to be transacted.

## 9.0 BYLAWS

Amendments to these bylaws are subject to approval and adoption by the Commission by a majority of the members present at a duly constituted meeting of the Commission.

COMMUNITY SERVICES COMMISSION RESOLUTION NO. 18-04

A RESOLUTION OF THE COMMUNITY SERVICES COMMISSION OF THE CITY OF IRVINE, CALIFORNIA, AMENDING THE BYLAWS OF THE IRVINE CHILD CARE COMMITTEE

WHEREAS, the City Council authorized the Community Services Commission to serve as the governing body of the Irvine Child Care Committee; and

WHEREAS, the Irvine Child Care Committee has approved revisions to its Bylaws to assure relevance to its mission; and

WHEREAS, the Bylaws amended are consistent with the City Council direction as to the mission of the Committee; and

NOW, THEREFORE, the Community Services Commission of the City of Irvine, DOES HEREBY RESOLVE as follows:

SECTION 1. That the above recitals are true and correct and are incorporated herein.

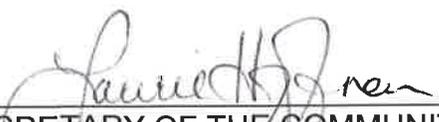
SECTION 2. Based on the above findings, the Community Services Commission of the City of Irvine DOES HEREBY RECOMMEND the adoption of the amended Bylaws of the Irvine Child Care Committee, attached hereto as Exhibit A.

SECTION 3. The Secretary to the Community Services Commission shall certify to the passage of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the Community Services Commission of the City of Irvine at a regular meeting held on the 6<sup>th</sup> day of June 2018 by the following roll-call vote:

AYES:	5	COMMISSIONERS:	Trussell, Schultz, Johnson-Norris, Konte, and Owens
NOES:	0	COMMISSIONERS:	None
ABSENT:	0	COMMISSIONERS:	None
ABSTAIN:	0	COMMISSIONERS:	None

  
\_\_\_\_\_  
CHAIR OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

  
\_\_\_\_\_  
SECRETARY OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

# **Irvine Children, Youth and Families Advisory Committee Bylaws**



## IRVINE CHILDREN, YOUTH AND FAMILIES ADVISORY COMMITTEE BYLAWS

Community Services Resolution Number: 18-07  
Community Services Commission Approved: 06/06/2018

  
Director of Community Services

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### 1.0 NAME

The name of this advisory body of the City of Irvine shall be the Irvine Children, Youth and Families Advisory Committee (hereinafter "Committee").

### 2.0 LOCATION

The principal office for the transaction of business is hereby fixed and located at One Civic Center Plaza in Irvine, California.

### 3.0 PURPOSE, MISSION, AND DUTIES

- 3.1 Purpose – The purpose of the Committee is to serve as a public advisory body of the City of Irvine, reporting to the Community Services Commission (herein after "Commission). The Committee's purpose is to be achieved in accordance with the goals and objectives of City Council and the Commission.
- 3.2 Mission – The Committee's mission is to provide ongoing review and evaluation of the City's children, youth and family-related initiatives.
- 3.3 Duties – The Committee's duties include reviewing progress of children, youth and family-related services and programs and integrating community input on an ongoing basis.

The Committee shall have all the primary powers and authorities necessary and convenient to carry out the business and affairs of the Committee, including the power to invite City residents to serve on ad hoc committees as nonvoting participants. The Committee shall recommend to the Commission such actions as they deem appropriate, and the Commission can convey such recommendations to the City Council as it deems appropriate.

The Committee shall report annually to the Commission on its goals and accomplishments.

#### **4.0 GENERAL STATEMENT OF POLICY**

Provisions of the Irvine Municipal Code, Title I, Division 4-Commissions and Committees, are applicable to all commissions and committees appointed by, or otherwise operating under, the authority of the City of Irvine, City Council and/or its properly appointed delegate.

#### **5.0 MEMBERSHIP**

The Committee shall consist of no more than fifteen (15) voting members ("Committee Members"). All Committee Members must either be a resident of, or employed in, the City of Irvine, and shall serve pursuant to Section 5310 of the California Organizations Code.

Membership on the Committee is comprised of representatives meeting the following requirements:

- 5.1 Five (5) City Council-appointed Members – Each member of the City Council shall appoint one member to serve on the Committee for a term expiring upon the expiration of the Council member's term.
- 5.2 Two (2) Members of the Community Services Commission – Community Services Commission elects two (2) members to serve two-year terms.
- 5.3 Two (2) Members-at-Large – Members-at-Large are selected through a public recruitment to serve two-year terms.
- 5.4 Two (2) Youth Members – Youth High School Members are selected through the City of Irvine Youth Action Team to serve one-year terms.
- 5.5 Five (5) Agency Representatives – The following groups will be asked to appoint one (1) person to represent the interests of their respective constituencies to serve at the pleasure of their organization:
  - 5.5.1 Irvine Unified School District
  - 5.5.2 Tustin Unified School District
  - 5.5.3 Irvine Prevention Coalition
  - 5.5.4 Irvine Child Care Committee
  - 5.5.5 Irvine Public Safety (Ex-Officio)

## 5.6 Resignation, Vacancies, and Removal

- 5.6.1 Resignation – Any Committee Member or officer may resign at any time by giving written notice to the Chair or Vice Chair.
- 5.6.2 Vacancies – In the event a vacancy is created, it shall be filled by the same method by which the vacancy was previously filled, at a timeline established by the Committee.
- 5.6.3. Removal – Absence from three (3) consecutive meetings may constitute the removal of the member. In the event a Committee Member fails to attend three consecutive meetings, the Committee may, by motion, move to remove the Committee Member from the Committee. A majority vote of the Committee Members present at the duly constituted meeting shall be required to carry such a motion.
- 5.6.4 Liabilities and Property Rights of the Committee - No member of the Committee shall be personally responsible for any indebtedness or liability, and any and all creditors shall look only to the City of Irvine's assets for payment.

## 6.0 VOTING

- 6.1 One Vote Per Member – Committee Members shall each be entitled to one vote.
- 6.2 Proxy Votes – No proxy votes are permitted.

## 7.0 OFFICERS

Officers of the Committee shall include a Chair and a Vice Chair, each of whom shall be a member of the Committee. The officers shall be elected by the Committee every other year.

- 7.1 Election – Regular election of officers shall be held at the Committee's spring meeting of odd-numbered years. The term of office shall be two (2) years, commencing upon election.
- 7.2 Chair – The Chair shall be responsible for the general supervision, direction, and control of the business and affairs of this Committee. The Chair shall preside over all meetings and shall represent the Committee to the Commission, the City Council and City staff.

- 7.3 Vice Chair – In the absence or resignation of the Chair, the Vice Chair shall perform all of the duties of the Chair, and in so acting, shall have all of the authority of the Chair. The Vice Chair shall have such other powers and perform such other duties as may be prescribed by the Committee.

## 8.0 MEETINGS

All meetings shall be opened to the public and shall conform to the provisions of the “Ralph M. Brown Act”.

- 8.1 Agenda – Agenda items may be submitted thirty (30) days in advance by any Committee Member upon notification to the Chair or City liaison. The agenda shall be established with items as coordinated by the Chair and City liaison.
- 8.2 Procedures – Robert’s Rules of Order shall govern the general conduct of meetings.
- 8.3 Quorum – A majority of the Committee Members shall constitute a quorum. A majority vote of the Committee Members present at a duly constituted meeting shall be required to carry a motion, proposal and/or resolution.
- 8.4 Regular Meetings – The Committee shall meet four (4) times each year per an annual schedule approved by the Committee at the last meeting of the previous year. All regular meeting agendas shall be posted in a location accessible to the public at least 72 hours before the time of the meeting and must describe the business to be transacted.
- 8.5 Special Meetings – A special meeting may be called at any time by the Chair or by a majority of the members of the Committee, by delivering personally, by mail, or by email written notice to each member and by circulating the agenda as required by law, and by posting the agenda in a location freely accessible to the public at least 24 hours before the meeting. The special meeting notice must specify both the time and the place of the meeting and the business to be transacted.

## 9.0 BYLAWS

Amendments to these bylaws are subject to approval and adoption by the Commission by a majority vote of the members present at a duly constituted meeting of the Commission.

COMMUNITY SERVICES COMMISSION RESOLUTION NO. 18-07

A RESOLUTION OF THE COMMUNITY SERVICES COMMISSION OF THE CITY OF IRVINE, CALIFORNIA, AMENDING THE BYLAWS OF THE IRVINE CHILDREN YOUTH AND FAMILIES ADVISORY COMMITTEE

WHEREAS, the City Council authorized the Community Services Commission to serve as the governing body of the Irvine Children, Youth and Families Advisory Committee; and

WHEREAS, the Irvine Children, Youth and Families Advisory Committee has approved revisions to its Bylaws to assure relevance to its mission; and

WHEREAS, the Bylaws amended are consistent with the City Council direction as to the mission of the Committee; and

NOW, THEREFORE, the Community Services Commission of the City of Irvine, DOES HEREBY RESOLVE as follows:

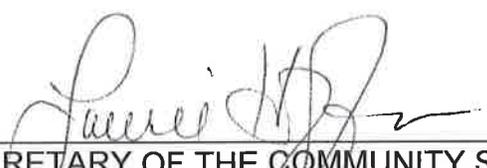
SECTION 1. That the above recitals are true and correct and are incorporated herein.

SECTION 2. Based on the above findings, the Community Services Commission of the City of Irvine, DOES HEREBY RECOMMEND the adoption of the amended Bylaws of the Irvine Children, Youth and Families Advisory Committee, attached hereto as Exhibit A.

SECTION 3. The Secretary to the Community Services Commission shall certify to the passage of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the Community Services Commission of the City of Irvine at a regular meeting held on the 6<sup>th</sup> day of June 2018 by the following roll-call vote:

AYES:	5	COMMISSIONERS:	Trussell, Schultz, Johnson-Norris, Konte, and Owens
NOES:	0	COMMISSIONERS:	None
ABSENT:	0	COMMISSIONERS:	None
ABSTAIN:	0	COMMISSIONERS:	None

  
\_\_\_\_\_  
SECRETARY OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

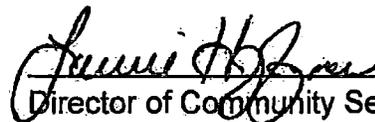
  
\_\_\_\_\_  
CHAIR OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

# **Irvine Residents with Disabilities Advisory Board Bylaws**



## IRVINE RESIDENTS WITH DISABILITIES ADVISORY BOARD BYLAWS

Community Services Resolution Number: 18-05  
Community Services Commission Approved: 06/06/2018

  
Director of Community Services

### 1.0 NAME

The name of this advisory body of the City of Irvine shall be the Irvine Residents with Disabilities Advisory Board (hereinafter "Board").

### 2.0 LOCATION

The principal office for the transaction of business is hereby fixed and located at One Civic Center Plaza in Irvine, California.

### 3.0 PURPOSE, MISSION, AND DUTIES

3.1 Purpose - The Board's purpose is to serve as an advisory body of the City of Irvine, reporting to the Community Services Commission (hereinafter "Commission"). The Board shall represent residents with disabilities in their deliberations and actions.

3.2 Mission - The Board's mission is to identify and recommend programs and services that would meet the social, physical and emotional needs of residents who have disabilities, regardless of age.

3.3 Duties - The Board's duties include, but shall not be limited to, providing advocacy and support for programs related to its mission; assessing community needs and providing appropriate recommendations to City departments; working collaboratively with organizations within Irvine and the surrounding areas that have an impact on Irvine residents with disabilities by informally sharing information learned at meetings, promoting City events for individuals with disabilities and sharing questions, concerns and ideas from the community with the Commission.

The Board shall have all the primary powers and authorities necessary and convenient to carry out the business and affairs of the Board, including the power to invite City residents to serve on ad hoc committees and non-voting participants. The Board shall recommend to the Commission such actions as they deem appropriate, and the Commission can convey such recommendations to the City Council as it deems appropriate.

The Board shall report annually to the Commission on its goals and accomplishments.

#### **4.0 GENERAL STATEMENT OF POLICY**

Provisions of the Irvine Municipal Code, Title I, Division 4-Commissions and Committees, are applicable to all Commissions and Committees appointed by, or otherwise operating under authority of the City of Irvine, the City Council and/or its properly appointed delegate.

#### **5.0 MEMBERSHIP**

The Board shall consist of no more than fourteen (14) voting members ("Board Members"). All Board Members must live or work in Irvine. The majority (i.e. greater than 50 percent) of the Board must be either 1) a person with disabilities or 2) an immediate family member of a person with a disability.

##### **5.1 Member Appointments and Terms**

Board Members shall be selected through a public recruitment process conducted by City staff. All interested persons shall submit written applications and applicants that meet one of the two criteria discussed above will be invited to participate in an oral interview conducted by a panel designated by the Board consisting of its Board Members.

Recommendations of the panel shall be presented to the Board for consideration, and the Board's nominations shall be forwarded to the Commission for their review, at which point such a nominee may be formally appointed by the Commission.

The Board's recruitment process will be continuous and qualified applicants will be placed on a list for future vacancies should the need arise. Appointed Board Members shall serve unlimited terms, subject to the constraints of these Bylaws.

##### **5.2 Resignation, Vacancies, and Removal**

**5.2.1 Resignation** - Any Board Member or officer may resign at any time by giving written notice to the Chair or Vice Chair.

**5.2.2 Vacancies** - In the event a vacancy is created, it shall be filled by the same method by which the vacancy was previously filled, at a timeline established by the Board.

**5.2.3. Removal** - Absence from five (5) meetings per calendar year may constitute the removal of the member. In the event a Board Member fails to attend five meetings in a calendar year, the Board may, by motion, move to remove the Board Member from the Board. A majority vote of the Board Members present at the duly constituted meeting shall be required to carry such a motion.

## **6.0 VOTING**

6.1 One Vote Per Member - Board Members shall be entitled to one vote.

6.2 Proxy Votes - No proxy votes are permitted.

## **7.0 OFFICERS**

Officers of the Board shall include a Chair and a Vice Chair, each of whom shall be a voting member of the Board. The officers shall be elected by the Board every other year.

7.1 Election - Regular election of officers shall be held every other year, at the Board's November meeting of even-numbered years. The term of office shall be two (2) years, commencing upon election.

7.2 Chair - The Chair shall be responsible for the general supervision, direction, and control of the business and affairs of this Board. The Chair shall preside over all meetings and represent the Board to the Commission, the City Council and City staff.

7.3 Vice Chair - In the absence or resignation of the Chair, the Vice Chair shall perform all of the duties of the Chair, and in so acting, shall have all of the authority of the Chair. The Vice Chair shall have such other powers and perform such other duties as may be prescribed by the Board.

## **8.0 MEETINGS**

All meetings shall be open to the public and shall conform to the provisions of the "Ralph M. Brown Act".

8.1 Agenda - Agenda items may be submitted thirty (30) days in advance by any Board Member upon notification to the Chair or City liaison. The agenda shall be established with items as coordinated by the Chair and City liaison.

8.2 Procedures - Robert's Rules of Order shall govern the general conduct of meetings.

8.3 Quorum - A majority of the Board Members shall constitute a quorum. A majority vote of the Board Members at a duly constituted meeting shall be required to carry a motion, proposal and/or resolution.

