



**City of St. Helena
Planning Commission Regular Meeting
Tuesday, September 15, 2026 @ 6:00 PM
Vintage Hall Board Room
465 Main Street, St. Helena CA**

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "Public Forum" portion of the agenda may do so, but please observe the time limit of four minutes.

The Planning Commission meeting will be live-streamed on Comcast Channel 28 and on the City's website.

Public comment for Planning Commission meetings will be accepted via email via to publiccomment@cityofsthelelena.gov. All public comments must be received three hours prior to the meeting. All other public comments received after the deadline will be attached to the item the next business day or soon thereafter. Public comments will not be read out loud but will be publicly available and attached to the online Planning Commission agenda.

To ensure interpreters are available, requests must be made at least 72 hours in advance by calling the Office of the City Clerk at (707) 968-2640 or emailing cityclerk@cityofsthelelena.gov.

The schedule of upcoming meetings and published meeting agendas can be found on the City of St. Helena website at cityofsthelelena.gov.

Servicios de interpretación en español durante la reunión pueden ser solicitados por el público. Para asegurar que los intérpretes estén disponibles, los servicios tienen que ser solicitados al menos 72 horas antes de la reunión llamando a la oficina de la Secretaria de la Ciudad al (707) 968-2640 o por correo electrónico a cityclerk@cityofsthelelena.gov.

El horario de las reuniones publicadas y próximas puede ser localizado en el sitio de web de la Ciudad en cityofsthelelena.gov

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE AND ROLL CALL

Chair: Chris Warner

Vice-Chair: Sue Furdek

Commissioners: Elaine Honig, Hector Lopez, and Michelle Covell

City staff present at the meeting will be noted in the minutes.

3. PUBLIC FORUM

This is an opportunity for the public to address the Commission on items of interest to the public that are NOT listed on the agenda. Because of restrictions imposed by the Brown Act, the Commission may not engage in discussion nor take action on matters not described on the agenda. Please observe the time limit of four minutes.

4. MINUTES APPROVAL

Members of the Commission or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)

4.1. Receive the minutes from the August 18, 2026, Planning Commission Meeting.

5. PUBLIC HEARINGS / RECOMMENDATIONS TO CITY COUNCIL

5.1. Request by Monica Stevens for approval of a Conditional Use Permit to allow a retail wine shop with wine sales and tastings to operate at 1269 Main Street, Suite 1299 (APN 009-250-015) in the Central Business (CB) Zoning District.

CEQA Determination: The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities).

Prepared By: Natalie Bresee, Assistant Planner

Recommendation: Staff recommends that the Planning Commission adopt the attached resolution finding the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 and approving Conditional Use Permit PL26-009, subject to the findings and conditions contained in the resolution.

6. SCHEDULED MATTERS

6.1. PL26-018 Wydown Hotel Expansion Pre-Submittal Application

CEQA Determination: CEQA to Be Completed Prior to Project Approval (Upon Formal Application)

Prepared By: Jackie Oneal, Senior Planner

Recommendation: Receive the staff and applicant presentations, consider public comment, and provide preliminary feedback on the proposed hotel expansion concept. No formal action is requested as part of this pre-submittal review.

6.2. Brown Act and Rosenberg's Rules of Order Training - Handbook Overview

6.3. Planning Commission By-Laws – Proposed Amendments

CEQA Determination: Not a CEQA Project (CEQA Guidelines §15378)

Prepared By: Leza Mikhail, Director of Community Development

Recommendation: Adopt a resolution recommending that the City Council approve the proposed amendments to the City of St. Helena Planning Commission By-Laws.

7. REPORTS BY STAFF AND PLANNING COMMISSION

Reports by staff and/or committee on items of general interest. Brief questions for clarification may be posed and answered, and Committee may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the Planning Commission.

8. AGENDA FORECAST

This is an opportunity for the Commission as a majority to request that items be placed on future agendas for discussion in alignment with the City Council direction and/or the current Fiscal Year Planning Commission Workplan.

8.1. Future Agenda Items (Informational Only):

The following items are tentatively scheduled for upcoming Planning Commission meetings and are subject to change. No action will be taken.

October 20, 2026 & November 3, 2026 — Planning Commission Meetings are canceled.

November 4, 2026 - Special Planning Commission Meeting:

Alila Hotel & Spa Expansion

9. ADJOURNMENT

The next Special Planning Commission meeting is scheduled for November 4, 2026.

This agenda was posted at City Hall, 1088 College Avenue, and at Vintage Hall, 465 Main Street, St. Helena, California on September 10, 2026.

Leza Mikhail, Director of Community Development

Appeal. A person who is dissatisfied with a decision of the Planning Commission may appeal that decision to the City Council pursuant to Municipal Code Section 17.12.020, Appeal procedure. Actions of the Planning Commission will be listed on the City Council agenda the following Tuesday to give the City Council opportunity to review the Planning Commission's decision. Absent of an appeal by the City Council or by a citizen, the appeal period will terminate two weeks after the Planning Commission hearing.

Special Assistance for the Disabled. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 48 hours prior to the meeting will enable City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR35.102-35.104 ADA Title II). However, City staff will attempt to assist at any time with accessibility. The City Clerk has equipment to assist those with a hearing impairment.

PUBLIC TESTIMONY PROCEDURES

Pursuant to the Government Code Section 54954.3, the public may address the Commission on each agenda item during the Commission's consideration of that item. Each speaker has the option to state his or her name for the record before testifying. Depending on the number of speakers or the interest of the item, the Planning Commission Chairman may also restrict, at his/her discretion, the speaker's time to three minutes. The Chairman may also restrict public comments if they become irrelevant to the agenda item or repetitious of prior comments. All persons interested may appear and be heard or submit written statements prior to the Planning Commission meeting. Please note that if you challenge the City's decision on any of these matters in court, you may be limited to raising only those issues you or someone else raised at the meeting or in written correspondence delivered to the City at, or prior to, the meeting.

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning

decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the Planning Commission regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk's Office located at 1088 College Avenue, St. Helena, California, during normal business hours and by appointment. In addition, such writings or documents will be made available on the City's website at cityofsthenana.gov and will be available for public review at the respective meeting.

MINUTES
City of St. Helena
Regular Planning Commission Meeting
Tuesday, August 18, 2026 @ 6:00 PM
Vintage Hall Board Room
465 Main Street, St. Helena CA

Present: Chair Christopher Warner, Commissioner Michelle Covell,
Commissioner Sue Furdek, Commissioner Hector Lopez

Absent:

1. CALL TO ORDER

Chair Warner called the meeting to order at 6:01 p.m.

2. PLEDGE OF ALLEGIANCE AND ROLL CALL

Chair: Chris Warner

Vice-Chair: Sue Furdek

Commissioners: Hector Lopez, and Michelle Covell

City staff present at the meeting will be noted in the minutes.

Commissioner Covell led the Pledge of Allegiance.

Staff Present: Community Development Director Leza Mikhail, Senior Planner Jackie Oneal, Assistant Planner Natalie Bresee

3. MINUTES APPROVAL

Members of the Commission or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)

3.1. Receive the minutes from the July 7, 2026, Special Planning Commission Meeting

3.2. Receive the minutes from the July 21, 2026, Planning Commission Meeting.

Commissioner Michelle Covell moved to approve the minutes from the Regular Planning Commission meetings on July 7, 2026, and July 21, 2026, as presented. The motion was seconded by Commissioner Sue Furdek and on roll call carried by the following vote:

AYES: Chair Christopher Warner, Commissioner Michelle Covell,
Commissioner Sue Furdek, Commissioner Hector Lopez

NOES: None

ABSENT: None

ABSTAIN: None

4. PUBLIC FORUM

This is an opportunity for the public to address the Commission on items of interest to the public that are NOT listed on the agenda. Because of restrictions imposed by the Brown Act, the Commission may not engage in discussion nor take action on matters not described on the agenda. Please observe the time limit of four minutes.

No one from the public spoke.

5. PUBLIC HEARINGS / RECOMMENDATIONS TO CITY COUNCIL

- 5.1. Request by Ellen Shifflett for approval of a New Short Term Rental Permit to allow for the use of a single-family residence as a Short-Term Rental at 626 Mills Ln (APN: 009-070-020) in the Twenty-Acre Agriculture (A-20) Zoning District.

CEQA Determination: Pursuant to Section 15061(b)(3) of the State CEQA Guidelines, the proposed Short-Term Rental is exempt from CEQA. Section 15061(b)(3) (Common Sense Exemption).

Prepared By: Natalie Bresee, Assistant Planner

Recommendation: Staff recommends that the Planning Commission continue consideration of Short-Term Rental Permit STR26-009 to a date uncertain, and after the completion of the Short-Term Rental Ordinance, to allow the City to resolve a discrepancy between the City's Short-Term Rental regulations and the permitted uses within the Twenty-Acre Agriculture (A-20) zoning district.

Director of Community Development, Leza Mikhail addressed the commission.

Chair Warner opened the meeting for public comment.

No one from the public spoke.

Chair Warner closed the meeting for public comment.

Commissioner Sue Furdek moved to continue agenda item 5.1 to a date uncertain. The motion was seconded by Commissioner Hector Lopez and on roll call carried by the following vote:

AYES: Chair Christopher Warner, Commissioner Michelle Covell,
Commissioner Sue Furdek, Commissioner Hector Lopez

NOES: None

ABSENT: None

ABSTAIN: None

- 5.2. Request by Monica Stevens for approval of a Conditional Use Permit to allow a retail wine shop with wine sales and tastings to operate at 1269 Main Street, Suite 1299 (APN 009-250-015) in the Central Business (CB) Zoning District.

CEQA Determination: The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities).

Prepared By: Natalie Bresee, Assistant Planner

Recommendation: Staff recommends that the Planning Commission adopt the attached resolution finding the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 and approving Conditional Use Permit PL26-009, subject to the findings and conditions contained in the resolution.

Assistant Planner, Natalie Bresee gave a presentation.

Sue Furdek and Michelle Covell disclosed their exparte communications.

Chair Warner opened the meeting for public comment.

Andrea Anderson and Monica Stevens spoke.

Chair Warner closed the meeting for public comment.

Commissioner Hector Lopez moved to continue item 5.2 to a date certain of September 15, 2026. The motion was seconded by Commissioner Michelle Covell and on roll call carried by the following vote:

AYES: Board Member Christopher Warner, Commissioner Michelle Covell, Commissioner Sue Furdek, Commissioner Hector Lopez

NOES: None

ABSENT: None

ABSTAIN: None

6. SCHEDULED MATTERS

6.1. Brown Act and Rosenberg's Rules of Order Training

Director of Community Development, Leza Mikahil continued the item to September 15, 2026.

7. **REPORTS BY STAFF AND PLANNING COMMISSION**

Reports by staff and/or committee on items of general interest. Brief questions for clarification may be posed and answered, and Committee may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the Planning Commission.

Director of Community Development, Leza Mikahil addressed the commission.

8. **AGENDA FORECAST**

This is an opportunity for the Commission as a majority to request that items be placed on future agendas for discussion in alignment with the City Council direction and/or the current Fiscal Year Planning Commission Workplan.

8.1. Future Agenda Items (Informational Only):

The following items are tentatively scheduled for upcoming Planning Commission meetings and are subject to change. No action will be taken.

September 15, 2026:

Wydown Hotel Pre-Application Submittal Study Session

Ditrector of Community Development, Leza Mikahil addressed the commission.

9. **ADJOURNMENT**

The next Regular Planning Commission meeting is scheduled for September 15, 2026.

Chair Warner adjourned the meeting at 6:55 p.m.

APPROVED:

Christopher Warner, Chair

ATTEST:

Leza Mikhail, Director of Community Development



Agenda Report to the Planning Commission

Agenda Section: PUBLIC HEARINGS / RECOMMENDATIONS TO CITY COUNCIL

Department: Community Development Department - Planning Division

DATE:	September 15, 2026
FILE NUMBER:	PL26-009; CUP26-001
SUBJECT:	Request by Monica Stevens for approval of a Conditional Use Permit to establish a permanent retail wine shop with incidental wine tastings within an existing commercial tenant space located at 1269 Main Street, Suite 1299A (APN 009-250-015) in the Central Business (CB) Zoning District.
LOCATION OF PROPERTY:	1269 Main Street, Suite 1299A, St. Helena, CA 94574
APN:	009-250-015
GENERAL PLAN/ ZONING:	Central Business (CB) / Central Business (CB)
APPLICANT:	Monica Stevens
PROJECT PLANNER:	Natalie Bresee, Assistant Planner
REVIEWED BY:	Leza Mikhail, Director of Community Development
CEQA DETERMINATION:	The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities).
RECOMMENDED ACTION:	Staff recommends that the Planning Commission adopt the attached resolution finding the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 and approving Conditional Use Permit PL26-009, subject to the findings and conditions contained in the resolution.

BACKGROUND:

The subject tenant space is located at 1269 Main Street, Suite 1299A, within the Central Business (CB) Zoning District, which was established as a new, temporary business within the existing tenant space at the property under a Temporary Use Permit approved in 2023 and described further below. The subject two-story commercial tenant space contains approximately 880 square feet on the first floor and 552 square feet on the second floor and has historically been used for commercial purposes. The project does not propose any

additions to the building or modifications to the site.

On May 2, 2023, the Planning Division administratively approved Temporary Use Permit (PL23-015) allowing operation of a temporary wine tasting salon within a portion of the existing property located at 1269 Main Street, and within a space referred to on the building as Suite 1299A. The Temporary Use Permit authorized appointment-only wine tastings for up to ten guests at one time, subject to operational conditions and a one-year approval period. As a condition of approval of the Temporary Use Permit, the applicant has now submitted a Conditional Use Permit application requesting authorization to permanently operate a wine shop with incidental wine tastings within the tenant space previously authorized under PL23-15, and officially establish a permanent business in Suite 1299A. The proposal is similar to the use previously authorized under the previously approved temporary use with no expansion of the building, no exterior alterations, and no increase in the intensity of the site beyond the proposed operational characteristics.

On August 18, 2026, the Planning Commission conducted a public hearing on the Conditional Use Permit application and continued the item to a date certain of September 15, 2026 to allow the business owner and property owner's consultant time to meet with staff to discuss unanticipated changes to the project description that were presented by the applicant at the hearing.

On August 27, 2026, Staff and the business owner met to discuss the operations of the business to ensure that the project description and associated conditions of approval would ultimately be in alignment if consistent with local ordinance and approved by the Planning Commission. Of note, the following changes were made to the applicant's project description at the combined recommendation of the Planning Commission and Staff, while maintaining the business owner's intended business model:

- Expanded time from 9:00 a.m. to 11:00 p.m.
- Clarified that this is a wine shop with incidental wine tastings
- Verified that a Type 42 license is required and acceptable by ABC for a wine shop with incidental tastings

On August 28, 2026, the applicant provided an updated written statement further describing the proposed business and its operations. The updated statement has been incorporated into the project description and is reflected in the analysis and conditions included in this Staff Report and the accompanying Resolution.

PROJECT DESCRIPTION:

The applicant requests Planning Commission approval of a Conditional Use Permit to allow a wine shop with incidental wine tasting and consumption at 1269 Main Street, Suite 1299A, within the Central Business (CB) Zoning District.

The proposed business would operate seven days a week from 9:00 a.m. to 11:00 p.m., offering wine-by-the-glass and flights of wine, with approximately 20 seats for sale, including

on-site tasting and consumption. Bottled wine and beer would also be sold for off-site consumption. The business would sell wine-related merchandise and may provide dry crackers or bread for palate cleansing. No food preparation, restaurant use, outdoor tasting areas, or special events are proposed as part of this application.

The applicant also proposes limited live music as an accessory use to the Wine Shop in the form of a solo musician approximately once or twice per month. Any live music would be provided at a low background volume. Amplified music and outdoor music are not proposed and are not permitted through this entitlement.

The project would utilize the existing tenant space without expanding the building footprint or modifying the exterior of the structure. The first floor would function as the tasting and retail area, while the second floor would serve as office space accessory to the business. Existing access, circulation, parking, landscaping, utilities, and building infrastructure would remain unchanged.

ANALYSIS:

General Plan / Zoning

The subject property is designated Central Business (CB) by the General Plan and is located within the Central Business (CB) Zoning District. The Central Business designation is intended to support a concentrated mix of retail, commercial, service, office, dining, and visitor-serving uses within downtown St. Helena while maintaining the area's pedestrian-oriented character.

- LU1.4 – Encourage infill development within currently developed areas.
- LU1.6 – Support redevelopment and activation of downtown commercial areas.
- LU3.8 – Support responsible visitor-serving uses.
- LU3.9 – Encourage active, pedestrian-oriented commercial areas.
- ES2.1 – Support responsible visitor-serving components of the economy.
- ES2.2 – Encourage upscale visitor-serving uses consistent with St. Helena's wine industry.

The project would support continued commercial activity within downtown and is compatible with the surrounding mix of retail, restaurant, office, tasting room, and other visitor-serving uses.

Historic Preservation Overlay

The project site is located within the Historic Preservation (HP) Overlay District, which is intended to safeguard the historic and architectural character of St. Helena by recognizing and preserving significant historic and cultural resources while ensuring new development remains architecturally compatible.

The proposed project consists solely of establishing a permanent, commercial use within an existing tenant space that was previously authorized to operate as a temporary space.

As all improvements are limited to interior occupancy of an existing commercial space, the

proposal will not adversely affect the historic or architectural integrity of the property or surrounding Downtown area.

CEQA Determination

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities). The project would establish a retail wine shop with appointment-only wine tastings within an existing commercial tenant space and would involve no expansion of the building, grading, demolition, exterior alteration, or site modification. The project would not result in a substantial adverse change to a historical resource, and none of the exceptions identified in CEQA Guidelines Section 15300.2 apply.

Discussion - Findings

Pursuant to St. Helena Municipal Code Section 17.05.020, the proposed project is subject to Planning Commission review and approval of a Conditional Use Permit. While a wine shop is ordinarily permitted in the Central Business Zoning District with approval of a Minor Use Permit, the applicant previously operated the use under a Temporary Use Permit, which required approval of a Conditional Use Permit for permanent operation. Accordingly, the project is being considered under the Conditional Use Permit process and has been reviewed against the Conditional Use Permit findings. The Planning Commission must make all required findings to approve the Conditional Use Permit. The required findings are identified below in **bold**, followed by staff's response in regular text.

1. The proposed use is consistent with the goals and policies of the general plan and any applicable specific plan.

Staff Response: The project is consistent with the General Plan's vision for maintaining a vibrant, pedestrian-oriented downtown through the establishment of commercial and visitor-serving businesses that support the local economy. The proposed wine shop with incidental wine tastings occupies an existing commercial tenant space without expanding the building or altering the established development pattern. The proposal encourages continued economic investment in downtown while maintaining compatibility with surrounding commercial uses. Furthermore, the project is consistent with the following General Plan policies that are described in more detail under the General Plan / Zoning section of this report: LU1.4, LU1.6, LU3.8, LU3.9, ES2.1, and ES2.2. For these reasons, this finding can be made.

2. The proposed use is appropriate for the zoning district in which it is located, compatible with uses allowed in the zoning district, and complies with all other applicable provisions of the zoning code.

Staff Response: Wine shops are permitted in the Central Business Zoning District with approval of a Minor Use Permit and may include beer sales and incidental wine tastings. The applicant operated a temporary wine shop under a Temporary Use Permit in 2023 and is now requesting to permanently establish the use within Suite 1299A. Although a Minor Use Permit would ordinarily be required, the Temporary Use Permit required

approval of a Conditional Use Permit for permanent operation. The proposed use is consistent with the surrounding commercial and visitor-serving uses and would occupy an existing tenant space without building expansion or site modifications. As such, this finding can be made.

3. The proposed use will not be materially detrimental to the health, safety, and welfare of the public or the property and residents in the vicinity.

Staff Response: The proposed use is limited to indoor retail sales and indoor incidental wine tastings conducted during daytime business hours. No outdoor activities, amplified music, or special events are proposed. The business has previously operated under a Temporary Use Permit without known operational concerns, demonstrating compatibility with surrounding properties. For these reasons, this finding can be made.

4. The subject site is physically suitable for the use and compatible with existing and future land uses, buildings and structures in the vicinity.

Staff Response: The site is fully developed with an existing commercial building designed to accommodate retail and commercial uses. Existing building access, circulation, parking, utilities, and supporting infrastructure are adequate to serve the proposed operation. Furthermore, it is common to allow tenant spaces to be modified through the life of an established multi-tenant building. The applicant was previously authorized to establish their use in a temporary manner and is now requesting to establish their business space permanently. No modifications to the existing building or subject site are proposed, and the site will remain physically suitable and compatible with the surrounding and future land uses and buildings in the vicinity. For these reasons, this finding can be made.

5. For formula businesses, the proposed use is consistent with the findings of Section 17.22.120, Formula businesses.

Staff Response: The proposed project is not a formula business as defined by the Municipal Code. Therefore, this finding does not apply.

6. The subject site is served by streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate.

Staff Response: The property fronts Main Street within the City's downtown commercial district and is served by a fully improved public street network designed to accommodate commercial traffic, pedestrian activity, and visitor access. The proposed use is not expected to generate vehicle trips beyond those typically associated with existing downtown commercial uses, or as have been realized throughout the duration of the Temporary Use Permit authorized in 2023. As such, this finding can be made.

7. The project is categorically exempt under CEQA or other applicable environmental documents have been certified as complete and adequate.

Staff Response: The project qualifies for a Class 1 Categorical Exemption pursuant to

CEQA Guidelines Section 15301 (Existing Facilities). The project would establish a retail wine shop with incidental wine tastings within an existing commercial tenant space and would involve no expansion of the building, grading, demolition, exterior alteration, or site modification. The project would not result in a substantial adverse change to a historical resource, and none of the exceptions identified in CEQA Guidelines Section 15300.2 apply. As the project is exempt from CEQA, this finding can be made.

Pursuant to St. Helena Municipal Code Section 17.22.050(E), the proposed project requires the Planning Commission to consider specific factors related to the service of alcoholic beverages as part of the Conditional Use Permit review. The required considerations are identified below in **bold**, followed by staff's response in regular text.

1. Comments from the police department.

Staff Response: The application was reviewed by the Police Department. No concerns were identified that would preclude approval of the proposed use. This consideration is supported.

2. Appropriateness of automobile and/or bicycle parking.

Staff Response: The project is located within the City's Parking Exemption District (PED), where off-street parking is not required. The proposal does not alter the existing parking configuration, and the two existing on-site parking spaces will be retained, consistent with SHMC Section 17.21.030. This consideration can be supported.

3. Potential for loitering.

Staff Response: The proposed operation is limited to retail sales and indoor incidental wine tastings within an existing commercial tenant space. No outdoor seating, waiting areas, or gathering spaces are proposed. These operational limitations reduce the potential for loitering outside the establishment. This use would not cause concern for loitering, and the project can be supported.

4. Distance of the proposed establishment from other establishments.

Staff Response: The project is located within the downtown commercial district, where restaurants, tasting rooms, wineries, and other visitor-serving businesses are an established part of the area's commercial character. The proposed use is compatible with surrounding businesses and is not expected to result in adverse land use impacts. The nearest alcohol-serving establishments are located approximately 73 feet from the subject tenant space. This consideration can be met.

5. Distance from areas used and zoned for residential use.

Staff Response: Although residential uses exist near the downtown area, the project is located within an established commercial development. The proposed operation is limited to indoor wine tastings and retail sales during daytime business hours and would not include outdoor alcohol service, or special events. These operational characteristics

reduce the potential for noise or other effects on nearby residential uses. As such, this consideration can be met.

6. Appropriateness of annual review of use permit.

Staff Response: Staff does not recommend an annual review of the Conditional Use Permit. The applicant previously operated under Temporary Use Permit PL23-015 without known operational or code enforcement issues, and the proposed operation remains limited in scale. The permit may be modified or revoked if the use is operated in violation of the conditions of approval or results in documented adverse impacts. As such, no annual review is required.

7. Distance of the proposed establishment from public/private schools, nursery schools, preschools, and daycare facilities.

Staff Response: Staff reviewed the proximity of the proposed establishment to public and private schools, nursery schools, preschools, and daycare facilities and identified no concerns that would preclude approval of the proposed use. As such, this consideration can be supported.

Based on the analysis above, staff finds the proposed project is consistent with the General Plan, the Central Business (CB) General Plan designation and Zoning District, and the applicable provisions of the St. Helena Municipal Code. The proposed use would occupy an existing commercial tenant space without expanding the building or modifying the exterior of the site and would be compatible with surrounding uses. Staff further finds that the required findings can be made to support approval of the Conditional Use Permit and that the proposed operation is appropriate for the service of alcoholic beverages.

ISSUES:

Staff has not identified any outstanding policy issues associated with this request.

CORRESPONDENCE:

At the time of preparation of this report, no public comments have been received.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission adopt the attached resolution finding the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) and approving Conditional Use Permit PL26-009, subject to the findings and conditions contained in the resolution.

ATTACHMENTS:

1. PC Resolution - PL26-009
2. Project Plans - PL26-009
3. Updated Written Statement - PL26-009

CITY OF ST. HELENA PLANNING COMMISSION

RESOLUTION NO. PC2026-____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ST. HELENA
FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT AND APPROVING CONDITIONAL USE PERMIT (PL26-009; CUP26-
001) TO ESTABLISH A RETAIL WINE SHOP WITH INCIDENTAL WINE TASTINGS
AT 1269 MAIN STREET, SUITE 1299A (APN 009-250-015)**

PROPERTY OWNERS: Winery Acreage 2.0 LLC

APN: 009-250-015

RECITALS

WHEREAS, Monica Stevens submitted an application for a Conditional Use Permit to establish operation of a wine shop with on-site wine tasting and consumption within an existing commercial tenant space located at 1269 Main Street, Suite 1299A; and

WHEREAS, the subject tenant space is located within the Central Business (CB) Zoning District and contains approximately 880 square feet on the first floor and 552 square feet on the second floor; and

WHEREAS, the proposed use consists of a wine shop with on-site wine tasting and consumption, including wine by the glass and wine flights, approximately 20 seats, and the sale of bottled wine and beer for off-site consumption, with no building expansion, exterior alterations, or site modifications proposed; and

WHEREAS, the proposed business would operate seven days a week from 9:00 a.m. to 11:00 p.m. and would include limited live music by a solo musician approximately once or twice per month at a low background volume, with no amplified or outdoor music proposed; and

WHEREAS, Temporary Use Permit PL23-015 previously authorized a temporary wine tasting salon within the tenant space for a one-year period, and that temporary approval has expired; and

WHEREAS, the project qualifies for a categorical exemption from CEQA pursuant to CEQA Guidelines Section 15301 because it would establish a commercial use within an existing tenant space without expansion of the building, grading, demolition, exterior alteration, or site modification; and

WHEREAS, notice of the application and public hearing was provided in accordance with applicable state and local requirements; and

WHEREAS, on August 18, 2026, the Planning Commission held a duly noticed public hearing at which it considered the application, project plans, staff report, public testimony, and all other information in the administrative record, and continued the item to a date certain of September 15, 2026; and

WHEREAS, following the August 18, 2026 public hearing, the applicant submitted an updated written statement providing additional information regarding the proposed business and its operations, which has been incorporated into the project description and is reflected in the Staff Report and this Resolution; and

WHEREAS, on September 15, 2026, the Planning Commission held a duly noticed continued public hearing and considered the application, revised project description, project plans, staff report, public testimony, and all other information in the administrative record; and

NOW, THEREFORE, LET IT BE RESOLVED, that the Planning Commission of the City of St. Helena hereby finds and determines as follows:

RESOLUTION

- A. **CEQA Determination.** The project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, Existing Facilities. The project would establish a retail wine shop with incidental wine tastings within an existing commercial tenant space and would involve no expansion of the building, grading, demolition, exterior alteration, or site modification. The project would not result in a substantial adverse change to a historical resource, and none of the exceptions identified in CEQA Guidelines Section 15300.2 apply.
- B. **Conditional Use Permit Findings.** The Planning Commission hereby finds that the application complies with the following required findings pursuant to Section 17.05.020 of the St Helena Municipal Code:

1. The proposed use is consistent with the goals and policies of the general plan and any applicable specific plan.

The project is consistent with the General Plan's vision for maintaining a vibrant, pedestrian-oriented downtown through the establishment of commercial and visitor-serving businesses that support the local economy. The proposed wine shop with incidental wine tastings occupies an existing commercial tenant space without expanding the building or altering the established development pattern. The proposal encourages continued economic investment in downtown while maintaining compatibility with surrounding commercial uses. Furthermore, the project is consistent with the following General Plan policies that are described in more detail under the General Plan / Zoning section of this report: LU1.4, LU1.6, LU3.8, LU3.9, ES2.1, and ES2.2. For these reasons, this finding can be made.

- 2. The proposed use is appropriate for the zoning district in which it is located, compatible with uses allowed in the zoning district, and complies with all other applicable provisions of the zoning code.**

Wine shops are permitted in the Central Business Zoning District with approval of a Minor Use Permit and may include beer sales and incidental wine tastings. The applicant operated a temporary wine shop under a Temporary Use Permit in 2023 and is now requesting to permanently establish the use within Suite 1299A. Although a Minor Use Permit would ordinarily be required, the Temporary Use Permit required approval of a Conditional Use Permit for permanent operation. The proposed use is consistent with the surrounding commercial and visitor-serving uses and would occupy an existing tenant space without building expansion or site modifications. As such, this finding can be made.

- 3. The proposed use will not be materially detrimental to the health, safety, and welfare of the public or the property and residents in the vicinity.**

Staff Response: The proposed use is limited to indoor retail sales and indoor incidental wine tastings conducted during daytime business hours. No outdoor activities, amplified music, or special events are proposed. The business has previously operated under a Temporary Use Permit without known operational concerns, demonstrating compatibility with surrounding properties. For these reasons, this finding can be made.

- 4. The subject site is physically suitable for the use and compatible with existing and future land uses, buildings and structures in the vicinity.**

The site is fully developed with an existing commercial building designed to accommodate retail and commercial uses. Existing building access, circulation, parking, utilities, and supporting infrastructure are adequate to serve the proposed operation. Furthermore, it is common to allow tenant spaces to be modified through the life of an established multi-tenant building. The applicant was previously authorized to establish their use in a temporary manner and is now requesting to establish their business space permanently. No modifications to the existing building or subject site are proposed, and the site will remain physically suitable and compatible with the surrounding and future land uses and buildings in the vicinity. For these reasons, this finding can be made.

- 5. For formula businesses, the proposed use is consistent with the findings of Section 17.22.120, Formula businesses.**

The proposed project is not a formula business as defined by the Municipal Code. Therefore, this finding does not apply.

6. The subject site is served by streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate.

The property fronts Main Street within the City's downtown commercial district and is served by a fully improved public street network designed to accommodate commercial traffic, pedestrian activity, and visitor access. The proposed use is not expected to generate vehicle trips beyond those typically associated with existing downtown commercial uses, or as have been realized throughout the duration of the Temporary Use Permit authorized in 2023. As such, this finding can be made.

7. The project is categorically exempt under CEQA or other applicable environmental documents have been certified as complete and adequate.

The project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities). The project would establish a retail wine shop with incidental wine tastings within an existing commercial tenant space and would involve no expansion of the building, grading, demolition, exterior alteration, or site modification. The project would not result in a substantial adverse change to a historical resource, and none of the exceptions identified in CEQA Guidelines Section 15300.2 apply. As the project is exempt from CEQA, this finding can be made.

C. Alcohol-service considerations. The Planning Commission hereby finds that the application complies with the following required findings pursuant to Section 17.22.050(E) of the St Helena Municipal Code:

1. Comments from the police department.

The application was reviewed by the Police Department. No concerns were identified that would preclude approval of the proposed use. This consideration is supported.

2. Appropriateness of automobile and/or bicycle parking.

The project is located within the City's Parking Exemption District (PED), where off-street parking is not required. The proposal does not alter the existing parking configuration, and the two existing on-site parking spaces will be retained, consistent with SHMC Section 17.21.030. This consideration can be supported.

3. Potential for loitering.

The proposed operation is limited to retail sales and indoor incidental wine tastings within an existing commercial tenant space. No outdoor seating, waiting areas, or gathering spaces are proposed. These operational limitations reduce the potential for loitering outside the establishment. This use would not cause concern for loitering, and the project can be supported.

4. Distance of the proposed establishment from other establishments.

The project is located within the downtown commercial district, where restaurants, tasting rooms, wineries, and other visitor-serving businesses are an established part of the area's commercial character. The proposed use is compatible with surrounding businesses and is not expected to result in adverse land use impacts. The nearest alcohol-serving establishments are located approximately 73 feet from the subject tenant space. This consideration can be met.

5. Distance from areas used and zoned for residential use.

Although residential uses exist near the downtown area, the project is located within an established commercial development. The proposed operation is limited to indoor wine tastings and retail sales during daytime business hours and would not include outdoor alcohol service, or special events. These operational characteristics reduce the potential for noise or other effects on nearby residential uses. As such, this consideration can be met.

6. Appropriateness of annual review of use permit.

Staff does not recommend an annual review of the Conditional Use Permit. The applicant previously operated under Temporary Use Permit PL23-015 without known operational or code enforcement issues, and the proposed operation remains limited in scale. The permit may be modified or revoked if the use is operated in violation of the conditions of approval or results in documented adverse impacts. As such, no annual review is required.

7. Distance of the proposed establishment from public/private schools, nursery schools, preschools, and daycare facilities.

Staff reviewed the proximity of the proposed establishment to public and private schools, nursery schools, preschools, and daycare facilities and identified no concerns that would preclude approval of the proposed use. As such, this consideration can be supported.

D. **Approval.** Based on the foregoing findings, the Planning Commission hereby approves Conditional Use Permit PL26-009, subject to the following conditions of approval.

CONDITIONS OF APPROVAL

The Conditional Use Permit for the above-described project is granted subject to compliance with the following conditions. The conditions noted below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed:

1. Approval of Conditional Use Permit PL26-009 is limited to and based upon the applicant's written statement dated August 28, 2026, and the project plans entitled PL26-009_Project Plans, dated June 9, 2026, except as modified by these conditions of approval. Any inconsistency between the approved materials and these conditions shall be resolved in favor of the conditions.
2. The approved use shall consist of a retail wine shop with incidental wine tastings within the existing commercial tenant space located at 1269 Main Street, Suite 1299A.
3. The approved use shall operate consistently with the Municipal Code definition of a wine shop, including maintaining an applicable Type 20, 21, or 42 ABC license.
4. Wine tastings shall remain incidental and subordinate to the primary retail wine shop use. This condition does not prohibit walk-in retail bottle sales during approved public operating hours.
5. Public operating hours, including retail sales and wine tastings, shall be limited to Monday through Sunday from 9:00 a.m. to 11:00 p.m.
6. This approval does not authorize a restaurant, bar, food service, outdoor tasting area, entertainment venue, or other use not specifically approved herein.
7. Live music shall be limited to a single, unamplified musician performing as an accessory to the approved wine shop and incidental tasting use. Live music shall occur no more than twice per calendar month and shall be limited to indoors only. No amplified music or outdoor music is permitted with this approval.
8. No outdoor seating, outdoor wine service or consumption, amplified music, live music or similar outdoor activities are authorized as part of this approval.
9. The second floor shall be limited to office and administrative functions accessory to the approved wine shop. Wine tastings, retail customer service, events, and other public activities are not authorized on the second floor unless separately reviewed and approved by the City.

10. Weddings, commercial events, private parties, or other special events that exceed the scope of the approved retail wine shop with incidental wine tasting operations are not authorized under this permit. Any proposed event shall require separate City review and approval, as applicable.
11. This approval does not authorize any additions to the building, exterior alterations, façade modifications, or site improvements. Any such work shall require separate City review and approval before commencement. Any interior tenant improvements, changes in occupancy, electrical work, plumbing work, installation of fixtures or equipment, or other work requiring a permit shall be subject to separate Building and Fire Department review and approval.
12. No exterior signage is approved as part of this Conditional Use Permit. Any future signage shall require separate review and approval in accordance with the City's sign regulations.
13. Approval of Conditional Use Permit PL26-009 shall become effective following expiration of the applicable appeal period.
14. Pursuant to SHMC Section 17.04.150, minor changes to this discretionary approval may be administratively reviewed and approved by the Community Development Director, provided the requested changes do not alter the approved use, density, or intensity.
15. A permit or other discretionary approval may be extended for not more than two one-year periods, provided an application is filed at least 30 days prior to its expiration pursuant to SHMC Section 17.04.140.
16. This Conditional Use Permit shall run with the land and shall be binding upon all successors and assigns.
17. Any future exterior alterations, additions, demolition, changes to character-defining features, or other modifications requiring discretionary review shall comply with the Historic Preservation Overlay standards in SHMC Section 17.21.040 and all other applicable provisions of the St. Helena Municipal Code.
18. Any action or proceeding to attack, challenge, invalidate, set aside, or void the City's approval of the project, in whole or in part, shall be defended by the applicant at its sole expense and without cost to the City. The applicant shall fully indemnify and hold harmless the City, its agents, officers, and employees from any claims, causes of action, damages, costs, attorney's fees, or liabilities, provided the City promptly notifies the applicant of the action and cooperates in the defense.
19. Any violation of these Conditions of Approval, the St. Helena Municipal Code, or other applicable law resulting from activities on the subject property may result in modification or revocation of this Conditional Use Permit in accordance with applicable City

procedures.

20. Any expansion of the approved use, including but not limited to increases in hours of operation, the addition of outdoor tasting areas, outdoor entertainment, food service, or other activities that increase the intensity of the approved use, shall require review by the Community Development Director to determine whether an amendment to this Conditional Use Permit is required.