8.4 Regular Meetings - The Board shall meet on the first Tuesday of the month as noted on the annual schedule approved by the Board. All regular meeting agendas shall be posted in a location accessible to the public at least 72 hours before the time of the meeting and must describe the business to be transacted.

8.5 Special Meetings - A special meeting may be called at any time by the Chair or by a majority of the members of the Board, by delivering personally, by mail, or by email written notice to each member and by circulating the agenda as required by law, and by posting the agenda in a location freely accessible to the public at least 24 hours before the meeting. The special meeting notice must specify both the time and the place of the meeting and the business to be transacted.

## 9.0 BYLAWS

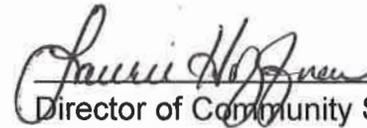
Amendments to these bylaws are subject to approval and adoption by the Commission by a majority of the members present at a duly constituted meeting of the Commission.

# **Irvine Sports Committee Bylaws**



## IRVINE SPORTS COMMITTEE BYLAWS

Community Services Resolution Number: 18-03  
Community Services Commission Approved: 06/06/2018

  
Director of Community Services

### **1.0 NAME**

The name of this advisory body of the City of Irvine shall be the Irvine Sports Committee (hereinafter "Committee").

### **2.0 LOCATION**

The principal office for the transaction of business is hereby fixed and located at One Civic Center Plaza in Irvine, California.

### **3.0 PURPOSE, MISSION, AND DUTIES**

3.1 Purpose - The Committee's purpose is to serve as an advisory body of the City of Irvine, reporting to the Community Services Commission (hereinafter "Commission"). The Committee shall provide input on the needs of the community pertaining to Irvine's youth sports programs, facilities and services. The Committee shall represent the interest of the entire athletic community in their deliberations and actions.

3.2 Mission - The Committee's mission is to ensure an equitable allocation of athletic facilities and maximum participation for all Irvine youth in the athletic endeavor of their choice, regardless of ability.

3.3 Duties - The Committee's duties include, but shall not be limited to, reviewing and providing input regarding reservation policies and allocation procedures, architectural drawings and other data for development of new parks and/or the rehabilitation of existing parks with athletic amenities and facilities.

The Committee shall report annually to the Commission on its goals and accomplishments.

### **4.0 GENERAL STATEMENT OF POLICY**

Provisions of the Irvine Municipal Code, Title 1, Division 4 – Commissions and Committees are applicable to all Commissions and Committees appointed by or otherwise operating under authority of the City of Irvine, City Council and/or its properly appointed delegate.

## 5.0 MEMBERSHIP

The Committee is comprised of voting and non-voting members. There are no term limits for Committee Members as they serve at the will of their agencies. Irvine-based youth sports organizations (hereinafter "Organization") shall be entitled to one representative on the Committee. Organizations shall appoint a representative to serve on the Committee on its behalf. Representatives shall be designated in writing by the Organization president or his or her equivalent. Committee Members must meet all of the requirements below.

5.1 Members – Membership on the Committee is comprised of representatives of Organizations meeting the following requirements:

5.1.1 The Organization's primary mission must include youth sports leagues and/or activities.

5.1.2 The Organization is a nonprofit corporation registered with the State of California.

5.1.3 If the Organization is a recreation program, at least 90 percent of its participants must be Irvine residents. If the Organization is a club program, at least 57 percent of its participants must be Irvine residents. In addition, club programs must meet all team residency requirements as outlined in the City's Allocation Procedure for Sports Facilities.

5.1.4 Applications for membership will be considered by the Committee annually. Organizations interested in offering a youth sports program not offered in Irvine may be considered for membership at the next regular meeting of the Committee. Applications must be received by the City of Irvine no less than 30 days prior to the scheduled meeting.

5.2 Members-at-Large – The Commission shall appoint four (4) Members-at-Large. Members-at-Large shall be selected through a public recruitment process annually. The term shall be for a period of two (2) years.

5.3 Resignation and Vacancies

5.3.1 Resignation – Any Committee Member or officer may resign at any time by giving written notice to the Chair or Vice Chair.

5.3.2 Vacancies – In the event a vacancy is created, it shall be filled by the same method by which the vacancy was previously filled, at a timeline established by the Committee.

## **6.0 VOTING**

- 6.1 One Vote Per Member – Except as set forth in Section 6.3, each Committee Member shall be entitled to one vote. Representatives are not permitted to cast votes representing more than one Organization.
- 6.2 Proxy Votes – When representatives cannot attend, the Organization may send a proxy from its own Organization to cast its vote.
- 6.3 Organizations are categorized by sport into either recreation or club program. Organizations and their representatives on the Committee will have voting privileges as follows:
  - 6.3.1 Commission appointed Members-At-Large shall each cast one vote.
  - 6.3.2 Representatives of Organizations with youth participation of 200 or more shall each cast one vote.
  - 6.3.3 Sports that do not have a large organization with 200 or more participants shall cast one vote on behalf of the sport. The vote shall be cast by the Organization with the largest number of participants.

## **7.0 OFFICERS**

Officers of the Committee shall include a Chair and Vice Chair, each of whom shall be a voting member of the Committee. The officers shall be elected by the Committee annually.

- 7.1 Election – Regular election of officers shall be held at the last regular meeting in October. The term of office shall be one (1) year, commencing upon election.
- 7.2 Chair – The Chair shall be responsible for the general supervision, direction, and control of the business and affairs of this Committee. The Chair shall preside over all meetings and shall represent the Committee to the Commission, the City Council and City staff.
- 7.3 Vice Chair – In the absence or resignation of the Chair, the Vice Chair shall perform all of the duties of the Chair, and in so acting, shall have all of the authority of the Chair. The Vice Chair shall have such other powers and perform such other duties as may be prescribed by the Committee.

## **8.0 MEETINGS**

All meetings shall be open to the public and shall conform to the provisions of the “Ralph M. Brown Act.”

- 8.1 Agenda – Agenda items may be submitted thirty (30) days in advance by any Committee Member upon notification to the Chair or City liaison. The agenda shall be established with items as coordinated by the Chair and City liaison. When agenda items requiring a vote are distributed less than thirty (30) days prior to a meeting, Committee Members shall have the right to consult their Organization’s Board of Directors prior to a final vote.
- 8.2 Procedures – Robert’s Rules of Order shall govern the general conduct of meetings.
- 8.3 Quorum – A majority of the voting Committee Members shall constitute a quorum. A majority vote of Committee Members present at a duly constituted meeting shall be required to carry a motion, proposal and/or resolution.
- 8.4 Regular Meetings – The Committee shall meet on the second Tuesday in January, April, July and October. All regular meeting agendas shall be posted in a location accessible to the public at least 72 hours before the time of the meeting and must describe the business to be transacted.
- 8.5 Special Meetings – A special meeting may be called at any time by the Chair or by a majority of the members of the Committee, by delivering personally, by mail, or by email written notice to each member and by circulating the agenda as required by law, and by posting the agenda in a location freely accessible to the public at least 24 hours before the meeting. The special meeting notice must specify both the time and the place of the meeting and the business to be transacted.
- 8.6 Organizations must be represented at no less than three-fourths of regularly scheduled Committee meetings in a twelve-month period. Failure to adhere to attendance requirements will result in the Organization losing voting privileges and subject to losing field allocation privileges. Organizations will receive written notice and a six-month grace period before allocation privileges and membership will be revoked.

## **9.0 BYLAWS**

Amendments to these bylaws are subject to approval and adoption by the Commission by a majority vote of the members present at a duly constituted meeting of the Commission.

COMMUNITY SERVICES COMMISSION RESOLUTION NO. 18-03

A RESOLUTION OF THE COMMUNITY SERVICES COMMISSION OF THE CITY OF IRVINE, CALIFORNIA, AMENDING THE BYLAWS OF THE IRVINE SPORTS COMMITTEE

WHEREAS, the City Council authorized the Community Services Commission to serve as the governing body of the Irvine Sports Committee; and

WHEREAS, the Irvine Sports Committee has approved revisions to its Bylaws to assure relevance to its mission; and

WHEREAS, the Bylaws amended are consistent with the City Council direction as to the mission of the Committee; and

NOW, THEREFORE, the Community Services Commission of the City of Irvine, DOES HEREBY RESOLVE as follows:

SECTION 1. That the above recitals are true and correct and are incorporated herein.

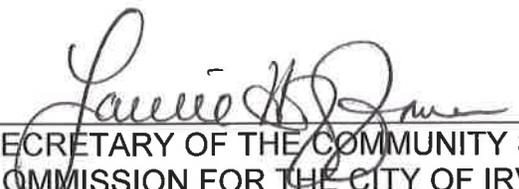
SECTION 2. Based on the above findings, the Community Services Commission of the City of Irvine DOES HEREBY RECOMMEND the adoption of the amended Bylaws of the Irvine Sports Committee, attached hereto as Exhibit A.

SECTION 3. The Secretary to the Community Services Commission shall certify to the passage of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the Community Services Commission of the City of Irvine at a regular meeting held on the 6<sup>th</sup> day of June 2018 by the following roll-call vote:

AYES:	5	COMMISSIONERS:	Trussell, Schultz, Johnson-Norris, Konte, and Owens
NOES:	0	COMMISSIONERS:	None
ABSENT:	0	COMMISSIONERS:	None
ABSTAIN:	0	COMMISSIONERS:	None

  
\_\_\_\_\_  
CHAIR OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

  
\_\_\_\_\_  
SECRETARY OF THE COMMUNITY SERVICES  
COMMISSION FOR THE CITY OF IRVINE

# Great Park Board Bylaws

GREAT PARK CORPORATION  
RESOLUTION NO. 21-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
GREAT PARK CORPORATION AMENDING THE BYLAWS OF  
THE CORPORATION TO MODIFY NAME OF ORANGE  
COUNTY GREAT PARK TO GREAT PARK

The Board of Directors of the GREAT PARK CORPORATION, a California nonprofit public benefit corporation (the "Corporation"), acting pursuant to the authority of Section 5211(b) of the California Nonprofit Corporation Law, does hereby resolve as follows:

1. Amendment to Bylaws. The Bylaws of the Great Park Corporation, a California Nonprofit Benefit Corporation, are hereby amended to read as follows:
  - (a) Name Modification. The name of the Orange County Great Park shall be modified to Great Park.
2. Resolution No. 13-04 of the Board of Directors is repealed and superseded in its entirety by this Resolution.

PASSED AND ADOPTED by the Great Park Board of Directors at a regular meeting held on 26<sup>th</sup> day of October, 2021.

  
\_\_\_\_\_  
CHAIR, GREAT PARK

ATTEST:

  
\_\_\_\_\_  
SECRETARY/CLERK OF THE BOARD

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) SS  
GREAT PARK CORPORATION    )

I, CARL PETERSEN, Secretary/Clerk of the Board of the Great Park Corporation (“Corporation”), HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Corporation, held on the 26<sup>th</sup> day of October, 2021.

AYES:	4	DIRECTORS:	Carroll, Kim, Kuo, and Khan
NOES:	1	DIRECTORS:	Agran
ABSENT:	0	DIRECTORS:	None
ABSTAIN:	0	DIRECTORS:	None

  
\_\_\_\_\_  
SECRETARY/CLERK OF THE BOARD

**BYLAWS**  
**OF**  
**GREAT PARK CORPORATION**  
**a California Nonprofit Public Benefit Corporation**

Historical Notes:

adopted December 5, 2003 (Resolution No. GPC 03-01)  
amended October 27, 2005 (Resolution No. GPC 05-06)  
amended December 18, 2008 (Resolution No. GPC 08-06)  
amended January 10, 2013 (Resolution No. GPC 13-01)  
amended April 23, 2013 (Resolution No. GPC 13-04)  
amended January 27, 2015 (Resolution No. GPC 15-01)  
amended [date] (Resolution No. GPC 21-\_\_\_)

**BYLAWS  
OF  
GREAT PARK CORPORATION**  
a California Nonprofit Public Benefit Corporation

ARTICLE I  
NAME

The name of this corporation shall be the GREAT PARK CORPORATION.

ARTICLE II  
OFFICES

**Section 1. Principal Office.** The principal office for the transaction of the business of the Corporation ("principal executive office") is located at One Civic Center Plaza, Irvine, State of California. The directors may change the principal executive office from one location to another within Irvine, California. Any change of this location shall be noted by the Secretary/Clerk of the Board on these Bylaws opposite this section, or this section may be amended to state the new location.

**Section 2. Other Offices.** The Board of Directors may at any time establish branch or subordinate offices at any place or places where the Corporation is qualified to do business.

ARTICLE III  
PURPOSES AND OBJECTIVES

**Section 1. Specific Purpose.** The specific and primary purpose of this Corporation is to plan, design, develop, and operate property and improvements located in the City of Irvine and within the boundaries of the former United States Marine Corp Air Station El Toro, for public park, recreation, exposition and open space purposes as the "Great Park" project for the benefit of the residents of the City of Irvine, residents of Orange County, and others. This Corporation is organized and shall be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

**Section 2. General Purposes.** The general purposes of this Corporation are the following:

(a) to receive, hold, and disburse gifts, bequests, devises, and other funds to advance the specific and primary purpose of this Corporation;

(b) to own, lease, and maintain suitable real and personal property that is deemed necessary to accomplish the specific and primary purpose of this Corporation; and

(c) to recommend, enter into, make, and perform, and carry out contracts that are deemed necessary to accomplish the specific and primary purpose of this Corporation.

ARTICLE IV  
NONPARTISAN ACTIVITIES

This Corporation has been formed under the California Nonprofit Public Benefit Corporation Law for the purposes described above, and it shall be nonprofit and nonpartisan. No substantial part of the activities of this Corporation shall consist of the publication or dissemination of materials with the purpose of attempting to influence legislation, and this Corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office or for or against any cause or measure being submitted to the people for a vote.

This Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of its purposes and objectives described above.

ARTICLE V  
DEDICATION OF ASSETS

The property of this Corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this Corporation shall ever inure to the benefit of any director, officer, or member hereof or to the benefit of any private person. Upon the dissolution or winding up of this Corporation, its assets remaining after payment, or provision for payment, of all of its debts and liabilities shall be distributed to the City of Irvine provided that it is then an organization described in Section 170(c)(1) of the Code or the corresponding provision of any future United States internal revenue law; and if not, such assets shall be distributed to a nonprofit fund, foundation or corporation designated by the Board of Directors which is organized and operated exclusively for charitable, educational or scientific purposes and which has established its tax exempt status under Section 501(c)(3) of the Code or the corresponding provision of any future United States internal revenue law.

ARTICLE VI  
MEMBERS

**Section 1. Directors as Members.** This Corporation shall have no members. Any action that would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board of Directors, as authorized by Section 5310 of the California Nonprofit Corporation Law.

**Section 2. Meetings.** There shall be no meetings of members as such. The persons constituting the Board of Directors may, at any given time and from time to time, act in their capacity as members pursuant to Section 1 of this Article VI, at meetings of the Board of Directors held as provided in Section 5 of Article VII of these Bylaws.