I HEREBY CERTIFY that the foregoing Conditional Use Permit was duly and regularly approved by the Planning Commission of the City of St. Helena at a regular meeting of said Planning Commission held on September 15, 2026, by the following roll call vote:

AYES:

NOES:

ABSENT:

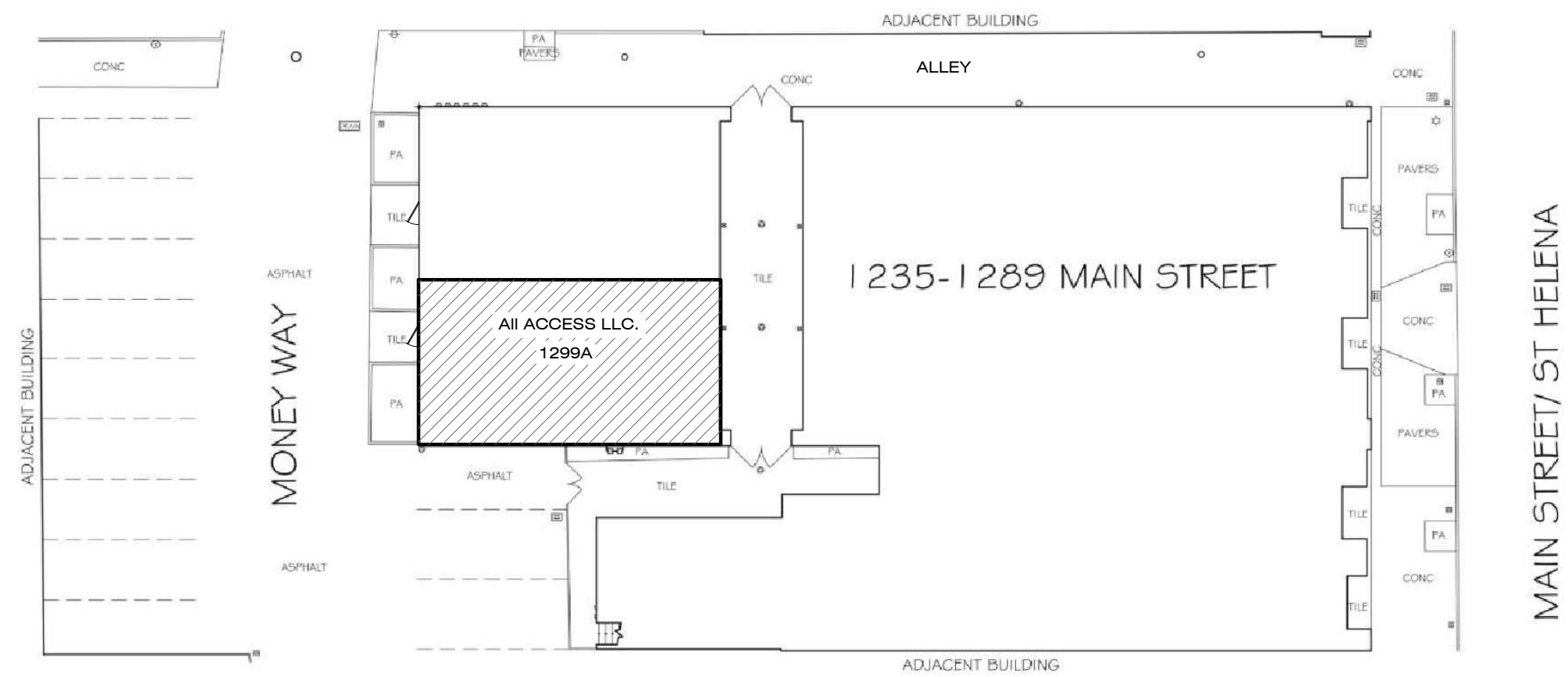
ABSTAIN:

APPROVED:

ATTEST:

Christopher Warner
Chair, Planning Commission

Leza Mikhail,
Community Development Director



1299A SITE PLAN

Scale: 1"=10'



SCOPE OF WORK	
1)	NO PARTITIONS OR WALL FRAMING.
2)	NO FIXTURES.
3)	NO ADDITIONAL SPACE.
4)	NO ELECTRICAL WORK.
5)	NO PLUMBING.
6)	ALL SITE CONDITIONS ARE EXISTING.

ACCESS LLC.

All ACCESS LLC 1299A Main St. St. Helena CA 94574																					
<table><tr><th colspan="2">SITE INFORMATION</th></tr><tr><th>DESCRIPTION</th><th>AREA (s/f)</th></tr><tr><td>(E) 1st Level:</td><td>880</td></tr><tr><td>(E) 2nd Level:</td><td>522</td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr></table>		SITE INFORMATION		DESCRIPTION	AREA (s/f)	(E) 1st Level:	880	(E) 2nd Level:	522												
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MCS

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Drafting &
Steel Detailing

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Angwin, CA 94508
Ph: (530) 913-3646
eric@moorecreekservices.com

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1269 Main St.
St. Helena CA 94574

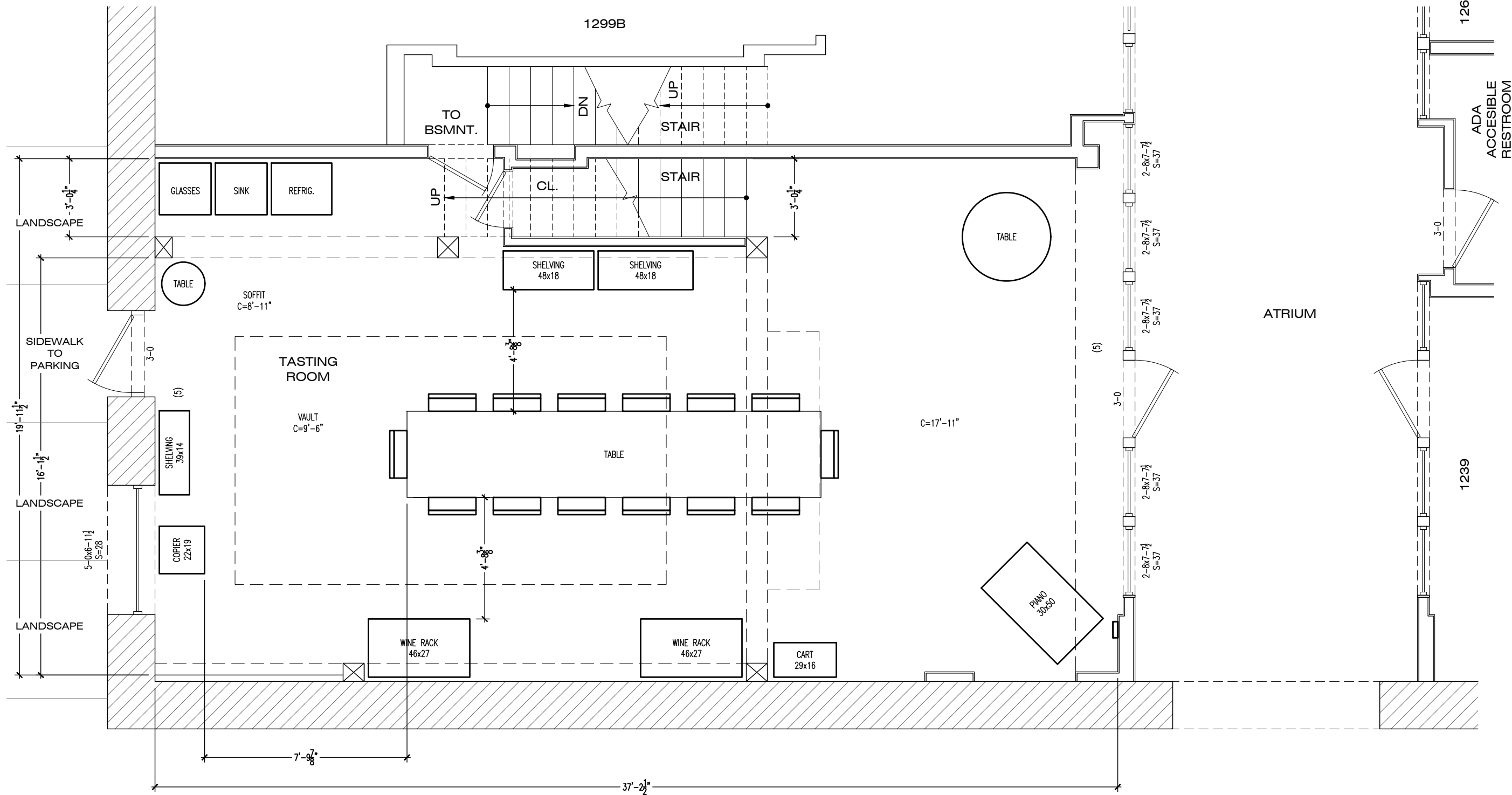
SITE PLAN

REVISIONS	BY
1	For Approval
2	
3	
4	

DRAWN EY
APPROVED
DATE 06/09/26
SCALE Noted
JOB NO. 1299A Main St.

CS

Page 25 of 446



1299A 1st LEVEL PLAN

Scale: $\frac{1}{4}" = 1'-0"$

(E) 880 s/f



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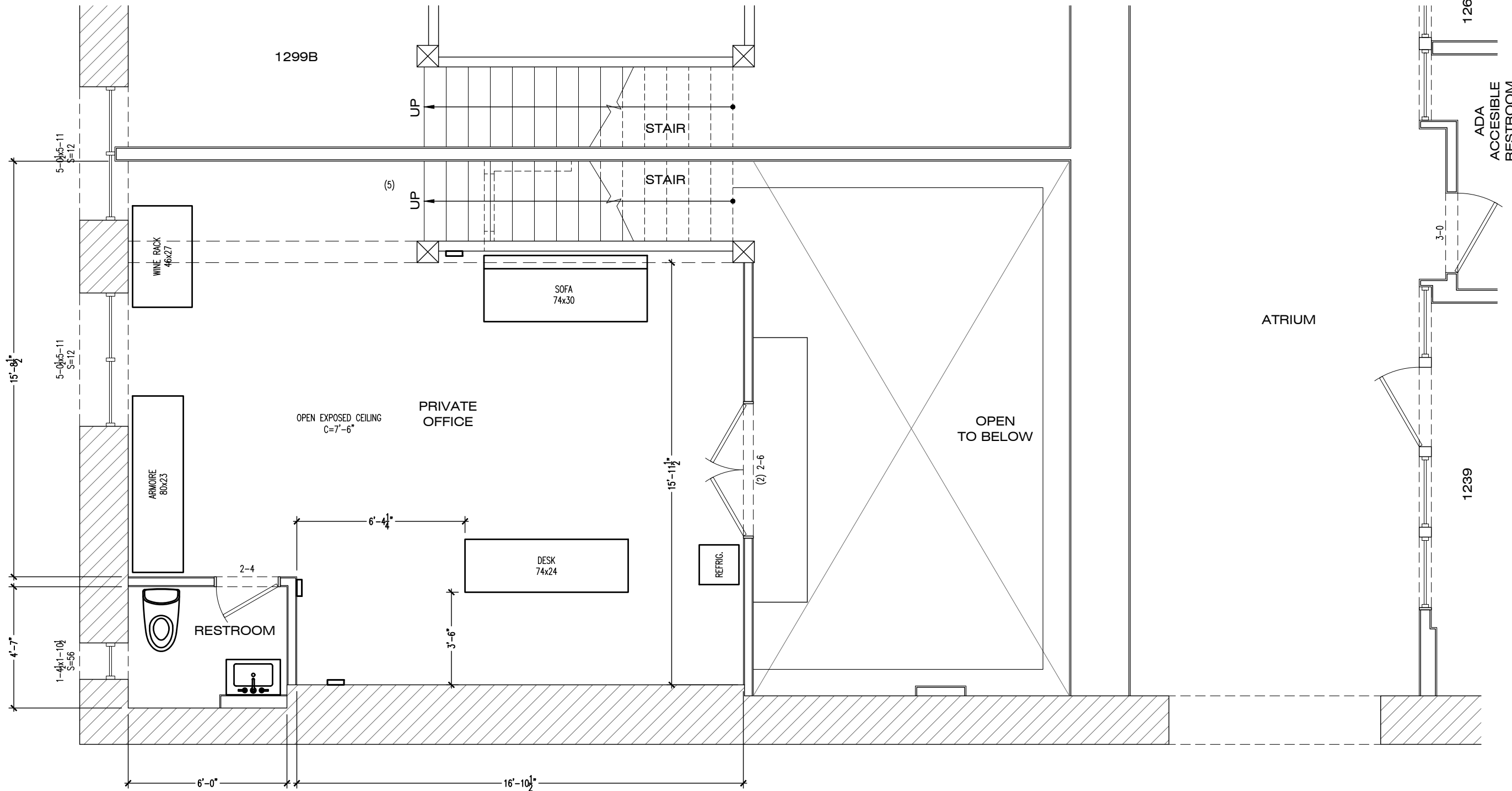
1299A Main St.
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1st LEVEL
PLAN

REVISIONS	BY
1	For Approval
2	
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4	

DRAWN EY
APPROVED
DATE 06/09/26
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JOB NO. 1299A Main St.

A1



1299A 2nd LEVEL PLAN

Scale: $\frac{1}{4}'' = 1'-0''$

(E) 552 s/f



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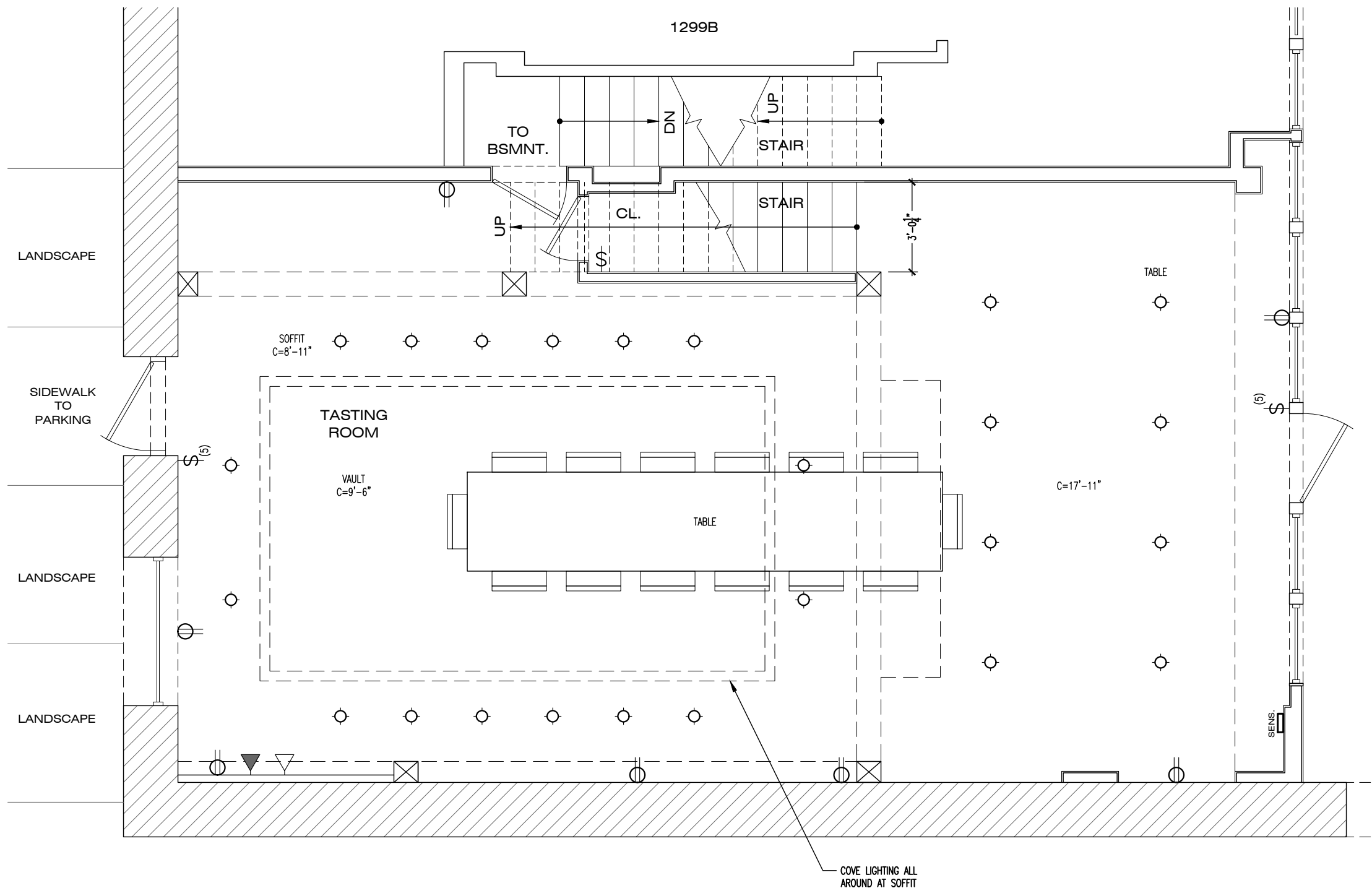
1299A Main St.
1269 Main St.
St. Helena CA 94574

2nd LEVEL
PLAN

REVISIONS		BY
1	For Approval	
2		
3		
4		

DRAWN EY
APPROVED
DATE 06/09/26
SCALE Noted
JOB NO. 1299A Main St.

A2



Fixture Legend

- ELEC. OUTLET 120V
- ELECTRICAL PANEL
- ELEC. OUTLET GROUND FAULT PROTECTED &/OR WATERPROOF
- SWITCH
- DIMMER SWITCH
- 3 WAY SWITCH
- SMOKE DETECTOR CEILING OR WALL
- CARBON MONOXIDE DETECTOR
- SECURITY DEVICE OR PANEL
- CABLE JACK
- PHONE JACK
- DIRECTIONAL CEILING LIGHT
- UNDER CABINET LIGHT
- EXHAUST FAN
- LIGHT & FAN
- WALL MOUNTED LIGHT
- RECESSED CEILING FIXTURE
- DECORATIVE CEILING LIGHT
- TRACK LIGHT

1299A 1st LEVEL ELEC. & RCP PLAN

Scale: 1/4"=1'-0"



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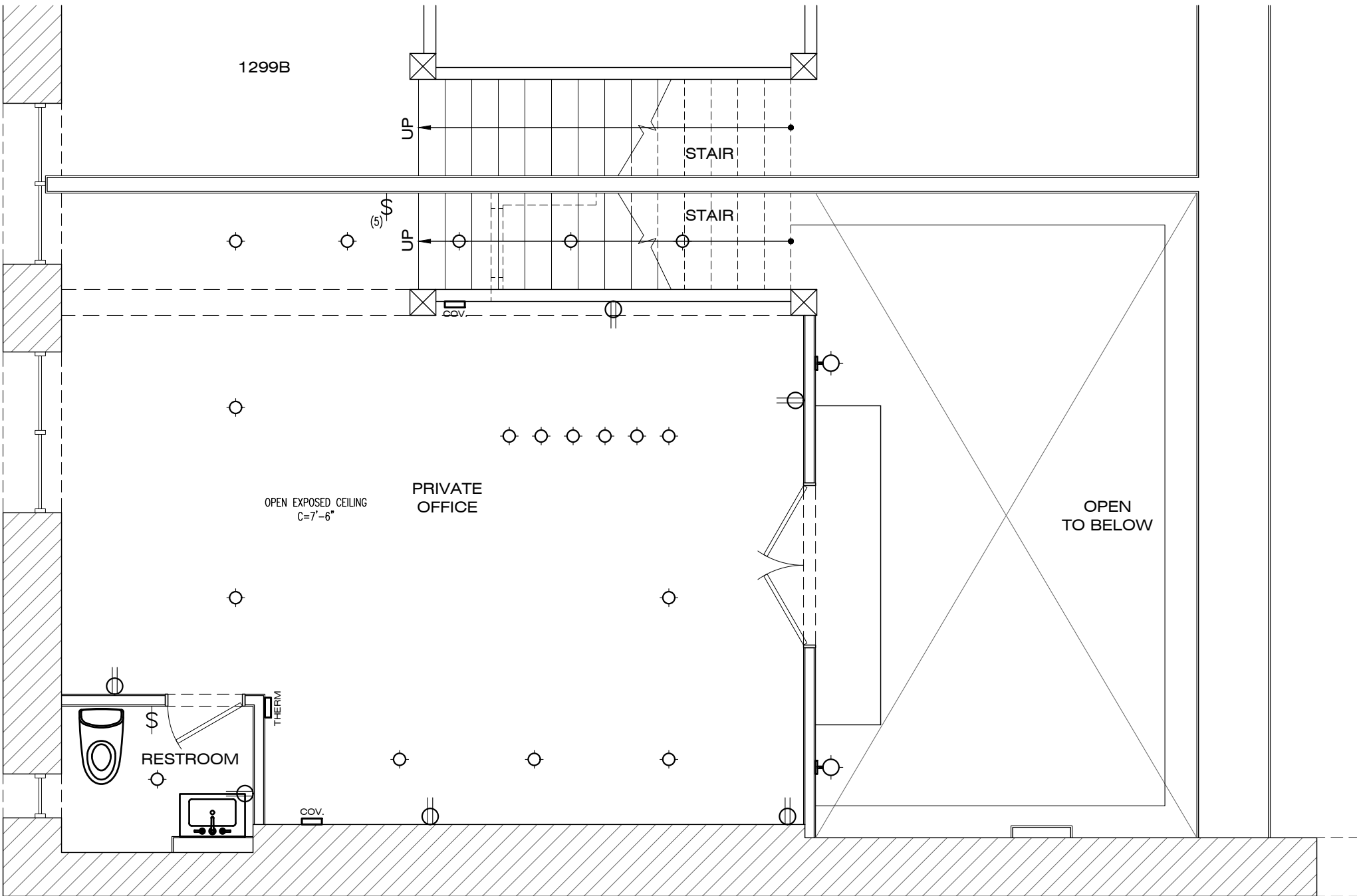
1299A Main St.
1269 Main St.
St. Helena CA 94574

**1st LEVEL
ELECTRICAL PLAN
& RCP**

REVISIONS	BY
1	For Approval
2	
3	
4	

DRAWN EY
APPROVED
DATE 06/09/26
SCALE Noted
JOB NO. 1299A Main St.

A3



1299A 2nd LEVEL ELEC. & RCP PLAN
Scale: 1/4" = 1'-0"

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**2nd LEVEL
ELEC. PLAN
& RCP**

REVISIONS		BY
1	For Approval	
2		
3		
4		

DRAWN EY
APPROVED
DATE 06/09/26
SCALE Noted
JOB NO. 1299A Main St.

A4

All Access Napa Valley, LLC owned 100% by Monica Stevens (hereinafter as AANV) is requesting approval from the City of State Helena for a beer/wine shop at 1299A Main St. St. Helena that will be licensed with the CA Alcoholic Beverage Control with a Type 42.

Due to the limited amount of choices the California Alcoholic Beverage Control has for license types, they call this license a Type 42 with the descriptive below:

42 - On-Sale Beer & Wine - Public Premises

Issued to bars and taverns. Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see BPC § 25663.5 for exception, musicians). Food service is not required. This license type is subject to Responsible Beverage Service (RBS) requirements and requires alcohol servers and managers of alcohol servers to be RBS certified.

AANV would like to operate seven days a week, from 9 a.m. to 11 p.m. AANV will be more of a wine hub. Wines by the glass will be available, also flights of wine for educating patrons about the various terroirs, vintages, grapes etc. will be offered. The location will have seating for tasting/drinking will be for about twenty chairs. Off sale of bottled wine (or beer) for sale will also take place at this business. Without being private you will feel like you have just walked into your own wine tasting experience for education and expansion of your current wine connoisseur status.

Per the California Alcoholic Beverage Control rules, minors will not be allowed inside the establishment.

Once or twice a month there could be a solo guitar, or flute, or ukulele, or clarinet the idea would be to have a solo musician playing very low volume music more of a background. There would never been amplified music or any music outdoors.

Selling merchandise, such as wine related items, t-towels, bags to put wine in, cork pullers, napkins, magnets, etc will take place.

Food pairing will not happen, but dry crackers or bread may be available to cleanse the palate



Agenda Report to the Planning Commission

Agenda Section: SCHEDULED MATTERS

Department: Community Development Department - Planning Division

DATE:	September 15, 2026
FILE NUMBER:	PL26-018
SUBJECT:	Pre-Submittal Review for a proposed eight-room expansion of the existing Wydown Hotel at 1420/1424 Main Street (APN 009-211-005).
LOCATION OF PROPERTY:	1420/1425 Main St.
APN:	009-211-005
GENERAL PLAN/ ZONING:	Central Business (CB) / Central Business (CB)
APPLICANT:	Mark Hoffmeister
PROJECT PLANNER:	Jackie Oneal, Senior Planner
REVIEWED BY:	Leza Mikhail, Director of Community Development
CEQA DETERMINATION:	CEQA to Be Completed Prior to Project Approval (Upon Formal Application)
RECOMMENDED ACTION:	Receive the staff and applicant presentations, consider public comment, and provide preliminary feedback on the proposed hotel expansion concept. No formal action is requested as part of this pre-submittal review.

BACKGROUND:

The Wydown Hotel currently operates as a 12-room hotel on the property identified as APN 009-211-005. The Assessor and preliminary title report identify the property as 1420 Main Street, while the hotel commonly uses the 1424 Main Street address.

In 2002, the City Council approved Use Permit Amendment Resolution No. 2002-73 to convert 12 previously approved studio apartments to a 12-room boutique hotel, establishing the existing hotel use.

The 2002 approval also required one rear duplex unit to be maintained as an affordable rental unit for a very-low-income household. A regulatory agreement was subsequently recorded against the property. The agreement identifies a one-bedroom duplex unit, "Unit A," as the

required affordable unit, remains in effect until the hotel use is terminated, and is binding on successors in interest. The 2026 preliminary title report continues to identify the agreement as an exception affecting the property.

In 2010, the City Council approved Resolution No. 2010-8, amending the Use Permit to allow eight additional guest rooms, increasing the hotel from 12 to 20 rooms. The approval also addressed the then-applicable hotel-room inventory cap and authorized payment of in-lieu parking fees for four spaces.

In 2012, the Planning Commission approved Demolition Permit/Design Review No. 2011-71 for the physical expansion, including eight additional guest rooms, two new two-story buildings, an internal courtyard, hotel support areas, reconstruction of the affordable housing unit, parking, and associated site improvements (see Attachment 6 for prior approval history).

The expansion was not constructed, and the 2010 and 2012 expansion approvals have expired. The existing 12-room hotel remains the established use.

PROJECT DESCRIPTION:

The applicant is requesting preliminary feedback on the concept of expanding the existing 12-room Wydown Hotel by approximately eight additional guest rooms (see Attachment 1).

The concept is generally based on the previously approved 2012 architectural plans, which show two new two-story buildings toward the rear of the property, organized around an internal courtyard. The prior concept also included hotel support areas, indoor/outdoor seating, kitchen and food-preparation areas, office and storage space, reconstruction of the required affordable housing unit, parking, and associated site improvements (see Attachments 2 and 3).

The existing Main Street hotel building would generally remain in place, with the principal new construction occurring toward the rear of the site.

The applicant has indicated that the 2012 plans are being used for conceptual reference only and that the project design may change before a formal application is submitted. Staff therefore limited this review to the proposed land use, entitlement pathway, general site planning, and architectural concept. Detailed civil and building-permit-level plans were not reviewed.

ANALYSIS:

The purpose of this pre-submittal review is to identify whether there are any significant concerns with the general development concept before the applicant prepares a new formal entitlement application.

Based on the conceptual architectural plans reviewed, staff has not identified any significant land use, dimensional development standard, or architectural issue that would appear to preclude an eight-room expansion generally consistent with the concept presented. A future formal application is anticipated to require a Conditional Use Permit Amendment, Major Design Review, and demolition review if removal of an existing structure remains part of

the project. Any future demolition would be reviewed under current SHMC Section 17.05.030, and depending on the age and status of the structure, a Demolition Permit and/or historic resource determination may be required.

Current development and design standards would apply to the proposed new construction and other improvements within the scope of the project. Existing lawful improvements that are not proposed for modification would not be required solely through this application to be brought into conformity with current standards.

General Plan Consistency

The existing hotel is an established visitor-serving use within the downtown commercial area. At a conceptual level, the proposed expansion appears generally consistent with General Plan policies supporting continued commercial activity, visitor-serving uses, and reinvestment within the downtown area, while maintaining the pedestrian-oriented character of Main Street. Because this is a pre-submittal review and the final project design and operational details have not yet been developed, a complete General Plan consistency analysis will be conducted as part of any future formal entitlement application.

Development Standards

Based on the conceptual plans reviewed, staff has not identified any significant conflicts with the dimensional development standards of the current CB zoning district. The proposed rear buildings appear generally consistent with the current building-height and overall development framework.

A future formal application will need to include current project data and calculations demonstrating compliance with applicable standards, including floor area, Floor Area Ratio, building height, applicable setbacks, landscaping, and other relevant requirements.

Staff Interpretation of Selected CB Standards

Current CB zoning regulations provide that rental of hotel rooms is limited to upper floors for properties fronting Main Street. The prior plans show two ground-floor guestrooms within rear Building B.

Staff interprets this provision as intended to preserve active ground-floor uses along the Main Street frontage. Because the proposed guestrooms are located within a rear building and do not occupy or displace the active Main Street frontage, staff does not identify the proposed ground-floor guestrooms as inconsistent with the intent of this standard based on the concept currently presented.

Current CB development standards also establish a minimum 12-foot ground-floor ceiling height. The 2012 plans appear to show lower ceiling heights within the proposed rear buildings.

Staff interprets this standard as intended to support appropriately scaled and active ground-floor spaces along visible street frontages. Because the proposed buildings are located at the rear of the property, behind the existing Main Street building, staff does not interpret the 12-

foot minimum ground-floor ceiling-height requirement as applying to the proposed rear buildings based on the concept currently presented.

Affordable Housing Obligation

The existing hotel remains subject to the recorded affordable housing regulatory agreement established in connection with the 2002 hotel approval. The agreement requires that the designated affordable unit remain available to a very-low-income household for the duration of the hotel use and is binding on successors in interest.

The 2012 expansion concept proposed reconstruction of the required unit within Building B. A future formal application will need to identify the current status and proposed treatment of the affordable unit and show how the required affordable unit will be maintained or replaced as part of the project.

Architectural Design

The prior concept generally retains the existing Main Street hotel building and places the proposed new construction toward the rear of the property around an internal courtyard.

Staff has not identified a significant concern at this stage with the general scale, massing, architectural approach, or material palette of the proposed rear buildings.

A future Major Design Review application will need to demonstrate compliance with current design standards applicable to the proposed new construction, including, as applicable, façade articulation, window proportions and detailing, exterior materials and colors, pedestrian orientation, refuse and recycling facilities, and transparency requirements.

Hotel Operations and Accessory Uses

The prior project included kitchen and food-preparation areas, indoor/outdoor seating, meeting or multi-use areas, storage, office space, and other hotel support functions.

A future formal application should include an updated operational statement addressing hours of operation, employee levels, food and alcohol service, use of outdoor areas, meetings or events, deliveries, laundry, and refuse operations. This information will allow staff to confirm whether proposed activities are accessory to the hotel use or whether additional permits are required.

Property Boundaries and Easements

The preliminary title report identifies a private alley/passage easement and a PG&E public utility easement affecting the property. The legal description also describes the property through three component parcels carried under APN 009-211-005.

A future formal application should include a current survey or site plan showing property boundaries and recorded easements so that the proposed buildings and site improvements can be reviewed for potential conflicts.

Other Department Review

Public Works, Building, and Fire provided preliminary comments regarding water neutrality, stormwater treatment, underground utilities, current Building Code requirements, occupancy and accessibility, fire sprinklers, fire-rated construction, and access requirements.

These comments are included in the pre-submittal review letter and are intended to identify major considerations only. Detailed civil and building-permit-level review will occur with future formal applications (see Attachment 5).

ISSUES:

The applicant is requesting general Planning Commission feedback on the conceptual hotel expansion to help inform preparation of a future formal application. The pre-submittal review is advisory only and is not intended to prejudge or predetermine the outcome of any future Conditional Use Permit Amendment, Major Design Review, or other entitlement application.

Topics the applicant has asked the Commission to consider include:

- The overall concept of an approximately eight-room expansion of the existing hotel;
- The general site planning and placement of the proposed rear buildings;
- The scale, massing, and architectural character of the proposed expansion;
- The relationship of the proposed rear buildings to the existing Main Street hotel building;
- The internal courtyard and pedestrian environment;
- Hotel operations and accessory uses; and
- Any other general comments or considerations that may help inform development of a future formal application.

No formal action will be taken as part of the pre-submittal review, and any future application will be evaluated independently based on the plans, project description, applicable standards, and required findings submitted at that time.

CORRESPONDENCE:

As of the preparation of this staff report, staff has received no public correspondence regarding the pre-submittal application.

Any correspondence received after publication of the agenda will be provided to the Planning Commission prior to or at the meeting.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission receive the staff and applicant presentations, consider public comment, and provide preliminary feedback regarding the proposed eight-room Wydown Hotel expansion concept.

In particular, staff recommends that the Commission identify whether it has any significant concerns with the overall scale, location, site planning, architectural character, or operational concept of the proposed rear expansion that the applicant should consider before proceeding with preparation of a formal Conditional Use Permit Amendment and Major Design Review

application.

No formal action is required.

ATTACHMENTS:

1. Applicant's Written Project Statement
2. Conceptual Renderings
3. Selected 2012 Architectural Plans
4. Existing Site and Surrounding Context Photos
5. Pre-submittal Review Comment Letter
6. Prior Entitlement Approvals (2002, 2010, and 2012)

**Use Permit Pre-Submittal Application
Written Statement**

July 14, 2026

**T & C Hotels, LLC dba Wydown Hotel
1424 Main Street, St. Helena CA 94574**

I am writing to enter a Pre-Submittal Application requesting a potential Use Permit amendment to add eight (8) additional rooms to the current Wydown Hotel located at 1424 Main Street, St. Helena, CA 94574.

I have owned the property since 2010 and operated the Wydown Hotel since 2011. We have twelve (12) guest rooms currently. Additionally, we lease two retail spaces located at 1422 and 1428 Main Street. The main building consists of two floors and encompasses roughly 10,000 square feet. There is second building housing out employee breakroom, laundry, storage and an affordable housing unit.

The proposed eight (8) rooms consist of two new buildings. Both buildings are two stories. Maximum building height is 25 feet 3 inches. There are 24 parking spaces. Total square feet of new buildings are 5,804. Below are the metrics for the proposed new buildings.

Floor Area

Building A First Floor:	2,659 sf
Building A Second Floor:	2,549 sf
Building B First Floor:	1,449 sf
Building B Second Floor:	1,183 sf

Area by Use Type

Sleeping Area (guest rooms)	2,123 sf
Residential (affordable housing)	370 sf
Business Areas:	102 sf
Food Prep:	231 sf
Service Areas:	113 sf
Storage Areas:	194 sf
Utility Areas:	138 sf

Maximum Occupancy Load

Building A First Floor:	44
Building A Second Floor:	9

Building B First Floor:	6
Building B Second Floor:	4

Through this Pre-Submittal request, we are seeking City input on (1) overall support from the Planning Commission and/or City Council in regards to the addition of eight guest rooms, (2) guidance from City agencies such as Public Works, Fire Department, Police Department and Public Safety, (3) guidance from the City in regards to water usage, (4) comments on any potential impacts to City services and utilities and any additional findings that could help steer us toward a successful Use Permit Amendment application and approval. I would like preliminary feedback from the Planning Commission study session.

Please let me know what additional information you may need.

Thank you,

A handwritten signature in black ink, appearing to read 'Mark Hoffmeister', with a stylized flourish at the end.