ARTICLE VII  
DIRECTORS

**Section 1. Powers.**

(a) General Corporate Powers. Subject to the provisions of the California Nonprofit Corporation Law and any limitations in the articles of incorporation and these Bylaws, the business and affairs of this Corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board of Directors; provided, however, that in order to preserve the nonprofit, exempt-from-income-tax status of this Corporation, neither the board nor any member thereof shall do any act, or authorize or suffer the doing of any act by an officer or employee of this Corporation, on behalf of the Corporation, that is inconsistent with the articles or these Bylaws or the nonprofit purpose of this Corporation. Any such act or acts shall be null and void.

(b) Specific Powers. Without prejudice to these general powers, and subject to the same limitations, the directors shall have the power to:

(i) Select and remove all officers, agents, and employees of this Corporation; prescribe any powers and duties for them that are consistent with law, with the articles of incorporation, and with these Bylaws; and fix their compensation.

(ii) Change the principal office in Irvine, California, from one location to another within Irvine, California; and designate any place within Irvine, California, for the holding of any meeting or meetings.

(iii) Adopt, make, and use a corporate seal; and alter the form of the seal.

(iv) Borrow money and incur indebtedness on behalf of this Corporation and cause to be executed and delivered for this Corporation's purposes and objectives, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.

**Section 2. Number and Qualification of Directors.**

(a) Number of Directors; Increase. The number of directors shall be five (5), who shall be the duly elected or appointed and qualified members of the City Council of the City of Irvine. The number of directors may be increased by resolution of the Board of Directors.

**Section 3. Directors' Meetings.**

(a) Place of Meetings. Meetings of the Board of Directors may be held at any place within the City of Irvine that has been designated from time to time by resolution of the board or in the notice of the meeting. In the absence of such designation, meetings shall be held at the principal office of this Corporation.

(b) Annual Meeting. The annual meeting of the Board of Directors shall be held each year in January, at a time designated by the Board of Directors, unless the board fixes another date and time. At each annual meeting officers shall be elected and any other proper business may be transacted.

(c) Other Regular Meetings. Other regular meetings of the Board of Directors may be held at such time and place as shall from time to time be fixed by the Board of Directors.

(d) Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the chairman/chairwoman of the board, if any, the chief executive officer, or any two (2) directors. Notice of the time and place of special meetings shall be given to each director in accordance with the Ralph M. Brown Act, California Government Code Section 54950 *et seq.* ("Brown Act").

(e) Quorum. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, subject to the more stringent provisions of the articles of incorporation, these Bylaws and the California Nonprofit Corporation Law, including, without limitation, those provisions in the articles of incorporation and these Bylaws relating to (i) the investment and management of the funds of this Corporation and (ii) those provisions of the California Nonprofit Corporation Law relating to a) approval of contracts or transactions in which a director has a direct or indirect material financial interest, b) appointment of committees, and c) indemnification of directors.

(f) Adjournment. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

(g) Notice of Adjournment. Notice of the time and place of holding an adjourned meeting shall be given in accordance with the Brown Act.

(h) Open Meeting Law Compliance. Notwithstanding any other provision of these Bylaws, including but not limited to this Section 4 and Section 5 of Article VII, the Corporation shall be subject to, and comply with, all of the provisions of the Brown Act; and the Board of Directors shall be deemed to be a "legislative body" as defined by the Brown Act.

(i) Rules of Order. Except as otherwise provided in these Bylaws, "Robert's Rules of Order, Newly Revised," shall guide the conduct of meetings of the Board of Directors. No resolution, proceeding or other action of the Board of Directors shall be invalidated, or the legality thereof otherwise affected, by the failure or omission to observe or follow such rules.

**Section 4. Compensation.** Directors shall receive such compensation for their services as may be fixed or determined by resolution of the Board of Directors.

**Section 5. Committees of the Board.** The Board of Directors may, by resolution, create one or more standing or ad hoc committees consisting of directors designated by, and to serve at the pleasure of, the Board of Directors, in accordance with the applicable requirements of the Brown Act, and in accordance with City policies and practices as they may be amended from time to time.

## ARTICLE VIII OFFICERS

**Section 1. Officers.** The officers of this Corporation shall be a chief executive officer, deputy chief executive officer to serve in the absence of the chief executive officer, a Secretary/Clerk of the Board, and a chief financial officer. The chief executive officer shall be responsible for the duties of the "president" in accordance with any applicable requirements of the California Nonprofit Corporation Law. This Corporation may also have, at the discretion of the Board of Directors, a chairman/chairwoman of the board, a vice chair, a treasurer, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 3 of this Article VIII. If there is a treasurer, he or she shall be the chief financial officer unless some other person is so appointed by the Board of Directors.

**Section 2. Election of Officers.** The officers of the Corporation, except those appointed in accordance with the provisions of Section 3 of this Article VIII, shall be elected by the Board of Directors, and each shall serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment.

**Section 3. Subordinate Officers.** The Board of Directors may appoint, and may authorize the chief executive officer or another officer to appoint, any other officers that the business of the Corporation may require, each of whom shall have the title, hold office for the period, have the authority, and perform the duties specified in the Bylaws or determined from time to time by the Board of Directors.

**Section 4. Removal of Officers.** Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the Board of Directors, at any regular or special meeting of the board, or, except in case of an officer elected by the Board of Directors, by an officer on whom such power of removal may be conferred by the Board of Directors.

**Section 5. Resignation of Officers.** Any officer may resign at any time by giving written notice to the Board of Directors. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of this Corporation under any contract to which the officer is a party.

**Section 6. Vacancies in Office.** A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled only in the manner prescribed in these Bylaws for regular election to that office.

**Section 7. Chairman/Chairwoman of the Board.** The Board of Directors shall elect one of its members to serve as chairman/chairwoman of the board. The chairman/chairwoman of the board shall preside at meetings of the Board of Directors and exercise and perform such other powers and duties as may be from time to time assigned to him or her by the Board of Directors or prescribed by the Bylaws.

**Section 8. Chief Executive Officer.** Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman/chairwoman of the board, the chief executive officer shall, subject to the control of the Board of Directors, generally supervise, direct, and control the business and the officers of the Corporation. The chief executive officer shall have such other powers and duties as may be prescribed by the Board of Directors or the Bylaws.

**Section 9. Vice Chairman/Chairwoman.** The Board of Directors shall also elect one of its members to serve as vice chairman/chairwoman of the board. In the absence or disability of the chairman/chairwoman, the vice chairman/chairwoman shall perform all the duties of the chairman/chairwoman, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the chairman/chairwoman. The vice chairman/chairwoman shall have such other powers and perform such other duties as from time to time may be prescribed by the Board of Directors or Bylaws and the chairman/chairwoman of the board.

**Section 10. Secretary/Clerk of the Board.** The Secretary/Clerk of the Board shall attend to the following:

(a) Book of Minutes. The Secretary/Clerk of the Board shall keep or cause to be kept, at the principal office or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of directors, committees of directors, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at such meetings, the number of directors present or represented at directors' meetings, and the proceedings of such meetings.

(b) Notices, Seal and Other Duties. The Secretary/Clerk of the Board shall give, or cause to be given, notice of all meetings of the Board of Directors required by the Bylaws or by law to be given. The Secretary/Clerk of the Board shall keep the seal of the Corporation in safe custody. The Secretary/Clerk of the Board shall have other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

**Section 11. Chief Financial Officer.**

(a) Books of Account. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts

of the properties and business transactions of this Corporation. The Chief Financial Officer shall send or cause to be given to the directors such financial statements and reports as are required to be given by law, by these Bylaws, or by the board. The books of account shall be open to inspection by any director at all reasonable times.

(b) Deposit and Disbursement of Money and Valuables. The Chief Financial Officer shall deposit all money and other valuables in the name and to the credit of this Corporation with such depositories as may be designated by the Board of Directors and the Chief Financial Officer shall disburse the funds of this Corporation as may be ordered by the Board of Directors. The Chief Financial Officer shall render to the chief executive officer and directors, whenever they request it, an account of all transactions effected by the Chief Financial Officer and of the financial condition of this Corporation. The Chief Financial Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

(c) Bond. If required by the Board of Directors, the Chief Financial Officer shall give this Corporation a bond in the amount and with the surety or sureties specified by the Board of Directors for faithful performance of the duties of such office and for restoration to this Corporation of all its books, papers, vouchers, money, and other property of every kind in the possession or under control of the Chief Financial Officer on such officer's death, resignation, retirement, or removal from office.

#### ARTICLE IX

#### INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS

**Section 1. Right of Indemnity.** To the fullest extent permitted by law, this Corporation shall indemnify any present or former director, officer, employee or other "agent" of the Corporation, as that term is defined in Section 5238 of the California Nonprofit Corporation Law, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that Section, and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this bylaw, shall have the same meaning as in Section 5238(a) of the California Corporations Code.

**Section 2. Approval of Indemnity.** On written request to the board by any person seeking indemnification under Section 5238(b) or Section 5238(c) of the California Corporations Code, the board shall promptly determine under Section 5238(e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) has been met and, if so, the board shall authorize indemnification. If the board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the board shall promptly call a meeting of members. At that meeting, the members shall determine under Section 5238(e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) has been met and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

**Section 3. Advancement of Expenses.** To the fullest extent permitted by law and except as otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under Sections 5238(b) or 5238(c) of the California Corporations

Code in defending any proceeding covered by those Sections shall be advanced by the Corporation before final disposition of the proceeding, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses.

**Section 4. Insurance.** The Corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising out of the officer's, director's, employee's, or agent's status as such.

## ARTICLE X RECORDS AND REPORTS

**Section 1. Maintenance of Corporate Records.** The Corporation shall keep:

- (a) Adequate and correct books and records of account; and
- (b) Written minutes of the proceedings of its board and committees of the board.

**Section 2. Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect the Corporation's books, records, documents of every kind, physical properties, and the records of each of its subsidiaries. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

**Section 3. Independent Audit and Annual Report.** The Corporation shall cause an independent annual financial audit and annual report to be sent to the directors within six (6) months after the close of the Corporation's fiscal year and shall cause the independent annual audit and annual report to be presented to the City Council within six (6) months after the close of the Corporation's fiscal year. If required by the Nonprofit Integrity Act, the audit and annual report shall be provided to the California Attorney General. That audit and report shall contain the following information, in appropriate detail, for the fiscal year:

- (a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year.
- (b) The principal changes in assets and liabilities, including trust funds.
- (c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes.
- (d) The expenses or disbursements of the Corporation for both general and restricted purposes.
- (e) Any information required by Section 4 below.

- (f) Any applicable information required by the Nonprofit Integrity Act.

The annual independent audit and annual report shall be accompanied by any report on it of independent accountants.

This requirement of an annual independent audit and annual report shall not apply if the Corporation receives less than Twenty-Five Thousand Dollars (\$25,000.00) in gross receipts during the fiscal year, provided, however, that the information specified above for inclusion in an annual independent audit and report must be furnished annually to all directors who request it in writing.

**Section 4. Annual Statement of Certain Transactions and Indemnifications.** As part of the annual report to all directors, or as a separate document if no annual report is issued, the Corporation shall annually prepare and furnish to each director a statement of any transaction or indemnification of the following kind within one hundred twenty (120) days after the end of the Corporation's fiscal year:

(a) Any transaction (i) in which the Corporation, its parent, or its subsidiary was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than Fifty Thousand Dollars (\$50,000.00), or was one of a number of transactions with the same interested person involving, in the aggregate, more than Fifty Thousand Dollars (\$50,000.00). For this purpose, an "interested person" is either of the following:

(i) Any director or officer of the Corporation, its parent, or subsidiary (but mere common directorship shall not be considered such an interest); or

(ii) Any holder of more than ten percent (10%) of the voting power of the Corporation, its parent, or its subsidiary. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

(b) Any indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000.00) paid during the fiscal year to any officer or director of the Corporation under Article IX of these Bylaws, unless that indemnification has already been approved by the directors under Section 5238(e) (2) of the California Corporations Code.

## ARTICLE XI COMPLIANCE WITH CONFLICT OF INTEREST LAWS

**Section 1. Application of Political Reform Act.** Notwithstanding any other provision of these Bylaws, the Corporation shall be subject to, and comply with, all of the provisions of the Political Reform Act of 1976, as amended, Government Code Section 81000 *et seq.* The Corporation shall be deemed to be an "agency," and each director and officer shall be deemed to be a "designated employee," as defined in the Political Reform Act). Each director and officer shall be subject to the conflict of interest reporting and disqualification requirements of the Political Reform Act. The Board of Directors shall adopt, periodically

review, and, if necessary, amend, a "conflict of interest code" as such term is defined in the Political Reform Act.

**Section 2. Application of Government Code Section 1090.** City Directors shall be subject to the provisions of California Government Code section 1090 *et seq.* ("Section 1090") and the Corporation shall be deemed a "body" of which each director is a member.

ARTICLE XII  
GENERAL CORPORATE MATTERS

**Section 1. Fiscal Year.** The fiscal year of this Corporation shall commence on July 1 and conclude on the immediately following June 30.

**Section 2. Budget.** Prior to the commencement of each fiscal year of this Corporation, the Board of Directors shall adopt a budget setting forth the estimated capital, operating and other expenditures required in connection with, and estimated receipts from, the activities of the Corporation for such fiscal year; provided, however, that during its first fiscal year, the Board of Directors shall adopt a budget for that initial year within four months of the first meeting of the Board of Directors. No expenditure may be made or obligation incurred which, when added to any other expenditure for the fiscal year of the Corporation, exceeds the budget for that fiscal year by more than Five Thousand Dollars (\$5,000.00) or any line item specified in the budget by more than five percent (5%).

**Section 3. Investment Policy; Money Manager.** The Board of Directors shall adopt and annually review and, if necessary, amend an investment policy for the Corporation. The Board of Directors shall engage a reputable money management firm to manage and invest the idle funds of the Corporation in accordance with such investment policy.

**Section 4. Checks, Drafts, Evidence of Indebtedness.** All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to this Corporation, shall be signed or endorsed by such person or persons and in such manner as from time to time shall be determined by resolution of the Board of Directors.

**Section 5. Corporate Contracts and Instruments; How Executed.** The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of this Corporation, and this authority may be general or confined to specific instances; and, unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind this Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

**Section 6. Construction and Definitions.** Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a legal entity and a natural person.

**Section 7. Compliance With Public Records Act.** The Corporation shall comply with and be subject to the provisions of the California Public Records Act, California Government Code Section 6250 *et seq.* ("Public Records Act"). The Corporation shall be deemed a local agency as that term is used in the Public Records Act, and as such, shall be subject to all obligations and exemptions under the Public Records Act.

**Section 8. Compliance with Nonprofit Integrity Act.** The Corporation shall comply with applicable provisions of the Nonprofit Integrity Act.

ARTICLE XIII  
AMENDMENTS

New Bylaws may be adopted or these Bylaws may be amended or repealed by approval of a majority of the Board of Directors.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary/Clerk of the Board of:

GREAT PARK CORPORATION  
a California Nonprofit Public Benefit Corporation

2. That the foregoing Bylaws, comprising 11 pages, constitute the Bylaws of said corporation as duly adopted at an adjourned regular meeting of the Board of Directors of the Corporation held on the 26th day of October, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of October, 2021.