Mark Hoffmeister
Owner







CONSULTANTS

WYDOWN HOTEL - PHASE II

1424 MAIN STREET. SAINT HELENA, CA 94574

OWNER

MARK HOFFMEISTER
1424 MAIN STREET. SAINT HELENA, CA 94574

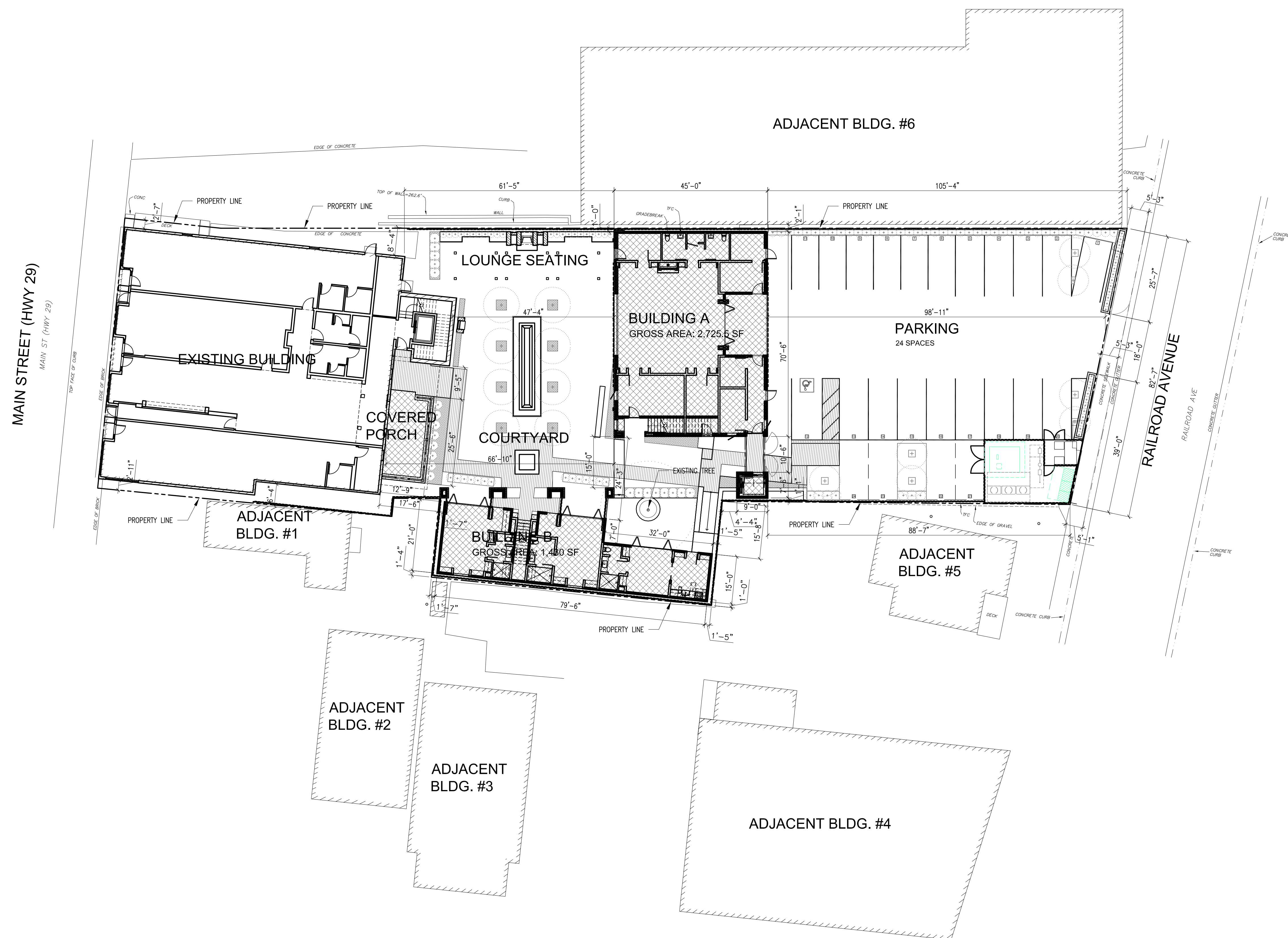
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SHEET TITLE

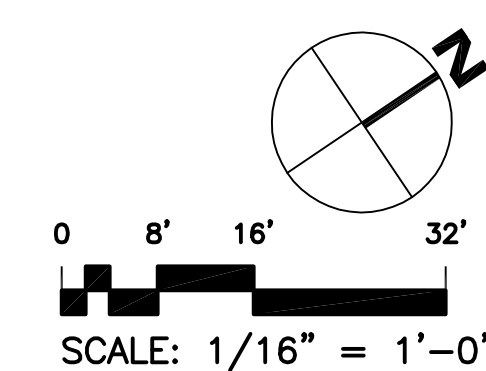
SITE PLAN

A-100

SHEET - OF



1 SITE PLAN
1/16" = 1'-0"



CONSULTANTS

WYDOWN HOTEL - PHASE II

1424 MAIN STREET. SAINT HELENA, CA 94574

OWNER

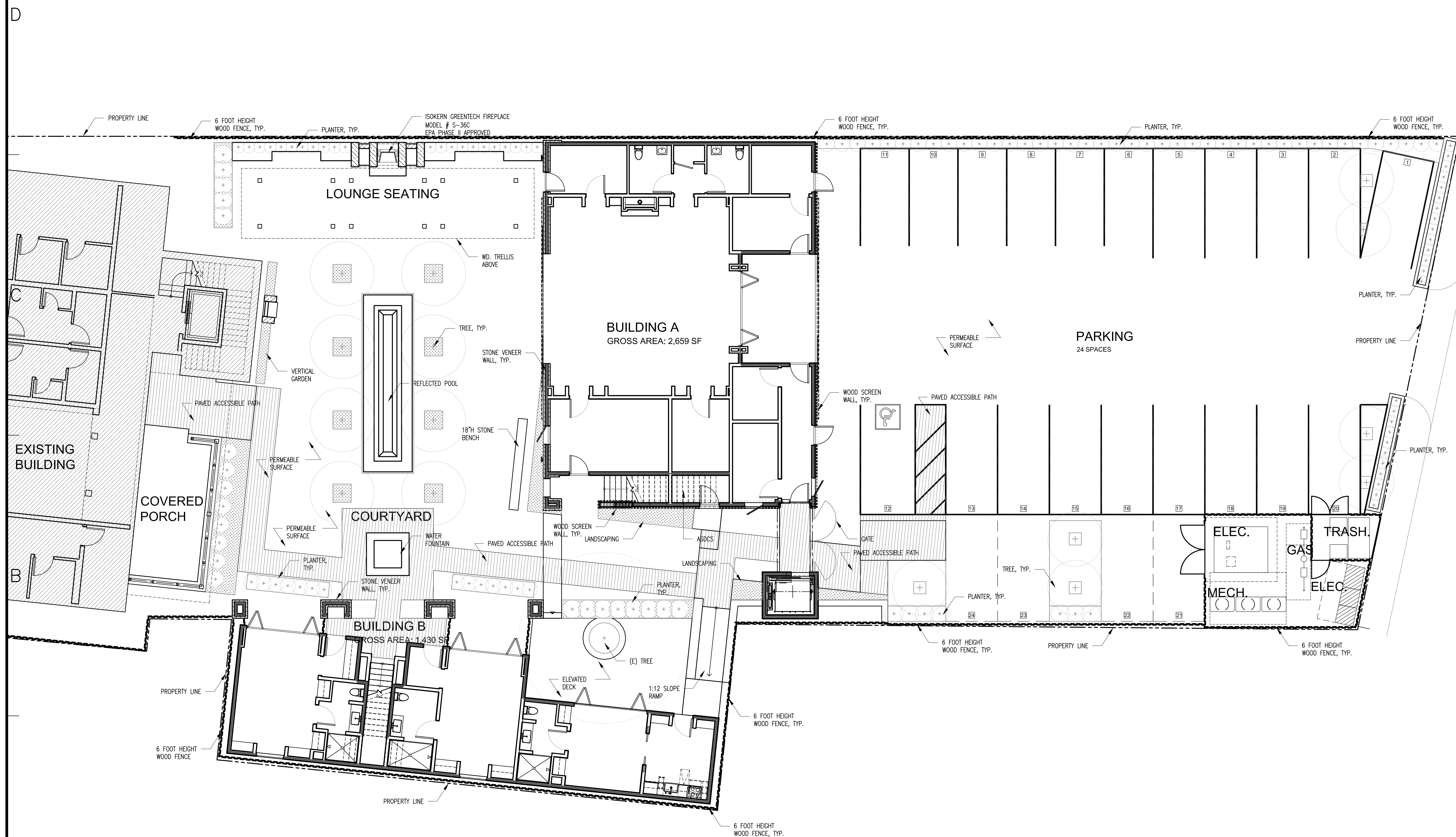
MARK HOFFMEISTER
1424 MAIN STREET, SAINT HELENA, CA 94574

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SHEET TITLE
FIRST FLOOR PLAN

A-101

SHEET - OF



1 FIRST FLOOR PLAN
1/8" = 1'-0"

0 4' 8' 16'

SCALE: 1/8" = 1'-0"

CONSULTANTS

1424 MAIN STREET. SAINT HELENA, CA 94574

OWNER

MARK HOFFMEISTER
1424 MAIN STREET, SAINT HELENA, CA 94574

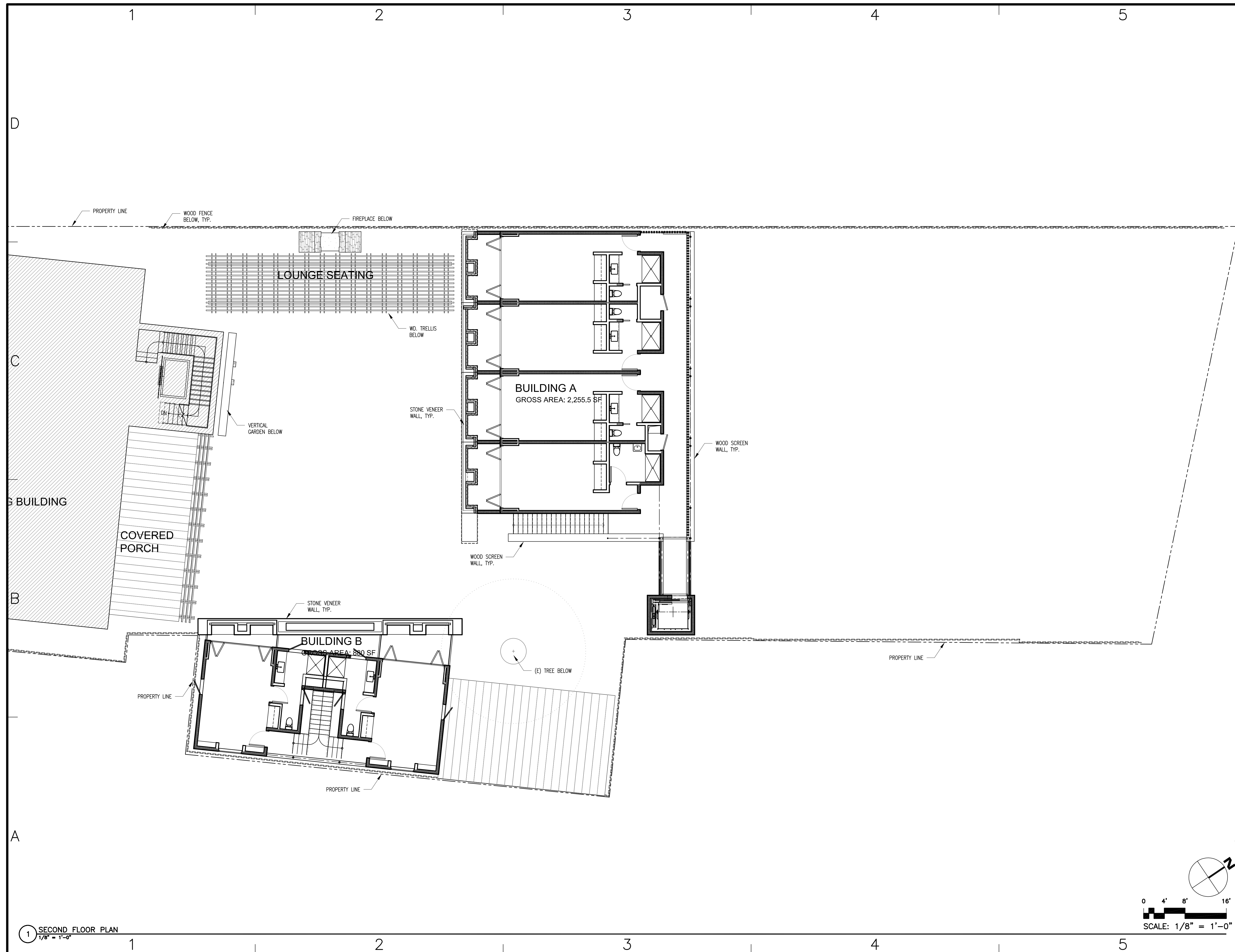
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SHEET TITLE

SECOND FLOOR PLAN

A-102

SHEET - OF -



1 SECOND FLOOR PLAN
1/8" = 1'-0"

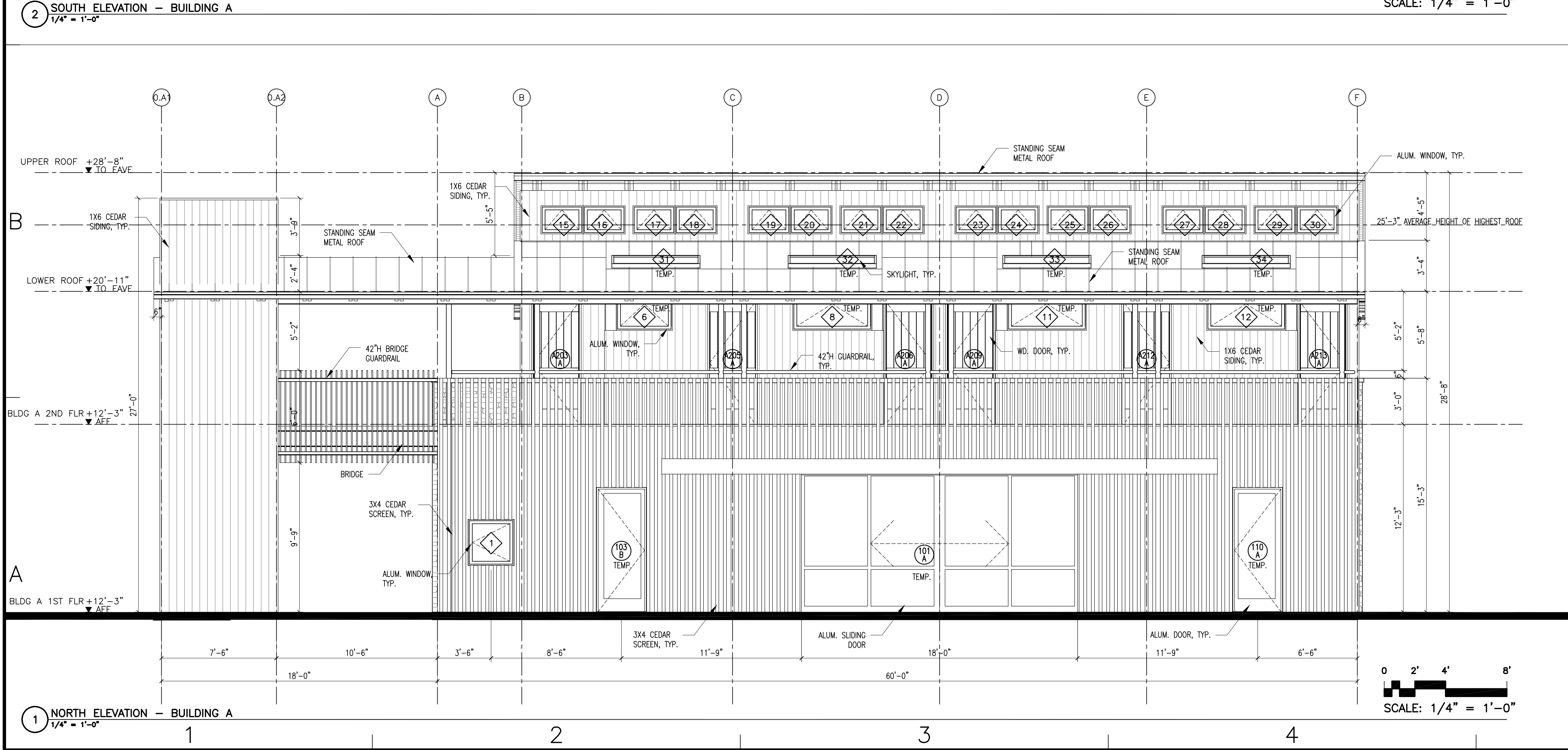
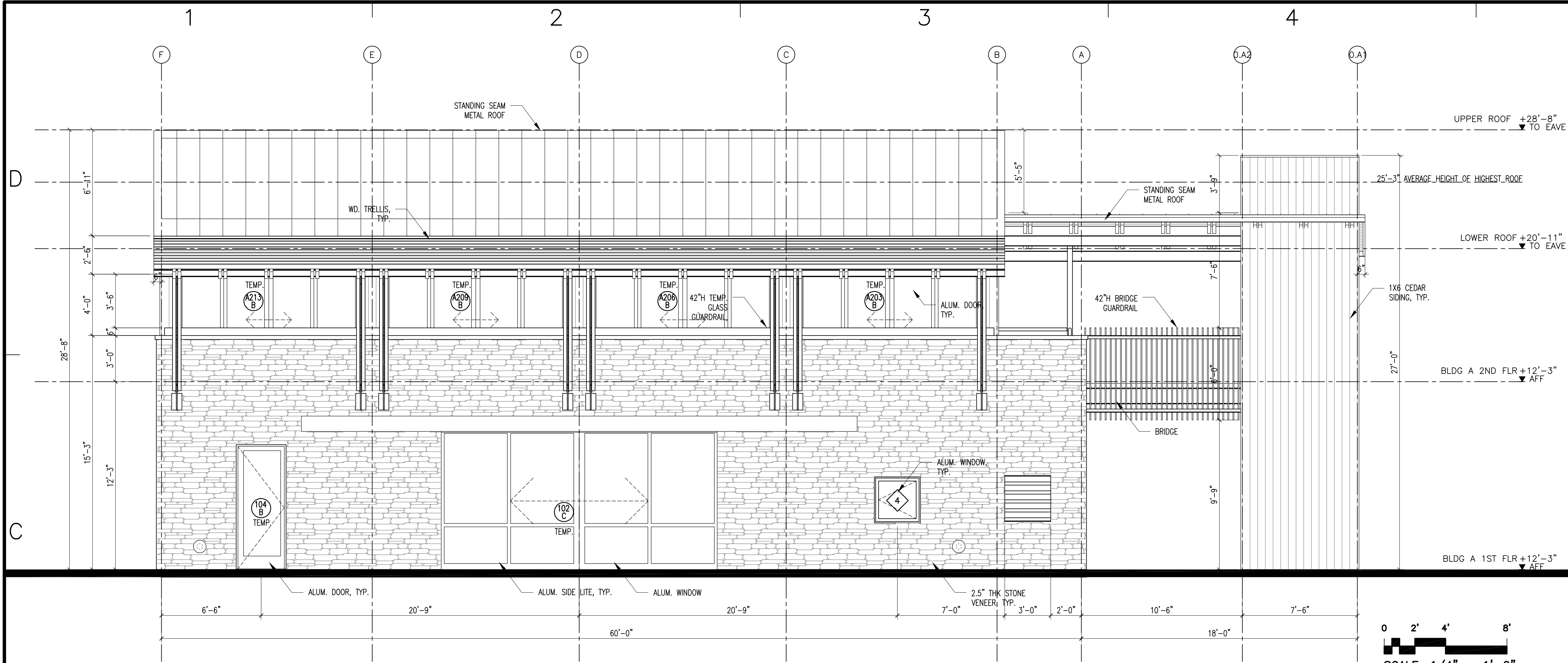


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SHEET TITLE
BUILDING ELEVATIONS - BUILDING A

A-201

SHEET - OF -



MG&Co
ARCHITECTS

601 Fourth Street, Suite 110, San Francisco, California 94107
TELEPHONE 415.777.2101
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WEBSITE www.mgandco.com

CONSULTANTS

WYDOWN HOTEL - PHASE II

1424 MAIN STREET, SAINT HELENA, CA 94574

OWNER

MARK HOFFMEISTER
1424 MAIN STREET, SAINT HELENA, CA 94574

MARK DATE DESCRIPTION

PROJECT NO: 1101
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COPYRIGHT:

SHEET TITLE

BUILDING ELEVATIONS -
BUILDING A

A-202

SHEET

OF

CONSULTANTS

1424 MAIN STREET. SAINT HELENA, CA 94574

OWNER

MARK HOFFMEISTER
1424 MAIN STREET. SAINT HELENA, CA 94574

MARK	DATE	DESCRIPTION
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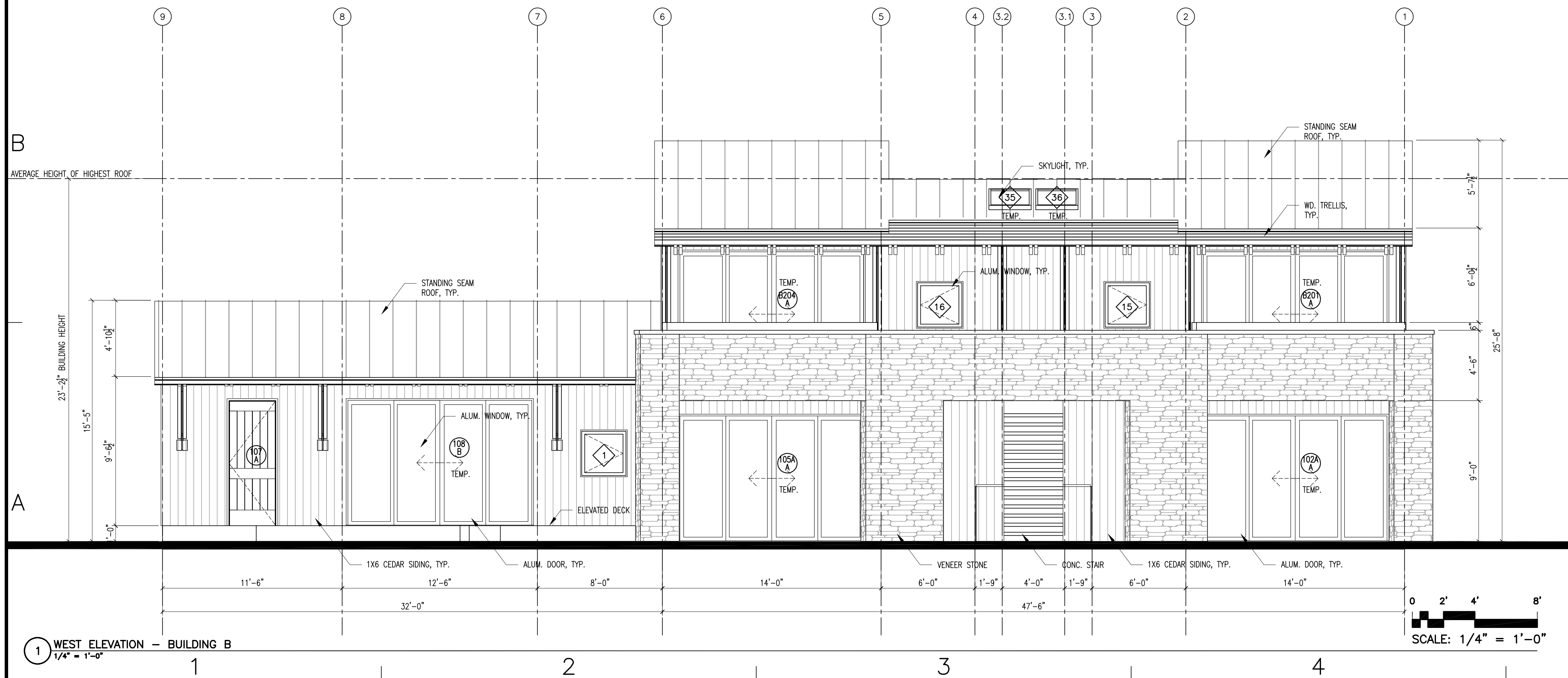
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SHEET TITLE

BUILDING ELEVATIONS -
BUILDING B

A-203

SHEET - OF -



CONSULTANTS

1424 MAIN STREET. SAINT HELENA, CA 94574

OWNER

MARK HOFFMEISTER
1424 MAIN STREET. SAINT HELENA, CA 94574

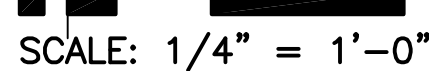
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COPYRIGHT:		

SHEET TITLE

BUILDING ELEVATIONS -
BUILDING B

A-204

SHEET - OF -



SCALE: $1/4" = 1'-0"$







City of St. Helena
Planning Division
1088 College Avenue
St. Helena, CA 94574

August 26, 2026

Mark Hoffmeister
Wydown Hotel
1424 Main Street
St. Helena, CA 94574
Via Email to: mark@wydownhotel.com

**Re: Preliminary Pre-Submittal Review Comments –
Wydown Hotel Expansion, 1420/1424 Main Street (APN 009-211-005); File #PL26-018**

Dear Mr. Hoffmeister,

The City received the above-referenced pre-submittal application requesting preliminary feedback on the concept of expanding the existing 12-room Wydown Hotel by approximately eight additional guestrooms.

As clarified during our discussions, the purpose of this pre-submittal review is to identify high-level planning, building, fire, and public works considerations that may affect development of a future project. As discussed, the submitted 2012 architectural drawings are being used as a reference for the general project concept only. Staff's review has therefore focused on the proposed land use, required entitlements, general site planning, and architectural concept. Staff did not perform a detailed review of the previously prepared civil, structural, mechanical, electrical, plumbing, Title 24, or other building-permit-level plans. Those documents were prepared for the prior project under earlier code requirements and should be considered historical reference only.

This pre-submittal review is advisory and is intended to identify major issues and considerations that may affect preparation of a future formal application. It does not constitute project approval, a determination of application completeness, or confirmation that a future project will comply with all applicable City standards.

The comments below are intended to assist you in preparing a future formal application and to support discussion at the Planning Commission pre-submittal study session scheduled for September 15, 2026.

Planning Division

Contact: Jackie Oneal, Senior Planner, joneal@cityofsthelena.gov

1. Prior Entitlement History

The property has a history of approvals associated with both the existing hotel and the previously proposed expansion.

In 2002, the City Council approved Use Permit Amendment Resolution No. 2002-73 to convert 12 previously approved studio apartments to a 12-room boutique hotel. This approval established the existing 12-room hotel use.

In 2010, the City Council approved Resolution No. 2010-8, approving a Use Permit Amendment to add eight guestrooms to the existing hotel, increasing the hotel from 12 to 20 rooms. That approval also increased the then-applicable hotel room inventory cap and authorized payment of in-lieu parking fees for four parking spaces. The 2010 approval specifically required subsequent Design Review of the physical expansion.

In 2012, the Planning Commission approved Demolition Permit/Design Review No. 2011-71 for the physical expansion, including eight additional guestrooms, two new two-story buildings, a courtyard, indoor/outdoor seating area, kitchen, storage and office space, reconstruction of the affordable housing unit, and associated parking and site improvements.

The eight-room expansion was not constructed. The 2010 Use Permit Amendment and 2012 Demolition Permit/Design Review approvals were subject to vesting deadlines and have expired. The existing 12-room hotel remains the established hotel use; however, a future eight-room expansion will require new approvals under the current Municipal Code.

2. Required Entitlements

Under the current Central Business (CB) zoning regulations, hotel use is allowed only with approval of a Conditional Use Permit, and new development and exterior modifications are subject to Design Review.

A future application for the hotel expansion will therefore require, at a minimum:

- **Conditional Use Permit Amendment** for the hotel expansion, pursuant to SHMC Section 17.17.020 (requiring conditional approval for hotel use in the CB District);
- **Major Design Review** for the new buildings and associated site improvements, pursuant to SHMC Section 17.17.040; and
- **Demolition Review**, if demolition of an existing structure remains part of the project.

The prior 2012 approval included demolition of an existing rear structure that was determined at that time not to be a significant architectural or historical building. Because that Demolition Permit has expired, any demolition proposed as part of a future application will be reviewed under the current requirements of SHMC Section 17.05.030. If the structure proposed for demolition is less

than 50 years old, a Demolition Permit would be required. If it is 50 years old or older, a historic resource determination may be required before the applicable demolition review can be confirmed.

Where demolition is proposed, SHMC Section 17.05.030 requires Design Review of the replacement structure to be approved prior to or concurrently with approval of the demolition.

The Conditional Use Permit Amendment, Major Design Review, and any required demolition or historic-resource review would be submitted and processed concurrently. Additional permits or approvals may be identified based on the final project scope.

3. Scope of Current Development and Design Standards

A future application will be reviewed under the Municipal Code in effect at the time of submittal. Current development and design standards will apply to the proposed new construction and other improvements within the scope of the project.

Existing lawful improvements that are not proposed for modification will not be required through this application to be brought into compliance with current development or design standards solely as a result of the proposed expansion.

The future plan set should therefore clearly distinguish:

- Existing improvements to remain unchanged;
- Existing improvements proposed for alteration or demolition; and
- Proposed new construction and site improvements.

4. Hotel Room Location

Current CB zoning regulations provide that rental of hotel rooms is limited to upper floors for properties fronting Main Street. The 2012 plans show two ground-floor guestrooms within rear Building B. Staff interprets this provision as intended to preserve active ground-floor uses along the Main Street frontage. Because the proposed guestrooms are located within a rear building and do not occupy or displace the active Main Street frontage, staff does not identify the proposed ground-floor guestrooms as inconsistent with the intent of this standard based on the concept currently presented.

5. Affordable Housing Unit

The existing hotel is subject to a recorded affordable housing regulatory agreement established in connection with the 2002 hotel approval. The agreement identifies one rear one-bedroom duplex unit, "Unit A," as an affordable housing unit to be rented to a very-low-income household. The agreement remains in effect until the hotel use is terminated on the property and is binding on successors in interest.

The 2012 expansion plans proposed reconstruction of the required affordable unit within Building B. A future formal application should clearly identify the current status and proposed treatment of

the affordable unit and show how the required affordable unit will be maintained or replaced as part of the project.

6. Ground-Floor Ceiling Height

Current CB development standards establish a minimum ground-floor ceiling height of 12 feet. The 2012 architectural sections appear to show lower ground-floor ceiling heights within the proposed rear buildings. Staff interprets this standard as intended to support appropriately scaled and active ground-floor spaces along visible street frontages. Because the proposed buildings are located at the rear of the property, behind the existing Main Street building, staff does not interpret the 12-foot minimum ground-floor ceiling-height requirement as applying to the proposed rear buildings based on the concept currently presented.

7. Development Standards

Based on the conceptual plans reviewed, staff has not identified any significant conflicts with the dimensional development standards of the current CB zoning district. The previously approved rear buildings appear generally consistent with the current building-height and overall development framework.

A future formal application will nevertheless need to include a current zoning and project data table identifying existing and proposed floor area, Floor Area Ratio (FAR), building heights, applicable setbacks, landscaped area, and other applicable development standards so that compliance can be confirmed based on the final design.

8. Property Boundaries and Easements

The preliminary title report identifies existing private access and public utility easements affecting the property. A future formal application should include a current survey or site plan identifying all property boundaries and recorded easements. Proposed buildings and site improvements will need to be designed to avoid conflicts with applicable easement rights.

9. Architectural Design

The 2012 concept generally retains the existing Main Street hotel building, with the proposed expansion located toward the rear of the property around an internal courtyard. Because substantial alterations to the existing Main Street building are not currently proposed, staff's review of current design standards will focus on the new buildings and other improvements included within the scope of the project.

Based on the conceptual architectural drawings, staff does not identify a significant concern at this stage with the overall architectural approach, scale, or material palette of the proposed rear buildings.

A future Design Review application will need to demonstrate compliance with the current design standards applicable to the proposed new construction, including, as applicable:

- Building and façade articulation;

- Upper-story window proportions and detailing;
- Exterior materials and colors;
- Building entrances and pedestrian orientation;
- Refuse and recycling facilities; and
- Building transparency.

Please note, current CB standards include transparency requirements for qualifying exterior walls facing and located within 40 feet of a street-facing lot line or pedestrian walkway. Because the prior concept includes internal pedestrian walkways and a courtyard between the new buildings, the future application should identify the walls subject to this standard and demonstrate compliance.

10. Hotel Operations and Accessory Uses

The prior project included kitchen and food preparation space, indoor/outdoor seating, meeting or multi-use space, storage, office, and other hotel support functions. A future formal application should include an updated operational statement describing how the expanded hotel would operate, including:

- Hours of operation;
- Number of employees;
- Food preparation and food service;
- Whether food service would be limited to hotel guests;
- Alcohol service, if proposed;
- Use of courtyard and outdoor areas;
- Meetings, events, music, or entertainment, if proposed;
- Deliveries and loading;
- Laundry operations; and
- Refuse and recycling operations.

This information will allow staff to confirm that proposed activities are accessory to the hotel use or identify whether any additional use classifications or permits are required.

11. Future Entitlement Plans

The 2012 architectural drawings are useful in understanding the previously approved concept; however, a future formal application should include a current, coordinated entitlement plan set prepared specifically for the proposed project.

The entitlement plans should clearly identify existing and proposed conditions and provide the information necessary to evaluate the proposed new work against applicable planning and zoning standards.

Detailed civil, structural, mechanical, electrical, plumbing, energy, and other building-permit-level plans are not required for this pre-submittal review and were not evaluated by Planning as part of

these comments. Those documents will be reviewed at the appropriate stage based on the final project design and the codes in effect at the time of permit submittal.

12. Environmental Review

Environmental review will occur upon submittal of a complete formal application. Based on the conceptual project currently presented, staff anticipates that the project may qualify for a categorical exemption from CEQA, potentially including the Class 3 exemption for new construction or conversion of small structures. The previously approved 2012 project was determined to be exempt pursuant to CEQA Guidelines Section 15303, Class 3(c).

The applicability of any categorical exemption will be evaluated based on the final project description, site design, operational characteristics, and environmental conditions at the time a formal application is submitted. No CEQA determination is being made as part of this pre-submittal review.

Department of Public Works

Contact: Eric Janzen, Assistant Public Works Director, erjanzen@cityofsthelena.gov

The following comments are intended to identify major Public Works considerations based on the conceptual project. Public Works did not perform a detailed review of the previously prepared civil or building-permit-level plans as part of this pre-submittal review. Additional requirements may be identified upon review of a future formal application.

1. Underground Utilities

All electrical energy and communication service laterals to a commercial structure being remodeled that requires relocation or replacement of the main electrical energy or communication service equipment shall be placed underground in accordance with SHMC Section 13.28.120.

2. Post-Construction Stormwater Requirements

Projects creating or replacing more than 5,000 square feet of impervious surface are regulated under BASMAA. Post-construction stormwater pollution control measures, including bioretention or other approved facilities, will be required for runoff from new impervious surfaces. Refer to the BASMAA Post-Construction Manual for applicable requirements.

3. Water Neutrality

The applicant is responsible for conformance with the City of St. Helena Water Neutrality Requirements (see link: [Policy 9.2.1](#)) in accordance with SHMC Sections 13.04.221(B)(13) and 13.12.030. A water neutrality calculation will be required with the formal application.

Building Division

Contact: Phillip Henry, Chief Building Official, phenry@cityofsthelena.gov

The following comments identify major Building Division requirements that should be considered as the project is developed. Detailed building-permit-level plans were not reviewed as part of this pre-submittal process.

1. A building permit will be required for all on-site demolition and construction.
2. The project will be required to comply with the codes adopted at the time of building permit submittal. At this time, the City utilizes the 2025 Title 24 California Building Codes.
3. The proposed hotel structures are anticipated to be classified as R-1 occupancy and will be required to comply with applicable California Building Code requirements, including Chapter 4, Section 420, and Chapter 11B. Final occupancy classifications and any mixed-occupancy requirements will be determined based on the final design.
4. Building permit plans will be required to include all documentation identified on the applicable Building Division application checklist.
5. A Construction Waste Management Plan will be required.
6. Construction plans will be required to include the applicable California Green Building Standards Code mandatory measures checklist.
7. Projects proposing food preparation or food service should coordinate with Napa County Environmental Health regarding kitchen requirements and food service permits.
8. Building permit application materials will be required to identify applicable special loads, special inspections, seismic requirements, and deferred submittals. Deferred submittals require approval by the Building Official.

The previously prepared building-permit-level documents should be considered historical reference only and will need to be updated or replaced based on the final project and codes in effect at the time of future permit submittal.

St. Helena Fire Department

Contact: Alec Vidler, Fire Inspector, avidler@cityofsthelena.gov

The following preliminary Fire Department comments identify major requirements to consider as the project design is developed. Additional requirements may be identified upon review of a future formal application and current permit plans.

1. Plans submitted for building permit shall demonstrate compliance with the current St. Helena Fire Code, as adopted and codified in SHMC Chapter 15.36.
2. Fire sprinklers shall be installed as required by the Fire Code and Fire Department.

3. One-hour minimum fire-resistant construction is required for exterior walls located within 10 feet of a property boundary. Fire-resistant construction requirements for interior walls will be determined based on occupancy and the final building design.
4. Any gates proposed to control vehicular access must be set back 30 feet from the property line and/or edge of pavement, whichever is greater. Vehicle gates require Fire Department and Public Works review and approval.
5. Fire sprinklers may also be required for alterations or repairs to an existing building where demolition meets the thresholds established by SHMC Section 903.2.3. Applicability to the existing Main Street building will depend on the final scope of work.

The project is scheduled for a Planning Commission pre-submittal study session on **September 15, 2026**. This letter will be included with the materials provided to the Planning Commission for that meeting.

There will be no formal action or project approval at the pre-submittal study session. The purpose of the meeting is to provide an early opportunity for the Planning Commission, City departments, the applicant, and the public to discuss the concept and identify issues or considerations that may help inform preparation of a future formal application.

The comments in this letter are based on the conceptual information currently available and are not intended to represent an exhaustive review of the project. Additional comments or requirements may be identified through the September 15 discussion or upon review of a future formal application.

When you are ready to move forward with a formal application, staff recommends scheduling a meeting with Planning staff in advance of submittal to review the proposed scope, required entitlements, and submittal materials. Formal applications are submitted online through the City's eTRAKiT system. Current application forms, checklists, and submittal information are available on the City's website here: [Application Checklists & Forms](#).

If you have any questions regarding these comments or preparation for the September 15 study session, please contact me at joneal@cityofsthenela.gov or (707) 968-2747.

Sincerely,



Jackie Oneal
Senior Planner, City of St. Helena

**CITY OF ST. HELENA
CITY COUNCIL**

RESOLUTION NO. 2002-73

**APPROVING AN INCREASE TO THE HOTELS, MOTELS, AND B&B
INVENTORY CAP FROM 171 ROOMS TO 183 ROOMS AND APPROVING
A USE PERMIT AMENDMENT TO CONVERT 12 RESIDENTIAL UNITS
TO HOTEL ROOMS AT 1420 MAIN STREET**

RECITALS

- A. Norman Alumbaugh submitted a request to increase the Hotels, Motels and B&B Inventory cap from 171 rooms to 183 rooms and for a Use Permit Amendment. The Use Permit Amendment will allow the applicant to change the use of a previously approved 12-unit studio apartment building to a 12-room boutique hotel
- B. On May 7, 2002, the Planning Commission recommended that the City Council find that the proposed conversion of 12 studio apartments to a 12-room hotel is exempt from CEQA pursuant to Section 15303, Class 3 of the Guidelines. The Commission further recommended that the City Council deny the request to amend the Hotels, Motels, and B&B inventory and deny the request for a Use Permit Amendment to allow the proposed conversion.
- C. The City Council heard this application at the regularly scheduled meeting of May 28, 2002 and directed staff to complete a document reflecting the City Council's intention to amend the Hotels, Motels, and B&B inventory as requested, and to approve the proposed Use Permit Amendment. The Commission adopted a Resolution approving the project at the meeting of June 11, 2002.

FINDINGS

- A. Pursuant to Section 27.439 of the Zoning Ordinance, the City Council makes the following findings to support a motion to approve a Use Permit Amendment to allow the conversion of a 12-unit studio apartment complex to a 12-room boutique hotel.
1. That the proposed use would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the community.
The proposed hotel use will only generate odors, fumes, dust, light, glare or refuse that are consistent with low impact commercial uses, similar to those generated by surrounding properties. This level of impact is not considered to be injurious to the surrounding uses or to the community.
 2. That the proposed use would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties or uses.
Section 8.3 of the General Plan states that, "The ambient noise environment over much of the City of St. Helena can be characterized as quiet and largely unaffected by man-made sources of noise. The major source of noise in the community is traffic noise. In areas near the primary transportation arteries, such as Main Street, the ambient noise environment is largely determined by motor vehicle

traffic... The future noise environment in St. Helena is projected to experience little change from 1991 conditions. The increases in traffic (from 1991 levels to those expected in 2010) would generally result in increases in noise levels of less than one or two dBA...Typically, a change in noise levels of less than 3dBA is not discernible to the general population." The change of use from apartment to hotel is anticipated to generate insignificant additional noise. Based on this analysis, staff believes that the additional noise generated by the proposed project would not adversely affect the health, safety, or welfare of neighboring properties or uses.

3. That the proposed use would not generate traffic noise in excess of the "normally acceptable" range identified in the General Plan.

The change in use from apartment to hotel will not generate significant traffic. Based on the analysis noted above, staff believes that the additional traffic noise generated by the proposed project would not exceed the "normally acceptable" range identified in the General Plan.

4. That the proposed use would not make excessive demands on the provision of public services including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.

The water and sewer use factor rates for motels are less than that required for apartments. A condition of approval for this project requires the applicant to pay additional impact fees for the conversion of the space from residential use to commercial use. Payment of the additional fees will mitigate for any additional demands on the provision of public services.

5. That the proposed use would provide adequate ingress and egress to and from the proposed location.

The ingress and egress to and from the residential units was determined to be adequate for that use. A condition of approval for this project requires that the applicant submit plans to the Building Official that show compliance with all applicable building codes, including plans for ingress and egress to and from the hotel.

6. That allowing the proposed use would not conflict with the City's goal of maintaining the economic viability of a local serving economy.

The hotel is located within walking distance of most local businesses. It is likely that the hotel guests will patronize the local businesses, thereby supporting the economic viability of our local economy.

7. That the proposed use would be compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located.

The proposed hotel use would be compatible with the surrounding uses in the City's CB: Central Business district, all of which are within walking distance. In addition to the fact that surrounding businesses will undoubtedly derive a direct financial benefit from the hotel occupants, hotels are specifically allowed within the CB district.