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SECRETARY/CLERK OF THE BOARD

**TABLE OF CONTENTS**

ARTICLE I	NAME .....	1
ARTICLE II	OFFICES .....	1
Section 1.	Principal Office .....	1
Section 2.	Other Offices.....	1
ARTICLE III	PURPOSES AND OBJECTIVES .....	1
Section 1.	Specific Purpose .....	1
Section 2.	General Purposes .....	1
ARTICLE IV	NONPARTISAN ACTIVITIES .....	2
ARTICLE V	DEDICATION OF ASSETS .....	2
ARTICLE VI	MEMBERS.....	2
Section 1.	Directors as Members.....	2
Section 2.	Meetings .....	2
ARTICLE VII	DIRECTORS .....	3
Section 1.	Powers.....	3
Section 2.	Number and Qualification of Directors .....	3
Section 3.	Directors' Meetings .....	3
Section 4.	Compensation .....	5
Section 5.	Committees of the Board.....	5
ARTICLE VIII	OFFICERS.....	5
Section 1.	Officers .....	5
Section 2.	Election of Officers .....	5
Section 3.	Subordinate Officers.....	5
Section 4.	Removal of Officers .....	5
Section 5.	Resignation of Officers .....	5
Section 6.	Vacancies in Office .....	6
Section 7.	Chairman/Chairwoman of the Board.....	6
Section 8.	Chief Executive Officer .....	6
Section 9.	Vice Chairman/Chairwoman.....	6
Section 10.	Secretary/Clerk of the Board .....	6
Section 11.	Chief Financial Officer.....	6
ARTICLE IX	INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS.....	7
Section 1.	Right of Indemnity.....	7
Section 2.	Approval of Indemnity .....	7

Section 3.	Advancement of Expenses .....	7
Section 4.	Insurance .....	8
ARTICLE X	RECORDS AND REPORTS .....	8
Section 1.	Maintenance of Corporate Records.....	8
Section 2.	Inspection by Directors .....	8
Section 3.	Independent Audit and Annual Report .....	8
Section 4.	Annual Statement of Certain Transactions and Indemnifications.....	9
ARTICLE XI	COMPLIANCE WITH CONFLICT OF INTEREST LAWS .....	9
Section 1.	Application of Political Reform Act.....	9
Section 2.	Application of Government Code Section 1090.....	10
ARTICLE XII	GENERAL CORPORATE MATTERS .....	10
Section 1.	Fiscal Year .....	10
Section 2.	Budget .....	10
Section 3.	Investment Policy; Money Manager. ....	10
Section 4.	Checks, Drafts, Evidence of Indebtedness. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to this Corporation, shall be signed or endorsed by such person or persons and in such manner as from time to time shall be determined by resolution of the Board of Directors.....	10
	Corporate Contracts and Instruments; How Executed.....	10
Section 5.	Construction and Definitions.....	10
Section 6.	Compliance with Public Records Act .....	11
Section 7.	Compliance with Nonprofit Integrity Act.....	11
Section 8.		
ARTICLE XIII	AMENDMENTS .....	11

# Planning Commission Bylaws

CITY COUNCIL RESOLUTION NO. 05-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE AMENDING THE "BY-LAWS OF THE PLANNING COMMISSION OF THE CITY OF IRVINE"

WHEREAS, Section 1-4-213 of the Code of the City of Irvine authorizes City Commissions to adopt rules and regulations for the conduct of their meetings, provided that such rules and regulations do not conflict with the City Code and further provided that the City Council approves such rules and regulations; and

WHEREAS, on June 11, 1991, the City Council adopted Resolution No. 91-83 approving the "By-laws of the Planning Commission of the City of Irvine;" and

WHEREAS, on January 23, 1992, the Planning Commission voted to amend Section 2.2 of the adopted By-laws; and

WHEREAS, on February 25, 1992, the City Council adopted the amended By-laws approved by the Planning Commission; and

WHEREAS, on February 17, 1994, the Planning Commission voted to amend Section 3.6 of the adopted By-laws; and

WHEREAS, on February 22, 1994, the City Council adopted the amended By-laws approved by the Planning Commission; and

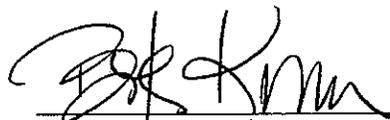
WHEREAS, on February 17, 2005, the Planning Commission voted to amend Section 8.1 of the adopted By-laws

WHEREAS, the amended By-laws are consistent with the Code of the City of Irvine.

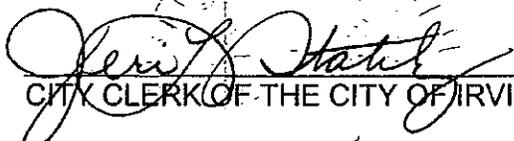
NOW, THEREFORE, the City Council of the City of Irvine HEREBY RESOLVES as follows:

SECTION 1. The amended "By-laws of the Planning Commission of the City of Irvine" attached hereto as Exhibit "A: are hereby approved.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 8<sup>th</sup> day of March 2005.

  
MAYOR OF THE CITY OF IRVINE

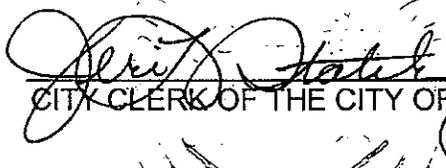
ATTEST:

  
CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE

I JERI L. STATELY, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 8th day of March 2005.

AYES: 5 COUNCILMEMBERS: Agran, Choi, Kang, Shea and Krom  
NOES: 0 COUNCILMEMBERS: None  
ABSENT: 0 COUNCILMEMBERS: None

  
CITY CLERK OF THE CITY OF IRVINE

**PLANNING COMMISSION BY LAWS**  
**City Council Resolution No. 94-65**

1.0 COMMISSION CREATION, TITLE, AND AUTHORITY

- 1.1 Creation - The Irvine Planning Commission is created under Section 5-3-101 of the Irvine Code of Ordinances.
- 1.2 Title - This body officially shall be known as the "Irvine Planning Commission." The terms "Planning Commission" and "Commission," where used in these By-Laws, also shall refer to and mean the Irvine Planning Commission.
- 1.3 Powers and Duties - The powers and duties of the Irvine Planning Commission are set forth in Section 5-3-108 of the Irvine Code of Ordinances.

2.0 MEMBERS, OFFICERS AND STAFF

- 2.1 Members - The Irvine Planning Commission consists of five members appointed by the City Council. Each member of the City Council shall appoint one Commissioner who shall serve at the pleasure of the member of the City Council who appointed such Commissioner; and

Such appointment shall be made by filing a written statement with the City Clerk setting forth:

- (a) The fact of such appointments;
- (b) The name of the person being appointed; and
- (c) The date as of which such appointment is to be effective.

All Commissioners shall be appointed for a term of one (1) year, or until the expiration of the term of the member of the Council who appointed them, whichever occurs first; provided, however, a Commissioner is appointed and qualifies for office. Commissioners may be reappointed to any number of one year terms, consecutive or not.

- A. Vacancy - members: Should any vacancy occur among the members of this Planning Commission other than, by expiration, the Secretary immediately shall notify the City Manager. The City Council member who originally appointed the Commissioner who vacated his or her seat shall fill the vacancy by appointment for the unexpired portion of the term.
- B. Vacancy - Chair or Vice Chair or Chair Pro Tem: Should the Chair, Vice Chair, or Chair Pro Tern cease to be members of the Commission, the remaining members shall elect a Chair, Vice Chair, or Chair Pro Tern at the second regular meeting thereafter, by a majority vote of members present, providing there is a quorum. The officer so elected shall serve for the unexpired portion of the term of office.

2.2 Officers - Officers of the Commission shall consist of a Chair, Vice Chair, or Chair Pro Tem and Secretary. The Chair, Vice Chair, and Chair Pro Tem shall be elected by the Commission at the annual meeting by plurality vote, providing there is a quorum present. The Chair, Vice Chair, or Chair Pro Tem may be removed at any time by the Commission upon a three-fifths (3/5) vote. If the Chair, Vice Chair, or Chair Pro Tem is removed by such a vote, a new election shall be held to fill the vacancy. The newly elected officer shall serve in that official capacity until the next annual meeting of the Planning Commission or until removed. The Secretary shall be and the term shall correspond to his official tenure.

- A. Chair - Shall preside at all meetings and hearings of the commission; call special meetings in accordance with these Rules of Procedure; appoint committees and act as an ex-officio member of all committees so appointed; and sign documents in accordance with these Rules of Procedure and as prescribed by City Code or State law. He or she may represent the Commission before the City Council or appoint other members to do so.
- B. Vice Chair - Shall perform all of the duties of the chair in case of his absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.
- C. Chair Pro Tem - Shall perform all the duties of the Chair in the absence of the Chair and Vice Chair.
- D. Secretary - The Director of Community Development shall serve as Secretary to the Commission and as such administer the preparation of agenda, staff reports, minutes, and all other functions relative to the work and operation of the Planning Commission. In the event that the Chair, Vice Chair and Chair Pro Tem are absent or not permitted to serve, the Secretary shall perform the Chair's functions.

2.3 Staff

- A. The Director of Community Development - Shall be an ex-officio member of the Commission and as such shall provide technical service to the Commission and shall attend all meetings.
- B. The City Manager, City Attorney, and City Engineer shall be advisors or consultants to the Commission and as such may be called upon as follows:

City Manager -	upon request of the Chairman for specific matters.
City Attorney-	attendance at all regular meetings and as a consultant to the professional staff.
City Engineer-	Upon request of the Chairman for specific

matters.

- C. Clerk - Shall serve as the recording Secretary of the Planning Commission, and shall be responsible for taking and transcribing minutes, recording all votes, and receiving all documentary evidence.

### 3.0 INITIATING AN AGENDA ITEM

While the Commission has the authority on its own initiative to discuss and/or act on any matter within its statutory authority, subject to the requirements of the Section I.B-301(b) of the Irvine City Code, the normal procedure for initiating an item for Commission consideration is as set forth in the zoning and subdivision regulations of the City of Irvine. The following is a simplified summary for informational purposes only:

- 3.1 Commissioner Request - Any Planning Commissioner may initiate an item for Commission consideration by making such a request to the Secretary of the Planning Commission by no later than the legal deadline for noticing and placing the matter on the agenda.
- 3.2 Submission of Application - Any person, group or firm having a sufficient interest may make application for Planning Commission action by submitting proper application forms and all related material and specified fees to the Community Development Department of the City of Irvine, 1 Civic Center Plaza, Irvine, California 92606.
- 3.3 Deadlines - All applications must be submitted to the Department of Community Development in accordance with the deadlines that are published and available from that office.
- 3.4 Incomplete Submittals - Incomplete submittals will not be considered as filed and will not qualify for placement on a Commission agenda.
- 3.5 Pre-Application Assistance - The Staff is available for pre-application review and assistance to the applicant. This shall not be interpreted as meaning that the staff will prepare any of the required applications or documentation.
- 3.6 Consideration of Material Presented After Deadline - Unless otherwise required by law, the Planning Commission shall not consider any written material recommending the addition of, or alteration to, a resolution, condition of approval or finding if the same has not been submitted to the Secretary of the Planning Commission by no later than 5:00 p.m. on Wednesday, one week prior to the Planning Commission meeting. The above notwithstanding, the Chair of the Planning Commission may decide to accept written material recommending the addition of or alteration to a resolution, condition of approval or finding in exceptional circumstances if the same has not been timely submitted in accordance with the above deadline.

#### 4.0 COMMISSION MEETING PROCEDURE

- 4.1 Call to Order - Meetings shall be called to order by the Chair of the Commission or, in his or her absence, the Vice Chair. If both are absent, the Commission members present shall select a Chair Pro Tem.
- 4.2 Regular Meetings - All regular meetings shall be conducted in the order set forth in the following paragraphs. The Chair, or a majority of the Commission, may direct an agenda item to be taken out of order, if it would serve the public to do so, under the following circumstances:
- (a) A significant interest in a particular item;
  - (b) A significant number of people present for the hearing of a particular item;
  - (c) The length of the hearing anticipated with respect to a particular agenda item.
- A. Call to Order - The Chair shall call the meeting to order.
- B. Pledge of Allegiance - The Chair shall lead the Pledge of Allegiance to the Flag of the United States of America.
- C. Roll Call - The Secretary shall record the attendance.
- D. Agenda Review - The Chair shall review the agenda and solicit any deletions or additions. Additions may be made so long as such additions do not require the Planning Commission to "act" as defined in Section 6.3B of these By-Laws.
- E. Public Comment - The Chair shall ask if any person wishes to speak to the Commission on any item not listed on the agenda. Comment is limited to three (3) minutes per speaker.
- F. Presentations - The Staff shall make presentations to the Commission.
- G. Consent Calendar - Any item which is not a public hearing as required by law, and which does not require specific findings of fact as required by law, may be placed on the "Consent Calendar." The approval of minutes shall be included within this category. Any Planning Commissioner may withdraw any item from the Consent Calendar by oral request prior to a vote on the Consent Calendar. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.
- H. Appeals - The Planning Commission shall hear any item properly appealed to the Planning Commission in the manner required by the

Irvine Municipal Code.

- I. Public Hearings - All advertised public hearing items shall be heard in the following order:
  - 1. Read title of public hearing.
  - 2. Open Public Hearing
  - 3. Receive Staff Report
  - 4. Receive Public Input
    - a. Applicant's opening comments
    - b. Comments of those in favor of project
    - c. Comments of those against the project
    - d. Applicant's closing comments
  - 5. Commission Questions
  - 6. Close Public Hearing
  - 7. Solicit Motion for Discussion
  - 8. Discuss Motion
  - 9. Vote (if Project requires Negative Declaration or Environmental Impact Report, vote on Neg. Dec. or EIR first.)
  - 10. Reopen Public Hearing if item to be continued.
- J. Commission Business - Any hearing item relating to the functioning of the Commission as required by law and which is not on the consent calendar shall be included on the agenda as "Commission Business."
- K. Staff Reports - Items responding to Commission requests and Staff Reports or updates on ongoing matters.
- L. Planning Commission Reports - Any non-public hearing item to be discussed or reported on at the request of a Planning Commissioner.
- M. Additional Matters. - Any items not fitting within the above categories.
- N. Adjournment - Chair solicits motion to adjourn to next meeting.

5.0 PRESENTATIONS BEFORE THE COMMISSION

5.1 Rules of Presentation.

- A. Addressing Commission.
  - (1) Securing permission. right to address Commission. Any person desiring to address the Commission shall first secure the permission of the presiding officer; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Commission upon obtaining recognition by the presiding officer:

- (a) Staff reports. Interested parties or their authorized representatives may address the Commission with regard to written communications referred to in the report of the city manager or any department head.
  - (b) Public hearings. Interested persons or their authorized representatives may address the Commission in regard to matters then under consideration.
  - (c) Public comment. Any person may address the Commission by oral communication on any matter over which the Commission has control; provided, however, that preference shall be given to those persons who have notified the Secretary of the Commission of their desire to speak in order that the same may appear on the minutes of the Commission.
- (2) Manner of addressing Commission; time limit. Spokesman for group. Persons addressing the Commission shall step up to the microphone at the table, give their name and address in an audible tone of voice for the record, and, unless further time is granted by the presiding officer, limit their address to five (5) minutes; providing, however, that when public comment first occurs in the order of business for Commission meetings, as provided by resolution, each person addressing the Commission shall limit his or her remarks to three (3) minutes, unless further time is granted by the presiding officer. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than a member of the Commission, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Commission on the same subject matter, it shall be proper for the presiding officer to request that a spokesman be chosen by the group to address the Commission, and in case additional matters are to be presented at the time by any other member of said group, to limit the number of persons addressing the Commission, so as to avoid unnecessary repetition before the Commission. The presiding officer may interrupt a witness and instruct him to redirect his remarks or cause him to terminate his remarks when they are not relevant to the matter before the Commission.