8. That the proposed use would not be in conflict with the City's General Plan.

The Tourism Management Element of the General Plan discourages unlimited tourist serving uses in St. Helena and includes the following statement: *The majority of the citizens of St. Helena believe that tourism has provided more benefits than drawbacks, but also believe that additional tourism-related development would detract from their quality of life. This view of*

tourism is a fundamental element of the entire General Plan, i.e., additional tourism-related development should be discouraged. However, the actual limit on the number of rooms was set by adoption of the Hotels, Motels and B&B Inventory as part of the zoning ordinance, not by the General Plan. Therefore, there is no conflict between the hotel use and the General Plan.

9. That the proposed use would not be injurious to public health, safety, or welfare.

It is very unlikely that a hotel use would pose a threat to any aspect of public health, safety, or welfare.

10. That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City or would be in conflict with the General Plan.

Approval of this project does not necessarily set a precedent for approval of other projects, because the requested amendment to the limit on transient occupancy rooms is only for this project. However, staff is aware of interest in constructing a new hotel at the Vineland Station property and of interest in the expansion of the El Bonita and Harvest Inn hotels. The Vineland Station concept will be analyzed as part of the Highway 29 Specific Plan EIR. An application cannot be accepted until the Specific Plan is adopted. No applications have been received for the Harvest Inn or El Bonita expansions. If these projects proceed with an application they will also require approval of an amendment to the cap.

11. That, as demonstrated on a detailed plan submitted by the applicant, adequate off-street parking to accommodate the long term parking needs of employees and business owners and customers is available.

The parking requirements for hotels and motels require one parking space per room, for a total of 12 spaces. The existing on-site parking lot was constructed with 18 spaces designated for the residential use. Therefore, no additional parking will be required for this use.

12. That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use.

There will be a minimal traffic impact from the change of use from studio apartments to motel use. According to the figures in the Trip Generation Manual of the Institute of Transportation Engineers, the average weekday trip rates for the motel use (based on an 80% occupancy rate) will exceed the average weekday trips for studio apartments by 37 trips per week for a one-car family and by 25 trips per week for a two-car family. The number of trips during weekday morning and evening peak hours, as well as on Saturday and Sunday, are highest for an apartment with a two car family.

B. Pursuant to Section 27.79 of the Zoning Ordinance, the City Council makes the following special use permit findings in addition to the standard use permit findings in order to determine that the proposed hotel use is consistent with the policies of the General Plan and the purpose of the CB zoning district.

1. That this is a pedestrian oriented business, consistent with the Central Business District.

Although most hotel guests will drive into town, it is likely that they will walk to the downtown business area because of the hotel's proximity.

2. That it is likely that significant revenues from this business will be derived from residents within the St. Helena service area.
3. That it is likely that the business will provide services or products which satisfy the day-to-day needs of local residents within the St. Helena service area.
4. That it is likely that the majority of customers will be from the St. Helena service area and patronize the business on a regular basis.
5. That this is a smaller scale business commensurate with the character of the CBD and the needs of the St. Helena service area.

The hotel will only have 12 rooms and is located on the second floor of a building with small-scale retail spaces on the lower floor, commensurate with the smaller scale businesses in the Central Business district.

6. That necessities are emphasized over novelty items in the business merchandise; that the proposed use is consistent with Section 27.75, Prohibited Uses.
7. That the business is consistent with the unique character of St. Helena.

An upscale boutique hotel is consistent with the type and scale of other businesses that form the unique character of St. Helena.

8. That if a visitor-based population did not exist, this business would locate in St. Helena.
9. That it is likely that the business will provide services or products which will complement existing businesses in the Central Business District.

It is likely that the business will complement existing businesses in the CB district because the hotel guests will shop in the local stores and dine in the local restaurants.

10. That there is a need for the type of business proposed given the number of same or similar businesses existing in St. Helena.
11. That the location of this business is appropriate given the type of use and the proximity of the same or similar businesses.

The location of the hotel is appropriate because it will allow visitors to stay within walking distance of most shops and restaurants in St. Helena, because it is located on the second floor of a mixed use building, and because there is only one other hotel within the CB zoning district.

Clearly, the nature of the proposed business is such that a number of the Special Findings cannot be made. However, the zoning ordinance directs that these special use permit findings shall be considered as a whole and that the inability to make any one, or any group of these findings does not necessitate the denial of a use permit.

RESOLUTION

The City Council of the City of St. Helena hereby resolves as follows:

A. This project is exempt from the requirements of CEQA pursuant to Section 15303, Class 3 of the Guidelines.

B. The Hotels, Motels and B&B Inventory cap on the number of transient occupancy rooms in St. Helena is increased from 171 to 183, in order to allow the establishment of a 12-room hotel on the second floor of the building at 1420 Main Street.

C. The Use Permit Amendment to allow the conversion of a 12-unit studio apartment building to a 12-room boutique hotel at 1420 Main Street is approved subject to compliance with the conditions noted below.

1. The Use Permit Amendment shall be vested within one (1) year from the date of approval. A building permit for the use allowed under this Use Permit Amendment shall have been obtained within one (1) year from the effective date of the Use Permit Amendment or the Use Permit Amendment shall expire; provided however that the Use Permit Amendment may be extended for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 27.412, Extension of Permits and Approvals.
2. This permit is valid for this use only. New permits must be applied for upon any change in use. This permit will expire if the use is discontinued pursuant to then existing ordinances and regulations.
3. Any request for an extension of the Use Permit must be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
4. The primary purpose of this review is for compliance with the General Plan and Zoning Ordinance. The owner/applicant is responsible for meeting with the Building Official / Fire Inspector to review compliance with Building and Fire Codes, including fire protection systems and the accessibility standards of Title 24.
5. The applicant must submit plans that demonstrate compliance with the California Building Code, the California Electrical Code, the California Plumbing Code, the California Mechanical Code, the California Fire Code, Title 19, and all other local requirements for the new use.
6. All required fees, including planning fees, development impact fees, building fees, toilet retrofit fees, and St. Helena Unified School District fees shall be paid prior to issuance of building permit. Fees shall be those in effect at the time of the issuance of the building permit.
7. Compliance with all permit conditions shall occur in accordance with specific regulations but in all cases no later than prior to occupancy or initiation of use unless another time is set by law or by this approval. Occupancy or final inspection of a project may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.
8. The applicant will defend and indemnify and hold the City, its agents, officers, and employees harmless of any claim, action or proceedings to attack, set aside, void or annul an approval so long as the City promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
9. Provided they are in general compliance with the Use Permit Amendment approval, minor modifications to plans may be approved by the Planning Director.

10. The twelve residential units on the second floor of the building may be used as a hotel. Rental of all rooms shall be subject to Municipal Code Chapter 14A, Transient Occupancy Tax.
11. One of the existing duplex units to the rear of the building shall be set aside as an affordable housing rental and made available to a very low income household. A rental regulatory agreement shall be recorded against the property to insure that the unit remains available to a very low income household for the lifetime of the hotel use. Rental of the unit shall be regulated through the Napa Valley Housing Authority, or other appropriate agency.
12. In compliance with state law, a manager is required to reside upon the premises. The manager may live in one of the studio apartment/hotel units or in one of the duplex units located to the rear of the parcel.
13. Development Impact Fees shall be re-assessed based on the change of use. The \$14,000 deposit received for toilet retrofits for the residential use remains adequate for the hotel use and no additional retrofits will be required.
14. To reduce disturbance of residents in the project vicinity, construction activities which generate noise that can be heard at the property line of any parcel of real property within the City limits shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Saturday. Delivery of materials/equipment and cleaning and servicing of machines/equipment shall be limited to 7:00 a.m. to 6:00 p.m. Exceptions to these time restrictions may be granted by the Public Works Director for one of the following reasons: (1) inclement weather affecting work, (2) emergency work, or (3) other work, if work and equipment will not create noise that may be unreasonably offensive to neighbors as to constitute a nuisance. The City Engineer must be notified and give approval in advance of such work. No construction activities shall occur on Sundays or federal or local holidays that generate noise that can be heard at the property line of any parcel of real property within the City limits.

Approved at a Regular Meeting of the St. Helena City Council on June 11, 2002 by the following vote:

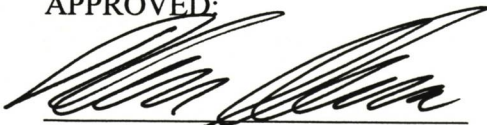
AYES: Mayor Slavens, Councilmember Bowers

NOES: Councilmember Potter

ABSENT: None

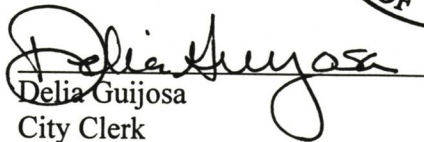
ABSTAIN: Councilmember Savidge, Toller

APPROVED:



Ken Slavens
Mayor

ATTEST:



Delia Guijosa
City Clerk



**CITY OF ST. HELENA
RESOLUTION NO. 2010-8**

**APPROVING AN INCREASE TO THE HOTELS, MOTELS, AND B&B
INVENTORY CAP FROM 299 ROOMS TO 307 ROOMS, ALLOWING PAYMENT
OF IN-LIEU PARKING FEES, AND APPROVING A USE PERMIT AMENDMENT
FOR A REMODEL AND ADDITION OF EIGHT NEW GUEST ROOMS TO THE
EXISTING HOTEL AT 1420 MAIN STREET**

PROPERTY OWNER: Norman Alumbaugh
APPLICANT: William A. Saks & Co. & Todd White

APN: 009-211-005

RECITALS

1. The applicants submitted a Use Permit Amendment application for a remodel and an addition of eight (8) new guest rooms to the existing Eagle & Rose Hotel/Retail complex (UP 2002-73) for the property located at 1420 Main Street in the Central Business District. One affordable housing unit will remain on site.
2. An amendment to the Hotels, Motels and B&B Inventory is requested to increase the cap from 299 rooms to 307 rooms.
3. An approval to allow payment of in-lieu parking fees for four (4) parking spaces in the amount of \$28,000 is requested.
4. The Planning Commission of the City of St. Helena, State of California, opened the noticed public hearing on January 5, 2010, received testimony and continued the public hearing to January 19, 2010 to consider the application and recommended approval of the Use Permit Amendment to the City Council. Final action on this project is with the City Council because the Council has the authority to amend the Hotels, Motels and B&B Inventory and to allow payment of in-lieu parking fees.
5. The City Council of the City of St. Helena, State of California, held a noticed public hearing for this project on February 9, 2010.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

- A. This project is exempt from the requirements of CEQA pursuant to Section 15301, Class 1 of the Guidelines which exempts additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet if the project is in an area where all necessary public services and facilities are available.

B. The Hotels, Motels and B&B Inventory cap on the number of transient occupancy rooms in St. Helena is approved to be increased from 299 to 307 rooms, provided that a complete application for Design Review is received within one year from the date of approval of this resolution.

C. The payment of in-lieu parking fees for four (4) off-street parking spaces in the amount of \$28,000 is approved.

D. This approval is limited to amending the Hotels, Motels, and B&B Inventory and for payment of in-lieu parking fees. It does not imply approval of the Design Review application that will be submitted in the future with specific water efficiency measures.

E. The Planning Commission makes the following Use Permit findings, Section 17.168.050, to support the motion to approve the Use Permit Amendment:

1. That the proposed use would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the community.
2. That the proposed use would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties or uses.
3. That the proposed use would not generate traffic noise in excess of the "normally acceptable" range identified in the General Plan.
4. That the proposed use would not make excessive demands on the provision of public services including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.
5. That the proposed use would provide adequate ingress and egress to and from the proposed location.
6. That allowing the proposed use would not conflict with the City's goal of maintaining the economic viability of a local serving economy.
7. That the proposed use would be compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located.
8. That the proposed use would not be in conflict with the City's General Plan.
9. That the proposed use would not be injurious to public health, safety, or welfare.
10. That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City or would be in conflict with the General Plan.
11. That, as demonstrated on a detailed plan submitted by the applicant, adequate off-street parking to accommodate the long term parking needs of employees and business owners and customers is available.
12. That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use.

F. The Use Permit Amendment to allow the remodel and addition of eight (8) new guest rooms to the existing 12-room Eagle & Rose Hotel located at 1420 Main Street is granted subject to compliance with the following conditions. Permits shall be in conformance with all City ordinances, rules, regulations and policies in effect at the time of issuance of a building permit. The conditions noted below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

1. The Use Permit Amendment shall be vested within one (1) year from the date of approval. A building permit for the use allowed under this Use Permit Amendment shall have been obtained within one (1) year from the effective date of the Use Permit Amendment or the Use Permit Amendment shall expire; provided however that the Use Permit Amendment may be extended for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 27.412, Extension of Permits and Approvals.
2. This permit is valid for this use only. New permits must be applied for upon any change in use. This permit will expire if the use is discontinued pursuant to then existing ordinances and regulations.
3. Any request for an extension of the Use Permit must be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
4. The primary purpose of this review is for compliance with the General Plan and Zoning Ordinance. The owner/applicant is responsible for meeting with the Building Official / Fire Inspector to review compliance with Building and Fire Codes, including fire protection systems and the accessibility standards of Title 24.
5. All required fees, including planning fees, development impact fees, building fees, toilet retrofit fees, and St. Helena Unified School District fees shall be paid prior to issuance of building permit. Fees shall be those in effect at the time of the issuance of the building permit.
6. Compliance with all permit conditions shall occur in accordance with specific regulations but in all cases no later than prior to occupancy or initiation of use unless another time is set by law or by this approval. Occupancy or final inspection of a project may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.
7. The applicant will defend and indemnify and hold the City, its agents, officers, and employees harmless of any claim, action or proceedings to attack, set aside, void or annul an approval so long as the City promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
8. Provided they are in general compliance with the Use Permit Amendment approval, minor modifications to plans may be approved by the Planning Director.
9. Pursuant to Municipal Code Section 17.164, all signs, new structures or building, or exterior revisions of any existing structures or buildings for bother permitted and conditional uses shall require Design Review. A subsequent Design Review approval is required prior to building permit issuance.
10. Rental of all rooms shall be subject to Municipal Code Chapter 14A, Transient Occupancy Tax.

11. One of the existing duplex units to the rear of the building has been set aside as an affordable housing rental and made available to a very low income household. This unit will be reconstructed as part of the project. A rental regulatory agreement has been recorded against the property to insure that the unit remains available to a very low income household for the lifetime of the hotel use. Rental of the unit shall be regulated by the City of St. Helena, or other designated agency.

12. Prior to issuance of building permits, the applicant shall pay a fee of \$28,000 in-lieu of providing four (4) additional on-site parking spaces.

13. Consistent with St. Helena Municipal Code Article IV, Water Conservation Section 18.44, New Development, the applicant shall be required to retrofit 18 single family dwelling units (or pay a fee of \$18,000) prior to receiving a certificate of occupancy, or an equivalent proposal as approved by the City Engineer. Appeals to this requirement may be made pursuant to Article IV, Section 18.46.

14. Prior to issuance of a building permit, the applicant shall pay a Housing Impact Fee for new floor area added.

15. Prior to issuance of a building permit, the applicant shall be required to obtain written approval from the Napa County Department of Environmental Management for all interior alterations associated with the kitchen. The applicant shall comply with all Department of Environmental Management conditions of approval throughout operation of the use. A letter of approval from the Department of Environmental Management shall be delivered to the City Planning and Building Department.

16. The applicant shall provide for the enclosed storage of trash and separated recyclable materials. The design of the trash storage and recycling area shall be reviewed and approved by the Planning Director.

17. A landscape plan shall be submitted meeting the new State of California's Water Efficient Landscape Ordinance (WELO) and the Redwood tree on site shall be preserved and protected. Compliance with this condition shall be considered by the Planning Commission during the Design Review process.

18. The hotel project shall be designed for all feasible water conservation technology. Compliance with this condition shall be verified by the Planning Commission during the Design Review process. The applicant shall determine water use projections, including projected water evaporation from the pool, based on the design proposal. Water use projections shall be verified by the City Engineer and presented to the Planning Commission at the Design Review hearing in the form of a Draft Water Use Agreement. The Agreement shall be signed prior to issuance of building permits for the project.

19. The remodeled hotel shall receive a Silver or Gold rating under the LEED, or an equivalent under BuildItGreen Checklist, or other acknowledged rating system for water & energy conservation and green building practices. Compliance with this condition shall be considered by the Planning Commission during the Design Review process.

20. To reduce disturbance of residents in the project vicinity, construction activities which generate noise that can be heard at the property line of any parcel of real property within the City limits shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Saturday. Delivery of materials/equipment and cleaning and servicing of machines/equipment shall be limited to 7:00 a.m. to 6:00 p.m. Exceptions to these time restrictions may be granted by the Public Works Director for one of the following reasons: (1) inclement weather affecting work, (2) emergency work, or (3) other work, if work and equipment will not create noise that may be unreasonably offensive to neighbors as to constitute a nuisance. The City Engineer must be notified and give approval in advance of such work. No construction activities shall occur on Sundays or federal or local holidays that generate noise that can be heard at the property line of any parcel of real property within the City limits.

Approved at a Regular Meeting of the St. Helena City Council on February 9, 2010 by the following vote:

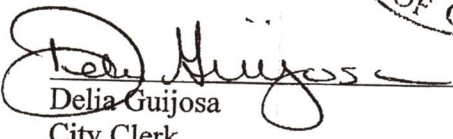
AYES: Councilmembers Schoch, Crull, Sanchez, Sklar, Mayor Britton
NOES: None

APPROVED:

ATTEST:

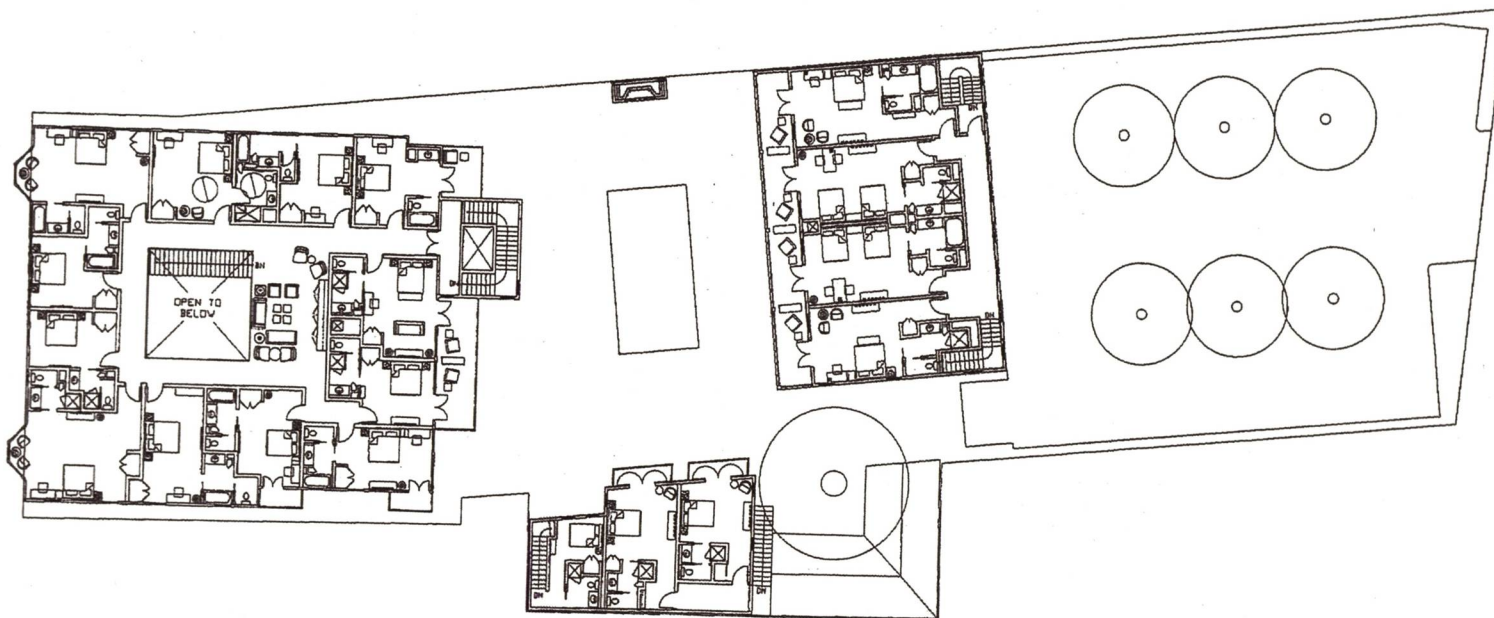


Delford Britton
Mayor



Delia Guijosa
City Clerk





LEGEND



EAGLE & ROSE HOTEL

1420 MAIN STREET - SAINT HELENA, GA - 30454

Drawing Title
SITE PLAN -
SECOND FLR.

By
PJC
Date
11/13/09
Scale
3/32" = 1'-0"
Drawing No.

A101

Project No. 0012

MG&Co
ARCHITECTS

300 Townsend Street Suite 200 San Francisco, California 94107
Telephone 415.771.1362
Fax 415.771.1363
Internet www.mgandco.com

EAGLE & ROSE HOTEL

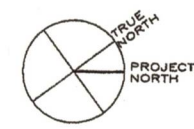
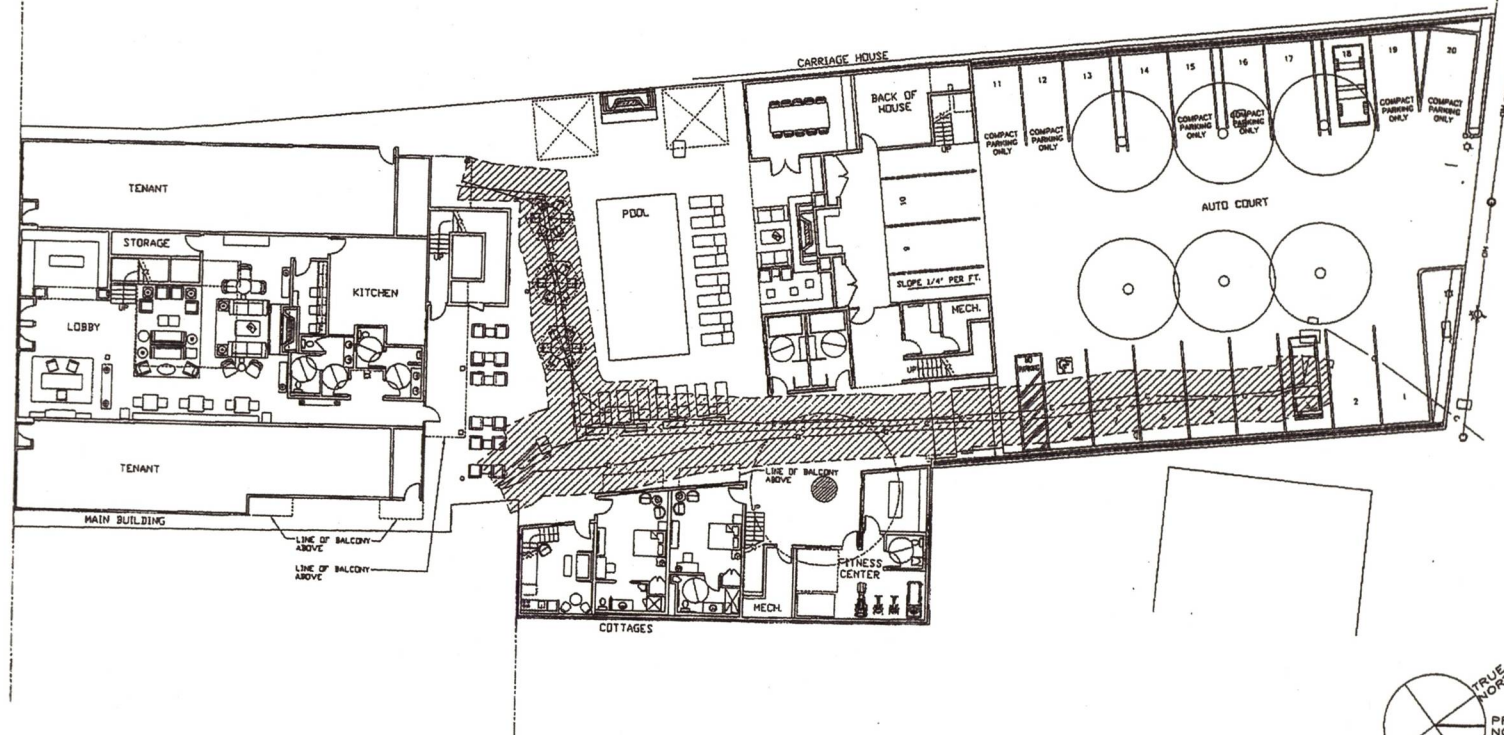
1420 MAIN STREET - SAINT HELENA, CA - 94574

Using Title
SITE PLAN

By PJC
Date 1/11/2009
Scale 3/32" = 1'-0"
Drawing Title

A100

Project No. 0012



LEGEND

**DEMOLITION PERMIT/DESIGN REVIEW NO. 2011-71
CITY OF ST. HELENA, STATE OF CALIFORNIA
GRANTED TO 1424 MAIN STREET**

APPLICANT/PROPERTY OWNER: Mark Hoffmeister

APN: 009-211-005

Recitals

1. On December 22, 2011, Mark Hoffmeister submitted a Demolition Permit and Design Review application for previously approved additions to the Wydown Hotel (2009-56) to include eight (8) new guest rooms, construction of two (2) new two-story buildings, a courtyard, indoor/outdoor seating area, kitchen area, storage, office, and 24 parking spaces. The hotel is located at 1424 Main Street in the CB: Central Business Zoning district.
2. The Planning Commission of the City of St. Helena, State of California, held a noticed public hearing on March 6, 2012.

Resolution

The Planning Commission of the City of St. Helena, State of California, approved the Demolition Permit and Design Review on the following basis:

- A. The Planning Commission hereby finds that this project is exempt from the California Environmental Quality Act pursuant to Section 15303, Class 3(c) of the CEQA Guidelines.
- B. The Planning Commission approves the Demolition Permit to remove one existing non-historic structure on the site, to be reconstructed as Building B, and as provided for in Zoning Ordinance Section 17.164.050(E), subject to the following:
 1. That, based on the public record and testimony presented at a public hearing, the building is determined not to be a significant architectural or historical building.
 2. That the demolition does not eliminate elements that are required to maintain the essential character of the neighborhood.
 3. In addition to these findings, the California Public Resources Code (Section 5024.1(c)) states that a structure may be listed as an historical resource in the California Register if it meets any of the following criteria:
 - a. It is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
 - b. It is associated with the lives of persons important in our past.
 - c. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
 - d. It has yielded, or may be likely to yield, information important in prehistory or history.

C. The Planning Commission determines the project is in compliance with the following design criteria of Municipal Code Section 17.164.030. Furthermore, the Planning Commission finds that the purposes and criteria support conditions of approval requiring the incorporation of green building practices into project design.

The purpose of Design Review is:

1. *To promote those qualities in the environment which bring value to the community?*
2. *To foster the attractiveness & functional utility of the community as a place to live and work.*
3. *To preserve the character & quality of our heritage by maintaining the integrity of those areas which have a discernible character or are of special historic significance.*
4. *To protect certain public investments in the area.*
5. *To encourage where appropriate, a mix of uses within permissible use zones.*
6. *To raise the level of community expectations for the quality of its environment.*

The following design criteria were considered by the Planning Commission in review of this application:

1. Consistency and compatibility with applicable elements of the general plan;
2. Compatibility of design with the immediate environment of the site;
3. Relationship of the design to the site;
4. Determination that the design is compatible in areas considered by the board as having a unified design or historical character;
5. Whether the design promotes harmonious transition in scale and character in areas between different designated land uses;
6. Compatibility with future construction both on and off the site;
7. Whether the architectural design of structures and their materials and colors are appropriate to the function of the project;
8. Whether the planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community;
9. Whether the amount and arrangement of open space and landscaping are appropriate to the design and the function of the structures;
10. Whether sufficient ancillary functions are provided to support the main functions of the project and whether they are compatible with the project's design concept;
11. Whether access to the property and circulation systems are safe and convenient for pedestrians, cyclists and vehicles;
12. Whether natural features are appropriately preserved and integrated with the project;
13. Whether the materials, textures, colors and details of construction are an appropriate expression of its design concept and function and whether they are compatible with the adjacent and neighboring structure and functions;
14. In areas considered by the board as having a unified design character or historical character, whether the design is compatible with such character;

15. Whether the landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site;
16. Whether plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which is suitable to the climate of St. Helena;
17. Whether sustainability and climate protection are promoted through the use of green building practices such as appropriate site/architectural design, use of green building materials, energy efficient systems and water efficient landscape materials.

Goal 5, Resource Conservation, policies HE5.1 *Encourage alternative energy sources* and HE5.2 *Encourage energy and resource conservation*.

Implementing Action HE5.D *Require cost-effective energy conservation measures in all new and rehabilitated housing to promote long-term affordability for occupants. The City has adopted the State's new Energy Efficiency Standards as part of the 2009 California Building Standards Code to ensure that all new housing units constructed in the City meet or exceed these standards.*

D. The Demolition Permit and Design Review for the above described use is granted subject to compliance with the following conditions. The approval shall be in conformance with all City ordinances, rules, regulations and policies in effect at the time of issuance of a building permit. The conditions noted below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

1. The Demolition Permit and Design Review approval shall be vested within one (1) year from the date of approval. A building permit for the use allowed under this approval shall have been obtained within one (1) year from the effective date of the approval or the approvals shall expire; provided however that the Demolition Permit and Design Review approval may be extended for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 17.08.130, Extension of Permits and Approvals.
2. The Demolition Permit and Design Review approval is valid for this use only. New applications must be applied for upon any change in use. The permit will expire if the use is discontinued pursuant to then existing ordinances and regulations.
3. The Demolition Permit and Design Review approval shall not become effective until fourteen (14) calendar days after approval, providing that the action is not appealed by the City Council or any other interested party within that 14 day period.
4. Any request for an extension of the Demolition Permit/Design Review approval must be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.
5. All required fees, including planning fees, development fees, housing fees, building fees, and St. Helena Unified School District fees shall be paid prior to issuance of building permit. Fees shall be those in effect at the time of the issuance of the building permit.

6. Compliance with all permit conditions shall occur in accordance with specific regulations but in all cases no later than prior to occupancy or initiation of use unless another time is set by law or by this approval. Occupancy or final inspection of a project may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.
7. The applicant will defend and indemnify and hold the City, its agents, officers, and employees harmless of any claim, action or proceedings to attack, set aside, void or annul an approval so long as the City promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
8. Construction shall be in compliance with the design plans approved March 6, 2012. Provided they are in general compliance with the Demolition Permit/Design Review, minor modifications may be approved by the Planning Director.
9. This Demolition Permit/Design Review shall run with the land and shall be binding upon all parties having any right, title or interest in the real property or any part thereof, their heirs, successors and assigns, and shall inure to their benefit and benefit of the City of St. Helena.
10. The primary purpose of this review is for compliance with the General Plan and Zoning Ordinance. The owner/applicant is responsible for meeting with the Building Official / Fire Inspector to review compliance with Building and Fire Codes, including fire protection systems and the accessibility standards of Title 24.
11. Per the California Building Code, new buildings will require fire sprinklers. Fire equipment shall be inspected annually by the Fire Department.
12. The Fire Department requires a class 1 standpipe connector for use with hose lines. Stand pipe design may be wet or dry. Design details may be coordinated with the Fire Department when Civil and/or Fire Sprinkler designs are submitted for review.
13. No signs, awnings, or facade modifications shall be installed or constructed without approval of a Sign Permit or Design Review.
14. Rental of all rooms shall be subject to Municipal Code Chapter 3.28, Transient Occupancy Tax.
15. One of the existing duplex units to the rear of the building has been set aside as an affordable housing rental and made available to a very low income household. This unit will be reconstructed as part of the project. A rental regulatory agreement has been recorded against the property to insure that the unit remains available to a very low income household for the lifetime of the hotel use. Rental of the unit shall be regulated by the City of St. Helena, or other designated agency.
16. Prior to issuance of a building permit, the applicant shall pay a Housing Impact Fee for new floor area added.

17. Prior to issuance of a building permit, the applicant shall be required to obtain written approval from the Napa County Department of Environmental Management for all interior alterations associated with the kitchen. Complete plans and specifications for the food preparation, service area(s), storage area(s) and the employee restrooms must be submitted for review and approval by Napa County Environmental Management. An annual food permit will be required.
18. During the construction, demolition, or renovation period of the project, the applicant must use the franchised garbage hauler for the service area in which they are located for all wastes generated during project development, unless applicant transports their own waste. If the applicant transports their own waste, they must use the appropriate landfill or solid waste transfer station for the service area in which the project is located.
19. The applicant shall provide for the enclosed storage of trash and separated recyclable materials. The design of the trash storage and recycling area shall be reviewed and approved by the Planning Director.
20. A landscape plan shall be submitted meeting the new State of California's Water Efficient Landscape Ordinance (WELO) and the Redwood tree on site shall be preserved and protected. The Planning Director shall review and approve the landscape plan.
21. The remodeled hotel shall receive a Silver or Gold rating under the LEED, or an equivalent under BuildItGreen Checklist, or other acknowledged rating system for water & energy conservation and green building practices.
22. To reduce disturbance of residents in the project vicinity, construction activities which generate noise that can be heard at the property line of any parcel of real property within the City limits shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Saturday. Delivery of materials/equipment and cleaning and servicing of machines/equipment shall be limited to 7:00 a.m. to 6:00 p.m. Exceptions to these time restrictions may be granted by the Public Works Director for one of the following reasons: (1) inclement weather affecting work, (2) emergency work, or (3) other work, if work and equipment will not create noise that may be unreasonably offensive to neighbors as to constitute a nuisance. The City Engineer must be notified and give approval in advance of such work. No construction activities shall occur on Sundays or federal or local holidays that generate noise that can be heard at the property line of any parcel of real property within the City limits.

Public Works:

23. Approval of this project shall be subject to the requirements of, and designed and constructed in accordance with the most current code versions of all federal, state, county and city codes governing such improvements and the requirements of the previous approvals.

24. Where applicable, the improvement plans shall incorporate all grading, drainage, and utilities shown on the approved Use Permit package, those improvements agreed to in public hearings, those improvements as stated in any mitigations for the CEQA determination, the requirements of these conditions of approval and those previously approved for this project, and those improvements required by any codes in effect at the time of plan submittal.
25. For any improvements outside the existing building envelope, a grading and drainage plan shall be submitted for review and approval by the City Engineer prior to the issuance of a building permit. If the project entails more than 50 cubic yards of soil disturbance, 10,000 square feet of disturbance area, a cut or fill of 3 feet or more, or an alteration of any drainage pattern, a grading permit shall be required.
26. No added drainage from new hardscape, roofs or pool improvements shall be allowed to leave the site; improvement plans shall show how drainage will be handled on site and at the property lines to prevent inundation of neighboring properties.
27. Where a City water service exists, the applicant shall install an approved backflow device installed behind the existing water meter prior to Certificate of Occupancy.
28. Where fire sprinklers are required, applicant shall install an appropriately-sized water service with appropriate backflow and meter devices prior to Certificate of Occupancy. Fire system calculations shall be submitted with the improvement plans for approval of water service lateral sizing.
29. The applicant shall conform to the City of St. Helena Sewer Standards Section 6-2.10 which may include assessing the adequacy of the lateral and installing needed cleanouts. Food preparation sinks and domestic sewage shall not be plumbed into the grease trap. Any dishwasher plumbed to the grease trap as a fixture cannot discharge water exceeding 140 degrees F in temperature; where the temperature is 140 degrees F or more, a grease interceptor will be required. No food waste or food may be discharged into the grease trap. Garbage disposal units are not permitted. Sinks shall have screens installed and the solids periodically collected and placed in garbage containers.
30. Where applicable, the applicant shall be required to submit to the requirements for annual inspections of food/beverage service establishments for illicit stormwater discharges as required by the State National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges. The annual stormwater illicit discharge inspections are performed and invoiced by Napa County Department of Environmental Management.
31. Trash areas, dumpsters and recycling containers shall be enclosed and roofed per State and County standards to prevent water run-on to the trash area and water runoff from the area, to contain litter and trash so that it is not dispersed by the wind or run-off during waste removal. In the event that wine or food is disposed in these areas, the trash area shall drain to the sanitary sewer system. An area drain connected to the sanitary sewer shall be installed in the enclosure area and a structural control such as an oil/water separator or sand filter shall be included. No other area shall drain into the trash enclosure. A sign shall be posted prohibiting the dumping of hazardous materials into the sanitary sewer. A spigot for cleaning may be added.

32. The applicant shall incorporate water conservation practices into the proposed project per the Theoretical Water Use Report prepared by Delta Consulting & Engineering, dated February 22, 2012, including retrofitting all toilets to 1.28 gal toilets, 1.5 gpm faucets, low flow showers, super efficient 3 gal to 5 gal per cycle dishwashers, and all drip irrigation.
33. The applicant shall repair all public improvements that are damaged by the construction process in accordance with the City Water/Sewer/Street/Storm Drain/Sidewalk Standards prior to Certificate of Occupancy.
34. Any broken curb, gutter, and/or sidewalk along the project frontage shall be replaced per City specifications prior to Certificate of Occupancy, extent to be determined by the Public Works Department.
35. Existing streets being cut by new utility services will require edge grinding and an A.C. overlay per City standards, extent to be determined by the Public Works Department.
36. Deteriorating driveway approaches shall be replaced at the direction of the Public Works Department prior to Certificate of Occupancy.
37. Any existing driveway approach not directly connected to a driveway shall be replaced with sidewalk/curb/gutter, as applicable and as directed by the Public Works Department, prior to Certificate of Occupancy.
38. An encroachment permit shall be required for any work performed in the public right of way.

I HEREBY CERTIFY that the foregoing Demolition Permit and Design Review was duly and regularly approved by the Planning Commission of the City of St. Helena at a regular meeting of said Planning Commission held on March 6, 2012 by the following roll call vote:

AYES: COMMISSIONERS HEIL, PARKER, PITTS, KISTNER, & CHAIRMAN GALBRAITH
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Greg Desmond, Interim Planning Director

Mark Hoffmeister, Owner



City of St. Helena Planning Commissioner Handbook

PLANNING COMMISSION HANDBOOK - PREAMBLE

Purpose & Overview

The Planning Commission Handbook is a practical reference and orientation resource for members of the City of St. Helena Planning Commission. It brings together key laws, policies, procedures, and guidance to help Commissioners understand their roles and responsibilities and effectively participate in the City's planning and land use process.

The Handbook Helps Commissioners

- Understand the role, responsibilities, and authority of the Planning Commission and individual Commissioners.
- Understand and comply with legal and ethical requirements, including the Ralph M. Brown Act, conflict-of-interest requirements, and Form 700.
- Follow City meeting procedures and standards of conduct, including the Planning Commission By-Laws and parliamentary procedures.
- Effectively participate in public hearings, deliberations, and decision-making.
- Develop a foundation in local planning and land use, including the General Plan, zoning regulations, and other planning policies.
- Access best practices and additional guidance for serving as a Planning Commissioner.

Handbook Resources

The Handbook includes the City's meeting calendar, Planning Commission By-Laws, meeting procedures, and standards of conduct, as well as resources addressing the Brown Act, parliamentary procedure, financial disclosure requirements, and the role of a Planning Commissioner. It also includes planning guidance from the Institute for Local Government and the Planning Commissioners Journal.

Using This Handbook

Commissioners are encouraged to use the Handbook as a reference and educational resource throughout their service and to review materials relevant to their responsibilities.

The Handbook does not replace the St. Helena Municipal Code, City policies, adopted ordinances, applicable State law, or official direction from the City Attorney or City staff. Where a conflict exists, the applicable law, ordinance, policy, or official direction controls.

The Handbook is intended to support Commissioners in serving the community effectively and conducting Planning Commission business in a transparent, fair, respectful, and legally compliant manner.



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The Planning Commissioner Handbook

Chapter 1

The Planning Commissioner's Role

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What is a Planning Commission?

The Planning Commission is an advisory body appointed by a governing body (city council or board of supervisors) that is responsible for directing the short and long range growth and development of a jurisdiction through maintenance and implementation of the city's or county's general plan, associated specific plans, rules and regulations. The planning commission is made up of five or more community members.¹ Most planning commissioners are professionals that have some familiarity with land use, traffic, engineering, elected office experience or development. Some planning commissioners are lay people without any previous land use experience. All commissioners are charged with acting in the public interest but serve at the pleasure of a city council or board of supervisors. Commission membership may change in response to changes in those bodies. A local agency is not required by law to create a planning commission but if they decline, they must assign the commission's legislatively required functions to another entity or itself.²



¹ Cal. Gov't Code § 65101

² Gov. Code 65000.

Why Plan?

Planning is a proactive process that establishes goals and policies for directing and managing land use and development. Local agencies plan to address fundamental community issues such as the location and type of development, infrastructure, mobility, housing availability, natural resource allocation, hazard mitigation (including the impacts of climate change) and economic development. Planning helps account for future demand for services, including sewers, roads and fire protection. Planning decisions impact public safety, public health, access to resources and environmental quality, and can exacerbate economic and racial inequities. During the planning process, commissioners can make the following positive impacts from planning decisions:

- **Saves Money.** Good planning can result in cost savings on infrastructure and essential services.
- **Sets Expectations.** Planning establishes the ground rules for development. A comprehensive general plan sends a clear signal about the goals and vision of the community. This will not entirely eliminate conflicts, but it sets expectations that can help minimize them.
- **Supports Economic Development.** Planning can assure community amenities and quality development that attracts businesses and residents.
- **Provides a Forum for Engaging the Entire Community.** Planning processes, such as the development of the general plan, provide a forum for seeking community input. Planning efforts should always involve broad and diverse segments of the community to ensure that the resulting plan fully addresses the needs of the entire community.
- **Promotes Public Health.** The physical design of a community can expand opportunities for biking, walking and other healthy activities. The location and design of uses can encourage activity and reduce negative environmental health impacts, such as air pollution.
- **Mitigates Hazards.** Planning can require that appropriate development and infrastructure are built in areas with a high risk of fire, flood and sea level rise to reduce the risk of property damage and injury to residents.
- **Increases Equity and Reduces Barriers to Opportunities.** Planning can increase housing supply, including affordable housing, and support transit to provide mobility and access to resources such as education, jobs and other community amenities.
- **Reduces Environmental Damage and Conserves Important Community Resources.** Planning helps identify important natural, cultural and historic resources and can channel development in a way that protects or augments these resources and maintains unique community character and sense of place.
- **Helps Establish the Need for Historical Site Preservation.** Planning facilitates the formation of historical districts, design review overlays and the establishment of scenic corridors.

The Commission's Duties

The planning commission plays a central role in the planning process in three important ways. First, it acts as an advisory board to the main governing body on all planning and development issues. Second, the commission assures that all land use decisions, including individual projects, are consistent with the policies and plans adopted by the governing body. Just as you build a building one brick at a time, you implement a community vision one project at a time. Third, the commission advocates for the best interests of all community members regarding land use and development policy and projects. However, most planning commission actions can be appealed to the elected governing body, which can uphold the commission's decision, overturn it, modify it or send it back for further study. Check your jurisdiction's planning commission guidelines for specific requirements.

Planning commission duties vary depending on the jurisdiction. You can learn about your commission's particular responsibilities by asking the planning department or visiting your community's website. Most commissions have the following responsibilities:³

- **General Plan.** Assist in developing the focus of and policies in the general plan. Participate in public meetings and support the engagement of all segments of the community on the plan's content and goals. Hold hearings on the plan's adoption. (The governing body retains authority to actually adopt the general plan.) Promote public interest in the general plan. Consult with and advise public officials and agencies, utilities, organizations and the public regarding implementation of the general plan. Also review, hold hearings on and act upon proposed amendments to the plan.
- **Specific Plans.** Oversee the development of specific plans or community plans and participate in public engagement events including holding public hearings on such plans. (The governing body retains authority to actually adopt specific plans.) Also review, hold hearings on and act upon proposed amendments to such plans.
- **Zoning and Subdivision Maps.** Review, hold hearings on and act upon zoning ordinances, maps, conditional use permits and variances. Similarly consider subdivision applications.
- **Individual Project Approvals.** Review individual projects for consistency with the general plan, any applicable specific plans, the zoning ordinance and other land use policies and regulations.
- **Report on Capital Improvements Plans.** Annually review the jurisdiction's capital improvements program and the public works projects of other local agencies for consistency with the general plan.
- **Coordinate Planning Efforts.** Coordinate local plans and programs with those of other local, regional and state agencies.
- **Consider Land Acquisitions.** Report to the governing body on the general plan consistency of proposed public land acquisition or disposal.
- **Special Studies.** Oversee and facilitate special planning studies as needed.

With so many responsibilities, it is important for every planning commission to think about how it will divide its time between day-to-day approvals and long-range planning efforts, both of which are important. It is easy to get caught up in the day-to-day efforts at the expense of long-range planning.

3 See for example Cal. Gov't Code §§ 65103, 65353, 65400, 65401, 65402, 65854 and 66452.1.

Personal commitments by each planning commissioner to ensure productive and informed proceedings include:

1. Review existing community planning policies, plans and regulations. Understand state and federal laws that impact local planning such as general plan law, the California Environmental Quality Act (CEQA), Sustainable Groundwater Management Act and local hazard mitigation requirements.
2. Attend meetings to ensure a quorum and facilitate the business of the commission. Failure to regularly attend meetings may result in the removal of a commissioner.
3. Provide advance notice of a meeting absence to commission staff.
4. Review meeting materials in advance of a meeting. In accordance with Brown Act regulations, documents generally are released to commissioners and the public simultaneously, and agendas are publicly posted no less than 72 hours prior to a meeting.
5. Understand and comply with the Ralph M. Brown Act (Brown Act) and Rosenberg's Rules of Order or similar meeting and quorum protocols adopted by the agency. Commissioners are to follow Fair Political Practices Commission (FPPC) filing requirements including Form 700 filings. Failure to comply with deadlines and requirements can result in penalties.
6. Understand the priorities of the appointing elected official and the district/community they represent.
7. Review and follow the jurisdiction's ordinances and/or other applicable governing documents or governing body direction relating to the planning commission.
8. Members shall comply with the state's requirements for AB 1234 ethics training.

Other Local Planning Bodies

Some local agencies create different boards or positions to focus on specific aspects of the land use planning process.

- **Board of (Zoning) Adjustments.** A local body, created by ordinance and appointed by the governing body, whose responsibility is to consider zoning variance requests.
- **Building Official.** The person responsible for the administration and enforcement of building, housing, plumbing, electrical and related codes.
- **Design Review Board/Architectural Review Board/Advisory Committees.** These appointed boards are often sub-committees of the planning commission and review projects to make sure they are consistent with design guidelines or provide guidance on complex project design issues.
- **Historic Preservation Commission.** A commission appointed by the governing body charged with carrying out the historic preservation goals, policies and programs.
- **Zoning Administrator.** An appointed official who implements the zoning ordinance or code and is also often empowered to make decisions concerning design permits, administrative use permits and other permits as provided for in the zoning ordinance.
- **Zoning Board.** An appointed body that hears and decides matters relating to the application of the zoning ordinance and considers appeals of zoning administrator's decisions.

Public Service Ethics

As a planning commissioner, you wield considerable power over how your community grows and develops. With this power comes the expectation that you will hold yourself to the highest ethical standards. Part of being ethical means exercising your power in the public's interests, as opposed to personal self-interest or other narrow, private interests.

All parties appearing before the planning commission are entitled to a fair, ethical and accountable government process, which includes appointed committees and commissions. This requires that public officials and appointed committee and commission members adhere to the following:

1. Comply with both the letter and spirit of the laws and policies affecting government operations and processes;
2. Be independent, impartial and fair in their judgment and actions;
3. Prioritize the public good when fulfilling duties as a public servant and avoid any appearance that title or position is used for personal gain; and
4. Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

There are a number of resources on the ethical obligations of planning commissioners. One is the law. California has a robust array of laws relating to ethics that are summarized in this section. The law, however, merely sets a minimum standard for ethical conduct. Just because an action is legal doesn't mean that it is ethical. For example, it may be legal for you to vote on your best friend's project application, but if everyone in the community knows how close the two of you are, will the community truly feel that you were able to put the community's interests ahead of your personal loyalties?

Making Ethical Decisions

Another source of guidance may be your agency's own code of ethics, if it has one. Many cities and counties have adopted ethics codes to provide guidance in local decision-making processes. At some point in your service as a planning commissioner, you will likely face two common types of ethical dilemmas. The first involves situations in which doing the right thing will come at a significant personal cost to you or your public agency. In these situations, the answer is relatively simple. The bottom line is that being ethical means doing the right thing for the community regardless of personal or organizational costs.

The second type of ethical dilemma involves those situations in which there are two conflicting sets of "right" values. In these instances, drawing the ethical bottom line is more difficult. If you find yourself faced with a "right versus right" decision, the following questions may help you come to an answer:

- Which ethical values are in conflict (for example, trustworthiness, compassion, loyalty, responsibility, fairness or respect)?
- What are the facts? What are the benefits, of or the harm avoided by, a particular decision? Is there a decision that does more good than harm?
- What are your options? Is there a course of action that would be consistent with both sets of values?
- Is one course of action more consistent with a value that is particularly important to you (for example, promise-keeping or trustworthiness)?
- What decision best reflects your responsibility as an officeholder to serve the interests of the community as a whole?

- What decision will best promote public confidence in the planning commission and your leadership?

For example, in your role as a planning commissioner, you will frequently be asked to make exceptions to your jurisdiction's planning laws. A developer may, for instance, ask for a general plan amendment to enable a project to be approved. The developer is likely to point to numerous benefits that will flow to the community as the result of the amendment.

In coming to a decision in such a situation, the first step is to consider what ethical values are at stake. One might be fairness to those property owners who developed their properties in accordance with the policies expressed in the general plan and the public who participated in developing the plan. Another might be compassion for the developer seeking the amendment: if it is not economically feasible to develop the property as envisioned by the general plan, perhaps an amendment is in order. The next step is to weigh the competing costs and benefits. Although the developer has identified the benefits to the community associated with approving the amendment, what are the benefits of adhering to the general plan? What are the costs of amending the plan? Will an amendment in this situation open the door for other amendment requests? How might the planning commission fairly evaluate those requests while still maintaining the overall integrity of the general plan? Are there options that might enable the community to reap some of the benefits described by the developer while still being consistent with the general plan as written?

Finally, consider which approach will best promote the public's confidence in the planning process. Will the public's confidence be undermined if the commission doesn't enforce the plan? Or will denying the amendment look so rigid and unfair to the applicant that it will undermine the public's faith in the planning commission as a decision-making body? What decision will best support the commission's stewardship of the community's economic and environmental health? The answers to the questions listed above will vary with each situation and likely will not be clear-cut or obvious. However, asking difficult questions and thoroughly evaluating the answers can go a long way in helping you make consistently ethical decisions that further the public's interests. Often we have biases that we are not aware we have. Make sure you consider any bias you may have that might impact your decision.



Ethics Laws

California law promotes ethical decision making in two ways: (1) requiring certain public disclosures and (2) prohibiting certain actions. The financial statements that you (and many public officials) must file with the Fair Political Practices Commission (FPPC) are an example of disclosure. In essence, the law allows the public to scrutinize the relationships between your personal finances and material financial interests, and your public decision-making. Disclosure laws allow the public (often with the assistance of the media) to assess whether there may be too close of a relationship between your economic interests and the decisions you make as a public official.

The law also prohibits certain actions. For example, a public official must disqualify themselves from participating in a decision that will materially affect their financial interests. This does not necessarily mean the disqualified official has done anything illegal or corrupt. It simply means that the public's interests are better served by removing any question as to the motivations behind the official's decision-making.

California's ethics laws fall into three general categories: (1) those involving possible financial gain by you as an officeholder, (2) those involving the use of your office for personal advantages and perks and (3) those involving situations in which your ability to conduct a fair and impartial process might be questioned. Each of these categories supports the overarching goal of assuring the public that governmental decisions are made based on what best serves the public's interests.

Public Service Values for Commissioners

Planning commissioners should consider the following value statements as they undertake their responsibilities.

Fairness

- I review applications and make decisions based on the merits of the issues.
- I honor the law's and the public's expectation that the general plan and other planning policies will govern development decisions in our jurisdiction.
- I support the public's right to know and will promote meaningful public involvement.
- I am impartial and do not favor developers or others who are in a position to benefit me.
- I promote equality and treat all people, projects and perspectives equitably.

Compassion

- I recognize government's responsibilities to represent all community members regardless of their socioeconomic status.
- I consider exceptions to planning policies when there are unintended consequences or undue burdens.
- I realize that some people are intimidated by the public process and will try to make their interactions as stress-free as possible.

- I convey the agency's care for and commitment to the members of its community.
- I am attuned to and care about the needs of the public, officials and staff.

Respect for Others

- I treat fellow officials, staff and the public with courtesy, even when we disagree.
- I focus on the merits in discussions, not personalities, character or motivations.
- I gain value from diverse opinions and build consensus.
- I follow through on commitments, keep others informed and make timely responses.
- I am approachable and open-minded and I convey this to others.
- I listen carefully and ask questions that add value to discussions.
- I am engaged and responsive.
- I involve staff in all meetings that affect agency business.

Responsibility

- I come to meetings prepared.
- I do not disclose confidential information without proper legal authorization.
- I represent the official positions of the agency to the best of my ability when authorized to do so.
- I explicitly state that my personal opinions do not represent the agency's position and do not allow the inference that they do.
- I refrain from any action that might appear to compromise my independent judgment.
- I take responsibility for my own actions, even when it is uncomfortable to do so.
- I do not use information that I acquire in my public capacity for personal advantage.
- I do not represent third parties' interests before my agency or neighboring agencies.

Integrity

- I am truthful with my fellow commissioners, the public and others.
- I do not promise that which I have reason to believe is unrealistic.
- I am prepared to make unpopular decisions to further the public's interest.
- I credit others' contributions in moving our community's interests forward.
- I do not knowingly use false or inaccurate information to support my position.
- I excuse myself from decisions when my, or my family's, financial interests may be affected by my agency's actions.
- I disclose suspected instances of corruption to the appropriate authorities.

Public Trust

- I remember that my obligation as a public official is to serve the whole community.
- I make sound planning decisions that implement the policies expressed in the general plan.
- I consider the interests of the entire community in reaching my decisions.
- I give full consideration to all aspects of a project, including protection of the environment and the need for affordable housing.
- I promote the efficient use of the agency's resources.
- I balance the fiscal impacts of a project with the agency's social and planning goals.

Vision

- I work to ensure that the vision expressed in the general plan is one that works to improve the quality of life for all members of my community.
- I am proactive and innovative when setting goals and considering proposals.
- I maintain consistent standards but am sensitive to the need for compromise, thinking outside the box and improving existing systems.
- I promote intelligent innovation to forward the agency's policies and services.
- I consider the broader regional and statewide implications of the commission's issues and decisions.

Financial Gain

The notion behind financial gain ethics laws is that the public has a right to know about a public official's financial interests. This ensures the public that elected and appointed officeholders are making decisions for the good of the community and are not being influenced by their personal finances to act in their own benefit. As a government official, the appearance of fairness is very important in maintaining the trust of the public. Financial gain ethics laws include:

- **Financial Interests—Disclosure and Disqualification Issues.** Public officials must periodically disclose their financial interests—including interests in real property, investments, business positions and sources of income and gifts—to the public.⁴ This disclosure is made on a form called “Statement of Economic Interests,” also known as “Form 700.” A public official cannot make or attempt to influence a governmental decision if it is reasonably foreseeable that the decision could have a “material financial effect” on their financial interests.⁵ The FPPC has developed a series of questions (known as the “four-step process”) to determine whether an official must be disqualified from participating in a decision.⁶ If you are worried that an upcoming decision will have an effect—positive or negative—on one or more of your financial interests, talk with your jurisdiction's attorney (not planning staff) as soon as possible.
- **Interests in Contracts Prohibited.** A public official may not have a financial interest in any contract made by the board

⁴ See Cal. Gov't Code §§ 87200 and following.

⁵ See Cal. Gov't Code §§ 87100 and following.

⁶ 2 CCR § 18700.

or body of which the official is a member.⁷ The law is very strict on this point: such contracts are void.⁸ Under most circumstances, the prohibition cannot be avoided by disqualifying oneself from participating in the decision on awarding the contract. Again, consult with your agency's attorney immediately if there is a contract before the commission in which you may have an interest.

- **Bribery.** Requesting, receiving or agreeing to receive anything of value in exchange for an official action is a crime. In addition to criminal penalties, an individual convicted of bribery forfeits their office and is disqualified from holding public office in the future.⁹

The Political Reform Act: Key Things to Know

- California's disclosure and disqualification requirements are administered by the Fair Political Practices Commission (FPPC), which gives both informal and formal advice on the application of these requirements. The FPPC is provided the statutory authority to promulgate regulations that are consistent with and further the purposes of the Political Reform Act. Check out the FPPC's website (www.fppc.ca.gov) for contact information, as well as for other useful information relating to the FPPC's administration of the Political Reform Act.
- For purposes of disqualification, the FPPC's main concerns¹⁰ include business entities in which an official has a direct or indirect investment of \$2,000 or more; real property in which an official has a direct or indirect interest of \$2,000 or more; sources of income of \$500 or more within the last twelve (12) months; business entities in which the official is a director, officer, partner, trustee, employee or holds any management position; and anyone from whom the official has received gifts of \$520 or more in the preceding year (note: the FPPC may increase the gift limit on January 1st of odd-numbered years under Government Code section 89503. Consult your agency counsel for the most up-to-date gift limit).
- When in doubt, the FPPC will usually err on the side of disclosure and disqualification.
- The city attorney's or county counsel's advice will not immunize an official from prosecution for violating disclosure and disqualification requirements. However, it is nonetheless wise to consult agency counsel as soon as you suspect that you may have an issue under the Political Reform Act.
- Violations of the Political Reform Act are subject to civil and criminal penalties depending on the severity of the offense. For example, knowing and willful violation of the act is a misdemeanor and subjects the violator to a fine of the greater of \$10,000 or three times the amount not reported.¹¹

⁷ Cal. Gov't Code § 1090.

⁸ Cal. Gov't Code § 1092; *Thomson v. Call* (1985) 38 Cal.3d 633. .

⁹ Cal. Penal Code § 86.

¹⁰ 2 CCR § 18700.

¹¹ Cal. Gov't Code § 91000(b).

Personal Advantages and Perks

State law strictly limits officeholder benefits relating (or appearing to relate) to his or her status as an officeholder:

- **Gifts.** With certain exceptions, a public official must disclose gifts over \$50 on their Statement of Economic Interests (Form 700) and may not receive gifts from any one source that totals over \$520 in a single year.¹² Gifts may include meals, entertainment, certain kinds of travel payments and rebates or discounts not offered to the general public in the usual course of business.¹³ The law is particularly strict about free transportation passes (not including frequent flier awards offered to everyone). Acceptance of such passes results in immediate loss of office.¹⁴
- **Speaking Fees or Honoraria.** Public officials may not receive payments for giving a speech, writing an article or attending a conference or meeting. Limited exceptions apply. Free conference admission with an accompanying meal and nominal items provided by the organizer when provided directly in connection with a speech given by the official, for example, may not be considered a gift or income that must be reported.¹⁵
- **Use of Public Resources.** It is a felony to misuse public funds, which can include submitting inaccurate or inflated expense reports from traveling on agency business. Public resources (including staff time and office supplies) may not be used for either personal or political purposes.¹⁶
- **Common Law Bias from Personal Interests.** A strong personal interest in a decision can be the basis for a finding of “common law bias.” Common law bias is sufficient to disqualify a public official from participating in a decision, particularly if the official is sitting in a quasi-judicial capacity. For example, one court found a council member biased on a proposed addition to a home in his neighborhood because the addition would block the council member’s view of the ocean.

Fairness and Impartiality

Officeholders should make decisions in a fair and impartial manner. Key laws that enforce fair decision making by planning commissioners include:

- **Campaign Contributions.** Commissioners who are running for office must disqualify themselves from entitlement proceedings—such as land use permits—if they received campaign contributions of more than \$250 during the previous twelve months from the applicant. Moreover, candidates may not receive or solicit contributions of more than \$250 from any applicant with a pending application and for three months afterward.¹⁷
- **Effect of Decisions on Family Members’ Financial Interests.** A public official must disqualify themselves from participating in a decision that would reasonably have a foreseeable material financial effect on a member of their immediate family (spouse and dependent children).¹⁸
- **Party or Factual Bias.** A strong personal animosity towards a project applicant or the receipt of information about a project may constitute a disqualifying source of bias when a planning commission is sitting in a quasi-judicial capacity.¹⁹ This is a variation of the “ex parte communications” doctrine, which suggests that, in quasi-judicial matters,

¹² Cal. Gov’t Code §§ 87200, 87207; 2 Cal. Code of Regs. § 18940.2 (\$340 amount valid through 2022).

¹³ Cal. Gov’t Code § 82028(a).

¹⁴ Cal. Const. art. XII, § 7.

¹⁵ Cal. Gov’t Code §§ 89501, 89502; 2 Cal. Code of Regs. § 18950.342.

¹⁶ Cal. Penal Code § 424. See, e.g., *People v. Battin* 77 Cal. App. 3d 635 (1978).

¹⁷ Cal. Gov’t Code § 84308.

¹⁸ Cal. Gov’t Code §§ 82029, 87103.

¹⁹ See *Breakzone Billiards v. City of Torrance* 81 Cal. App. 4th 1205, 1234 n.23 (2000).

all communications to you about the merits (or demerits) of the proposed use should occur in the course of a public hearing.

- **Dual Officeholding.** State law prohibits public officials from holding multiple offices at the same time that subject them to conflicting loyalties.²⁰ Check with your agency counsel if you are worried that this prohibition may apply to an office you are seeking.

In addition to these state ethics requirements, cities and counties may have local restrictions and requirements.

Tips for an Effective Planning Commission Meeting

- **Focus on the Big Picture.** Avoid being distracted by personalities, groups, or issues that do not have anything to do with the merits of the present agenda item.
- **Meeting Procedures.** Established rules and procedures keep meetings on track. The chairperson and staff should have defined responsibilities during a meeting. In addition, rules for testimony should be clear and widely available at all meetings.
- **Follow the Law.** Keep legal requirements in mind. When in doubt, ask agency counsel for advice. Before approving an application, you should be able to answer the following questions in the affirmative:
 - Is the proposal consistent with the general plan?
 - Does it meet all applicable zoning and subdivision requirements?
 - Are the environmental impacts reduced or eliminated by the conditions of approval, or are there overriding considerations?
 - Is the commission's decision supported by findings of fact based on substantial evidence in the record?
- **Be Prepared.** Prior to the hearing, commissioners should have read the agenda packet and supplemental reports. It is also a good idea to review the portions of the general plan and the zoning ordinance that are relevant to each agenda item.
- **Open Communication.** Each commissioner shares responsibility for the free flow of ideas and discussion among everyone present at a meeting, including applicants, staff, members of the public and the commissioners themselves. Be objective, listen and ask questions. Treat all participants with respect and model civility.
- **An Efficient Pace.** The chair should recognize when testimony must be closed for deliberations. Commissioners should hold their motions until the discussion has concluded. Both the chair and the other commissioners should know whether to continue a hearing or to make a decision.
- **Effective Leadership.** An effective chairperson assists the flow of ideas and helps keep the proceedings on track.

²⁰ See Cal. Gov't Code § 1126.

Fostering Positive Working Relationships with Others

Good working relationships within the planning commission, as well as with planning and other staff, the city council or board of supervisors, other boards and commissions, applicants, consultants and the public, are critical in order for planning functions to be effective and efficient. Positive working relationships are based on mutual understanding of the role of each group, including:

- Clear expectations about how each group will relate to the other, as defined by adopted procedures
- A common set of goals, as reflected in the general plan and other adopted planning documents
- A willingness to solve problems by listening to others, considering alternatives and arriving at a consensus
- An ability to communicate directly and clearly with others

Working with Staff

A good working relationship with staff will significantly improve your effectiveness as a planning commissioner. A planning department staff member will always be present at commission meetings. Other attendees may include representatives from your jurisdiction's attorney's office and public works department. Planning staff advises the commission on local agency plans, ordinances and policies. They also provide information on state requirements that impact local land use and development decisions. In addition, they support the commission's work by providing planning expertise, background information and research, preparing plans and reports, making recommendations and answering technical questions. Other staff responsibilities include:

- Orienting new commissioners
- Noticing meetings
- Responding to commission requests for information in a timely and professional manner
- Delivering commission agenda packets in time for adequate review
- Highlighting key issues and data in staff reports and presentations
- Anticipating and providing the type of information that will be needed for a decision
- Being accessible and keeping all commissioners equally informed
- Reviewing applications for completeness
- Acting in a fair, ethical and consistent manner

Members of the planning staff can be a tremendous resource for you. Most will have received at least some training in geography, landscape design, urban and rural planning, economics, law and statistics. In addition to their other duties, staff are responsible for staying current on new trends, technologies and regulations in the planning and development field. They can use this information to assist the planning commission in developing creative solutions to local problems.

Tips for Developing and Maintaining Good Relationships with Staff

A good staff-commission relationship is built on mutual trust and respect. Here are some ways to achieve that:

- Come to meetings having reviewed the materials prepared by staff.
- Ask questions of staff in advance and alert them to concerns you intend to raise during the meeting. Avoid “gotcha” questions from the dais.
- If you disagree with a staff recommendation, state specific reasons for your decision. This will help staff to draft findings in support of your decision. Simply stating “I do not like the project” is not enough information for staff, or to justify a decision on a project.
- Clearly communicate to staff what the commission needs in order to make well-informed decisions. If material is not being presented in an understandable way, work with staff to make changes.
- Treat staff with respect.
- Do not assume that staff is wrong and a critic is right.
- Compliment staff when and where appropriate.

Consultants

Local agencies often have limitations on staff expansion, while the demand for public planning continues to increase as communities grow. Consultants are often used to address temporary or specialized staffing needs, such as:

- Completing studies requiring special skills,
- Providing additional support on an as-needed basis,
- Preparing studies and analysis required by environmental laws, and
- Assisting on large projects, such as a general plan update, housing element update or specific plans.

Who Does What in the Project Review Process?

Planning Staff

- Identifies relevant state and local regulations for project applications
- Works with applicants to make a project work
- Works with other departments and agencies, such as the engineering department or the regional air board, to incorporate comments and technical recommendations into a project
- Ensures that procedures are being followed
- Prepares a professional analysis and recommendation

- Monitors project implementation
- Holds consensus-building meetings with the public on controversial projects

Agency Legal Counsel

- Answers legal and procedural open meeting questions
- Does not give policy direction or advice
- Advises on relevant legal considerations, both in terms of process (for example, notice requirements) and substance

Planning Commission

- Balances staff analysis, and jurisdiction's goals and policies, with community input
- Renders a decision based on findings of fact when acting in a quasi-judicial capacity
- Makes recommendations to the governing body on policy matters when acting in a legislative capacity
- Evaluates land use aspects of projects and leaves more technical issues for staff review and implementation (commissioners should trust staff to implement their general directions)

Governing Body

- Balances staff analysis, planning commission decisions/recommendations, community input and jurisdiction's goals

Working with the Governing Body

One of the ongoing relationships to take into account is that between the planning commission and the governing body (city council or board of supervisors). In most cases, individual commissioners serve at the pleasure of one or more members of the governing body. Because these officials are elected by the community to represent them, planning commissioners should consider the views of the governing body in making their decisions.

The planning commission-governing body relationship can become strained if the governing body repeatedly overturns planning commission decisions. In such cases, a commissioner may feel that the governing body did not look at the land use issues as closely as the commission. One thing to keep in mind, however, is that the governing body must also contend with political pressures that are not always felt by the appointed commission. Here are some ideas on how to promote a good ongoing relationship between the planning commission and the governing body:

- Make adequate findings to ensure that the reasons for your actions are clear
- Ask for clarification of the governing body's policies or actions if they are unclear
- Include in planning commission minutes any questions or points of view that are not obvious in your decisions and findings
- Send a planning commission representative to meetings of the governing body to discuss difficult decisions as appropriate
- Request an annual joint work session to discuss priorities, communication and other pressing issues
- Do not rely solely on staff to convey your message, either to the public or to the appropriate elected officials
- Do an annual self-evaluation and follow through with any needed changes in how the commission does business
- Keep in mind that elected officials must answer to the voters. You may find it helpful to be familiar with the policy perspectives of the members of the governing body, particularly as they relate to land use policies and programs. (For example, are they "slow growth" or "pro-growth"?) Casting individual commission decisions in ways that address issues of concern to individual members of the governing body (if not conforming to them) reduces the likelihood that a commission decision will be overturned on appeal.

Planning to Increase Equity

Across the United States, the pursuit of understanding equity and addressing systems of advantage has intensified. Some could argue that establishing the appropriate starting point for engagement on this topic is among the most complicated in the entire process. Any policymaker will tell you that no amount of money or brute force of legislation will make institutionalized challenges, systemic inequities or even smaller problems disappear overnight, mainly due to interconnections with other structural issues. A perennial obstacle with public sector-led solutions is agency limitations, preventing the necessary cross-sector collaboration needed to develop and launch effective responses to equity challenges.

For this handbook, equity challenges are defined as societal problems that disproportionately impact one or more groups in contrast with the majority of the population. Examples of such challenges include: housing instability/homelessness, access to quality healthcare and education, obstructed participation with transit systems, and more. In this section, “communities” are referred to as groups that experience discrimination and exclusion (social, political and economic) because of unequal power relationships across economic, political, social and cultural dimensions.

As these communities continue to be negatively impacted by inequities at higher rates, the decisions of planning commissions have emerged as part of the ecosystem. For example, the negative impact from some zoning and other planning commission actions on wealth accumulation for underrepresented communities is heavily documented and undeniable, complicating the path to closing equity gaps.

While planning commissions are not exclusively tasked with finding or becoming the antidote to these issues, actions taken by various commissions have the potential to alleviate community level inequities or conversely, maintain and augment the challenges we’re already observing -- challenges that continue to be exacerbated by housing shortages, population fluctuations, natural disasters, and other environmental hazards. The examples below describe equity-driven considerations in future planning commissions’ ability to steward positive change in California.

Recognition to Boost Visibility and Establish Focus

The vast majority of negative experiences and adverse events impacting marginalized communities were ignored at the time they took place and were not recognized, acknowledged or discussed by the general public for many years. This long history of omission has further complicated the process of identifying a path forward that accurately addresses these struggles. Many planning commissions have started to reflect on this history and explore opportunities to expand their knowledge base by researching past commission actions and the impact of those actions on the communities in their region.

For example, several planning commissions²¹ have added land acknowledgements to their public meetings to recognize the present-day impacts and challenges experienced by Native Americans, and the commission’s role in the current status and trajectory of indigenous communities. Other commissions have gone a step further to proactively advance more explicit anti-racists policies. For example, in 2020, the San Francisco Planning Commission released a document²² acknowledging how some actions of past commissions promoted white supremacy and contributed to the ongoing oppression of marginalized

21 City of Sacramento’s Land Acknowledgment Policy requires all public meetings, including Planning Commission meetings, to include a recognition of Indigenous communities who originally lived on the land. A past agenda can be seen at http://sacramento.granicus.com/GeneratedAgendaViewer.php?view_id=21&event_id=4228

San Francisco’s Planning Commission acknowledges the Indigenous people of the San Francisco Peninsula. A past agenda can be seen at https://sfplanning.org/sites/default/files/agendas/2022-01/20220120_cal%20%28ID%201272892%29.pdf

22 San Francisco Planning Commission’s Resolution Centering Planning on Racial and Social Equity acknowledges past policies resulting in racial disparities and allocates resources to implement strategies for racial and social equity. The full resolution can be found here https://sfplanning.org/sites/default/files/documents/admin/R-20738_Centering_Planning_on_Racial_and_Social_Equity.pdf

groups.

Strengthening efforts to recognize and acknowledge what communities have experienced or are experiencing is a way to improve external relationships and build trust. Importantly, it also helps increase the visibility of and boosts education about unknown aspects of community history for both the commission and the general public.

Strengthening Governance to Advance Equity

While equity discussions may be introduced as formal commission items, evaluating and amending governance procedures and commissioner assignments can also play a significant role in guiding change.

In 2021, the Los Angeles Planning Commission held an all-day meeting²³ to listen to historically ignored and oppressed communities, and to organize the perspectives they heard to inform future planning and development strategies. The meeting was conducted as part of the mayor's initiative to achieve racial equity in city government, aiming to:

- Understand how structural racism has been built into existing policies;
- Amplify the voices of people most impacted by racist policies; and
- Develop the planning commission's anti-racist and equity framework to guide decision-making on projects and policies

The findings were used to inform an Anti-Racist and Equity Framework for the Commission.

Annual nomination and appointment cycles represent another opportunity to be intentional about commission diversity and inclusion, which is another step toward addressing community level challenges. Planning commissions and their governing bodies are able to set priorities and desired skillsets for future appointees by identifying specific expertise or lived experience (related to the equity challenges noted above) they would like on the Board or creating mechanisms to source future board members directly from underrepresented communities.

Leveraging Internal Resources to Accelerate Progress

Planning commissions have resources at their disposal that could support improved understanding of current inequities. Their access to experts, community leaders, and past community-level data and reports could be useful for addressing knowledge gaps and providing commissioners, the staff and the public with the education needed to make responsible decisions that lead to more equitable outcomes.

As a starting point, commissions could identify and investigate past zoning and planning decisions that have had severe present-day impacts. Other questions for consideration include but are not limited to:

- When considering real estate and land uses, do all commissioners fully understand the implications for education access and school district enrollment? What about air quality and environmental justice concerns? Do proposed housing developments have access to fresh food (grocery stores, farmers markets)?
- Should test scores and demographic summaries be included in related commission item analyses?
- What additional context do commissions need to determine community impact, above and beyond what is presented in the current required reports?

Inspired by commonly required Environmental Impact Statements and Reports, a 2021 Brookings Institute article²⁴ asserted:

23 Materials and a recording from this meeting are available at <https://planning.lacity.org/about/cpc-equity-day-2021>

24 The full article, "Build race equity into rezoning decisions" by Lance Freeman is available at <https://www.brookings.edu/blog/how-we-rise/2021/07/13/build-race-equity-into-rezoning-decisions/>

“To address the inequalities that often arise from zoning and other major land use regulations, racial equity analyses should accompany their adoption...The scope of such analyses could include how the costs and benefits of such an action are distributed across racial/ethnic groups, the risks of displacement disaggregated by race/ethnic group, and how the proposed development would relate to current residential segregation patterns.”

Systemic inequalities will not be solved by a single iteration of a planning commission, but commissions and commissioners in every California jurisdiction do have an opportunity to explore how they might employ a more equitable decision-making framework. Doing so would enable commissions to create a values-based approach and inclusive organizational culture wherein equity is centered and communities are active and engaged in the planning process.

Find out more about equity and planning at <https://interactioninstitute.org/equity-and-urban-planning-weave-equity-into-process-and-content/>.



2026 BROWN ACT

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2026 – THE BROWN ACT¹

(As amended by Senate Bill 707)

(New language highlighted; repealed language removed)

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¹ This Publication only contains sections of the Ralph M. Brown Act that are operative as of January 1, 2026.



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2026 THE RALPH M. BROWN ACT
(Government Code Sections 54950 - 54963)

POLICY STATEMENT

§54950. Declaration, Intent; Sovereignty

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.

COVERAGE OF THE BROWN ACT

§ 54950.5. Title of Act

This chapter shall be known as the Ralph M. Brown Act.

§ 54951. Local Agency, Definition

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

§ 54952. Legislative Body, Definition

As used in this chapter, "legislative body" means:

- (a) The governing body of a local agency or any other local body created by state or federal statute.
- (b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, 2 ordinance,

resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

§ 54952.1. Newly Elected Members

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of 3 this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

§ 54952.2. Meeting, Definition

(a) As used in this chapter, “meeting” means 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 action on any item that is within the subject matter jurisdiction of the legislative body.

(b) (1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, 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.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter 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.

(3) (A) Paragraph (1) shall not be construed as preventing a member of the legislative body from engaging in separate conversations or communications on an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body provided that a majority of the members of the legislative body do not use the internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of

the legislative body. A member of the legislative body shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.

(B) For purposes of this paragraph, all of the following definitions shall apply:

(i) “Discuss among themselves” means communications made, posted, or shared on an internet-based social media platform between members of a legislative body, including comments or use of digital icons that express reactions to communications made by other members of the legislative body.

(ii) “Internet-based social media platform” means an online service that is open and accessible to the public.

(iii) “Open and accessible to the public” means that members of the general public have the ability to access and participate, free of charge, in the social media platform without the approval by the social media platform or a person or entity other than the social media platform, including any forum and chatroom, and cannot be blocked from doing so, except when the internet-based social media platform determines that an individual violated its protocols or rules.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person that do not violate subdivision (b).

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature

that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled 5 program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

§ 54952.3. Meetings; Simultaneous

(a) A legislative body that has convened a meeting and whose membership constitutes a quorum of any other legislative body may convene a meeting of that other legislative body, simultaneously or in serial order, only if a clerk or a member of the

convened legislative body verbally announces, prior to convening any simultaneous or serial order meeting of that subsequent legislative body, the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the simultaneous or serial meeting of the subsequent legislative body and identifies that the compensation or stipend shall be provided as a result of convening a meeting for which each member is entitled to collect compensation or a stipend. However, the clerk or member of the legislative body shall not be required to announce the amount of 6 compensation if the amount of compensation is prescribed in statute and no additional compensation has been authorized by a local agency.