- (3) Addressing the Commission after close of public hearing. After a public hearing has been closed and before action is taken by the Commission, no person shall address the Commission without first securing the permission of the presiding officer.

B. Decorum.

- (1) By Commission Members. While the Commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the Commissioner disturb any member while speaking or refuse to obey the orders of the Commission or the presiding officer, except as otherwise provided in these By-Laws.
- (2) By other persons. Persons who substantially impair or disturb a Commission meeting by intentionally committing acts in violation of the provisions of these By-Laws or of implicit customs or usages governing the conduct of Planning Commission meetings shall be advised of such violation and requested to curtail such acts by the presiding officer. If, after such advice and request, such persons refuse or fail to curtail such acts, the presiding officer may cause any peace officer present to eject them from the council chamber or place them under arrest and be charged with a violation of California Penal Code Section 403. In the event that the meeting is interrupted so as to render the orderly conduct of such meeting infeasible, and order cannot be restored, the Commission may order the room cleared and continue in session.

## 6.0 PUBLIC HEARINGS

- 6.1 Notices - Notice of the time, place, proposed action and reason for the public hearing shall be given as required by law.
- 6.2 Posting of Notice and Agenda.
  - A. Posting of Notice and Agenda - In addition to the requirements set forth in Section 6.1 above, for every regular or special meeting, the Secretary of the Planning Commission or his or her designee shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting. The notice and agenda may be combined in a single document.
  - B. Location of Posting - The notice and agenda shall be posted at the Police office at 1 Civic Center Plaza in the City of Irvine.
  - C. Posting for Regular Meetings - For any regular meeting of the Planning Commission, the notice and agenda shall be posted no later than seventy two (72) hours prior to the time set for the meeting.
  - D. Posting for Special Meetings - For any special meeting of the Planning Commission, the notice and agenda shall be posted in a

location that is freely accessible to the public no later than twenty four (24) hours prior to the time set for the meeting.

- E. Posting for Emergency Meetings - In case of an emergency as described in Section 8.7 of these By-Laws, the Commission may, pursuant to Government Code Section 54956.5, hold an emergency meeting without complying with the normal notice or posting requirements.
- F. Affidavit of Posting - Immediately following the posting of the notice and agenda, the City Clerk or his or her designee shall complete an Affidavit of Posting, in a form to be developed by the City Clerk. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The City Clerk shall retain all such affidavits, together with a copy of each notice and agenda so posted, in his or her files.

### 6.3 Agenda - Contents.

- A. Description of Matters - All items of business to be discussed at a meeting of the Planning Commission shall be briefly described on the agenda. The description need not set out the specific action or alternatives which will be considered by the Planning Commission, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the agenda.
- B. Limitation of Actions by Agenda - No action shall be taken by the Planning Commission, on any item not appearing on a posted agenda, subject only to the following exceptions:
  - (1) Upon a determination by a majority vote of the Commission that an emergency situation exists, as defined in Section 54956.5 of the California Government Code.
  - (2) Upon a determination by a two-thirds vote of the Commission, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted.
  - (3) The item was posted for a prior meeting of the Commission which occurred not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

"Action taken" as used herein shall mean a collective decision made by a majority of the Members of the Planning Commission, a collective commitment or promise by a majority of the Members of the Planning Commission to make a positive or a negative decision, or an actual vote by a majority of the Members of the Planning Commission upon a motion, proposal, resolution, order, or ordinance. With regards to matters not on

the agenda, the Members of the Planning Commission may ask questions of persons who raise such matters during the Public Comment period or otherwise, infra, but such questions should be limited to informational purposes, and the Planning Commission should avoid discussions of the merits or giving directions regarding such subjects. With regards to matters raised by Members of the Planning Commission under Staff and Planning Commission Reports, such matters which are not on the Agenda should normally be placed on future agenda. These matters may not be discussed and no action may be placed on such matters without being placed on a subsequent Agenda. The above notwithstanding, "Action Taken" shall not refer to a request by the Planning Commission that Staff return with information at some future date.

## 7.0 STANDING RULES

7.1 Quorum - At any meeting of the Planning Commission, a quorum shall consist of three of the appointed members of the Commission. No action shall be taken in the absence of a quorum, except that those members present shall be entitled by motion to adjourn the meeting to another date.

### 7.2 Voting

- A. One vote per member - The Chair, Vice Chair, Chair Pro Tern and each Commissioner shall be entitled to one vote.
- B. Proxy votes - No proxy votes are permitted.
- C. Roll Call - A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the Commission. Upon the request of any Commission, a Roll Call vote shall be taken and recorded on any vote. Whenever a Roll Call vote is in order, the Clerk shall call the names of the members in alphabetical order- except that the name of the presiding officer shall be called last.
- D. Disqualification from voting - In the event that any Commission member present shall have a conflicting personal interest of any kind in a matter then before the Planning Commission, he or she shall announce that he or she has a conflict and disqualify himself or herself from voting upon the matter. The minutes shall reflect that no vote was cast by said member. For the purposes of these By-Laws, "conflicting personal interest" shall mean conflict of interest as used in California Government Code Sections 1090, 1091, 1091.5, 87100, 87103, Title 2 Chapter 7 Section 18700 et seq. of the California Administrative Code or any other situation when the Commission member does not believe that he or she can make an impartial or unbiased decision.
- E. Majority vote - A majority vote of the members present shall be necessary for the adoption of any proposed action, resolution or

other voting matter except where otherwise set forth in these By-Laws.

- F. Tie Votes - Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.
- G. Absence from Meeting - Any member absent from a meeting shall not be allowed to vote on any matter discussed at that meeting Until said member has listened to the tapes of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff.
- H. Silence constitutes affirmative vote. Unless a member of the Commission has been permitted to and abstains from voting, pursuant to paragraphs (D) and (G) above, such member's silence shall be recorded as an affirmative vote.

7.3 Signature

- A.. Official signature - Such maps, plans or papers as have been approved by resolution of the Planning Commission, duly recorded in the minutes, or where otherwise required by law, shall be signed by the Secretary.

In form, the official signature shall be substantially as follows:

IRVINE PLANNING COMMISSION

\_\_\_\_\_  
(signature)

(name, title)

- B. Minutes shall also be signed by the Secretary or his or her staff.
  - C. In all other matters, the Secretary shall have the power to execute, verify or attest to documents on behalf of this Commission.
- 7.4 Procedural Questions - The Secretary shall rule on all procedural questions, and may call upon the City Attorney for his opinion.
- 7.5 Suspension of Rules - The Commission may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling state law.
- 7.6 Parliamentary Procedure.
- A. Presiding officer may debate and vote. The presiding officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members

of the Commission and shall not be deprived of any of the rights and privileges of a member of the Commission by reason of acting as the presiding officer.

- B. Getting the floor; Improper references to be avoided. Every member of the Commission desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.
- C. Interruptions. A member of the Commission once recognized shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Commission called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.
- D. Motion to reconsider. A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. Such motion must be made by a Commissioner on the prevailing side of the vote, but may be seconded by any member of the commission and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Commission from making or remaking the same or other motion at a subsequent meeting of the Commission.
- E. When remarks of Commission entered in minutes. A member of the Commission shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Commission entered in the minutes. Such an abstract shall contain the statement of each other Commission member who addresses the subject at that time.
- F. When synopsis of debate entered in minutes. The Secretary of the Planning Commission may be directed by the presiding officer, with consent of the Commission, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Commission.
- G. Disqualification and abstention. No member of the Commission shall be permitted to abstain from voting unless the member has disqualified him or herself pursuant to Section 7.2D of these By-Laws. Unauthorized abstentions shall be recorded by the Clerk of the Planning Commission as an affirmative vote.
- H. Rules of order. Except as otherwise provided in this chapter, "Robert's Rules of Order, Newly Revised," shall govern the conduct of the meetings of the Commission. However, no resolution, proceeding or other action of the Commission shall be invalidated, or the legality thereof, otherwise affected, by the failure or omission to observe or follow said rules.

## 8.0 MEETINGS

- 8.1 Regular Meetings - Regular meetings of the Planning Commission shall be held in the City Council Chambers, City Hall; 1 Civic Center Plaza, Irvine, California, at 5:30 P.M., on the first and third Thursday of each month. At such meetings, all matters properly on the Agenda, shall be considered, as set forth in Section 4.0 of these By-Laws. Unless a majority of the members present votes otherwise, the meetings of the Commission shall adjourn at or before 11:00 p.m. If the business of the Commission has not been completed by 11:00 p.m., the Commission may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the Commission adjourns shall be continued to a subsequent regular meeting of the Commission.
- 8.2 Adjourned Meetings - Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.
- 8.3 Special Meetings - A special meeting may be called at any time by the Chairman of the Commission, or by a majority of the Commission's members, by delivering personally or by mail written notice to each member of the Commission and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the Commission. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the ex-officio secretary a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting. The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.
- 8.4 Annual Meeting - The Annual Meeting of the Planning Commission shall be the first regular meeting in the month of January of each year. Such meeting shall commence with the election of a Chair, Vice Chair, and Chair Pro Tern for the ensuing year and such other business as shall be scheduled by the Commission.
- 8.5 Meetings on Holidays - When a regular meeting falls on a holiday, the meeting shall be held on the next city business day or on a day to which the previous meeting was adjourned.
- 8.6 Cancellation of Meeting - Whenever reasons exist, lack of a quorum, no business for Commission consideration, or other good and valid reason, a

meeting may be canceled by the Chair. Such cancellation may be made at any time prior to the meeting but must be in writing and submitted to the Secretary at least twenty-four (24) hours prior to the scheduled meeting, and shall state the reason for said cancellation.

- 8.7 Special Emergency Meetings - Special Emergency Meetings may be called by the Chair or by a majority of the Planning Commission where prompt action is necessary due to the disruption or threatened disruption of public facilities as that phrase is used in Government Code Section 54956.5.
- 8.8 Adjourned Meetings - The Planning Commission may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all Members are absent from any regular or adjourned regular meeting, the Secretary of the Planning Commission may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered personally to each Commissioner member at least three (3) hours before the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within 24 hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.
- 8.9 Closed Sessions - The Planning Commission may hold closed sessions during a regular or special meeting when authorized by State law. This shall include, but not be limited to situations under which the Planning Commission is meeting with the District Attorney, Attorney General, Sheriff or Police on a matter involving a threat to a public building; a matter relating to the appointment, employment evaluation of performance of dismissal of a public employee; any meeting with the City's real estate negotiator involving a discussion of the purchase, sale, exchange or lease of real property; or any matter involving pending litigation. If a closed session is included on the agenda, the description of the item need only identify the statutory basis for the closed session, and need not include the specific topic which is the subject of the closed session. During closed session, the Planning Commission may exclude any person or persons which it is authorized by State law to exclude from a closed session. However, no minutes of the proceedings of the Planning Commission during a closed session are required. The minutes of the Planning Commission meeting shall reflect that the closed session occurred and the authority for the closed session. There shall be no closed session during any emergency meeting.

# **Senior Citizens Council Bylaws**

CITY COUNCIL RESOLUTION NO. 10-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE AMENDING CITY COUNCIL RESOLUTION NO. 07-113 OUTLINING THE DUTIES, RESPONSIBILITIES AND BYLAWS OF THE IRVINE SENIOR CITIZENS COUNCIL

WHEREAS, the Irvine City Council discussed the expansion of participation by senior-serving organizations in the selection of Senior Citizens Council At-large members; and

WHEREAS, the Irvine City Council discussed the process for filling at-large member vacancies from most recent recruitment, and

WHEREAS, the Irvine City Council expressed an interest in extending the terms of the Senior Citizens Council Chair and Vice Chair to two years and conducting elections of officers in January of even-numbered years, and

WHEREAS, the Irvine City Council expressed an interest in modifying the Senior Citizens Council attendance requirements to not exceed more than three absences per year from regular meetings with responsibility placed on the Chair and Vice Chair for approval of meeting absences.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY RESOLVE as follows:

SECTION 1. CREATION - The Senior Citizens Council shall be comprised of seven members; five members of which are to be appointed, one by each member of the City Council, and two at-large members through a public recruitment process.

A member of the Senior Citizens Council must be a resident of the City of Irvine, and each member of the Senior Citizens Council must have attained the minimum age of fifty-five years at the time of his/her appointment.

The City Manager shall appoint a staff member as liaison to the Senior Citizens Council.

SECTION 2. PROCESS FOR SELECTION OF AT-LARGE MEMBERS - A public recruitment will be conducted by City staff in October of odd-numbered years requesting applications to fill the two at-large members of the Senior Citizens Council. Qualified applicants (Irvine resident over the age of 55) will be invited to participate in an oral

interview with a five-member panel identified by an ad hoc committee of the Senior Citizens Council. The five-member panel will select two at-large members to serve a two-year term beginning November of even-numbered years. Formal notification will be provided to City Council of the newly selected at-large members of the Senior Citizens Council. At conclusion of recruitment, an eligibility list of qualified applicants will be established for filling future at-large member vacancies during the current two-year term. A new eligibility list will be established every two years through a public recruitment process.

SECTION 3. TERMS OF OFFICE - The City Council-appointed members of the Senior Citizens Council shall serve at the pleasure of the City Council until replacements are appointed. The two at-large members selected through the public recruitment process shall serve a two-year term. The two at-large members will serve a term to begin November 2009, and expire at the end of October 2010. Thereafter, the two at-large members will serve for two years, beginning November of odd numbered years.

The Senior Citizens Council shall elect a chairperson and vice-chairperson from its membership in January of even-numbered years to serve a two-year term. The chairperson or vice-chairperson may not serve more than two consecutive terms in their respective offices.

If an at-large position on the Senior Citizens Council becomes vacant, the Chair of the Senior Citizens Council may fill the position from the most recent eligibility list with an appointment offered to the next person on the eligibility list, and the person appointed will serve for the remainder of the unexpired term.

Should there be no other qualified applicants on the eligibility list, the Senior Citizens Council Chairperson shall, by appointment, fill the vacant at-large position when the chairperson has solicited input from all members of the Senior Citizens Council, and the person appointed will serve for the remainder of the unexpired term.

SECTION 4. DUTIES - The Senior Citizens Council shall have the duty to:

- (a) Act in an advisory capacity to the City Council in establishing policy on all matters pertaining to the special interests and concerns of senior citizens;
- (b) Act as a sounding board for individuals, schools and organizations that have an interest in senior citizens activities and programs;
- (c) Consider the proposed annual budget for the City employees serving at the senior centers, and make recommendations with respect thereto to the City Council and the City Manager;
- (d) Advise in the planning of facilities, transportation, activities, and services and programs for the senior community;
- (e) Recommend policies for the acquisition, development, use and improvement of land and facilities relating to senior citizens and subject to the rights and powers of the City Council; and

(f) Perform such other duties as may be prescribed by the City Council.

SECTION 5. APPOINTMENT - The Senior Citizens Council may establish committees and sub-committees for the purpose of performing specific tasks within the respective general areas of concern of the Senior Citizens Council.

SECTION 6. APPROPRIATIONS - The City Council shall include in its annual budget such appropriations of funds as, in its opinion, shall be sufficient for the efficient and proper functioning of the Senior Citizens Council.

SECTION 7. COMPENSATION AND EXPENSES - This section has been modified by City Council Resolution No. 04-11, February 10, 2004. Please see Compensation and Expenses portion of Introduction section in the Commission Orientation packet.

SECTION 8. COMMUNICATIONS - Matters coming from the public including communications from individuals, community associations, and civic organizations, to be assured of consideration and action at a meeting of the Senior Citizens Council, must be received in writing at least fourteen days preceding the Senior Citizens Council meeting. All written communications from the Senior Citizens Council shall be sent out over the signature of the chairperson of that Council, or a designated officer thereof.

SECTION 9. ATTENDANCE - Members of the Senior Citizens Council are to attend and participate in all meetings of the Senior Citizens Council. Any member who is absent from three regular meetings of the Senior Citizens Council without the approval of the Senior Citizens Council Chairperson and Vice-Chairperson, shall be deemed to have resigned from the Senior Citizens Council and the Senior Citizens Council chairperson shall notify the City Council.

SECTION 10. MEETINGS - QUORUM - The Senior Citizens Council shall meet regularly on the third Thursdays of the month at 9:00 a.m., at either the Lakeview or Rancho Senior Centers, except as otherwise provided by law. Special meetings may be called by the chairperson or the majority members of the Senior Citizens Council. All meetings shall be open to the public except as otherwise authorized by the laws of the State of California. Regular minutes of each meeting shall be maintained by the Senior Citizens Council, or its designee, and posted in the senior centers for public review. A majority of the voting members of the Senior Citizens Council shall constitute a quorum.

SECTION 11. EMERITUS MEMBERS - Emeritus members to the Senior Citizens Council shall be appointed at the discretion of the City Council. Emeritus members will be appointed as honorary, non-voting members with lifelong terms. Emeritus members are not entitled compensation and will not sit at the dais during Senior Citizen Council meetings.

SECTION 12. AMBASSADOR PROGRAM - Senior Services Ambassadors shall be appointed at the discretion of the Senior Services staff. Ambassadors will volunteer their time to assist in the promotion of senior activities and services. Roles of the Ambassadors may include, but are not limited to, the following:

- o Provide leadership and guidance with senior-serving clubs and organizations;
- o Provide presentations to community groups to increase awareness of activities and services provided by the City of Irvine;
- o Represent the senior community on special task forces and committees; and
- o Provide input to Senior Citizens Council and staff on senior-related issues.

SECTION 13. - The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 11th day of May, 2010.

  
 \_\_\_\_\_  
 MAYOR OF THE CITY OF IRVINE

ATTEST:

  
 \_\_\_\_\_  
 CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA    )  
 COUNTY OF ORANGE    ) SS  
 CITY OF IRVINE         )

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 11th day of May, 2010.

AYES:           5    COUNCILMEMBERS:   Agran, Choi, Krom, Shea and Kang  
 NOES:           0    COUNCILMEMBERS:   None  
 ABSENT:        0    COUNCILMEMBERS:   None

  
 \_\_\_\_\_  
 CITY CLERK OF THE CITY OF IRVINE

# **Sustainability Commission Bylaws**

CITY COUNCIL RESOLUTION NO. 23-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
IRVINE, CALIFORNIA, ADOPTING THE BYLAWS OF THE  
SUSTAINABILITY COMMISSION

WHEREAS, on July 25, 2023, the City of Irvine considered an ordinance relating to the creation and duties of the City of Irvine Sustainability Commission and incorporating the same into the City of Irvine Municipal Code; and

WHEREAS, the City of Irvine desires to establish bylaws for the Sustainability Commission to, among other things, govern the actions and meetings of the Sustainability Commission; and

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY RESOLVE as follows:

SECTION 1. The City Council adopts the "Bylaws of the Sustainability Commission of the City of Irvine" attached hereto as Exhibit A.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 25th day of July 2023.

  
MAYOR OF THE CITY OF IRVINE

ATTEST:

  
CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine held on the 25th day of July 2023.

AYES: 4 COUNCILMEMBERS: Agran, Kim, Treseder, and Khan  
NOES: 0 COUNCILMEMBERS: None  
ABSENT: 1 COUNCILMEMBERS: Carroll  
ABSTAIN: 0 COUNCILMEMBERS: None

  
\_\_\_\_\_  
CITY CLERK OF THE CITY OF IRVINE

**BY-LAWS  
OF THE  
SUSTAINABILITY COMMISSION  
OF THE  
CITY OF IRVINE**

**EXHIBIT A**

**PREAMBLE**

The Bylaws of the Sustainability Commission of the City of Irvine (“Bylaws”) were adopted by the City Council of the City of Irvine pursuant to Resolution No. \_\_\_\_\_ and pursuant to Irvine Municipal Code (“IMC”) Sections 1-4-301 and \_\_\_\_\_.

**1. SUSTAINABILITY COMMISSION CREATION, TITLE, AND AUTHORITY**

1.1 **Creation:** The Sustainability Commission (“Commission”) was created under and continues to exist under Division 4 of Title 1 and Division \_\_ of Title \_\_ of the IMC.

1.1.1 IMC Title 1, Division 4 generally governs or otherwise regulates the Commission’s powers, duties, limitations, and general purpose is attached to these Bylaws as APPENDIX A.

1.1.2 IMC Title 1, Division 4 specifically describes the creation, composition, appointment, duties, and meeting procedures for the Commission, and is attached as APPENDIX B.

1.1.3 IMC Title 1, Division 15 establishes generally applicable rules regarding public meetings, the conduct of public business, notice and agenda requirements, conduct at meetings, procedures for minutes and recordings, and other matters.

1.1.4 Title 1, Divisions 4 and 15, and Title 6, Division 13 are subject to change, consistent with City Council policies and State law, and each such Division shall take precedence over these bylaws and over any procedures adopted by the Commission.

1.2 **Title:** The Commission officially shall be known as the “Sustainability Commission.” The term “Commission,” where used in these Bylaws, also shall refer to and mean the “Sustainability Commission.”

1.3 **Duties:** The Commission was formed pursuant to IMC section 1-4-201 and IMC section 1-4-301. The Commission is a continuing body operating in the following general areas of concern: Sustainability policies and programs. The powers and duties of the Commission are as follows:

1.3.1 Advise the City Council on sustainability policies and programs related to climate action and resiliency, energy, recycling and waste management, mobility, open space, and water issues;

1.3.2 Advise the City Council in the review of sustainability programs or projects the City is proposing; and

1.3.3 Advise staff and the City Council on successful implementation of the Climate Action and Adaptation Plan, including suggestions on how that work can be performed more efficiently and effectively;

1.3.4 Provide suggestions to staff and the City Council on how to better engage Irvine residents and businesses on sustainability issues and implementation of the Climate Action and Adaptation Plan;

1.3.5 Perform such other duties or studies as may be directed by the City Council; and

1.3.6 Perform such other duties or studies as may be directed by the City Council.

1.3.7 The Commission's scope shall not extend to matters which are otherwise within the jurisdiction of the City Council or Planning Commission, including 1) the adequacy or certification of any environmental documents; 2) the design, planning or construction of municipal or commercial development or rehabilitation projects.

1.4 Individual Member Duties: It shall be the duty of each Commission Member to take an active part in the Commission's deliberations and to act in whatever capacity the Commission Member may be called. Absence from three consecutive meetings without the formal consent of the Commission shall be deemed to constitute the retirement of the Commission Member, and the position shall automatically be vacant and therefore subject to the vacancy procedures as set forth in Section 2.1.4 below.

## **2. MEMBERS, OFFICERS AND STAFF**

### **2.1 Commission Members:**

2.1.1 Appointment: Commission members, all of which shall reside in the City, shall be appointed consistent with the provisions of IMC Section 1-4-202.

2.1.2 Staff Liaison: The City Manager or his/her designee shall appoint a staff member as liaison to the Commission.

2.1.3 Term and Removal: Each Commission member appointed by an individual City Council member serves at the will of such City Council member for a term expiring upon the expiration of such City Council member's term; provided, however, that a Commission member's term shall terminate on the date either that the Commission member resigns from office or that the appointing City Council member replaces the Commission member prior to the expiration of the Commission member's term.

- 2.1.4 Vacancy: Should any vacancy occur among the members of the Commission, the City Manager or his/her designee shall immediately notify the City Council member who appointed the Commission member. Such City Council member shall fill the vacancy by appointment for the unexpired portion of the term.
- 2.1.5 Compensation and Expenses: Each member of the Commission shall receive compensation (if at all) in a sum set by the City Council, and may be allowed reasonable travel and other expenses actually incurred while traveling or engaged in business authorized by or in connection with Commission duties.
- 2.1.6 Representation of Commission: No Commission member may speak on behalf of the Commission before any other board, commission, council, agency, or entity without prior authorization approved by a majority of the members of the Commission. Commission members shall represent themselves as members of the Commission speaking on their own behalf when presenting their views on Commission business that comes before any other commission, Commission, board, or council of the City.
- 2.1.7 Disclosures: Commission members shall make such disclosures as are required by the Political Reform Act (Government Code Section 81000 *et seq.*) and other applicable state laws, and/or by resolutions or ordinances adopted by the City Council.
- 2.2 Officers: Officers of the Commission shall consist of a Chair and Vice Chair. The Chair and Vice Chair shall be elected by the membership of the Commission at the first regular meeting in January of each calendar year.
  - 2.2.1 Chair: The Chair shall preside at all meetings and hearings of the Commission. The Chair may represent the Commission before the City Council or appoint other members to do so.
  - 2.2.2 Vice Chair: The Vice Chair shall perform all of the duties of the Chair in the Chair's absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.
  - 2.2.3 Officer Vacancy: Should the Chair or Vice Chair cease to be a member of the Commission, the remaining Commission members shall elect a Chair or Vice Chair at the second regular meeting thereafter, by a majority vote of members present. The Chair or Vice Chair so elected shall serve in that office until the next regularly scheduled election of officers.

2.3 Staff:

2.3.1 Staff Liaison: The City Manager or his/her designee shall assign a staff liaison to the Commission who shall be an *ex-officio* member of the Commission and as such shall provide technical service to the Commission and shall attend all meetings.

2.3.2 City Manager and City Attorney: The City Manager and City Attorney shall be optional and as-needed advisors or consultants to the Commission and as such may be called upon as follows:

2.3.2.1. City Manager: Upon request of the Chair for specific matters.

2.3.2.2. City Attorney: Upon request of the Chair for specific matters and as a consultant to the professional staff.

2.3.3 Staff Direction: The Commission, or any one of its individual members, shall not direct the performance of significant staff work without the prior authorization of the City Manager.

3. MEETINGS AND AGENDAS

3.1 Agendas: All meetings of the Commission shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in the IMC, Title 1, Division 15. Except as provided in IMC Section 1-15-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

3.2 Initiating an Agenda Item:

3.2.1 Commission Member-Initiated Items: Commission Members wishing to place items on the agenda shall adhere to the following:

3.2.1.1. Agendized items shall be within the scope of the duties specifically assigned to the Commission under IMC Section \_\_\_\_\_ and/or Section 1.3 of these Bylaws.

3.2.1.2. Agenda requests for items not requiring a staff report shall be presented in a memorandum to the staff liaison, with a copy to the Chair and members of the Commission, no less than one week prior to the next scheduled Commission meeting. No staff report will be provided for such items.

3.2.1.3. Agenda requests for items requiring a staff report shall be presented in a memorandum to the Staff Liaison, with a copy to the Chair and members of the Commission, no less

than two weeks prior to the next scheduled Commission meeting.

3.2.2 Staff-Initiated Agenda Items: Staff may initiate such agenda items as are mandated by direction of the City Council, the IMC, City policy, and/or the processing of regular business of the City of Irvine with regard to matters assigned to the Commission under IMC Section \_\_\_\_\_ and/or Section 1.3 of these Bylaws.

3.3 Meetings:

3.3.1 Regular Meetings: Regular meetings of the Commission shall be held in the City Council Chambers, City Hall, 1 Civic Center Plaza, Irvine, California, and remotely via Zoom as and to the extent allowable under Government Code section 54953, at 4:00 p.m., on the second Wednesday of each month. Unless a majority of the members present votes otherwise, the meetings of the Commission shall adjourn at or before 7:00 p.m. If the business of the Commission has not been completed by 7:00 p.m., the Commission may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the Commission adjourns shall be continued to a subsequent regular meeting of the Commission.

3.3.2 Adjourned Meetings: Any regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.

3.3.3 Special Meetings: Special meetings of the Commission may be called by the Chair or upon the written request of at least a majority of the Commission members. Special meetings shall be held at a time and place, and in the manner, required by IMC Title 1, Division 15.

3.3.4 Annual Meeting: The Annual Meeting of the Commission shall be the first regular meeting in January of each year. Such meeting shall commence with the election of a Chair and Vice Chair for the ensuing year and such other business as shall be scheduled by the Commission.

3.3.5 Meetings on Holidays: When a regular meeting falls on a holiday, the meeting shall be held on the next ty business day or on a day to which the previous meeting was adjourned.

3.3.6 Cancellation of Meetings: Whenever reasons exist, (for example, lack of a quorum, no business for Commission consideration, or other good and valid reason), a meeting may be canceled.

3.3.7 Additional Rules and Procedures; Order of Precedence: The meetings and procedures of the Commission shall be subject to and governed by the ordinances, resolutions, and applicable policies and procedures adopted by the City Council establishing rules and regulations for Commissions. If and to the extent there is a conflict between these Bylaws and the rules and regulations applicable to Commission meetings established by the City Council, the rules and regulations for Commission meetings established by the City Council shall govern.

3.4 Meeting Procedures:

3.4.1 Duties of Presiding Officer: The Chair, or in the Chair's absence the Vice Chair, shall be the presiding officer, and shall assume the place and duties of such office immediately following selection. The Chair shall preserve strict order and decorum at all meetings of the Commission, state questions coming before the Commission, announce its decision on all subjects and decide all questions of order, subject, however, to an appeal to the Commission as a whole, in which event a majority vote of the Commission members present shall govern and conclusively determine such question of order. The Chair shall vote on all questions, and on roll call the Chair's name shall be called last. The seating arrangement for the Commission shall be determined by the Chair.

3.4.2 Regular Meeting Order of Business: All regular meetings shall be conducted in the order set forth in the following paragraphs. The Chair, or a majority of the Commission, may direct an agenda item to be taken out of order.

3.4.2.1. Call to Order: The meeting of the Commission shall be called to order by the Chair, in the Chair's absence, the Vice Chair.

3.4.2.2. Roll Call: The Recording Secretary shall record the attendance.

3.4.2.3. Pledge of Allegiance: The Chair or the Chair's designee shall lead the Pledge of Allegiance to the Flag of the United States of America.

3.4.2.4. Presentations: Presentations by Staff or others to the Commission.

3.4.2.5. Public Comment: The Chair shall ask if any person wishes to speak to the Commission on any item not listed on the agenda. Public comment time limitations and procedures

are identical to the time limitations and procedures applicable to public comments before the City Council.

3.4.2.6. Announcements, Commission Reports: The chair shall ask if the Staff Liaison or members of the Commission have announcements as required by Assembly Bill 1234 or as otherwise relevant to the assigned tasks of the Commission.