(b) For purposes of this section, compensation and stipend shall not include amounts reimbursed for actual and necessary expenses incurred by a member in the performance of the member's official duties, including, but not limited to, reimbursement of expenses relating to travel, meals, and lodging.

§ 54952.6. Action Taken, Definition

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

§ 54952.7. Copies of Chapter to Members of Legislative Body of Local Agencies

A local agency shall provide a copy of this chapter to any person elected or appointed to serve as a member of a legislative body of the local agency.

OPEN MEETINGS AND RELATED REQUIREMENTS – AGENDAS AND PUBLIC HEARINGS

§ 54953. Meetings to be Open and Public; Attendance

(a) 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.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as expressly provided in this chapter.

(4) The teleconferencing requirements of this subdivision shall not apply to remote participation described in subdivision (c).

(c) (1) Nothing in this chapter shall be construed to prohibit a member of a legislative body with a disability from participating in any meeting of the legislative body by remote participation as a reasonable accommodation pursuant to any applicable law.

(2) A member of a legislative body participating in a meeting by remote participation pursuant to this subdivision shall do both of the following:

(A) The member shall participate through both audio and visual technology, except that any member with a disability, as defined in Section 12102 of Title 42 of the United States Code, may participate only through audio technology if a physical condition related to their disability results in a need to participate off camera.

(B) The member shall disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any of those individuals.

(3) Remote participation under this subdivision shall be treated as in-person attendance at the physical meeting location for all purposes, including any requirement that a quorum of the legislative body participate from any particular location. The provisions of subdivision (b) and Sections 54953.8 to 54953.8.7, inclusive, shall not apply to remote participation under this subdivision.

(d) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) (A) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or

compensation paid in the form of fringe benefits of either of the following during the open meeting in which the final action is to be taken:

(i) A local agency executive, as defined in subdivision (d) of Section 3511.1.

(ii) A department head or other similar administrative officer of the local agency.

(B) This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(e) For purposes of this section, both of the following definitions apply:

(1) "Disability" means a physical disability or a mental disability as those terms are defined in Section 12926 and used in Section 12926.1, or a disability as defined in Section 12102 of Title 42 of the United States Code.

(2) (A) "Teleconference" means 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.

(B) Notwithstanding subparagraph (A), "teleconference" does not include one or more members watching or listening to a meeting via webcasting or any other similar electronic medium that does not permit members to interactively speak, discuss, or deliberate on matters.

(3) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting.

§ 54953.1. Testimony of Members Before Grand Jury

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

§ 54953.2. Protections and Prohibitions Under the Americans with Disabilities Act of 1990

All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

§ 54953.3. Conditions to Attendance

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

§ 54953.4. Public Access; Legislative Findings and Declarations; Opportunities for Public To Attend Via Two-Way Telephonic Service or Two-Way Audiovisual Platform; Translation and Interpretation; Public Outreach

54953.4. (a) The Legislature finds and declares that public access, including through translation of agendas as required by this section, is necessary for an informed populace. The Legislature encourages local agencies to adopt public access requirements that exceed the requirements of this chapter by translating additional languages, employing human translators, and conducting additional outreach.

(b) (1) In addition to any other applicable requirements of this chapter, a meeting held by a eligible legislative body pursuant to this chapter shall comply with both of the following requirements:

(A) (i) (I) (ia) All open and public meetings shall include an opportunity for members of the public to attend via a two-way telephonic service or a two-way audiovisual platform, except if adequate telephonic or internet service is not operational at the meeting location. If adequate telephonic or internet service is operational at the meeting location during only a portion of the meeting, the legislative body shall include an opportunity for members of the public to attend via a two-way telephonic service or a two-way audiovisual platform during that portion of the meeting.

(ib) (Ia) On or before July 1, 2026, an eligible legislative body shall approve at a noticed public meeting in open session, not on the consent calendar, a policy regarding disruption of telephonic or internet service occurring during meetings subject to this sub-subclause. The policy shall address the procedures for recessing and reconvening a meeting in the event of disruption and the efforts that the eligible legislative body shall make to attempt to restore the service.

(Ib) If a disruption of telephonic or internet service that prevents members of the public from attending or observing the meeting via the two-way telephonic service or two-way audiovisual platform occurs during the meeting, the eligible legislative body shall recess the open session of the meeting for at least one hour and make a good faith attempt to restore the service. The eligible legislative body may meet in closed session during this period. The eligible legislative body shall not reconvene the open session of the meeting until at least one hour following the disruption, or until telephonic or internet service is restored, whichever is earlier.

(Ic) Upon reconvening the open session, if telephonic or internet service has not been restored, the eligible legislative body shall adopt a finding by rollcall vote that good faith efforts to restore the telephonic or internet service have been made in accordance with the policy adopted pursuant to sub-sub-subclause (Ia) and that the public interest in continuing the meeting outweighs the public interest in remote public access.

(II) Subclause (I) does not apply to a meeting that is held to do any of the following: (ia) Attend a judicial or administrative proceeding to which the local agency is a party.

(ib) Inspect real or personal property provided that the topic of the meeting is limited to items directly related to the real or personal property.

(ic) Meet with elected or appointed officials of the United States or the State of California, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(id) 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.

(ie) Meet in an emergency situation pursuant to Section 54956.5.

(ii) If an eligible legislative body elects to provide a two-way audiovisual platform, the eligible legislative body shall publicly post and provide a call-in option, and activate any automatic captioning function during the meeting if an automatic captioning function is included with the two-way audiovisual platform. If an eligible legislative body does not elect to provide a two-way audiovisual platform, the eligible legislative body shall provide a two-way telephonic service for the public to participate in the meeting, pursuant to subclause (I).

(B) (i) All open and public meetings for which attendance via a two-way telephonic service or a two-way audiovisual platform is provided in accordance with paragraph (1) shall provide the public with an opportunity to provide public comment in accordance with Section 54954.3 via the two-way telephonic or two-way audiovisual platform, and ensure the opportunity for the members of the public participating via a two-way telephonic or two-way audiovisual platform to provide public comment with the same time allotment as a person attending a meeting in person.

(2) (A) An eligible legislative body shall reasonably assist members of the public who wish to translate a public meeting into any language or wish to receive interpretation provided by another member of the public, so long as the interpretation is not disrupting to the meeting, as defined in Section 54957.95. The eligible legislative body

shall publicize instructions on how to request assistance under this subdivision. Assistance may include any of the following, as determined by the eligible legislative body:

(i) Arranging space for one or more interpreters at the meeting location.

(ii) Allowing extra time during the meeting for interpretation to occur.

(iii) Ensuring participants may utilize their personal equipment or reasonably access facilities for participants to access commercially available interpretation services.

(B) This section does not require an eligible legislative body to provide interpretation of any public meeting, however, an eligible legislative body may elect to provide interpretation of any public meeting.

(C) The eligible legislative body is not responsible for the content or accuracy of any interpretation facilitated, assisted with, or provided under this subdivision. An action shall not be commenced or maintained against the eligible legislative body arising from the content or accuracy of any interpretation facilitated, assisted with, or provided under this subdivision.

(3) An eligible legislative body shall take the following actions to encourage residents, including those in underrepresented communities and non-English-speaking communities, to participate in public meetings:

(A) Have in place a system for electronically accepting and fulfilling requests for meeting agendas and documents pursuant to Section 54954.1 through email or through an integrated agenda management platform. Information about how to make a request using this system shall be accessible through a prominent direct link posted on the primary internet website home page of the eligible legislative body.

(B) (i) Create and maintain an accessible internet webpage dedicated to public meetings that includes, or provides a link to, all of the following information:

(I) A general explanation of the public meeting process for the eligible legislative body.

(II) An explanation of the procedures for a member of the public to provide in-person or remote oral public comment during a public meeting or to submit written public comment.

(III) A calendar of all public meeting dates with calendar listings that include the date, time, and location of each public meeting.

(IV) The agenda posted online pursuant to paragraph (2) of subdivision (a) of Section 54954.2.

(i) The eligible legislative body shall include a link to the webpage required by subparagraph (A) on the home page of the eligible legislative body's internet website.

(C) (i) Make reasonable efforts, as determined by the legislative body, to invite groups that do not traditionally participate in public meetings to attend those meetings, which may include, but are not limited to, all the following:

(I) Media organizations that provide news coverage in the jurisdiction of the eligible legislative body, including media organizations that serve non-English-speaking communities.

(II) Good government, civil rights, civic engagement, neighborhood, and community group organizations, or similar organizations that are active in the jurisdiction of the eligible legislative body, including organizations active in non-English-speaking communities.

(ii) Legislative bodies shall have broad discretion in the choice of reasonable efforts they make under this subparagraph. No action shall be commenced or maintained against an eligible legislative body arising from failing to provide public meeting information to any specific group pursuant to this subparagraph.

(c) (1) (A) The agenda for each meeting of an eligible legislative body shall be translated into all applicable languages, and each translation shall be posted in accordance with Section 54954.2. Each translation shall include instructions in the applicable language describing how to join the meeting by the telephonic or internet-based service option, including any requirements for registration for public comment.

(B) The accessible internet webpage provided under subparagraph (B) of paragraph (3) of subdivision (b) shall be translated into all applicable languages, and each translation shall be accessible through a prominent direct link posted on the primary internet website home page of the eligible legislative body.

(2) A translation made using a digital translation service shall satisfy the requirements of paragraph (1).

(3) The eligible legislative body shall make available a physical location that is freely accessible to the public in reasonable proximity to the physical location in which the agenda and translations are posted as described in paragraph (1), and shall allow members of the public to post additional translations of the agenda in that location.

(4) The eligible legislative body is not responsible for the content or accuracy of any translation provided pursuant to this subdivision. No action shall be commenced or maintained against an eligible legislative body arising from the content, accuracy, posting, or removal of any translation provided by the eligible legislative body or posted by any person pursuant to this subdivision.

(5) For the purposes of this section, the agenda does not include the entire agenda packet.

(d) This section shall not be construed to affect or supersede any other applicable civil rights, nondiscrimination, or public access laws.

(e) For purposes of this section, all of the following definitions apply:

(1) (A) “Applicable languages” means languages, according to data from the most recent American Community Survey, spoken jointly by 20 percent or more of the applicable population, provided that 20 percent or more of the population that speaks that language in that city or county speaks English less than “very well.”

(A) For the purposes of subparagraph (A), the applicable population shall be determined as follows:

(i) For an eligible legislative body that is a city council or county board of supervisors, the applicable population shall be the population of the city or county.

(ii) For an eligible legislative body of a special district, the applicable population shall be either of the following, at the discretion of the board of directors of the special district:

(I) The population of the county with the greatest population within the boundaries of the special district.

(II) The population of the service area of the special district, if the special district has the data to determine what languages spoken by the population within its service area meet the requirements of paragraph (A).

(C) If more than three languages meet the criteria set forth in subparagraph (A), “applicable languages” shall mean the three languages described in subparagraph (A) that are spoken by the largest percentage of the population.

(D) An eligible legislative body may elect to determine the applicable languages based upon a source other than the most recent American Community Survey if it makes a finding, based upon substantial evidence, that the other source provides equally or more reliable data for the territory over which the eligible legislative body exercises jurisdiction.

(2) “Eligible legislative body” means any of the following:

(A) A city council of a city with a population of 30,000 or more.

(B) A county board of supervisors of a county, or city and county, with a population of 30,000 or more.

(C) A city council of a city located in a county with a population of 600,000 or more.

(D) The board of directors of a special district that has an internet website and meets any of the following conditions:

(i) The boundaries of the special district include the entirety of a county with a population of 600,000 or more, and the special district has over 200 full-time equivalent employees.

(ii) The special district has over 1,000 full-time equivalent employees.

(iii) The special district has annual revenues, based on the most recent Financial Transaction Report data published by the California State Controller, that exceed four hundred million dollars (\$400,000,000), adjusted annually for inflation commencing January 1, 2027, as measured by the percentage change in the California Consumer Price Index from January 1 of the prior year to January 1 of the current year, and the special district employs over 200 full-time equivalent employees.

(3) “Two-way audiovisual platform” means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic service.

(4) “Two-way telephonic service” means a telephone service that does not require internet access and allows participants to dial a telephone number to listen and verbally participate.

(f) This section shall become operative on July 1, 2026.

(g) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

§ 54953.5. Right to Record Proceedings; Retention of Recordings

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any recording of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the local agency.

§ 54953.6. Right to Broadcast Proceedings

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

§ 54953.7. Access to Meetings Beyond Minimal Standards

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 this chapter. In addition thereto, an elected legislative body of a local agency may impose **those** requirements on appointed legislative bodies of the local agency.

§ 54953.8. Legislative Body of Local Agency; Use of Alternative Teleconferencing Provisions for Notice and Public Participation

(a) The legislative body of a local agency may use teleconferencing as authorized by subdivision (b) of Section 54953 without complying with the requirements

of paragraph (3) of subdivision (b) of Section 54953 in any of the circumstances described in Sections 54953.8.1 to 54953.8.7, inclusive.

(b) A legislative body that holds a teleconference meeting pursuant to this section shall, in addition to any other applicable requirements of this chapter, comply with all of the following:

(1) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(A) A two-way audiovisual platform.

(B) A two-way telephonic service and a live webcasting of the meeting.

(2) In each instance in which notice of the time of the teleconference meeting held pursuant to this section is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(3) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(4) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(5) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(6) (A) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to paragraph (5), to provide public comment until that timed public comment period has elapsed.

(B) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to paragraph (5), or otherwise be recognized for the purpose of providing public comment.

(C) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to paragraph (5), until the timed general public comment period has elapsed.

(7) Any member of the legislative body who participates in a teleconference meeting from a remote location pursuant to this section and the specific provision of law that the member relied upon to permit their participation by teleconferencing shall be listed in the minutes of the meeting.

(8) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42

U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(9) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(c) A local agency shall identify and make available to legislative bodies a list of one or more meeting locations that may be available for use by the legislative bodies to conduct their meetings.

(d) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(e) A member of a legislative body who participates in a teleconference meeting from a remote location pursuant to this section shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with those individuals.

(f) The teleconferencing provisions described in Section 54953 and Sections 54953.8.1 to 54953.8.7, inclusive, are cumulative. A legislative body may elect to use any teleconferencing provisions that are applicable to a meeting, regardless of whether any other teleconferencing provisions would also be applicable to that meeting.

(g) For purposes of this section, the following definitions apply:

(1) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to paragraph (7) of subdivision (b),

other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(2) “Teleconference” means 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.

(3) “Two-way audiovisual platform” means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic service. A two-way audiovisual platform may be structured to disable the use of video for the public participants.

(4) “Two-way telephonic service” means a telephone service that does not require internet access and allows participants to dial a telephone number to listen and verbally participate.

(5) “Webcasting” means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

54953.8.1. Health Authority; Use of Teleconferencing

(a) A health authority may conduct a teleconference meeting pursuant to Section 54953.8, provided that it complies with the requirements of that section.

(b) Nothing in this section or Section 54953.8 shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority.

(c) For purposes of this section, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code,

and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

54953.8.2. State of Emergency or Local Emergency; Use of Teleconferencing

(a) A legislative body of a local agency may conduct a teleconference meeting pursuant to Section 54953.8 during a proclaimed state of emergency or local emergency, provided that it complies with the requirements of that section and the teleconferencing is used in either of the following circumstances:

(1) For the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) After a determination described in paragraph (1) is made that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(b) If the state of emergency or local emergency remains active, in order to continue to teleconference pursuant to this section, the legislative body shall, no later than 45 days after teleconferencing for the first time pursuant to this section, and every 45 days thereafter, make the following findings by majority vote:

(1) The legislative body has reconsidered the circumstances of the state of emergency or local emergency.

(2) The state of emergency or local emergency continues to directly impact the ability of the members to meet safely in person.

(c) This section shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(d) Notwithstanding paragraph (1) of subdivision (b) of Section 54953.8, a legislative body conducting a teleconference meeting pursuant to this section may elect to use a two-way telephonic service without a live webcasting of the meeting.

(e) For purposes of this section, the following definitions apply:

(1) “Local emergency” means a condition of extreme peril to persons or property proclaimed by the governing body of the local agency affected, in accordance with Section 8630 of the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), as defined in Section 8680.9, or a local health emergency declared pursuant to Section 101080 of the Health and Safety Code. Local emergency, as used in this section, refers only to local emergencies in the boundaries of the territory over which the local agency exercises jurisdiction.

(2) “State of emergency” means state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2).

54953.8.3. Remote Participation by Member of Legislative Body; In Person Quorum Requirement; Just Cause

(a) A legislative body of a local agency may conduct a teleconference meeting pursuant to Section 54953.8 if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, provided that the legislative body complies with the requirements of Section 54953.8 and all of the following additional requirements:

(1) A member of the legislative body notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting.

(2) The member shall participate through both audio and visual technology.

(3) (A) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for just cause for more than the following number of meetings, as applicable:

(i) Two meetings per year, if the legislative body regularly meets once per month or less.

(ii) Five meetings per year, if the legislative body regularly meets twice per month.

(iii) Seven meetings per year, if the legislative body regularly meets three or more times per month.

(B) For the purpose of counting meetings attended by teleconference under this paragraph, a “meeting” shall be defined as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

(b) The minutes for the meeting shall identify the specific provision in subdivision (c) that each member relied upon to participate remotely. This subdivision shall not be construed to require the member to disclose any medical diagnosis or disability, or any personal medical information that is otherwise exempt under existing law, including, but not limited to, the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code).

(c) For purposes of this section, “just cause” means any of the following:

(1) Childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. “Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Section 12945.2.

(2) A contagious illness that prevents a member from attending in person.

(3) A need related to a physical or mental condition that is not subject to subdivision (c) of Section 54953.

(4) Travel while on official business of the legislative body or another state or local agency.

(5) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner of the member that requires the member to participate remotely.

(6) A physical or family medical emergency that prevents a member from attending in person.

(7) Military service obligations that result in a member being unable to attend in person because they are serving under official written orders for active duty, drill, annual training, or any other duty required as a member of the California National Guard or a United States Military Reserve organization that requires the member to be at least 50 miles outside the boundaries of the local agency.

(d) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

54953.8.4. Eligible Neighborhood Council; Use of Teleconferencing

(a) An eligible neighborhood council may conduct a teleconference meeting pursuant to Section 54953.8, provided that it complies with the requirements of that section and all of the following have occurred:

(1) (A) The city council for a city described in paragraph (2) of subdivision (b) considers whether to adopt a resolution to authorize eligible neighborhood councils to use teleconferencing as described in this section at an open and regular meeting.

(B) If the city council adopts a resolution described in subparagraph (A), an eligible neighborhood council may elect to use teleconferencing pursuant to this section if a majority of the eligible neighborhood council votes to do so. The eligible neighborhood council shall notify the city council if it elects to use teleconferencing pursuant to this section and its justification for doing so.

(C) Upon receiving notification from an eligible neighborhood council described in subparagraph (B), the city council may adopt a resolution to prohibit the eligible neighborhood council from using teleconferencing pursuant to this section.

(2) After completing the requirements of subparagraph (A) of paragraph (1), an eligible neighborhood council that holds a meeting pursuant to this subdivision shall do all of the following:

(A) At least a quorum of the members of the eligible neighborhood council shall participate from locations within the boundaries of the city in which the eligible neighborhood council is established.

(B) At least once per year, at least a quorum of the members of the eligible neighborhood council shall participate in person from a singular physical location that is open to the public and within the boundaries of the eligible neighborhood council.

(3) If the meeting is during regular business hours of the offices of the city council member that represents the area that includes the eligible neighborhood council, the eligible neighborhood council shall provide a publicly accessible physical location from which the public may attend or comment, which shall be the offices of the city council member who represents the area where the eligible neighborhood council is located, unless the eligible neighborhood council identifies an alternative location.

(4) If the meeting is outside regular business hours, the eligible neighborhood council shall make reasonable efforts to accommodate any member of the public that requests an accommodation to participate in the meeting.

(b) For purposes of this section, the following definitions apply:

(1) “Accommodation” means providing a publicly accessible physical location for the member of the public to participate from, providing access to technology necessary to participate in the meeting, or identifying locations or resources available that could provide the member of the public with an opportunity to participate in the meeting.

(2) “Eligible neighborhood council” means a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to this chapter.

(c) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

54953.8.5. Eligible Community College Student Organization; Use of Teleconferencing

(a) An eligible community college student organization may conduct a teleconference meeting pursuant to Section 54953.8, provided that it complies with the requirements of that section and all of the following additional requirements:

(1) An eligible community college student organization may only use teleconferencing as described in Section 54953.8 after all the following have occurred:

(A) The board of trustees for a community college district considers whether to adopt a resolution to authorize eligible community college student organizations to use teleconferencing as described in this section at an open and regular meeting.

(B) If the board of trustees for a community college district adopts a resolution described in subparagraph (A), an eligible community college student organization may elect to use teleconferencing pursuant to this section if a majority of the eligible community college student organization votes to do so. The eligible community

college student organization shall notify the board of trustees if it elects to use teleconferencing pursuant to this section and its justification for doing so.

(C) Upon receiving notification from an eligible community college student organization as described in subparagraph (B), the board of trustees may adopt a resolution to prohibit the eligible community college student organization from using teleconferencing pursuant to this section.

(D) (i) Except as specified in clause (ii), at least a quorum of the members of the eligible community college student organization shall participate from a singular physical location that is accessible to the public and is within the community college district in which the eligible community college student organization is established.

(ii) The requirements described in clause (i) shall not apply to the California Online Community College.

(iii) Notwithstanding the requirements of clause (i), a person may count toward the establishment of a quorum pursuant to clause (i) regardless of whether the person is participating at the in-person location of the meeting or remotely if the person meets any of the following criteria:

(I) The person is under 18 years of age.

(II) The person is incarcerated.

(III) The person is unable to disclose the location that they are participating from because of either of the following circumstances:

(ia) The person has been issued a protective court order, including, but not limited to, a domestic violence restraining order.

(ib) The person is participating in a program that has to remain confidential, including, but not limited to, an independent living program.

(IV) The person provides childcare or caregiving to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. For purposes of this subclause, "child,"

“parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms are defined in Section 12945.2.

(2) An eligible community college student organization that holds a meeting by teleconference as described in Section 54953.8 shall do the following, as applicable:

(A) (i) Except as specified in subparagraph (B), if the meeting is during regular business hours of the offices of the board of trustees of the community college district, the eligible community college student organization shall provide a publicly accessible physical location from which the public may attend or comment, which shall be the offices of the board of trustees of the community college district, unless the eligible community college student organization identifies an alternative location.

(i) Except as specified in subparagraph (B), if the meeting is outside regular business hours, the eligible community college student organization shall make reasonable efforts to accommodate any member of the public that requests an accommodation to participate in the meeting. For the purposes of this subparagraph, “accommodation” means providing a publicly accessible physical location for the member of the public to participate from, providing access to technology necessary to participate in the meeting, or identifying locations or resources available that could provide the member of the public with an opportunity to participate in the meeting.

(B) The requirements described in subparagraph (A) shall not apply to the California Online Community College.

(b) For purposes of this section, “eligible community college student organization” means a student body association organized pursuant to Section 76060 of the Education Code, or any other student-run community college organization that is required to comply with the meeting requirements of this chapter, that is in any community college recognized within the California Community Colleges system and includes the Student Senate for California Community Colleges.

(c) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

54953.8.6. Eligible Subsidiary Body; Use of Teleconferencing

(a) An eligible subsidiary body may conduct a teleconference meeting pursuant to Section 54953.8, provided that it complies with the requirements of that section and all of the following additional requirements:

(1) The eligible subsidiary body shall designate one physical meeting location within the boundaries of the legislative body that created the eligible subsidiary body where members of the subsidiary body who are not participating remotely shall be present and members of the public may physically attend, observe, hear, and participate in the meeting. At least one staff member of the eligible subsidiary body or the legislative body that created the eligible subsidiary body shall be present at the physical meeting location during the meeting. The eligible subsidiary body shall post the agenda at the physical meeting location, but need not post the agenda at a remote location.

(2) (A) A member of the eligible subsidiary body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, except if the member has a physical or mental condition not subject to subdivision (c) of Section 54953 that results in a need to participate off camera.

(B) The visual appearance of a member of the eligible subsidiary body on camera may cease only when the appearance would be technologically infeasible, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video.

(C) If a member of the eligible subsidiary body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance prior to turning off their camera.

(3) An elected official serving as a member of an eligible subsidiary body in their official capacity shall not participate in a meeting of the eligible subsidiary body by

teleconferencing pursuant to this section unless the use of teleconferencing complies with the requirements of paragraph (3) of subdivision (b) of Section 54953.

(4) (A) In order to use teleconferencing pursuant to this section, the legislative body that established the eligible subsidiary body by charter, ordinance, resolution, or other formal action shall make the following findings by majority vote before the eligible subsidiary body uses teleconferencing pursuant to this section for the first time, and every six months thereafter:

(i) The legislative body has considered the circumstances of the eligible subsidiary body.

(ii) Teleconference meetings of the eligible subsidiary body would enhance public access to meetings of the eligible subsidiary body, and the public has been made aware of the type of remote participation, including audio-visual or telephonic, that will be made available at a regularly scheduled meeting and has been provided the opportunity to comment at an in-person meeting of the legislative body authorizing the subsidiary body to meet entirely remotely.

(iii) Teleconference meetings of the eligible subsidiary body would promote the attraction, retention, and diversity of eligible subsidiary body members.

(B) (i) An eligible subsidiary body authorized to use teleconferencing pursuant to this section may request to present any recommendations it develops to the legislative body that created it.

(ii) Upon receiving a request described in clause (i), the legislative body that created the subsidiary body shall hold a discussion at a regular meeting held within 60 days after the legislative body receives the request, or if the legislative body does not have another regular meeting scheduled within 60 days after the legislative body receives the request, at the next regular meeting after the request is received.

(iii) The discussion required by clause (ii) shall not be placed on a consent calendar, but may be combined with the legislative body's subsequent consideration of the findings described in subparagraph (A) for the following 12 months.

(iv) The legislative body shall not take any action on any recommendations included in the report of a subsidiary body until the next regular meeting of the legislative body following the discussion described in clause (ii).

(C) After the legislative body makes the findings described in subparagraph (A), the eligible subsidiary body shall approve the use of teleconferencing by majority vote before using teleconference pursuant to this section.

(D) The legislative body that created the eligible subsidiary body may elect to prohibit the eligible subsidiary body from using teleconferencing pursuant to this section at any time.

(b) (1) For purposes of this section, "eligible subsidiary body" means a legislative body that meets all of the following:

(A) Is described in subdivision (b) of Section 54952.

(B) Serves exclusively in an advisory capacity.

(C) Is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements, grants, or allocations of funds.

(D) Does not have primary subject matter jurisdiction, as defined by the charter, an ordinance, a resolution, or any formal action of the legislative body that created the subsidiary body, that focuses on elections, budgets, police oversight, privacy, removing from, or restricting access to, materials available in public libraries, or taxes or related spending proposals.

(2) An eligible subsidiary body may include members who are elected officials, members who are not elected officials, or any combination thereof.

(c) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

54953.8.7. Eligible Multijurisdictional Body; Use of Teleconferencing

(a) An eligible multijurisdictional body may conduct a teleconference meeting pursuant to Section 54953.8, provided that it complies with the requirements of that section and all of the following additional requirements:

(1) The eligible multijurisdictional body has adopted a resolution that authorizes the eligible multijurisdictional body to use teleconferencing pursuant to this section at a regular meeting in open session.

(2) At least a quorum of the members of the eligible multijurisdictional body shall participate from one or more physical locations that are open to the public and within the boundaries of the territory over which the local agency exercises jurisdiction.

(3) A member of the eligible multijurisdictional body who receives compensation for their service on the eligible multijurisdictional body shall participate from a physical location that is open to the public. For purposes of this paragraph, "compensation" does not include reimbursement for actual and necessary expenses.

(4) A member of the eligible multijurisdictional body may participate from a remote location provided that:

(A) The eligible multijurisdictional body identifies each member of the eligible multijurisdictional body who plans to participate remotely in the agenda.

(B) The member shall participate through both audio and visual technology.

(5) A member of the eligible multijurisdictional body shall not participate in a meeting remotely pursuant to this section, unless the location from which the member participates is more than 20 miles each way from any physical location of the meeting described in paragraph (2).

(6) The provisions of this section shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for more than the following number of meetings, as applicable:

(A) Two meetings per year, if the legislative body regularly meets once per month or less.

(B) Five meetings per year, if the legislative body regularly meets twice per month.

(C) Seven meetings per year, if the legislative body regularly meets three or more times per month.

(D) For the purpose of counting meetings attended by teleconference under this paragraph, a “meeting” shall be defined as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

(b) For the purposes of this section, both of the following definitions apply:

(1) “Eligible multijurisdictional body” means a multijurisdictional board, commission, or advisory body of a multijurisdictional, cross-county agency, the membership of which board, commission, or advisory body is appointed, and the board, commission, or advisory body is otherwise subject to this chapter.

(2) “Multijurisdictional” means either of the following:

(A) A legislative body that includes representatives from more than one county, city, city and county, or special district.

(B) A legislative body of a joint powers entity formed pursuant to an agreement entered into in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1.

(c) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

§ 54954. Rules for Conduct of Business; Time and Place for Holding Regular Meetings

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises

jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California 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.

(6) Meet outside their immediate jurisdiction if the meeting takes place 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.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on non-adversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

§ 54954.1. Mailed Notice of Meetings, On Request Therefor: Charge

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

§ 54954.2. Agenda; Posting; Action or Discussion on Other Matters

(a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda that meets all of the following requirements:

(A) The agenda shall 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. A brief general description of an item generally need not exceed 20 words.

(B) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's internet website, if the local agency has one.

(C) (i) If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(ii) The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(E) For purposes of this paragraph, both of the following definitions apply:

(i) “Integrated agenda management platform” means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) “Legislative body” means a legislative body that meets the definition of subdivision (a) of Section 54952.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions 26 stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring 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.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

§ 54954.3. Opportunity for Public to Address Legislative Body; Regulations

(a) (1) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2.

(2) (A) Notwithstanding paragraph (1), the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item.

(B) Subparagraph (A) shall not apply if any of the following conditions are met:

(i) The item has been substantially changed since the committee heard the item, as determined by the legislative body.

(ii) When considering the item, a quorum of the committee members did not participate from a singular physical location, that was clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the local agency exercises jurisdiction.

(iii) The committee has primary subject matter jurisdiction, as defined by the charter, an ordinance, a resolution, or any formal action of the legislative body that created the subsidiary body, that focuses on elections, budgets, police oversight, privacy, removing from, or restricting access to, materials available in public libraries, or taxes or related spending proposals. This clause shall not apply to an item if the local agency has adopted a law applicable to the meeting of the committee at which

the item that was considered prohibits the committee from placing a limit on the total amount of time for public comment on the item.

(3) Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) (1) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(2) Notwithstanding paragraph (1), when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.

(3) Paragraph (2) shall not apply if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows the legislative body of a local agency to hear the translated public testimony simultaneously.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

§ 54954.4. Reimbursement for Costs

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and

unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

§ 54954.5. Closed Session Item Descriptions

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7: LICENSE/PERMIT DETERMINATION Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers) or Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to paragraphs (2) to (5), inclusive, of subdivision (e) of Section 54956.9.)

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

OR

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE

§ 54954.6. Public Hearing Required Prior to Adoption of New Or Increased Taxes Or Assessments

(a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term “new or increased assessment” does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district’s principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days’ public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public

hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property or businesses shall be accomplished through a mailing, postage prepaid,

in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners or business owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or the local agency's records pertaining to business ownership, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) In the case of an assessment proposed to be levied on property, the estimated amount of the assessment per parcel. In the case of an assessment proposed to be levied on businesses, the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to calculate the amount of assessment to be levied against each business. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decision-making process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

§ 54955. Adjournment of Meetings

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. 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 the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the

resulting adjourned regular meeting is 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 by ordinance, resolution, bylaw, or other rule.

§ 54955.1. Continuance of Meeting to Subsequent Meeting

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or re-continued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 54956. Special Meetings; Call; Notice

(a) (1) A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's internet website, if the local agency has one. The notice shall be delivered personally or by any other means 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 or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telephone or electronic mail. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

(1) 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.

(b) Notwithstanding any other law, a legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of the legislative body or of a local agency executive, as defined in subdivision (d) of Section 3511.1. However, this subdivision does not apply to a local agency calling a special meeting to discuss the local agency's budget.

(c) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

§ 54956.5. Emergency Meetings in Emergency Situations

(a) For purposes of this section, "emergency situation" means both of the following: (1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting.

(A) Except as provided in subparagraph (B), the notice required by this paragraph shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not **functioning, the** notice requirements of this paragraph shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(B) For an emergency meeting held pursuant to this section, the presiding officer of the **legislative body**, or designee thereof, may send the notifications required by this paragraph by email instead of by telephone, as provided in subparagraph (A), to all local newspapers of general circulation, and radio or television stations, that have requested those notifications by email, and all email addresses provided by representatives of those newspapers or stations shall be exhausted. In the event that internet services and telephone services are not functioning, the notice requirements of this paragraph shall be deemed waived, and the **legislative body**, or designee of the **legislative body**, shall notify those newspapers, radio stations, or television stations of the

fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

§ 54956.6. Fees

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

EXCEPTIONS TO THE OPEN MEETING REQUIREMENT - TOPICS FOR CLOSED SESSION

§ 54956.7. Closed Sessions, License Applications; Rehabilitated Criminals

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the

discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

§ 54956.75. Audit by the State Auditor's Office; Closed Meeting to Discuss Response

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a legislative body of a local agency meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

§ 54956.8. Real Property Transactions; Closed Meeting With Negotiator

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, “lease” includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

§ 54956.81. Closed Sessions; Specific Pension Fund Investments

Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments. All investment transaction decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in subdivision (a) of Section 54957.2.

§ 54956.86. Closed Sessions, Legislative Body of Private Corporations; Federally Protected Information

Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member 42 enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

§ 54956.87. Records of Certain Health Plans; Meetings on Health Plan Trade Secrets

(a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from

disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters related to rates of payment. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Managed Health Care in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(f) For purposes of this section, “health plan trade secret” means a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also meets both of the following criteria:

(1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.

(2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

§ 54956.9. Pending Litigation; Closed Session; Abrogation of Privilege

(a) Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

(b) For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

(c) For purposes of this section, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(d) For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(1) Litigation, to which the local agency is a party, has been initiated formally.

(2) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(3) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (2).

(4) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

(e) For purposes of paragraphs (2) and (3) of subdivision (d), “existing facts and circumstances” shall consist only of one of the following:

(1) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(2) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(3) The receipt of a claim pursuant to the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code) or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(4) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(5) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat

makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(f) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(g) Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the paragraph of subdivision (d) that authorizes the closed session. If the session is closed pursuant to paragraph (1) of subdivision (d), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(h) A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

§ 54956.95. Closed Sessions; Joint Powers Insurance Authorities

(a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability

losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

§ 54956.96. Closed Session; Joint Powers Agencies

(a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a member local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that member local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency.

(B) Other members of the legislative body of the local agency present in a closed session of that member local agency.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member

and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) (1) In addition to the authority described in subdivision (a), the Clean Power Alliance of Southern California, or its successor entity, may adopt a policy or a bylaw or include in its joint powers agreement a provision that authorizes both of the following:

(A) A designated alternate member of the legislative body of the Clean Power Alliance of Southern California, or its successor entity, who is not a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the Clean Power Alliance of Southern California, or its successor entity, in lieu of a local agency member's regularly appointed member, to attend closed sessions of the Clean Power Alliance of Southern California, or its successor entity.

(B) All information that is received by a designated alternate member of the legislative body of the Clean Power Alliance of Southern California, or its successor entity, who is not a member of the legislative body of a local agency member, and that is presented to the Clean Power Alliance of Southern California, or its successor entity, in closed session, shall be confidential. However, the designated alternate member may disclose information obtained in a closed session that has direct financial or liability implications for the local agency member for which the designated alternate member attended the closed session, to the following individuals:

(i) Legal counsel of that local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that local agency member.

(ii) Members of the legislative body of the local agency present in a closed session of that local agency member.

(2) If the Clean Power Alliance of Southern California, or its successor entity, adopts a policy or bylaw or includes in its joint powers agreement a provision authorized pursuant to paragraph (1), the Clean Power Alliance of Southern California, or

its successor entity, shall establish policies to prevent conflicts of interest and to address breaches of confidentiality that apply to a designated alternate member who is not a member of the legislative body of a local agency member who attends a closed session of the Clean Power Alliance of Southern California, or its successor entity.

(c) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a) or (b), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

§ 54956.97. Public Bank; Governing Board or Committee of Governing Board; Closed Session.

Notwithstanding any provision of law, the governing board, or a committee of the governing board, of a public bank, as defined in Section 57600 of the Government Code, may meet in closed session to consider and take action on matters pertaining to all of the following:

- (a) A loan or investment decision.
- (b) A decision of the internal audit committee, the compliance committee, or the governance committee.
- (c) A meeting with a state or federal regulator.

§ 54956.98. Public Bank; Policy or Bylaw; Information From a Closed Session Considered Confidential

- (a) For purposes of this section, the following definitions shall apply:
 - (1) “Shareholder, member, or owner local agency” or “shareholder, member, or owner” means a local agency that is a shareholder of a public bank.

(2) “Public bank” has the same meaning as defined in Section 57600.

(b) The governing board of a public bank may adopt a policy or a bylaw or include in its governing documents provisions that authorize any of the following:

(1) All information received by a shareholder, member, or owner of the public bank in a closed session related to the information presented to the governing board of a public bank in closed session shall be confidential. However, a member of the governing board of a shareholder, member, or owner local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that shareholder, member, or owner local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that shareholder local agency.

(B) Other members of the governing board of the local agency present in a closed session of that shareholder, member, or owner local agency.

(2) A designated alternate member of the governing board of the public bank who is also a member of the governing board of a shareholder, member, or owner local agency and who is attending a properly noticed meeting of the public bank governing board in lieu of a shareholder, member, or owner local agency’s regularly appointed member may attend a closed session of the public bank governing board.

(c) If the governing board of a public bank adopts a policy or a bylaw or includes provisions in its governing documents pursuant to subdivision (b), then the governing board of the shareholder, member, or owner local agency, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the public bank governing board pursuant to paragraph (1) of subdivision (b).

§ 54957. Closed Sessions; Discussion of Employee/Independent Contractor; Exclusion of Witnesses

(a) (1) This chapter does not prevent the legislative body of a local agency from holding closed sessions with the Governor, Attorney General, district attorney, agency counsel, sheriff, or chief of police, or other law enforcement or security personnel, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, a threat to the public's right of access to public services or public facilities, or a threat to critical infrastructure controls or critical infrastructure information relating to cybersecurity.

(2) For purposes of this subdivision, the following definitions apply:

(A) "Critical infrastructure controls" means networks and systems controlling assets so vital to the local agency that the incapacity or destruction of those networks, systems, or assets would have a debilitating impact on public health, safety, economic security, or any combination thereof.

(B) "Critical infrastructure information" means information not customarily in the public domain pertaining to any of the following:

(i) Actual, potential, or threatened interference with, or an attack on, compromise of, or incapacitation of critical infrastructure controls by either physical or computer-based attack or other similar conduct, including, but not limited to, the misuse of, or unauthorized access to, all types of communications and data transmission systems, that violates federal, state, or local law or harms public health, safety, or economic security, or any combination thereof.

(ii) The ability of critical infrastructure controls to resist any interference, compromise, or incapacitation, including, but not limited to, any planned or past assessment or estimate of the vulnerability of critical infrastructure.

(iii) Any planned or past operational problem or solution regarding critical infrastructure controls, including, but not limited to, repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to interference, compromise, or incapacitation of critical infrastructure controls.

(b) (1) Subject to paragraph (2), this chapter does not prevent the legislative body of a local agency from holding closed sessions during a regular or special 51 meeting 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 by another person or employee unless the employee requests a public session.

(1) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of their right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(2) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(3) For the purposes of this subdivision, the term “employee” shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. This subdivision shall not limit local officials’ ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

§ 54957.1. Closed Sessions; Public Report of Decisions

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the 54 amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

§ 54957.2. Minute Book Record of Closed Sessions; Inspection

(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant

to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

ENFORCEMENT REQUIREMENTS

§ 54957.5. Agendas and Other Writings Distributed for Discussion or Consideration at Public Meetings; Public Records; Inspection; Closed Sessions

(a) Agendas of public meetings are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay and in compliance with Section 54954.2 or section 54956, as applicable. However, this section shall not apply to a writing, or portion thereof, that is exempt from public disclosure.

(b) (1) If a writing is a public record related to an agenda item for an open session of a regular meeting of the legislative body of a local agency and is distributed to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body less than 72 hours before that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) (A) Except as provided in subparagraph (B), a local agency shall comply with both of the following requirements:

(i) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose.

(ii) A local agency shall list the address of the office or location designated pursuant to clause (i) on the agendas for all meetings of the legislative body of that agency.

(B) A local agency shall not be required to comply with the requirements of subparagraph (A) if all of the following requirements are met:

(i) An initial staff report or similar document containing an executive summary and the staff recommendation, if any, relating to that agenda item is made available for public inspection at the office or location designated pursuant to clause (i) of subparagraph (A) at least 72 hours before the meeting.

(ii) The local agency immediately posts any writing described in paragraph (1) on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(iii) The local agency lists the web address of the local agency's internet website on the agendas for all meetings of the legislative body of that agency.

(iv) (I) Subject to subclause (II), the local agency makes physical copies available for public inspection, beginning the next regular business hours for the local agency, at the office or location designated pursuant to clause (i) of subparagraph (A).

(II) This clause is satisfied only if the next regular business hours of the local agency commence at least 24 hours before that meeting.

(c) Writings that are public records described in subdivision (b) and distributed during a public meeting shall be made available for public inspection at the meeting if

prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530 , except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), including, but not limited to, the ability of the public to inspect public records pursuant to Section 7922.525 and obtain copies of public records pursuant to either subdivision (b) of Section 7922.530 or Section 7922.535.) of Division 7 of Title 1). This 57 chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

§ 54957.6. Closed Sessions; Salaries, Legislative Body of Local Agencies; Salaries, Salary Schedules or Fringe Benefits; Mandatory Subjects

(a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation, subject to all of the following conditions:

(1) **Prior** to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

(2) **The closed session** shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

(3) **The closed session** may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

(4) **Any closed session** with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

(5) **The closed session** shall not include final action on the proposed compensation of one or more unrepresented employees.

(6) For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

§ 54957.7. Closed Sessions; Statement of Reasons and Legal Authority; Scope of Coverage; Notice

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

§ 54957.8. Closed Sessions; Legislative Body Of Multijurisdictional Law Enforcement Agency

(a) For purposes of this section, “multijurisdictional law enforcement agency” means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that provides law enforcement services for the parties to the joint powers agreement for the purpose of investigating criminal activity involving drugs; gangs; sex crimes; firearms trafficking or felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft.

(b) Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional law enforcement agency, or an advisory body of a multijurisdictional law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

§ 54957.9. Authorization to Clear Room Where Meeting Willfully Interrupted, Etc.

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of the meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held

pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

§ 54957.10. Closed Sessions; Employee Application for Early Withdrawal of Funds in Deferred Compensation Plan; Financial Hardship

Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

§ 54957.95. Open Meetings: Orderly Conduct.

(a) (1) In addition to authority exercised pursuant to Sections 54954.3 and 54957.9, the presiding member of the legislative body conducting a meeting or their designee may remove, or cause the removal of, an individual for disrupting the meeting, including any teleconferenced meeting.

(2) Prior to removing an individual, the presiding member or their designee shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding member or 60 their designee may then remove the individual if they do not promptly cease their disruptive behavior. This paragraph does not apply to any behavior described in subparagraph (B) of paragraph (1) of subdivision (b).

(b) As used in this section:

(1) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following:

(A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law.

(B) Engaging in behavior that constitutes use of force or a true threat of force.

(2) “True threat of force” means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

54957.96. Member of Public Participating in Meeting via Two-Way Telephonic Service or Two-Way Audiovisual Platform; Authority for Removal or Limitation of Participation

(a) The existing authority of a legislative body or its presiding officer to remove or limit participation by persons who engage in behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting, including existing limitations upon that authority, shall apply to members of the public participating in a meeting via a two-way telephonic service or a two-way audiovisual platform.

(b) For purposes of this section, the following definitions apply:

(1) “Two-way audiovisual platform” means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic service. A two-way audiovisual platform may be structured to disable the use of video for the public participants.

(2) “Two-way telephonic service” means a telephone service that does not require internet access and allows participants to dial a telephone number to listen and verbally participate.

§ 54958. Application of Chapter

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

§ 54959. Criminal Penalty

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member

intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

§ 54960. Actions to Stop or Prevent Violations or Determine Applicability of Chapter

(a) The district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to ongoing actions 61 or threatened future actions of the legislative body, or to determine the applicability of this chapter to past actions of the legislative body, subject to Section 54960.2, or to 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 or invalid under the laws of this state or of the United States, or to compel the legislative body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with

notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) This section shall not permit discovery of communications that are protected by the attorney-client privilege.

§ 54960.1. Unlawful Action by Legislative Body; Action for Mandamus or Injunction; Prerequisites

(a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 is null and void under this section. Nothing in this

chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c) (1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

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(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, 54956, and 54956.5.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior 64 to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

§ 54960.2. Requirements for Filing of Actions; Cease and Desist

(a) The district attorney or any interested person may file an action to determine the applicability of this chapter to past actions of the legislative body pursuant to subdivision (a) of Section 54960 only if all of the following conditions are met:

(1) The district attorney or interested person alleging a violation of this chapter first submits a cease and desist letter by postal mail or facsimile transmission to the clerk or secretary of the legislative body being accused of the violation, as designated in the statement pertaining to that public agency on file pursuant to Section 53051, or if the agency does not have a statement on file designating a clerk or a secretary, to the chief executive officer of that agency, clearly describing the past action of the legislative body and nature of the alleged violation.

(2) The cease and desist letter required under paragraph (1) is submitted to the legislative body within nine months of the alleged violation.

(3) The time during which the legislative body may respond to the cease and desist letter pursuant to subdivision (b) has expired and the legislative body has not provided an unconditional commitment pursuant to subdivision (c).

(4) Within 60 days of receipt of the legislative body's response to the cease and desist letter, other than an unconditional commitment pursuant to subdivision (c), or within 60 days of the expiration of the time during which the legislative 65 body may respond to the cease and desist letter pursuant to subdivision (b), whichever is earlier, the party submitting the cease and desist letter shall commence the action pursuant to subdivision (a) of Section 54960 or thereafter be barred from commencing the action.

(b) The legislative body may respond to a cease and desist letter submitted pursuant to subdivision (a) within 30 days of receiving the letter. This subdivision shall not be construed to prevent the legislative body from providing an unconditional commitment pursuant to subdivision (c) at any time after the 30-day period has expired, except that in

that event the court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section, in accordance with Section 54960.5.

(c) (1) If the legislative body elects to respond to the cease and desist letter with an unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate this chapter, that response shall be in substantially the following form:

To:

The [name of legislative body] has received your cease and desist letter dated [date] alleging that the following described past action of the legislative body violates the Ralph M. Brown Act:

[Describe alleged past action, as set forth in the cease and desist letter submitted pursuant to subdivision (a)]

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the [name of legislative body] hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action as described above.

The [name of legislative body] may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to subdivision (a) of Section 54960 of the Government Code. That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Very truly yours,

[Chairperson or acting chairperson of the legislative body]

(2) An unconditional commitment pursuant to this subdivision shall be approved by the legislative body in open session at a regular or special meeting as a separate item of business, and not on its consent agenda.

(3) An action shall not be commenced to determine the applicability of this chapter to any past action of the legislative body for which the legislative body has

provided an unconditional commitment pursuant to this subdivision. During any action seeking a judicial determination regarding the applicability of this chapter to any past action of the legislative body pursuant to subdivision (a), if the court determines that the legislative body has provided an unconditional commitment pursuant to this subdivision, the action shall be dismissed with prejudice. Nothing in this subdivision shall be construed to modify or limit the existing ability of the district attorney or any interested person to commence an action to determine the applicability of this chapter to ongoing actions or threatened future actions of the legislative body.

(4) Except as provided in subdivision (d), the fact that a legislative body provides an unconditional commitment shall not be construed or admissible as evidence of a violation of this chapter.

(d) If the legislative body provides an unconditional commitment as set forth in subdivision (c), the legislative body shall not thereafter take or engage in the challenged action described in the cease and desist letter, except as provided in subdivision (e). Violation of this subdivision shall constitute an independent violation of this chapter, without regard to whether the challenged action would otherwise violate this chapter. An action alleging past violation or threatened future violation of this subdivision may be brought pursuant to subdivision (a) of Section 54960, without regard to the procedural requirements of this section.

(e) The legislative body may resolve to rescind an unconditional commitment made pursuant to subdivision (c) by a majority vote of its membership taken in open session at a regular meeting as a separate item of business not on its consent agenda, and noticed on its posted agenda as “Rescission of Brown Act Commitment,” provided that not less than 30 days prior to such regular meeting, the legislative body provides written notice of its intent to consider the rescission to each person to whom the unconditional commitment was made, and to the district attorney. Upon rescission, the district attorney or any interested person may commence an action pursuant to subdivision (a) of Section 54960. An action under this subdivision may be brought

pursuant to subdivision (a) of Section 54960, without regard to the procedural requirements of this section.

§ 54960.5. Costs and Attorney Fees

A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960, 54960.1, or 54960.2 where it is found that a legislative body of the local agency has violated this chapter. Additionally, when an action brought pursuant to Section 54960.2 is dismissed with prejudice because a legislative body has provided an unconditional commitment pursuant to paragraph (1) of subdivision (c) of that section at any time after the 30-day period for making such a commitment has expired, the court shall award court costs and reasonable attorney fees to the plaintiff if the filing of that action caused the legislative body to issue the unconditional commitment. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

§ 54961. Meetings Places; Discriminatory Admission Policies; Accessibility

(a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

§ 54962. Closed Session by Legislative Body Prohibited

Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code, or by Sections 37606, 37606.1, and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

§ 54963. Closed Sessions: Confidential Information

(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, “confidential information” means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grand jury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.

Open & Public VI

A GUIDE TO THE RALPH M. BROWN ACT

REVISED JANUARY 2024



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A GUIDE TO THE RALPH M. BROWN ACT

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IT IS THE PEOPLE’S BUSINESS

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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."¹

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."²

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."³

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.⁴

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.⁵

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.

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.

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.⁶ 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.

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.

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.¹



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.”² 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.³ A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.⁴ The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.⁵ Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.⁶

- **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.⁷ 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.

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.

- 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.*

- **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.⁸
- **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.⁹ 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.¹⁰ “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.¹¹ 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.¹² 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.¹³ These include some nonprofit corporations created by local agencies.¹⁴ 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.¹⁵ 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.¹⁶

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.”

- 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.¹⁷

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.¹⁸ 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.¹⁹
- 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.²⁰

- 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.²¹
- 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.²²
- County central committees of political parties are also not Brown Act bodies.²³

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.²⁴

ENDNOTES

- 1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1127.
- 2 Cal. Gov. Code, § 54952, subds. (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).



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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.”¹ 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.²

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.³
- **“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.⁴
- **“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.⁵
- **“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.⁶

Six exceptions to the meeting definition

The Brown Act creates six exceptions to the meeting definition:⁷

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.⁸ 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).⁹

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.¹⁰ 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.¹¹



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.”¹² 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.¹³ 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.”¹⁴

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.¹⁵

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

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."¹⁸ 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.¹⁹

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.²⁰ 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.²¹ 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.”²² 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:²³

- 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.²⁴

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.²⁵

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:²⁶

- 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.²⁷

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.²⁸ 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.²⁹

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.³⁰ State law has also allowed for virtual meetings under certain emergency situations.³¹

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

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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.”¹ 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.² 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.³ 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.⁴

- 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.⁵ 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.⁶ 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.⁷ 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.⁸ 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.

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

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.”⁹ 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.¹⁰ 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.¹¹

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.¹² 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.¹³



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).¹⁴

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.¹⁵

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.¹⁶ 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.¹⁷ 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.¹⁸

Notice requirements for emergency meetings

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.¹⁹ 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.²⁰

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.²¹ However, they are generally consistent with the Brown Act. An item is probably void if not posted.²² 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.²³

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.²⁴ 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.²⁵ 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:²⁶

- 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.²⁷ 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.²⁸

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.²⁹ This does not mean, however, that the public is entitled to free entry to a conference attended by a majority of the legislative body.³⁰

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.³¹

Action by secret ballot, whether preliminary or final, is flatly prohibited.³²

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.³³

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.³⁴ Ejection is justified only when audience members actually disrupt the proceedings,³⁵ 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).³⁶ 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.³⁷

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.³⁸ A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.³⁹

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.⁴⁰ 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.⁴¹

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.⁴²

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.⁴³

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.⁴⁴ The agency may impose its ordinary charge for copies that is consistent with the California Public Records Act.⁴⁵

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.⁴⁶

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.⁴⁷

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.⁴⁸

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.⁴⁹ However, this prohibition does not provide immunity for defamatory statements.⁵⁰

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.⁵¹ 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.⁵²

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

speaking on the item before or during its consideration, and if the item has not been substantially changed.⁵³

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.⁵⁴

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, subs. (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).



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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.¹



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.² 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.³

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),⁴ 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.⁵ 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.⁶

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.⁷

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.⁸ 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.⁹ 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.¹⁰

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.¹¹ 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.¹² 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.¹³ 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.¹⁴ 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.¹⁵ 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.¹⁶

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.¹⁷ 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.¹⁸

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.¹⁹

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.²⁰

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.²¹ 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.²²



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.²³ 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.²⁴ 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.²⁵

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,²⁶ and the names of the parties with whom its negotiator may negotiate.²⁷

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.²⁸

"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.”²⁹ 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.³⁰ The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception.³¹ That authority may be delegated to a subsidiary appointed body.³²

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,³³ 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.³⁴ The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session.³⁵ If the employee is not given the 24-hour prior notice, any disciplinary action is null and void.³⁶

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.³⁷

- 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.³⁸ 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.³⁹ 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.⁴⁰ However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.⁴¹

“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,⁴² 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.⁴³

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

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.⁴⁴

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.⁴⁵ 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.⁴⁶

Public participation under the Rodda Act also takes another form.⁴⁷ 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.⁴⁸ 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.⁴⁹

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.⁵⁰ Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.⁵¹

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.⁵²

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.⁵³

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.⁵⁴ 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.⁵⁵

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.⁵⁶

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:⁵⁷

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.⁵⁸

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,⁵⁹ consideration of the purchase or sale of particular pension fund investments by a legislative body of a local agency that invests pension funds,⁶⁰ 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,⁶¹ 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,⁶² 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.⁶³

PRACTICE TIP: Meetings are either open or closed. There is nothing “in between.”⁶⁴

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.⁶⁵

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.⁶⁶ 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.⁶⁷ 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.⁶⁸

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,⁶⁹ though the Attorney General has also concluded that a local agency is preempted from adopting an ordinance criminalizing public disclosure of closed session discussions.⁷⁰ 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.⁷¹

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.⁷²

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.⁷³ 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

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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.¹ 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.²
- Those involving the sale or issuance of notes, bonds, or other indebtedness, or any related contracts or agreements.³
- 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.⁴
- Those connected with the collection of any tax.⁵
- 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.⁶

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.⁷ The legislative body then has up to 30 days to cure and correct its action.⁸ 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.⁹

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

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.¹³ 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.¹⁴ The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action.¹⁵ 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.¹⁶

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.¹⁷ The unconditional commitment must be substantially in the form set forth in the Brown Act.¹⁸ No legal action may thereafter be commenced regarding the past action.¹⁹ 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.²⁰

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.²¹

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.²²

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.

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.²³ A court may not compel elected officials to disclose their recollections of what transpired in a closed session.²⁴

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.²⁵ 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.²⁶

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.²⁷ 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.²⁸

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.²⁹

"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.³⁰ 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.³¹ 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 1222.³² 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.³³

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 54956.5 (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, subds. (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, subds. (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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CITY COUNCIL, BOARDS, COMMITTEES & COMMISSIONS

RULES OF PROCEDURE FOR THE CONDUCT OF MEETINGS

&

STANDARDS OF CONDUCT

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1. PURPOSE

The purpose for establishing City Council Protocols is to provide an effective environment for the City Council to provide leadership. The protocols may be amended by resolution adopted by a majority vote of the Council Members and should be reviewed on a regular basis to ensure that the document remains helpful to the Council by providing a framework for effective leadership.

The protocols set forth herein are not intended to limit the inherent power and general legal authority of the City Council. Any of the protocols herein may be waived by a majority vote of the Council Members when it is deemed that there is good cause to do so based upon the particular facts and circumstances.

1.1 Council-Manager Form of Government

The City of St. Helena operates according to the Council-Manager form of government which vests authority in an elected City Council which, in turn, hires an appointed executive, the City Manager. The City Council is composed of five members elected from the City on a nonpartisan basis to serve overlapping four-year terms. The Mayor is elected at-large to serve a two-year term as presiding officer at City Council meetings and as the official head of the City for legislative and ceremonial purposes. The City Manager is appointed by the City Council and serves at the pleasure of that body.

The City Council is the City's legislative and policy-making body. Acting as a whole, the City Council is responsible for setting the direction of City policy and for adopting ordinances, resolutions and other orders as necessary for governing the City. The City Manager is responsible for the overall administration of the City, which includes implementation of the general policies set by the City Council in addition to the day-to-day operation of all City functions. The City Manager, with the help of the Staff, provides the City Council with the information needed to fulfill its policy-making role.

The Council-Manager form of government separates legislative and executive responsibilities in a manner similar to state and federal governments. This system provides "checks and balances" of both policy and administrative branches of government by limiting the power of each.

1.2 City Council Vision and City Council Mission

Council Vision

St. Helena strives to be a diverse, inclusive, family-friendly, economically and environmentally sustainable community which prudently manages all of its resources, continues to improve its infrastructure, ensures its water security, provides a full range of housing, business, cultural and recreational

opportunities and cherishes its historic, small-town character, beautiful natural environment and high quality of life.

Council Mission

The City of St. Helena is dedicated to serving its citizens by:

- Promoting a culture of equity, diversity and inclusion
- Supporting thriving families and ensuring the health and wellbeing of our youth
- Ensuring our long-term economic sustainability and focusing on new and diverse sources of revenue
- Preventing, preparing for, and mitigating fire and other local emergencies
- Improving and maintaining City infrastructure
- Updating our water management policies to ensure an adequate water supply
- Responding innovatively to climate change challenges and adopting environmentally sustainable best practices
- Preserving our historic, small-town, rural character
- Expanding recreational, active transportation and cultural opportunities
- Facilitating innovative, well-designed housing for residents of all backgrounds, ages and income levels
- Encouraging full civic participation and ongoing communication
- Strengthening regional collaboration with other public entities and building partnerships with local service providers and stakeholders

(See Resolution Number 2021-62, dated May 11, 2021.)

2. RULES OF PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

2.1 Regular Meeting

The Council shall hold a Regular Meeting on the second and fourth Tuesday of each month, except that the Council may by motion at a Regular Meeting and with adequate public notice, either cancel that meeting or reschedule it to some other date.

Regular Meetings shall be held at the Vintage Hall Board Room, 465 Main Street, St. Helena, and shall begin at 6:00 p.m. If it is necessary to hold a closed session prior to the start of a Regular Meeting the closed session may begin earlier than the normal starting time to allow the Regular Meeting to begin at 6:00 p.m. Closed session may also occur after a regular meeting was adjourned or outside of a regular meeting day. The closed session shall begin in an open meeting and the Council shall adjourn to closed session.

2.2 Special, Emergency, and Adjourned Meetings

(a) **Special Meetings.** The Mayor or the Vice Mayor in the Mayor's absence or a majority of the members of the Council or the City Manager may at any time call a Special Meeting. At least twenty-four hours before a Special Meeting, written notice of the meeting stating its time and place and the subjects to be considered shall be (a) delivered to the Mayor and each Councilmember personally or by any other means; (b) posted on the Council's principal bulletin board, City website and place of meeting; and (c) emailed to the agenda subscribers. Only those items of business specified in the notice may be considered at a Special Meeting called in this manner.

(b) **Emergency Meeting.** The Council may hold an Emergency Meeting in emergency situations as set forth in the City's Municipal Code and State Law.

(c) **Adjourned Meeting.** A properly called Regular, Special, or Emergency Meeting may be adjourned to a time and place specified. A copy of the notice of adjournment shall be posted as specified on the door of the place where the meeting was held within twenty-four hours after the time of the adjournment. Further notice need not be given of an adjourned session of a properly called Regular, Special, or Emergency Meeting.

2.3 Regular Meeting Agenda

(a) **Setting and Posting of Agenda.** The agenda of business to come before the Council at a Regular Meeting shall normally be closed at the end of eighteen business days preceding the meeting. Under State Law the agenda for a Regular Meeting must be posted at least seventy-two (72) hours prior to the scheduled convening of the Regular Meeting, and no items may be added to the agenda fewer than seventy-two (72) hours prior to the meeting except as may be allowed by State Law. The City Council endeavors to publish the meeting agenda as early as possible prior to the meeting, but no later than 72 hours in advance. (b) **Placing Items on the Council Agenda.** Each City Council agenda shall specifically provide for a discussion of Future Agenda Items. Any Council Member may request that an item be considered on a future agenda during that portion of the City Council meeting and, upon agreement by a second Council Member concurring that Staff time and City resources should be expended on the item, the item shall be placed on the soonest practical regularly scheduled Council meeting as determined by the City Manager. A member of the public may request that an item be placed on a future agenda during Public Forum or through other communication with a Council Member. Staff reports may not be prepared on Council Member requested items until Council discussion has occurred and direction provided by the Council unless Staff otherwise determines. If Council action is contemplated,

proposed action shall be included in the Staff report. The City Manager may also add any item of business to a future agenda in his or her sole discretion.

(c) **Agenda Packet Distribution.** Each Councilmember shall be furnished an e-agenda by no later than 5:00 p.m., on the Friday prior to the regular meeting. However, staff will strive to publish the agenda as early as possible. The requirement is to publish 72 hours in advance meeting Brown Act guidelines. The agenda and agenda materials shall be available for public inspection and distribution or copying at that the time of publication. Any agenda materials not included in the agenda package by 5:00 p.m., that Friday shall be separately identified, and the Council may by majority vote continue such agenda item until the following meeting to allow for proper study of the materials.

(d) **Order of Agenda.** The business of the Council shall be taken up for consideration in substantially the following order except as may be otherwise ordered:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Adoption of the Agenda
5. Approval of the Minutes
6. Public Forum
7. Reports by Staff and City Council, Future Agenda Items and AB 1234 Reports
8. Presentations and Public Recognitions
9. Staff Briefing
10. Consent Items and Items Removed from Consent
11. Public Hearings
12. Old Business
13. New Business
14. City Council Reports
15. Adjournment

(e) A copy of the agenda and the package of agenda materials shall be made available for public inspection at City Hall.at or near the time they are circulated to the City Council.

2.4 Public Testimony and Comments Before the Council

(a) **Addressing the Council Generally.** Each person addressing the Council may give their name and address (optional) in an audible tone of

voice for the record. Each person's comments are limited to four minutes except as provided in section (b) regarding land use Public Hearings. In the further interest of time, the Mayor may reduce the four-minute time limit for all speakers in circumstances where a large number of citizens intend to make public comments. Additionally, speakers may be asked to limit their comments to new materials and not repeat what a prior speaker said. Organized groups may choose a single spokesperson who may speak for the group. Speakers may not concede their allotted time to another speaker. The Mayor may extend time for the speaker.

(b) Addressing Council at Land Use Public Hearings. An applicant appellant at a land use Public Hearing shall be permitted to address the Council for 15 minutes following the Staff report. If there is a spokesperson for the opposition, the spokesperson shall be permitted to speak for 15 minutes. All other speakers are limited to four minutes each. Applicant shall first be permitted five minutes at close of public comments for rebuttal. If the applicant is the appellee the appellant shall have 15 minutes, the applicant appellee shall have 15 minutes, the appellant five minutes, and the applicant appellee five minutes.

(c) Presentation by Spokesperson. Whenever any group of persons wishes to address the Council on the same subject matter, it shall be proper for the Mayor to request that a spokesperson be chosen by the group to address the Council, and, in case additional matters are to be presented at the time by any other member of the group, to limit the number of persons so addressing the Council so as to avoid unnecessary repetition before the Council.

(d) Irrelevant Testimony. The Mayor shall rule out of order any testimony not relevant to the agenda item then under discussion.

(e) Protocol. The purpose of public testimony is for Councilmembers to benefit from the views of the public. Comments from the public should be directed towards the Council. Councilmembers and Staff should avoid entering into a dialogue with members of the public who may address the Council. Questions raised by members of the public may be referred to Staff.

(f) Public Comment on Agendized Items. Members of the public are entitled to speak on any item on the agenda during a Public Hearing on the subject matter opened by the Mayor. Each person is entitled to speak on any agenda item only once at any meeting, and the right to speak at the appropriate time waives any further right to address the Council on that item at that meeting. Participation in debate on any item before the Council shall be limited to members of the Council, although Councilmembers may ask members of the public for additional information.

Written communications addressed to the City Council are to be referred to the City Clerk for:

Forwarding to the Council and posting to the appropriate agenda packet item. Written communication must be received at least three hours prior to the meeting to be included in the agenda packet. Written communication will not be read aloud at the meeting.

(g) **Public Comment on Non-Agendized Items.** Members of the public are entitled to speak on matters of municipal concern not on the agenda, during consideration of that portion of the meeting agenda entitled “Public Forum” when that item is called by the Mayor. Each person is entitled to speak on non-agendized items only once at any meeting. Brief questions by Councilmembers for clarifications may be posed and answered, and Councilmembers may make requests that items be placed on future agendas, but in accordance with State Law, no substantive discussion may take place unless and until the matter properly appears on the agenda.

2.5 Roll Call and Voice Votes

A roll call vote shall be taken on the approval of the Consent Calendar, the introduction of ordinances, and the adoption of ordinances, resolutions, and orders for the payment of money. Roll call votes shall be entered in the minutes of the Council showing those members voting yes, those voting no, and those abstaining or absent.

Any other motion may be passed by voice vote provided, however, that any Councilmember may request a roll call vote on any items to be voted on.

2.6 Consent Items

Those items on the agenda considered routine by the City Manager shall be grouped together under “Consent Items” and the recommended actions approved by a single vote of the Council. At the request of any Councilmember or any other person present at the meeting, a Consent Item shall be considered separately following approval of the remaining “Consent Items.” Items approved under the heading “Consent Items” will appear in the Council minutes in their proper form, as if approved item by item.

2.7 Reports

Under the agenda heading “Reports” the City Manager, other City Staff, and Councilmembers may make reports on matters not on the agenda. Also at this time, Councilmembers or Staff may identify issues or agenda items that need to be addressed by the City Attorney during the meeting, and may propose future agenda items.

2.8 Closing Time of Council Meetings

Council meetings shall adjourn by 9:00 p.m. However, the Council may by majority vote extend the meeting up to an additional thirty minutes (9:30 p.m.) if the Council deems such extension necessary. A unanimous Council vote shall be required to extend the meeting past 9:30 p.m. and adjourn by 10:00 p.m. Otherwise, the meeting shall be adjourned to another day acceptable to the Council, or unfinished business may be continued to the next regular meeting.

2.9 Old Business

“Old Business” will include uncompleted items carried over from a prior meeting agenda and placed under this agenda heading for consideration.

2.10 New Business

The Council shall not consider any resolution, motion, or matter which does not affect the conduct of the business of the City of St. Helena or its corporate powers or duties as a municipal corporation nor shall the Council consider any resolution or motion supporting or disapproving any legislation or action pending in the Legislature of the State of California, the Congress of the United States or before any officer or agency of the State or Nation unless such proposed legislation or action, if adopted, will affect the conduct of the municipal business or the powers and duties of the City of St. Helena or its officers or employees as such.

2.11 Office of the Mayor

The Mayor shall preside at meetings of the Council, shall be entitled to vote on all matters, and shall be considered a Councilmember for all purposes, including the determination of whether a quorum is present. The Mayor will recognize members that wish to speak.

The Mayor shall have the following powers:

- a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- b) To enforce the Council's rules regarding public testimony and to determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- c) To ensure that the public has reasonable opportunity to be heard;
- d) To entertain and answer questions of parliamentary law or procedure;
- e) To call a brief recess at any time;
- f) To adjourn in an emergency;
- g) To appoint a Vice Mayor subject to Council approval who shall serve during the term of the Mayor, and becomes the Mayor Pro Tempore in the Mayor's absence.

2.12 Office of Mayor Pro Tempore

A Councilmember who serves as Mayor pro tempore shall be entitled to vote on all matters and shall be considered a Councilmember for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Mayor pro tempore shall have the Mayor's powers and duties. If the Mayor should become physically or mentally unable to perform the duties of his or her office, the other Councilmembers may by unanimous vote declare the Mayor is incapacitated and confer the Mayor's powers and duties on the Mayor pro tempore.

When the Mayor declares that he or she is no longer incapacitated, and a majority of the Council concurs, the Mayor shall resume the exercise of his or her powers and duties. If both the Mayor and the Mayor pro tempore are absent from a meeting, the Council may elect from among its members a temporary chair to preside at the meeting.

2.13 Action by the Council

Action by the Council shall be by motions made and voted upon. A motion shall require a second. The Mayor and any other Councilmember may make or second a motion. A substantive motion is out of order while another substantive motion is pending.

2.14 Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules or the laws of California. Resolutions, orders for the payment of money, and all ordinances require at least three votes for passage.

2.15 Discussion

The City Council shall address an agenda item as follow:

- (a) Staff shall introduce the agenda item and present the Staff report.
- (b) City Council shall ask questions of Staff.
- (c) The Mayor will invite public comment on the item.
- (d) Having received all public testimony, the Council will deliberate on the matter.
- (e) If appropriate, the Mayor will entertain a motion, including any motion proposed by the Mayor.
- (f) If a motion has received a second, the Mayor shall state the motion and if any Council Member wishes for the discussion, open for additional Council discussion.

- (g) The Mayor shall preside over the discussion according to the following general principles:
 - 1. The maker of the motion is entitled to speak first;
 - 2. A person who has not spoken on the issue shall be recognized before someone who has already spoken;
 - 3. To the extent possible, the discussion shall alternate between opponents and proponents of the measure.

2.16 Ratification of Actions

To the extent permitted by law, the Council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

2.17 Procedural Motions

- (a) In addition to substantive proposals, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption.
- (b) To Adjourn. The motion may be made only at the conclusion of action of a pending substantive matter; it cannot interrupt deliberation of a pending matter.
- (c) To Take a Brief Recess.
- (d) Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.
- (e) To Suspend the Rules. The motion requires for adoption a vote of a majority of the quorum of the Council. The Council may not suspend provisions of the rules that are state requirements imposed by law on the Council.
- (f) To Divide a Complex Motion and Consider It by Paragraph.
- (g) To Call the Previous Question. The motion is not in order until every member has had an opportunity to speak once.
- (h) To Continue an Item to a Future Meeting Certain.
- (i) To Refer to Staff for Action.
- (j) To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if the amended motion has the same effect as rejection of the original motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last amendment is disposed of by a vote.

- (k) To Reconsider. The motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken, including any continuation of that meeting through adjournment to a time and place certain, or at the next Regular Meeting unless intervening actions taken based on the original action make such reconsideration impracticable. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.
- (l) To Rescind or Repeal a Previous Action. A motion to rescind or repeal a previous action is not in order if the rescission or repeal is forbidden by law or made inappropriate by virtue of actions taken in accordance with the previous action.
- (m) To call for a Straw Vote. The Mayor, at the Mayor's discretion, may call for a Straw Vote among members on any item prior to inviting public testimony or Council comment.

2.18 Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before a vote, with or without the consent of any "seconder" of the motion. However, any other Councilmember may ask to be considered the introducer of the motion and, if again seconded, debate may continue without further interruption.

2.19 Duty to Vote

Every member must vote on every item unless prevented from doing so by virtue of an actual or potential conflict of interest under applicable State Law. Any member who believes he or she has a conflict or potential conflict of interest must announce such at the initiation of discussion or when such conflict or potential conflict becomes apparent, and shall refrain from any part in the debate, deliberations, or voting on that issue, except as allowed by State Law.

2.20 Introduction and Passage of Ordinance

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the Council. The Mayor shall read the title of the ordinance, after which a roll call vote shall be taken to introduce the ordinance. The City Clerk shall then read the ordinance in its entirety unless such reading is waived by a separate motion adopted by unanimous vote of the Councilmembers present. An ordinance, other than an urgency, may not be passed within five days of its introduction or alteration. Corrections of typographical or clerical errors are not alterations.

2.21 Closed Sessions

- (a) The Council may hold closed sessions only as provided for by law and according to the provisions herein.
- (b) As part of any regular or special City Council meeting as appropriate, the City Council, the City Attorney, and relevant Staff may discuss and agree upon the need for any future closed sessions, including the legal authority for the closed session and the nature of the matter to be discussed, in adequate detail to meaningfully inform the public while maintaining required confidentiality and any applicable attorney-client privilege. Where the City Manager and City Attorney agree that the nature of a matter requires consideration in closed session, the requirement for prior open session discussion shall not apply.
- (c) The City Council agenda for any regular or special Council meeting shall include general information about closed sessions as follows:

The City Council will convene in open session at the stated time, but will then adjourn to address any closed sessions items listed on the agenda. The public is invited to address the Council with comment on any listed closed session item immediately prior to Council's adjournment into closed session or consistent with any other provisions permitting public comment. The Council will reconvene in Public Session at 6:00 p.m. or at the first Council meeting following any closed session. At that time, if appropriate and as required under the Brown Act, any actions taken during the preceding closed session will be announced by the City Attorney or Mayor. If necessary, the Council may reconvene in closed session to continue discussion of listed items following the completion of open session business.

- (d) The City Council agenda for any regular or special Council meeting at which the Council will adjourn to closed session shall provide notice of that closed session as provided for under the Brown Act and shall include a narrative description of the legal authority for the closed session and the nature of the matter to be discussed in adequate detail to inform the public while maintaining required confidentiality or any applicable attorney-client privilege. Reporting out of closed session shall be consistent with the requirements of Brown Act, and may be of greater detail than required when the disclosure of such detail is not inconsistent with maintaining required confidentiality and any applicable attorney-client privilege.

2.22 Quorum

A majority of the actual membership of the Council, including the Mayor but excluding vacant seats, shall constitute a quorum. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members

present shall be counted as present for purposes of determining whether or not a quorum is present.

2.23 Teleconference Attendance Of Council Members At Council Meetings

- (a) The City Council Procedures provisions concerning Teleconference Attendance shall apply to all Boards and Commissions as well as the City Council. Requests by Council Members to attend a Council meeting via teleconference appearance are actively discouraged.
- (b) Effective January 1, 2023, Assembly Bill 2449 amended the Brown Act, California Government Code Sections 54950 et seq., as it pertains to teleconference meeting participation by legislative body members.

- **Applicability**

- (c) When a legislative body member wishes to attend a legislative meeting by teleconference under the provisions of Assembly Bill 2449, codified at California Government Code Section 54953(f) et seq., the following policies and procedures shall apply. Nothing herein is intended to prevent a member's ability to attend a legislative meeting remotely if such attendance is otherwise authorized by Government Code Section 54953.

- **Terms**

- (d) "Chairperson" shall mean the Mayor or Chair of the legislative body, as applicable. "Vice-Chairperson" shall mean the Vice Mayor, or Vice-Chair of the legislative body, as applicable.

"City" shall mean City of St. Helena

"Description" shall mean a brief general description of a legislative body member's circumstances that warrant teleconference meeting attendance under the "Just Cause" exception or "Emergency Circumstances" exception, which need not exceed 20 words and need not to disclose any medical diagnosis, disability, or exempt personal medical information. (GC 54953(f)(2)(A)(i)–(ii))

"Disclosure" shall mean an announcement by the Member, made during the legislative meeting where the Member will attend by teleconference, disclosing the presence of other individuals over the age of 18 in the room at the Member's teleconference location, and the general nature of the individual's relationship to the Member. (GC 54953(f)(2)(B))

"Legislative body" shall have the same meaning as prescribed by Government Code Section 54952, i.e. a body that is subject to the Ralph M. Brown Act. "Meeting" and "legislative meeting" shall have the same meaning as prescribed by Government Code Section 54952.2, i.e. a meeting of a legislative body that is required to be noticed under the Ralph M. Brown Act.

“Member” shall mean a member of a legislative body.