3.4.2.7. Additions or Deletions to the Agenda: Additions may be made so long as such additions are in accordance with IMC Title 1, Division 15.

3.4.2.8. Consent Calendar: Any item which does not require specific findings of fact as required by law, may be placed on the Consent Calendar. The approval of minutes shall be included within this category. Any Commission Member may withdraw an item from the Consent Calendar for discussion. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.

3.4.2.9. Commission Business: Items of Commission Business shall be considered in the following sequence: (i) the matter shall be called, (ii) staff shall provide a report, (iii) public comments on the item shall be received, subject to the same time limitations and procedures as are applicable to public comments before the City Council, (iv) the Commission shall deliberate on the item, and (v) the Commission shall consider appropriate motions on the item. A majority vote for approval of the item shall constitute approval of the item.

3.4.2.10. Adjournment. The meeting shall be adjourned.

3.4.3 Decorum:

3.4.3.1. By Commission Members: While the Commission is in session, Commission Members must preserve order and decorum, and a Commission Member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the Commission, disturb any member while speaking or refuse to obey the orders of the Commission or the presiding officer, except as otherwise provided in these Bylaws.

3.4.3.2. By Other Persons: Each person who addresses the Commission shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the Commission, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any Commission meeting shall, at the discretion of the presiding officer or a majority of the Commission, be barred from further addressing the Commission at the meeting. If such conduct thereafter continues so as to disrupt the orderly conduct of the public's business, the Chair shall order the person removed from the Commission's meeting location. Aggravated cases may be prosecuted on appropriate complaint signed by the Chair, a member of the Commission or any other authorized City representative. The members of Commission may, pursuant to Government Code section 54957.9, order the meeting room cleared and continue with the session when the orderly conduct of the meeting becomes unfeasible and order cannot be restored.

3.5 Standing Rules:

3.5.1 Quorum: At any meeting of the Commission, a quorum shall consist of more than half of the filled seats of the Commission. No action shall be taken in the absence of a quorum, except that those members present shall be entitled by motion to adjourn the meeting to another date.

3.5.2 Voting:

3.5.2.1. One Vote Per Member: The Chair, Vice Chair, and each Commission member shall be entitled to one vote.

3.5.2.2. Proxy Vote: No proxy votes are permitted.

3.5.2.3. Roll Call: A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the Commission. Upon the request of any Commission member, a roll call vote shall be taken and recorded on any vote. Whenever a roll call vote is in order, the Recording Secretary shall call the names of the members in alphabetical order, except that the name of the presiding officer shall be called last; provided, however, that when a voting light system is available, the

simultaneous use of the voting light system shall serve as the roll call vote.

- 3.5.2.4. Disqualification and Abstention from Voting: Except as otherwise provided by law, no member of the Commission shall be permitted to abstain from voting unless such disqualification shall be identified as a legal conflict of interest mandating such disqualification, or by unanimous vote of the remainder of the Commission present. Unapproved disqualifications and abstentions shall be recorded by the Recording Secretary in the minutes as an affirmative vote.
- 3.5.2.5. Majority Vote: A majority vote of the members present shall be necessary for the recommendation of any proposed action, resolution, or other voting matter except where otherwise set forth in these Bylaws or controlling law.
- 3.5.2.6. Tie Votes: Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.
- 3.5.2.7. Absence from Meeting: Any member absent from a meeting shall not be allowed to vote on any matter discussed at that meeting (and continued to a subsequent meeting) until said member has watched/listened to the official recording of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff.
- 3.5.2.8. Silence Constitutes an Affirmative Vote: Unless a member of the Commission has been permitted to and abstains from voting, pursuant to section 3.2.5.4 above, such member's silence shall be recorded as an affirmative vote.

### 3.5.3 Signature:

- 3.5.3.1. Official Signature: Any resolution of the Commission, duly recorded in the minutes, or where otherwise required by law, shall be signed by the officer presiding over the meeting at which the resolution was adopted.

In form, the official signature shall be substantially as follows:

SUSTAINABILITY COMMISSION

\_\_\_\_\_  
(signature)  
\_\_\_\_\_  
(name, title)

- 3.5.3.2. Minutes: The minutes of each Commission meeting shall be signed by the officer presiding over the meeting at which the minutes are approved.
- 3.5.3.3. Other Documents: In all other matters, the Chair shall have the power to execute, verify or attest to documents on behalf of this Commission.
- 3.5.4 Procedural Questions: The presiding officer shall rule on all procedural questions.
- 3.5.5 Suspension of Rules: The Commission may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling state law.
- 3.5.6 Rules of Debate:
  - 3.5.6.1. Presiding Officer May Debate and Vote: The presiding officer may move, second and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all members of the Commission, and shall not be deprived of any of the rights and privileges of a member of the Commission by reason of acting as the presiding officer.
  - 3.5.6.2. Getting the Floor; Improper References to be Avoided: Every member of the Commission desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.
  - 3.5.6.3. Interruptions: A member of the Commission, once recognized, shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Commission called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.
  - 3.5.6.4. Motion to Reconsider: A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. Such motion must be made by one of the prevailing side but may be seconded by any member of the

Commission and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Commission from making or remaking the same or other motion at a subsequent meeting of the Commission.

3.5.6.5. When Remarks of Commission Members Entered in Minutes: A member of the Commission shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Commission entered in the minutes. Such an abstract shall contain the statement of each other Commission member who addresses the subject at that time.

3.5.6.6. When Synopsis of Debate Entered in Minutes: The Recording Secretary may be directed by the presiding officer, with consent of the Commission, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Commission.

3.5.6.7. Rules of Order: Except as otherwise provided in these Bylaws, Robert's Rules of Order, Newly Revised shall govern the conduct their scope of the Commission's powers and duties under these Bylaws.

**APPENDIX A**

IRVINE MUNICIPAL CODE, TITLE 1, DIVISION 4

[THIS WILL INCLUDE CHAPTERS 1 and 2]

**APPENDIX B**

IRVINE MUNICIPAL CODE, TITLE \_\_, DIVISION \_\_

# **Transportation Commission Bylaws**

CITY COUNCIL RESOLUTION NO. 17-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, ADOPTING THE BY-LAWS OF THE TRANSPORTATION COMMISSION OF THE CITY OF IRVINE

WHEREAS, on January 10, 2017, the City Council unanimously approved, among several other transportation initiatives, reinstatement of the previously existing City of Irvine Transportation Commission; and

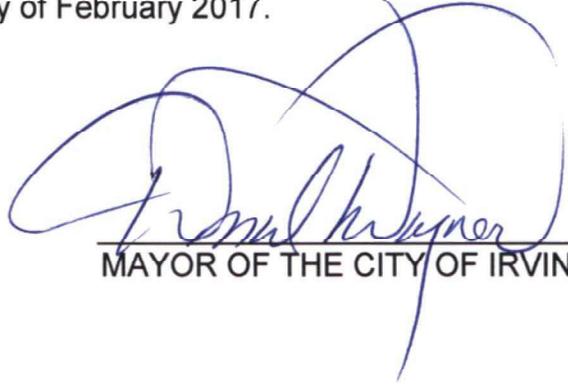
WHEREAS, on February 28, 2017, the City Council considered an ordinance relating to the creation and duties of the City of Irvine Transportation Commission and incorporating the same into the City of Irvine Municipal Code; and

WHEREAS, the City Council desires to establish by-laws for the Irvine Transportation Commission to, among other things, govern the actions and meetings of the Irvine Transportation Commission.

NOW, THEREFORE, The City Council of the City of Irvine DOES HEREBY RESOLVE as follows:

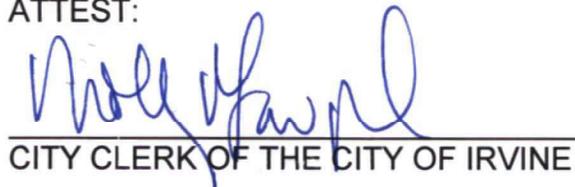
SECTION 1. The City Council adopts the "By-Laws of the Transportation Commission of the City of Irvine" attached hereto as Exhibit A.

PASSED AND ADOPTED by the City Council of the City of Irvine at an adjourned regular meeting held on the 28<sup>th</sup> day of February 2017.



MAYOR OF THE CITY OF IRVINE

ATTEST:



CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, MOLLY MCLAUGHLIN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 28<sup>th</sup> day of February 2017.

AYES: 4 COUNCILMEMBERS: Fox, Lalloway, Shea and Wagner

NOES: 0 COUNCILMEMBERS: None

ABSENT: 1 COUNCILMEMBERS: Schott

ABSTAIN: 0 COUNCILMEMBERS: None

  
CITY CLERK OF THE CITY OF IRVINE

**BY- LAWS  
OF THE  
TRANSPORTATION COMMISSION  
OF THE  
CITY OF IRVINE  
(February 2017)**

**EXHIBIT A**

**TABLE OF CONTENTS**  
**BY- LAWS**  
**IRVINE TRANSPORTATION COMMISSION**

	<u>SECTION</u>	<u>PAGE</u>
COMMISSION CREATION, TITLE AND AUTHORITY	1.0	3
MEMBERS, OFFICERS AND STAFF	2.0	3
INITIATING AN AGENDA ITEM	3.0	5
COMMISSION MEETING PROCEDURE	4.0	6
PRESENTATIONS BEFORE THE COMMISSION	5.0	9
PUBLIC HEARINGS	6.0	11
STANDING RULES	7.0	13
MEETINGS	8.0	16

## PREAMBLE

These By-Laws of the Transportation Commission of the City of Irvine (“By-Laws”) have been adopted as a policy guideline on February 28, 2017, by the City Council of the City of Irvine.

### 1.0 COMMISSION CREATION, TITLE AND AUTHORITY

- 1.1 Creation - The Irvine Transportation Commission is created under Section 6-3-901 of the Irvine Code of Ordinances.
- 1.2 Title - This body officially shall be known as the “Irvine Transportation Commission.” The terms “Transportation Commission” and “Commission,” where used in these By-Laws, also shall refer to and mean the Irvine Transportation Commission.
- 1.3 Powers and Duties - The powers and duties of the Irvine Transportation Commission are set forth in Section 6-3-905 of the Irvine Code of Ordinances.
- 1.4 Power of Appointment - The Irvine Transportation Commission shall have the power to appoint subcommittees of their own members and to appoint committees to perform tasks within the Commission’s general area of concern, but only in conformity with the statutory authority of the Commission.

### 2.0 MEMBERS, OFFICERS AND STAFF

- 2.1 Members - The Irvine Transportation Commission consists of five members, who are residents of the City of Irvine, appointed by the City Council. Each member of the City Council shall appoint one Commissioner who shall serve at the pleasure of the member of the City Council who appointed such Commissioner; and

Such appointment shall be made by filing a written statement with the City Clerk setting forth:

- (a) The fact of such appointments;

- (b) The name of the person being appointed; and
- (c) The date as of which such appointment is to be effective.

All Commissioners shall serve at the will of the member of the City Council who appointed such Commissioner for a term expiring upon the expiration of the term of the member of the Council who appointed them; provided that a Commissioner's term shall terminate on the date either that the Commissioner resigns from office or that the Council member replaces the Commissioner prior to the expiration of the Commissioner's term.

A. Vacancy – members: Should any vacancy occur among the members of this Transportation Commission other than by expiration, the Secretary immediately shall notify the City Manager. The City Council member who originally appointed the Commissioner who vacated his or her seat shall fill the vacancy by appointment for the unexpired portion of the term.

B. Vacancy – Chair or Vice Chair or Chair Pro Tem: Should the Chair, or Vice Chair cease to be members of the Commission, the remaining members shall elect a Chair or Vice Chair at the next regular meeting thereafter, by a majority vote of members present, providing there is a quorum. The officer so elected shall serve for the unexpired portion of the term of office.

2.2 Officers – Officers of the Commission shall consist of a Chair, Vice Chair, Chair Pro Tem and Secretary. The Chair and Vice Chair shall be elected by the Commission at the annual meeting by plurality vote, providing there is a quorum present. The Chair Pro Tem shall be selected on an ad hoc basis by the members present at a meeting at which the Chair and Vice Chair are either not present or unable to participate. The Secretary shall be an ex-officio member of the Transportation Commission and the term shall correspond to his or her official tenure.

A. Chair: Shall preside at all meetings and hearings of the Commission; call special meetings in accordance with these Rules of Procedure; appoint committees and act as an ex-officio member of all committees so appointed; and sign documents in

accordance with these Rules of Procedure and as prescribed by City Code or State law. He or she may represent the Commission before the City Council or appoint other members to do so.

- B. Vice Chair: Shall perform all of the duties of the chair in case of his or her absence or disability and shall perform such other duties as may from time to time be assigned by the Chair.
- C. Chair Pro Tem: Shall perform all the duties of the Chair in the absence of the Chair and Vice Chair. The Chair Pro Tem shall hold office until the adjournment of the meeting or the Chair or Vice Chair are present and able to participate, whichever occurs first.
- D. Secretary: The City of Irvine Manager of Transportation or his or her designee shall serve as Secretary to the Commission and, as such, administer the preparation of agenda, staff reports, minutes and all other functions relative to the work and operation of the Transportation Commission. In the event that the Chair and Vice Chair are not present at a meeting, the Secretary shall open the meeting and call for an election of a Chair Pro Tem. In the event that the Chair, Vice Chair and Chair Pro Tem are absent or not permitted to serve, the Secretary shall perform the Chair's functions.

### 2.3 Staff

- A. The Manager of Transportation or his or her designee shall be an ex-officio member of the Commission and as such shall provide technical service to the Commission and shall attend all meetings. The Transportation Manager shall serve as the Recording Secretary of the Transportation Commission, and shall be responsible for arranging to provide for taking and transcribing minutes, recording all votes and receiving all documentary evidence.
- B. The City's professional staff shall be available as advisors to the Commission, when needed, for specific matters.

### 3.0 INITIATING AN AGENDA ITEM

While the Commission has the authority on its own initiative to discuss and/or act on any matter within its statutory authority, subject to the requirements of Section 1-4-210 of the Irvine City Code, the normal procedure for initiating an item for Commission consideration is set forth herein:

- 3.1 Commissioner Request - Any Transportation Commissioner may initiate an item on any matter within the Commission's statutory authority for Commission consideration by making such a request to the Secretary consistent with City Council policy by no later than the legal deadline for noticing and placing the matter on the agenda.
- 3.2 Submission of Application - Any person, group or firm having a sufficient interest may make application for Transportation Commission action on any matter within the Commission's statutory authority by submitting proper application forms and all related material and specified fees to the Community Development Department of the City of Irvine, 1 Civic Center Plaza, Irvine, California 92623.
  - A. Deadlines - All applications must be submitted to the Department of Community Development in accordance with the deadlines that are published and available from that office.
  - B. Incomplete Submittals - Incomplete submittals will not be considered as filed and will not qualify for placement on a Commission agenda.
  - C. Pre-Application Assistance - The City professional staff is available for pre-application review and assistance to the applicant. This shall not be interpreted as meaning that the staff will prepare any of the required applications or documentation.

### 4.0 COMMISSION MEETING PROCEDURE

- 4.1 Call to Order - Meetings shall be called to order by the Chair of the Commission or, in his or her absence, the Vice Chair or, in his or her absence, the Secretary.
- 4.2 Regular Meetings - All regular meetings shall be conducted in the order set forth in the following paragraphs. The Chair, or a majority of the Commission, may direct an agenda item to be taken out of order, if it would serve the public to do so, under the following circumstances:

- A significant interest in a particular item;
  - A significant number of people present for the hearing of a particular item;
  - The length of the hearing anticipated with respect to a particular agenda item; or
  - The item is to be continued to another meeting.
- A. Call to Order - The meeting of the Commission shall be called to order as provided in Section 4.1 above. In the event the Chair and Vice Chair are not present, the Secretary shall follow the call to order with an election of a Chair Pro Tem.
- B. Pledge of Allegiance - The Chair or the Chair's designee shall lead the Pledge of Allegiance to the Flag of the United States of America.
- C. Roll Call - The Secretary or his or her designee shall record the attendance.
- D. Agenda Review - The Chair shall review the agenda and solicit any deletions or additions. Additions may be made so long as such additions do not require Commission action as precluded in Section 6.3B of these By-Laws.
- E. Oral Communications/Public Comment - The Chair shall ask if any person wishes to speak to the Commission on any item not listed on the agenda. Comment is limited to three (3) minutes per speaker.
- F. Consent Calendar - Any item which is not a public hearing as required by law, and which does not require specific findings of fact as required by law, may be placed on the "Consent Calendar." The approval of minutes shall be included within this category. Any Transportation Commissioner may withdraw any item from the Consent Calendar by oral request prior to a vote on the Consent Calendar. After all requests for removal have been made, the Consent Calendar shall be voted on as a single item. A majority vote for approval of the Consent Calendar shall constitute the approval of each item thereon. Each removed item shall then be voted on individually.
- G. Appeals - The Transportation Commission shall hear any item within the Commission's statutory authority properly appealed to the

Transportation Commission in the manner required by the Irvine Municipal Code. The decisions of the Transportation Commission shall be final in all matters except as otherwise provided by law.

H. Public Hearings - All advertised public hearing items shall be heard in the following order:

1. Read Agenda Description of Matter
2. Open Public Hearing
3. Receive Staff Report
4. Receive Public Input
5. Commission Questions
6. Close Public Hearing
7. Solicit Motion for Discussion
8. Discuss Motion
9. Vote
10. Reopen Public Hearing if item to be continued

I. Regular Calendar Items - Any hearing item relating to the functioning of the Commission as required by law and which is not on the consent calendar shall be included on the agenda as "Regular Calendar Items."

J. Items for Future Agendas - Any hearing items within the Commission's statutory authority requested to be presented or discussed by the Commission for future agendas.

K. Additional Business - Any items within the Commission's statutory authority not fitting within the above categories.

L. Adjournment - Chair solicits motion to adjourn to next meeting.

## 5.0 PRESENTATIONS BEFORE THE COMMISSION

### 5.1 Rules of Presentation

#### A. Addressing Commission

(1) Securing permission, right to address Commission - Any person desiring to address the Commission shall first secure the permission of the presiding officer; provided, however, that under the following headings of business, unless the presiding officer

rules otherwise, any qualified and interested person shall have the right to address the Commission upon obtaining recognition by the presiding officer:

- (a) Staff reports - Interested parties or their authorized representatives may address the Commission with regard to written communications referred to in staff reports before the Commission.
  - (b) Public hearings - Interested persons or their authorized representatives may address the Commission in regard to matters then under consideration.
  - (c) Public comment - Any person may address the Commission by oral communication on any matter over which the Commission has control; provided that those persons have notified the Secretary of their desire to speak.
- (2) Manner of addressing Commission; time limit, spokesperson for group. - Persons addressing the Commission shall step up to the microphone at the table, give their name in an audible tone of voice for the record, and limit their address to three (3) minutes. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than a member of the Commission, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Commission on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Commission, and in case additional matters are to be presented at the time by any other member of said group, to request that the group limit the number of persons addressing the Commission, so as to avoid unnecessary repetition before the Commission. The presiding officer may interrupt a witness and instruct him or her to redirect their remarks or cause him or her to terminate their remarks when they are not relevant to the matter before the Commission.

- (3) Addressing the Commission after close of public hearing  
After a public hearing has been closed and before action is

taken by the Commission, no person shall address the Commission without first securing the permission of the presiding officer so to do.

B. Decorum

- (1) By Commission Members - While the Commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceeding or the peace of the Commission or disturb any member while speaking or refuse to obey the orders of the Commission or the presiding officer, except as otherwise provided in these By-Laws.
- (2) By other persons - Persons who substantially impair or disturb a Commission meeting by intentionally committing acts in violation of the provisions of these By-Laws or of implicit customs or usages governing the conduct of Transportation Commission meetings shall be advised of such violation and be requested to curtail such acts by the presiding officer. If, after such advice and request, such persons refuse or fail to curtail such acts, the presiding officer may cause any peace officer present to remove them from the council chamber. In the event that the meeting is interrupted so as to render the orderly conduct of such meeting infeasible, and order cannot be restored, the Commission may order the room cleared and continue in session.

6.0 PUBLIC HEARINGS

6.1 Notices - Notice of the time, place, proposed action and reason for the public hearing shall be given as required by law.

6.2 Posting of Notice and Agenda

A. Posting of Notice and Agenda - In addition to the requirements set forth in Section 6.1 above, for every regular or special meeting, the City Clerk or his or her designee shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business

to be discussed at the meeting. The notice and agenda may be combined in a single document.

- B. Location of Posting - The notice and agenda shall be posted at the Irvine Civic Center at 1 Civic Center Plaza in the City of Irvine.
- C. Posting for Regular Meetings - For any regular meeting of the Transportation Commission, the notice and agenda shall be posted no later than seventy two (72) hours prior to the time set for the meeting.
- D. Posting for Special Meetings - For any special meeting of the Transportation Commission, the notice and agenda shall be posted in a location that is freely accessible to the public no later than twenty four (24) hours prior to the time set for the meeting.
- E. Posting for Emergency Meetings - In case of an emergency as described in Section 8.6 of these By-Laws, the Commission may, pursuant to Government Code Section 54956.5, hold an emergency meeting without complying with the normal notice or posting requirements.
- F. Affidavit of Posting - Immediately following the posting of the notice and agenda, the City Clerk or his or her designee shall complete an Affidavit of Posting, in a form to be developed by the City Clerk. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The City Clerk shall retain all such affidavits, together with a copy of each notice and agenda so posted, in his or her files.

### 6.3 Agenda – Contents

- A. Description of Matters - All items of business to be discussed at a meeting of the Transportation Commission shall be briefly described on the agenda.
- B. Limitation of Actions by Agenda - No action shall be taken by the Transportation Commission, on any item not appearing on a posted agenda, subject only to the following exceptions:

- (1) Upon a determination by a majority vote of the Commission that an emergency situation exists, as defined in Section 54956.5 of the California Government Code.
- (2) Upon a determination by a two-thirds vote of the Commission, or, if less than two-thirds of the members are present, a unanimous vote of those member present, that the need to take action arose subsequent to the agenda being posted.
- (3) The item was posted for a prior meeting of the Commission which occurred not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

“Action taken” as used herein shall mean a collective decision made by a majority of the Members of the Commission, a collective commitment or promise by a majority of the Members of the Commission to make a positive or a negative decision, or an actual vote by a majority of the Members of the Commission upon a motion, proposal, resolution, order, or ordinance. With regards to matters not on the agenda, the Members of the Commission may ask questions of persons who raise such matters during the Public Comment period or otherwise, but such questions should be limited to informational purposes, and the Commission should avoid discussions of the merits or giving directions regarding such subjects. With regards to matters raised by Members of the Commission under Staff and Commission Reports, such matters which are not on the agenda should normally be placed on future agenda. These matters may not be discussed and no action may be taken on such matters without being placed on a subsequent agenda. The above notwithstanding, “Action Taken” shall not refer to a request by the Commission that Staff return with information at some future date.

## 7.0 STANDING RULES

7.1 Quorum - At any meeting of the Commission, a quorum shall consist of three of the appointed members of the Commission. No action shall be taken in the absence of a quorum, except that those members present shall be entitled, by motion, to adjourn the meeting to another date.

### 7.2 Voting

- A. One vote per member - The Chair, Vice Chair, Chair Pro Tem and each other Commissioner shall be entitled to one vote.
- B. Proxy votes - No proxy votes are permitted.
- C. Roll Call - A roll call shall be taken upon the passage of all resolutions. Such votes shall be recorded in the minutes of the proceedings of the Commission. Upon the request of any Commissioner, a Roll Call vote shall be taken and recorded on any vote. Whenever a Roll Call vote is in order, the Secretary, or his or her designee, shall call the names of the members in alphabetical order except that the name of the presiding officer shall be called last.
- D. Disqualification from voting - In the event that any Commission member present shall have a conflicting personal interest of any kind in a matter then before the Commission, he or she shall announce that he or she has a conflict and disqualify himself or herself from voting upon the matter. The minutes shall reflect that no vote was cast by said member. For the purposes of these By-Laws, "conflicting personal interest" shall mean conflict of interest as applied in California Government Code Sections 1090, 1091, 1091.5, 87100, 87103, Title 2 Chapter 7 Section 18700 et seq. of the California Administrative code or in any other situation when the Commission member does not believe that he or she can make an impartial or unbiased decision.
- E. Majority vote - A majority vote of the members present shall be necessary for the adoption of any proposed action, resolution or other voting matter except where otherwise set forth in these By-Laws or controlling law.
- F. Tie Votes - Tie votes shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.

- G. Absence from meeting - Any member absent from a meeting shall not be allowed to vote on any matter discussed at that meeting until said member has listened to the tapes of the meeting, reviewed the minutes, if prepared, and all correspondence pertaining to the subject, and discussed the matter with staff.
- H. Silence constitutes affirmative vote - Unless a member of the Commission has been permitted to and abstains from voting, pursuant to paragraphs (D) and (G) above, such member's silence shall be recorded as an affirmative vote.

7.3 Signature

- A. Official signature - Any resolution of the Commission, duly recorded in the minutes, or where otherwise required by law, shall be signed by the officer presiding over the meeting at which the resolution was adopted.

In form, the official signature shall be substantially as follows:

IRVINE TRANSPORTATION COMMISSION

\_\_\_\_\_  
(signature)

(name, title)

- B. Minutes shall also be signed by the Chair.
  - C. In all other matters, the Chair shall have the power to execute, verify or attest to documents on behalf of this Commission.
- 7.4 Procedural Questions - The Secretary shall rule on all procedural questions.
- 7.5 Suspension of Rules - The Commission may suspend any of these rules by a unanimous vote of the members present to the extent that such suspension does not conflict with controlling law.
- 7.6 Parliamentary Procedure
- A. Presiding officer may debate and vote - The presiding officer may move, second and debate from the chair, subject only to such

limitations of debate as are imposed on all members of the Commission and shall not be deprived of any of the rights and privileges of a member of the Commission by reason of acting as the presiding officer.

- B. Getting the floor; improper references to be avoided - Every member of the Commission desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.
- C. Interruptions - A member of the Commission, once recognized, shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Commission called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.
- D. Motion to reconsider - A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. Such motion must be made by a Commissioner on the prevailing side of the vote, but may be seconded by any member of the Commission and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Commission from making or remaking the same or other motion at a subsequent meeting of the Commission.
- E. When remarks of Commission entered in minutes - A member of the Commission shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Commission entered in the minutes. Such an abstract shall contain the statement of each other Commission member who addresses the subject at that time.
- F. When synopsis of debate entered in minutes - The Secretary may be directed by the presiding officer, with consent of the Commission, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Commission.
- G. Disqualification and abstention - No member of the Commission shall be permitted to abstain from voting unless the member has disqualified him or herself pursuant to Section 7.2D of these

By-Laws. Unauthorized abstentions shall be recorded by the Secretary, or his or her designee, as an affirmative vote.

- H. Rules of Order - Except as otherwise provided in this chapter, or otherwise specifically provided by law, the most recent edition of "Robert's Rules of Order, Newly Revised," shall govern the general conduct of the meetings of the Commission. The adoption of Robert's Rules of Order is for the purpose of establishing a procedural framework for the conduct of meetings only. Any failure to adhere thereto shall in no way affect the validity of any action taken by the Commission.

## 8.0 MEETINGS

- 8.1 Regular Meetings - Regular meetings of the Transportation Commission shall be held in the City Council Chambers, City Hall, 1 Civic Center Plaza, Irvine, California, at 5:30PM, on the first and third Tuesday of each month. At such meetings, all matters properly on the Agenda shall be considered, as set forth in Section 4.0 of these By-Laws. Unless a majority of the members present votes otherwise, the meetings of the Commission shall adjourn at or before 11:00PM. If the business of the Commission has not been completed by 10:00PM, the Commission may vote to remain in session until all or a portion of its remaining business has been completed. All matters remaining after the Commission adjourns shall be continued to a subsequent regular meeting of the Commission.
- 8.2 Special Meetings - A special meeting may be called at any time by the Chairman of the Commission or by a majority of the Commission's members, by delivering personally or by mail or email, written notice to the Secretary, each member of the Commission, and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be received at least 24 hours before the time of the meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the Commission. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the Secretary a written waiver of notice. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any

action is taken at the special meeting. The notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

- 8.3 Annual Meeting - The Annual Meeting of the Transportation Commission shall be the first regular meeting in the month of January of each year. Such meeting shall commence with the election of a Chair and Vice Chair for the ensuing year and such other business as shall be scheduled by the Commission.
- 8.4 Meetings on Holidays - When a regular meeting falls on a holiday, the meeting shall be cancelled or held on a day to which the previous meeting was adjourned.
- 8.5 Cancellation of Meeting - Whenever reasons exist, (For example, lack of a quorum, no business for Commission consideration, or other good and valid reason), a meeting may be canceled by the Secretary upon consultation with the Chair. Such cancellation may be made at any time prior to the meeting but must be in writing at least twenty-four (24) hours prior to the scheduled meeting, and shall state the reason for said cancellation.
- 8.6 Special Emergency Meetings - Special Emergency Meetings may be called by the Chair or by a majority of the Transportation Commission where prompt action is necessary due to the disruption or threatened disruption of public facilities as that phrase is used in Government Code Section 54956.5.
- 8.7 Adjourned Meetings - The Transportation Commission may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all Members are absent from any regular or adjourned regular meeting, the Secretary of the Transportation Commission may declare the meeting adjourned to a stated time and place and shall cause a written notice of the cancelled meeting and call of the adjourned meeting to be delivered personally to each Commission member at least twenty-four (24) hours before the commencement of the meeting to which the cancelled meeting was adjourned. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within 24 hours after the time of adjournment. When a regular or adjourned

regular meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

- 8.8 Closed Sessions - The Transportation Commission may hold closed sessions during a regular or special meeting when authorized by State law and when approved in advance by the City Attorney. If a closed session is included on the agenda, the description of the item need only identify the statutory basis for the closed session, and need not include the specific topic which is the subject of the closed session. During closed session, the Transportation Commission may exclude any person or persons which it is authorized by State law to exclude from a Closed Session. However, no minutes of the proceedings of the Transportation Commission during a closed session are required. The minutes of the Transportation Commission meeting shall reflect that the closed session occurred and the authority for the closed session. There shall be no closed session during any emergency meeting.

APPROVED by the City Council of the City of Irvine, by Minute Order at the City Council meeting of February 28, 2017.