“Notification” shall mean a notification from a legislative body member of the Member’s need to attend a meeting by teleconference under the “Just Cause” exception. Notifications shall not require legislative body approval. (GC 54953(f)(2)(A)(i))

“Request” shall mean a request from a legislative body member that their legislative body actively approve their request to attend a meeting by teleconference under the “Emergency Circumstances” exception. (GC 54953(f)(2)(A)(ii))

“Teleconference” attendance at a legislative meeting, for purposes of this policy, shall be presumed to be accomplished by Zoom or the equivalent two-way audio-visual virtual software platform in use by the City at that time. “Teleconference” attendance shall mean attendance solely by virtual platform and shall not include a Member who attends a meeting in person and secondarily views the meeting by virtual platform. Provisions of this policy shall apply only to teleconference attendance under AB 2449 and shall not constrain the Member’s ability to attend by teleconference under other sections of the Brown Act.

- **Available Exceptions for Teleconference Attendance**

The Member shall be responsible for determining which of the two available exceptions is applicable to the Member’s need to attend by teleconference. The Member’s determination shall not be investigated by staff as to the veracity of any such request or claim. Such determination shall be subject to review by the legislative body alone. The available exceptions are:

1. “Just Cause” (GC 54953(f)(2)(A)(i))
2. “Emergency Circumstances” (GC 54953(f)(2)(A)(ii))

- **Exceptions Defined**

Exception #1: “Just Cause” circumstances are defined as any one of the following:

- a. Caregiving of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely.
- b. A contagious illness that prevents the member from attending in person.

- c. A need related to a physical or mental disability.
- d. Travel while on business of the legislative body or another state or local agency.

Exception #2: "Emergency Circumstances" are defined as a physical or family medical emergency that prevents a member from attending in person.

The foregoing definitions are set forth in this policy for convenience; in the event applicable law is changed to amend the nature of qualifying teleconference circumstances, the amended law shall supersede this section.

- **Limitation on Number of Uses**

Members may attend meetings by teleconference under AB 2449 no more than the following number of times per calendar year:

- a. City Council: Four (4) meetings per year
- b. Planning Commission: Four (4) meetings per year
- c. All other Boards, Committees and Commissions: Two (2) meetings per year

The above limitations shall factor in all meetings noticed under the Brown Act, whether Regular, Special, Closed, Joint, or otherwise. In the event a Member attends by teleconference multiple, contiguous meetings held on the same date, each meeting shall be counted separately.

1. Notwithstanding any other provision, a Member may utilize the "Just Cause" exception no more than two (2) times per calendar year.

2. Notwithstanding any other provision, a Member may not attend meetings solely by teleconference for a period of more than three consecutive calendar months.

- a. In the event a Member attends meetings solely by teleconference for a period of three consecutive calendar months, or attends meetings by teleconference the maximum number of allowable times per year, the Member must either attend in person; attend by other permissible teleconference

provisions; or be counted as absent, for the remaining meetings in that calendar year.

- **Procedure for Legislative Body Members**

A Member wishing to avail themselves of the “Just Cause” exception shall adhere to the following:

1. Notification of the member’s need to attend by teleconference, along with the required description of the circumstances creating the need, shall be made in writing prior to the meeting, and/or orally at the start of the subject meeting or during any prior meeting.

- a. If the notification and description are delivered prior to the meeting, the Member shall submit the notification and description:

- b. In writing by email;

- c. To the entire legislative body, preferably to the body’s group email address;

- d. With a copy to staff.

Such communication to the entire legislative body shall be deemed to be not in violation of the Brown Act.

1. If the notification and description are delivered during a meeting prior to the meeting where the Member wishes to attend by teleconference, the Member shall make the required notification and description during the Member Comments order of business.

2. If the notification and description are delivered at the start of the subject meeting, the Member shall be present on the teleconference platform at the time the meeting is convened, and at the prompting of the Chairperson, shall make the required notification and description during the meeting prior to the attendance roll call. (Refer to Section 3 below.)

3. The Member shall disclose the presence of any other adults in the room at the teleconference location, and the general nature of their relationship to the member, during the subject meeting. This requirement shall apply regardless of the timing of the notification and description.

4. A Member wishing to avail themselves of the “Emergency Circumstances” exception shall adhere the following:

a. A request that the legislative body approve the Member’s request to attend by teleconference, along with the required description of the circumstances creating the need, shall be made in writing prior to the meeting, and/or orally at the start of the subject meeting.

b. If the request and description are delivered prior to the meeting, the Member shall submit the request and description:

- In writing by email;
- To the entire legislative body, preferably to the body’s group email address;
- With a copy to staff.

Such communication to the entire legislative body shall be deemed to be not in violation of the Brown Act, so long as there is no discussion of any item of business within the legislative body’s jurisdiction. Regardless, the legislative body’s action to approve or deny the teleconference request must be taken during a noticed meeting.

b. If the request and description are made at the start of the subject meeting, the Member shall be present on the teleconference platform at the time the meeting is convened, and at the prompting of the Chairperson, shall make the required request and description during the meeting prior to the attendance roll call. (Refer to Meeting Procedures, below.)

5. The legislative body must move to approve or deny the request during the meeting prior to the attendance roll call. (Refer to Meeting Procedures, below.)

6. The Member shall disclose the presence of any other adults in the room at the teleconference location, and the general nature of their relationship to the member, during the subject meeting. This requirement shall apply regardless of the timing of the request and description.

7. Notwithstanding any other provision, teleconferencing Member(s) shall participate through both audio and visual technology. Members may mute their microphone while not speaking, but Members shall be visible through the visual technology at all times during the meeting. In the event a member is not visible, the member shall be noted as absent during that period.

- **Recordkeeping**

The Member shall be responsible for assuring that any description, notification, request, and/or disclosure related to teleconference attendance are made in a manner that may be placed into the meeting record.

1. To the extent that the Member's notification, description and/or request is delivered prior to the meeting, staff shall archive the written communication as agenda correspondence along with the meeting record.

2. To the extent that the Member's notification, description, request, and/or disclosure is delivered during a legislative meeting, staff shall record the same in the minute record, along with record of the legislative body's action to approve or deny any "Emergency Circumstances" requests.

3. The legislative body's Minute Clerk shall keep data regarding each Member's use of teleconference attendance provisions under AB 2449, and apprise the Chairperson if any Member has reached their annual limit. (Refer to Limitation on Number of Uses, above.)

- **Meeting Procedures**

Business to be conducted by the legislative body relating to compliance with these regulations shall be conducted after the Call to Order, but prior to the attendance roll call, of the meeting where a Member will or may attend by teleconference. The Chairperson shall be responsible for the conduct of this portion of the meeting, with assistance from staff if needed. All related business shall be conducted in a manner that is evident to other meeting attendees and may be recorded in the meeting record. Such business to be conducted prior to attendance roll call shall include, and be conducted in substantially this form:

1. If any Member is not present in person and the Chairperson is not aware of the Member's planned absence, the Chairperson shall acknowledge that the Member either is, or may be, present on the teleconference platform.

2. If necessary, staff shall confirm whether the Member is present on the teleconference platform.

3. If the Member is present on the teleconference platform:

a. If the Member has made their notification or request in writing prior to the meeting: The Chairperson shall note for the record that the Member has submitted a notification and description of the need to attend the meeting by teleconference under the “Just Cause” exception; or made a request and description to be permitted to attend by teleconference under the “Emergency Circumstances” exception.

b. If the Member has not made their notification or request in writing prior to the meeting: The Chairperson shall prompt the Member make their notification of the need to attend the meeting by teleconference, and description of the circumstances giving rise to the need under the “Just Cause” exception; or make their request to be permitted to attend by teleconference, and description of the circumstances giving rise to the need under the “Emergency Circumstances” exception.

c. If the Member makes a request to be permitted to attend by teleconference under “Emergency Circumstances” exception, whether before or during the meeting:

i. Any Member present in person may move to add an item of business to the agenda on an urgency basis to allow the legislative body to act on the Member’s request. If no motion is forthcoming, the Chairperson shall so move. Such action shall comply with Government Code Section 54954.2(b).

ii. Thereafter, the Chairperson shall ask the remaining Members to either approve or deny the request. Any Member may move approval or denial, but if no motion is forthcoming, the Chairperson shall so move. Members shall consider the request in good faith and shall not capriciously deny the request. The request shall be deemed approved if at least a

majority (at least 2 of 3, or 3 of 4) of the Members present in person consent.

d. The Chairperson shall, finally, prompt the Member to disclose the presence of any other individuals over the age of 18 in the room at the Member's remote location, and the general nature of the individual's relationship to the Member. Notwithstanding any other provision, this disclosure shall be made on record during the meeting.

e. If the Member is not present on the teleconference platform; if the Member refuses to make the required requests or disclosures; or if the Member's request to attend under the "Emergency Circumstances" exception is made but not approved, the Member shall be recorded as absent. (Refer to Failure to Comply, below.)

f. This process shall be repeated for each Member not present in person who does, or may, wish to attend the meeting by teleconference.

g. The Chairperson shall then prompt the Meeting Clerk to proceed to attendance roll call.

4. In the event the Chairperson wishes to attend a meeting by teleconference, the Vice-Chairperson, if present in person, shall be responsible for performing the Chairperson's duties as outlined above. Thereafter, the teleconferenced Chairperson may chair the remainder of the meeting, or may ask that the Vice-Chairperson do so.

5. In the event both the Chairperson and Vice-Chairperson wish to attend the meeting by teleconference; or in the event the Chairperson wishes to attend by teleconference and the Vice-Chairperson is absent, an Acting Chairperson shall be selected from among the Members attending the meeting in person, in order to perform the Chairperson's duties as outlined above.

6. In the event three (3) or more Members attempt to join a meeting by teleconference; and/or in the event two (2) or fewer Members are present in person at the meeting location; staff shall announce that the meeting cannot be convened.

- **Failure to Comply; Enforcement Measures**

In the event a Member attempts to attend a meeting by teleconference in excess of the allowable number of times per year; in excess of three consecutive months; without making the necessary notices, requests, or disclosures; or if the Member's request to attend under the "Emergency Circumstances" exception is made but not approved, the Chairperson shall, at the start of the meeting prior to the attendance roll call, ask the remaining legislative body members for concurrence to disallow the Member's attendance at the meeting.

After such concurrence, staff shall permit the Member to remain on the teleconference platform, but shall demote the Member to a passive attendee, and note the Member as absent for the attendance roll call, and in the meeting record.

1. Repeated inability or refusal to comply with the provisions of this policy, or related laws, may be grounds for consideration of dismissal of an Advisory Body Member by the City Council.

2. In the event a Member's inability or refusal to attend a meeting by teleconference in compliance with this policy, or related laws, results in the Member being recorded as absent from the meeting, existing policies and laws regulating legislative body member absences (including Bylaw provisions for Advisory Body Members, and Government Code Section 36513 for Council Members) shall apply.

- **Other Compliance Measures**

In addition to the above provisions relating the conduct of legislative body members, whenever at least one Member attends a meeting by teleconference under AB 2449, staff shall be responsible for other applicable compliance measures, including but not necessarily limited to the following:

1. Staff shall assure that each posted agenda provides, and describes, means by which all members of the public may observe or attend the meeting and offer public comment.

2. Staff shall assure that members of the public are allowed to make public comment in real time during all allotted public comment periods while attending at a Member's teleconferencing location, and shall give sufficient time for interested parties to indicate their interest in speaking, and request the Member to unmute their device, in order to allow them to comment via the teleconference platform.

3. Staff shall give notice of, and implement, a procedure for swiftly resolving requests for reasonable accommodations for individuals with disabilities.

4. All votes taken at a meeting where any Member attends by teleconference under the provisions of AB 2449 shall be taken by roll call vote.

- **Conflict Between Law and Policy**

In the event this policy conflicts with applicable state law, as exists or may be amended in the future, state law shall control, and the validity of the remaining sections of this policy shall be unaffected.

2.24 Public Hearings

Public Hearings shall be scheduled and notice published without any action required by the City Council, excepting that the Council may, if it so desires, scheduled a Public Hearing on an item of interest for a date certain. In order to accommodate members of the public responding to a noticed Public Hearing, such Hearings will, to the extent practicable, begin at 6:00 p.m. At the time designated for the Public Hearing, or soon after as is practicable, the Mayor shall direct the attention of the Council Members to the Staff report and Staff may respond to questions from Council members, after which the Mayor shall formally open the Public Hearing and members of the public shall be allowed to speak in accordance with the rules set forth elsewhere in these Rules of Procedure. When the allotted time expires, or when no one wishes to speak who has not done so, the Mayor shall declare the hearing closed.

Following the close of the Public Hearing, the Council may discuss or take action on the matter in accordance with these rules. The Mayor may in his or her discretion allow questions and/or comments from the public after close of Public Hearing.

2.25 Appointments to Committees and Boards

The City Clerk posts a Notice of Vacancy in the City designated posting locations, the City's website and sends a Media Release to the St. Helena Star advertising vacancies to Commissions, Committees and Boards.

Applicants must submit a completed application to the City Clerk and shall be interviewed by the Council at a special meeting prior to a regular meeting. Applicants are requested to list references on their applications and individual Council Members may contact those references as part of the interview process. Council Members contacting references should disclose this information during the appointment process.

Council reviews applicants for appointments to Commissions, Committees and Boards based on interviews and qualifications. At a council meeting following completion of the interviews, the Council shall discuss the applicants and open positions, including the Council members' preferences for applicants. Following these deliberations, the Mayor shall nominate applicants and appointments are subject to approval by the majority of Council.

Depending on the qualifications of the applicants and the needs of the City, there may be times when the City Council does not appoint an applicant who has applied. If an applicant is not appointed, the City Clerk will automatically readvertise for the vacant position(s) to seek additional applicants.

2.26 Protocol for Committees, Commissions and Boards (CCB)

St. Helena Committees, Commissions and Boards (CCB) function under the direction of the City Council on behalf of the City and its residents. The Council establishes committees by ordinance or resolution defining the role, purpose and membership. While each one functions specific to its purpose, all must follow the same overriding principles which are herein defined.

This protocol is intended to provide general guidance, and is not intended to supersede or conflict with any provision of State law, the St. Helena Municipal Code or other ordinance adopted by the City Council, which in the event of any conflict shall control.

ROLE AND PURPOSE

The City Council determines a committee's role and purpose at the time it is created, which should be defined clearly enough to easily communicate the purpose of the committee to the general public.

Committees may be 1) on-going standing committees, or 2) established for a specific purpose with an expected end date. Roles and purpose may be general or specific, but all will have a clearly defined goal, task or product.

Recommended changes in the role or purpose of a committee must be brought to the City Council to clarify how the proposed changes will provide improved or additional benefit.

MEMBERSHIP AND COMMITTEE STRUCTURE

The City Council defines the membership size by resolution or ordinance when establishing a committee. A committee consists of a minimum of five and a maximum of seven members, except the Planning Commission which consists only of five regular members. The Council may appoint up to two alternate members to serve on a committee in order to ensure a quorum can be reached if members cannot attend. City Council members and staff shall not sit as members on any committees. However, the City Council may, in its discretion, appoint two

Council members in the composition of a City Council subcommittee for a specific purpose.

As required by State law, the Mayor shall nominate committee members from the pool of applicants, and they will be appointed only after a majority vote approval by the City Council. Applicants may choose to attend the City Council meeting and make a statement in support of their application before the Council votes on the appointment.

Residency. Committee members must reside within the St. Helena City limits. The Council may approve an exception to this rule on a case-by-case basis. All five Planning Commissioners must live within the St. Helena City limits.

Member Terms. Committee members will serve two years from the date of appointment, except Planning Commissioners who will serve four years. Non-standing committee membership will be based upon the timing of the specific project. In establishing a new committee, or when reducing existing terms from three years to two when those terms come up for reappointment, the Council may initially impose staggered terms consisting of one and two year terms.

Removal of a member may occur for reasons such as, but not limited to, excessive absences, Brown Act violations, and conduct violations. Excessive absences is defined as failing to attend 3 consecutive meetings or 6 meetings in a 12 month period. Recommendations to the City Council for removal may be made by a committee member, member of the public, staff member, or City Councilmember. Notwithstanding the foregoing, the City Council may in its discretion at any time vote to remove a member of any committee for any reason or none, with or without cause.

Committee Officers. Annually, a committee will select a chairperson and vice chairperson. No member may serve more than two consecutive years as chair, unless unanimously agreed upon by the Committee in a vote and approved by the City Council.

The chairperson runs the meeting in accordance with the agenda. The vice chairperson has the same powers and duties of the chair if the chair is absent or unable to act. If both the chair and vice-chair are absent or unable to act, the committee selects by motion and majority vote one member as acting chair for the duration of the meeting or absence.

Subcommittees. The committee may in its discretion appoint members to subcommittees for the purpose of researching specific issues, conducting community outreach, and/or formulating recommendations to the committee, and may also engage experts or other persons (who will not be considered as members). Subcommittee membership will be less than a majority of the total membership of the committee. Prior to creating a subcommittee, the committee will consult with staff to determine whether the subcommittee is subject to the Brown Act, in which case formation of the subcommittee will be subject to Council approval.

Bylaws. Committees may adopt bylaws governing their work that are consistent with this protocol and other City laws. Proposed bylaws must be reviewed by staff and approved by the City Council.

MEETING ADMINISTRATION

- Committees should meet at a regular interval (day and time) and location to facilitate public attendance and to provide an accessible forum for the public to attend.
- Committees and committee members shall conduct themselves in accordance with the requirements of State law and the Municipal Code.
- Meetings must be noticed to the public at least 72 hours prior to regular meetings, and 24 hours prior to special meetings, as required by the Brown Act.
- All meeting notices must be posted outside St. Helena City Hall and on the City website.
- Agendas must adhere to the form provided by the City to ensure consistency and clarity.
- Meeting minutes will be recorded using the City template and submitted for approval at the next committee meeting. Once approved, the minutes are submitted to the City Clerk for official record.

Quorum and Voting. A quorum is required to hold a meeting. A quorum is defined as the majority of the number of members, not counting alternates, which officially comprise a committee. Absences and vacancies do not change the quorum number. For example, if a committee is established with five members, the quorum is three members. If there are two vacancies on the committee, the quorum is still three members.

If a committee meets but does not have a quorum, either through lack of a quorum at the start of the meeting or due to members leaving the meeting, the committee may not conduct its regular business. In these instances, the committee may only act to adjourn to the next meeting date, recess, or take measures to obtain a quorum.

A majority vote is required to approve any action by the committee, unless otherwise required by law.

Alternate Members. Alternate members may vote only upon one of the following conditions:

1. Absence of one or more of the regular members of the committee; or

2. Disqualification of a regular member of the committee due to an expressed conflict of interest.

If more than one alternate member is present and only one vote is available, the alternate members will toss a coin to determine who may vote.

City Staff Liaison. The City Manager will designate a staff liaison to each committee. The liaison will be available to attend committee meetings at the request of the committee chair and with advance notice. The staff liaison's role is to assist the committee in understanding City functions and requirements, such as state regulations, Municipal Code requirements, and conflict of interest and Brown Act requirements. The staff liaison ensures the continued flow of information regarding the City's efforts and progress on work that pertains to the committee's topic area. The staff liaison will collect and file committee records and minutes.

CITY COUNCIL REPORTS

The chairperson or committee designee will appear at a City Council meeting at least once per quarter to report on the committee's activities and projects and to provide updates to the Council and community. The City Council will provide input and direction at that time. Committee chairpersons or designated committee members are encouraged to appear before the Council whenever they feel it is necessary to obtain Council direction or share information.



City of St. Helena Meeting Ground Rules

1. Start on time
2. Everyone come prepared
3. If you called the meeting, run it well
4. If you are at the meeting, participate
5. Stay on topic
6. One person speaks at a time
7. Be open and honest
8. Actively listen – no side conversations, texting or cellphone use
9. No negative body language or personal attacks
10. End on time



[COMMITTEE NAME]

AGENDA - REGULAR MEETING

[MEETING ADDRESS]

[MEETING DATE AND TIME]

- 1) **CALL TO ORDER**
- 2) **PLEADGE OF ALLEGIANCE**
- 3) **ROLL CALL:** [LIST MEMBERS, COUNCIL LIAISON, AND STAFF LIAISON]
- 4) **PUBLIC FORUM:** An opportunity for the public to directly address the [Committee] on items of interest to the public that are not listed on the agenda. Any person addressing the [Committee] should provide his or her name and address, and limit comments to five minutes. Because of restrictions imposed by the Brown Act, the [Committee] may not engage in substantive discussion, nor take action on matters not described on the agenda.
- 5) **REPORTS AND ANNOUNCEMENTS BY MEMBERS AND STAFF:** Reports by staff and/or [Committee] members on items of general interest. Brief questions for clarification may be posed and answered, and [Committee] members may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the [Committee].
- 6) **CONSENT ITEMS**
 - 6.1 **APPROVAL OF MINUTES:** [Date of minutes]
- 7) **NEW BUSINESS:**
 - 7.1 [List each item of business to be transacted or discussed at the meeting, with a brief description generally not exceeding 20 words and an approximate time allocated for the item.]
- 8) **DISCUSSION OF ITEMS TO BE PLACED ON THE NEXT MEETING AGENDA**
- 9) **ADJOURNMENT**

The next regularly scheduled [Committee] meeting will be held on [Date]. This agenda was posted at 1088 College Avenue, St. Helena, CA 94574, and or/at [location where meeting will be held] on [Date].

Name, Staff Liaison

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meeting, please contact City Hall at (707) 967-2792. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR35.102-35.104 ADA Title II). However, City staff will attempt to assist at any time with accessibility. The City Clerk has equipment to assist those with a hearing impairment.

2.27 Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century

All procedural matters not otherwise provided for in or controlled by state law or by any ordinance, resolution, rule or regulation of the City shall be governed by Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century (attached as Exhibit). However, no ordinance, resolution, or other action of the Council shall be invalidated or the legality thereof otherwise affected by the failure or omission of the Council to observe or follow such rules. Certain procedures relating to motions, agenda item discussion, debate, and courtesies contained in *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* are incorporated into this document, except to the extent they are modified by this Protocol document.

3. CITY COUNCIL STANDARDS OF CONDUCT

3.1 Policy Purpose

The St. Helena City Council adopts this Code of Ethics and Conduct to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of St. Helena's City government.

3.2 Ethics

The citizens and businesses of St. Helena are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, City Treasurer, and City Clerk and of all Boards, Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

(a) **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of St. Helena and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.

(b) **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of

California and the City of St. Helena in the performance of their public duties.

(c) **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the Staff or public.

(d) **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.

(e) **Conduct at Public Meetings.** Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand.

(f) **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

(g) **Communication.** Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.

(h) **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from the Fair Political Practices Commission (FPPC) or other appropriate state agency, a member shall not

participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the Mayor and the City Attorney a copy of any written request or advice, and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

(i) **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

(j) **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

(k) **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City Staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.

(l) **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

(m) **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When communicating in their individual capacity and presenting their individual opinions and

positions on public policy matters which fall under the jurisdiction of the City of St. Helena, members shall explicitly state that the opinions or positions being expressed do not represent the City of St. Helena or the body upon which they serve, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.

(n) **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of St. Helena City government as outlined in the St. Helena City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City Staff, Boards, Committees and Commissions, and the public. Except as provided by the City Code, members shall not interfere with the administrative functions of the City or the professional duties of City Staff; nor shall they impair the ability of Staff to implement Council policy decisions.

(o) **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.

(p) **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to Staff.

(q) AB 1234—Required Ethics Training

AB 1234 requires elected or appointed officials who are compensated for their service or reimbursed for their expenses to take two hours of training in ethics principles and laws every two years. Staff members listed on the conflict of interest code must also complete the training. It is the City's policy to emphasize the importance of ethics in government and although not required, it is highly encouraged that all advisory body members, including Committees and Commissions, adhere to the same requirements.

The training must occur within two months of assuming office and be renewed within two months of the expiration of the current certificate. The training must cover general ethics principles relating to public service and ethics laws including:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources, and prohibitions against gifts of public funds;
- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act);
- Laws relating to fair processes, including fair contracting requirements, common law bias requirements, and due process.

3.3 Code of Ethics and Conduct

The Code of Ethics and Conduct are designed to describe the manner in which elected and appointed officials should treat one another, City Staff, constituents, and others they come into contact with while representing the City of St. Helena.

(a) Elected and Appointed Officials' Conduct with Each Other in Public Meetings

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

1. Honor the role of the chair in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

2. Practice civility and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.

3. Avoid personal comments that could offend other members

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual

words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

4. *Demonstrate effective problem-solving approaches*

Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

(b) Elected and Appointed Officials' Conduct with the Public in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

1. *Be welcoming to speakers and treat them with care and gentleness.*

- a. While questions of clarification may be asked, the official's primary role during public testimony is to listen.

2. *Be fair and equitable in allocating public hearing time to individual speakers.*

- a. The chair will determine and announce limits on speakers at the start of the public hearing process.

3. *Practice active listening*

- a. It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions, and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.

4. *Maintain an open mind*

- a. Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.

5. *Ask for clarification, but avoid debate and argument with the public*

- a. Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

(c) Elected and Appointed Officials' Conduct with City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City Staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

1. Treat all Staff as professionals

- a. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards Staff is not acceptable.

2. Do not disrupt City Staff from their jobs

- a. Elected and appointed officials should not disrupt City Staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City Staff meetings unless requested by Staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate Staff, and hampers Staff's ability to do their job objectively.

3. Never publicly criticize an individual employee

- a. Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about Staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding Staff to the City Manager or the Mayor.

4. Do not get involved in administrative functions

- a. Elected and appointed officials acting in their individual capacity must not attempt to influence City Staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

5. Do not solicit political support from Staff

- a. Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City Staff. City Staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

6. *No Attorney-Client Relationship*

- a. Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her Staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

(d) Council Conduct with Boards, Committees and Commissions

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

1. *Respect Role of Liaison to City's Boards, Committees and Commissions*

Several of the City's Boards, Committees and Commissions have a Council Member who serves as its Council liaison. The City Council will collectively review and approve liaison appointments annually. Council Members serving as liaisons should act as an advisor and resource to committee/board/commission members and the committee/board/commission's Staff liaison when issues regarding process, procedure, attendance, interpersonal or public relations arise.

2. *Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers*

The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council. But Board, Committee and Commission members do not report to individual Councilmembers (whether or not they are serving as liaisons), nor should Councilmembers feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board, Committee or Commission should be

based on such criteria as expertise, ability to work with Staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

3. *Be respectful of diverse opinions*

A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but must be fair and respectful of all citizens serving on Boards, Committees and Commissions.

4. *Keep political support away from public forums*

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

(e) Elected and Appointed Officials' Conduct With Each Other and the Public in Private Encounters

1. *Continue Respectful Behavior in Private*

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions, and set forth above in subsections (a) through (d), should be maintained in private conversations, including telephone calls, texts, e-mails or other forms of communication. Council Members and appointed officials shall refrain from abusive conduct, intimidation, bullying tactics, personal charges, or verbal attacks upon the character or motives of other members or the public.

2. *Be Aware of the Insecurity (Non-Confidentiality) of Written Notes, Texts, Voicemail and E-mail*

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message was played on a speakerphone in a full office? What would happen if this E-mail or text message were forwarded to others? Written notes, voicemail messages, texts and E-mail should be treated as potentially "public" communication.

3. *Understand that Even Private Conversations can have Public Presence*

Elected and appointed officials are always on display — their actions, demeanor, fitness, mannerisms, language and timing and form of communication are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking

lot debates will be watched, late-night e-mails will be questioned and casual comments between individuals before and after public meetings noticed.

3.4 Enforcement and Sanctions

(a) Acknowledgement of Code of Ethics and Conduct

Upon assuming office each Councilmember, and each Board, Committee and Commission Member ("Member"), shall sign a statement affirming that he or she has been provided with and has read the Code of Ethics and Conduct. Each Councilmember, Board, Committee and Commission Member, shall adhere to the Code of Ethics and Conduct as well as the Council's Rules of Procedure. Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold office.

(b) Ethics Training for Local Officials

. Councilmembers, City Treasurer, City Clerk, Board, Committee, Commission Members and those listed on the conflict of interest code who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees and may be subject to sanctions.

(c) Behavior and Conduct

The St. Helena Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the St. Helena City Council, Boards, Committees and Commissions. Each Member him or herself has the primary responsibility to assure that he or she understands and satisfies the ethical standards, so that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention. Without violating Brown Act serial meeting requirements, individual Members should point out to the offending Member perceived infractions of the Code of Ethics and Conduct.

(d) Council Authority

Under California law, the Council does not have the legal authority to remove Members elected or appointed to the City Council or to otherwise deprive them of their office. However, a majority of the Councilmembers

may remove a Councilmember from any or all Council honorary and/or ceremonial positions and ad-hoc and standing committees, as well as from positions with other governmental agencies or other organizations they hold by virtue of appointment by the City Council.

3.5 Implementation

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, City Treasurer, City Clerk, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign the following statement (below) acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it as necessary.

I affirm that I have read and understand the City of St. Helena Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

CITY OF ST. HELENA

RESOLUTION No. 2018-116

Resolution of the Council of the City of St Helena adopting revisions to the City of St Helena Planning Commission By-Laws

RECITALS

The City Council of the City of St. Helena hereby resolves as follows:

- A. Whereas, the City of St. Helena Planning Commission voted unanimously to amend its By-Laws at its Regular Meeting on July 17, 2018; and
- B. Whereas, the City of St Helena Protocol for Committees, Commissions and Boards requires City Council approval of any modifications to the By-Laws of a Committee, Commission or Board.

RESOLUTION

Therefore, the City Council of the City of St. Helena hereby resolves as follows:

- 1. This action is not a project under the California Environmental Quality Act; and
- 2. The City Council authorizes amendments to the City of St Helena Planning Commission By-Laws and are hereby approved, as amended by the Planning Commission on July 17, 2018 (attached).

Approved at a Regular Meeting of the St. Helena City Council on August 28, 2018, by the following vote:

Mayor Galbraith:	Yes
Vice Mayor White:	Yes
Councilmember Koberstein:	Yes
Councilmember Dohring:	Yes
Councilmember Ellsworth:	Yes

APPROVED:

ATTEST:


Alan Galbraith, Mayor




Cindy Tzafopoulos, City Clerk



ST. HELENA PLANNING COMMISSION BY-LAWS

The following rules shall be applicable to the organization of the St. Helena Planning Commission, to the convening or calling of meetings, and to the transaction of business when the Commission has convened and acts or serves in an official capacity, pursuant to law.

ORGANIZATION AND ELECTION AND DUTES OF OFFICERS

RULE 1. The Commission shall elect a Chairperson and Vice Chairperson and designate a Secretary at the first regular meeting of the Planning Commission in July to serve for a period of one year from the date of their election. However, the Planning Commission, by majority vote, may choose to elect a Chairperson or Vice-Chairperson at a different meeting to address a resignation. In the case of a resignation of the Chair, the Vice-Chair shall become the interim Chair until formal election of a new Chairperson occurs.

RULE 2. The Chairperson of the Planning Commission shall preserve order and decorum and shall decide questions of order. The Vice Chairperson shall preside in the absence of the Chairperson.

RULE 3. The Chairperson of the Planning Commission may second any motion and present and discuss any matter as a member of the Commission without having to step down from the Chair and shall be entitled to vote on all matters before the Planning Commission.

RULE 4. The Secretary shall be a City Employee, normally the Planning Director.

RULE 5. The Secretary shall be responsible for the preparation of the Planning Commission minutes and shall assure that all official actions or decisions by the Commission shall be recorded within the minutes. Consistent with Municipal Code section 2.60.030, the Commission shall keep a public record of its resolutions, transactions, findings and determinations. Those records are kept as minutes that summarize Commission action, in the same manner as City Council minutes.

RULE 6. The City Attorney of the City of St. Helena shall be the legal counsel to the Planning Commission.

RULE 7. The video recordings of each meeting are designated as the official record of the Planning Commission agenda and action and are to be made available on the City of St Helena website.

SCHEDULE OF MEETINGS

RULE 8. The Planning Commission shall hold at least two Regular Meetings per month, which shall be held on the first and third Tuesdays of the month. In the event the first or third Tuesday is a holiday, an alternate meeting may be held. An additional Adjourned Meeting may be held, if

necessary. Such regular meetings may be canceled by a vote of the majority of Commission members present at a regular or special meeting or when a quorum is not available. Meetings shall be held in the same locale used by the City Council or at City Hall or the Fire Department starting at 6:00 P.M. Adjourned Meetings, Special Meetings, meeting relocation, or revised starting time shall be by a three-fifths vote of the Planning Commission. Notice of such meeting shall be given in accordance with State law.

RULE 9. Emergency or special meetings may be called as provided in Section 54956 of the Government Code of the State of California.

RULE 10. In the absence of a quorum all items on the agenda shall be continued to the next scheduled meeting.

AGENDA

RULE 11. An agenda shall be prepared by the Secretary of the Planning Commission for each meeting of the Planning Commission.

RULE 12. All matters to be considered by the Commission shall be properly filed with the City in compliance with the provisions, standards, and procedures established by adopted City Ordinances. The Secretary shall not accept for presentation to the Commission any matter unless it is properly made on the prescribed forms properly filled out with all data attached.

RULE 13. Any matter that comes before the Commission orally under Public Forum shall not be discussed or acted upon by the Commission unless and until it is heard as a scheduled agenda item at a Regular, Adjourned, or Special meeting of the Commission.

RULE 14. Request for informal or advance decisions concerning potential future developments or plans will not be considered by the Planning Commission.

RULE 15. The regular order of business of the Commission shall be:

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE & ROLL CALL
3. MINUTES APPROVAL
4. PUBLIC FORUM
5. COMMUNICATIONS & PETITIONS
6. RECOMMENDED CONSENT CALENDAR
7. CONTINUED ITEMS
8. SIGN PERMIT/ADMINISTRATIVE DETERMINATION
9. PUBLIC HEARINGS - PLANNING COMMISSION ACTION IS FINAL (DR/UP/VAR/LLA/TPM)
10. PUBLIC HEARINGS – PUBLIC HEARINGS/RECOMMENDATIONS TO CITY COUNCIL (TSM/ZOTA/GPA/REZONE)
11. NAPA COUNTY REFERRALS
12. SCHEDULED MATTERS
13. REPORTS BY STAFF AND PLANNING COMMISSION
14. AGENDA FORECAST
15. ADJOURNMENT

RULE 16. The Chairperson may revise the order of the agenda for a particular meeting in order to expedite business for the convenience of the public or for improved continuity.

RULE 17. Commission meetings may remain in session up to, but no later than 10:00 P.M. However, the Commission may, by a unanimous vote, extend the meeting if the Commission deems such extension necessary. Otherwise, the meeting shall be adjourned to another day acceptable to the Commission, or unfinished business may be continued to the next Regular Meeting.

CONDUCT OF PUBLIC HEARINGS

RULE 18. Letters, petitions, or other written material pertaining to any item on the agenda may be filed with the secretary of the Commission prior to the time of the public hearing or may be presented to the Commission at the time of the public hearing. The Commission shall consider such material in deciding any issue before it. All written material shall become part of the Commission's file on the agenda item.

RULE 19. Items submitted after packet distribution: Materials related to any item on the Agenda submitted to the Planning Commission after distribution of the agenda packet are available for inspection in the Secretary of the Commission's office at 1480 Main Street, St. Helena, CA during normal business hours. All such materials will be brought to the meeting and will be available for public inspection at the meeting site. Either City Staff or the Chairperson at the hearing shall give public notice of any such materials. If copies are not available in sufficient quantity for interested parties or members of the public at the hearing, the Chairperson shall take reasonable steps to afford all such persons the opportunity to inspect the materials before the start of the hearing on a scheduled matter. The purpose of the foregoing is to avoid the interruption of testimony with requests for inspection of materials.

RULE 20. Any person desiring to address the Planning Commission may, when recognized by the Chairperson, give his or her name and address. A person appearing in a representative capacity shall provide the name and address of each represented party.

RULE 21. Testimony and argument relative to any item scheduled on the agenda as a Public Hearing shall, unless otherwise ordered by the Chairperson, be presented in the following order and within the time limits specified.

- a. The Chairperson shall declare the Public Hearing to be open.
- b. Disclosure of Ex Parte Communication*
- c. Staff Report, including acknowledgement and/or reading of written testimony.
- d. Presentation of the project by applicants, and/or agents/consultants directly associated with the project. (10 minutes)
- e. Commission questions to staff and the applicant for purposes of clarification of staff report and proposed project.
- f. Public Testimony in support or opposition of the project. (4 minutes per person)
- g. Applicant and/or staff response to new information or questions raised by public testimony.
- h. Chairperson declares public hearing to be closed.
- i. Planning Commission debate, and motion.
- j. Roll Call Vote.

Note: At the option of the Chairperson the public or applicant may give further testimony on the question, provided it is directly related to the motion.

* Ex Parte Communication is hereby defined as any additional factual information obtained by commissioners that pertains to an individual decision, including visiting a project site, meeting with a project applicant and/or meeting with interested citizens.

RULE 22. The Chairperson may, in the interest of facilitating the business of the Planning Commission, limit the amount of time that a person may use in addressing the Planning Commission. Opponents and proponents shall be given equal opportunity for presentation. A project applicant should always be given the right, reasonable opportunity and time, to respond fully to evidence and arguments presented after the applicant has made his/her opening presentation.

RULE 23. The applicant or his or her appointed representative may, with the permission of the Planning Commission, withdraw, or request a continuance on any matter pending before the Commission at any time prior to the Commission acting on such matter.

VOTING

RULE 24. A majority of the members of the Commission shall constitute a quorum. Unless otherwise required by federal, state or local regulation, the affirmative vote of a majority of the quorum is necessary to take action. If a majority is unable to be assembled on any motion (including a motion to continue a matter to a specific time) relating to a specific project for which the Commission must make a recommendation to the City Council, the project shall be referred to Council with a divided recommendation which reflects the individual votes of the Commissioners. If a majority is unable to be assembled on any motion (including a motion to continue a matter to a specific time) relating to a specific project for which the Commission has final authority, the matter before the Commission shall be deemed denied and the applicant may appeal such decision in accordance with the applicable rules. A tie vote, or deadlock, constitutes a denial unless the applicant requests a continuance of the item to a subsequent meeting at which a quorum is present, prior to a vote to deny the item.

RULE 25. On matters of procedure or order of business the Chairperson may make a motion and without a second and after calling for objection and hearing none, so order. In the event of objection, the Chairperson shall call for a second and a roll call vote.

MISCELLANEOUS

RULE 26. The Commission shall conduct their duties in keeping with the governing standards as provided by the Planning Commission Standards of Conduct document, maintaining the highest level of professionalism during their tenure serving the residents of the City of St. Helena.

RULE 27. Unless otherwise provided by these Rules, all proceedings before the Commission shall be conducted in accordance with and pursuant to the parliamentary rules of procedure as prescribed in "Rosenbergs's Rules of Order."

RULE 28. Testimony and argument relative to any other item on the agenda shall generally follow the procedure for a Public Hearing as may be modified at the discretion of the Chairperson.

RULE 29. Any rule of these By-Laws may be altered, amended, or repealed by majority vote of the Commission (subject to approval by the City Council), except that such alteration, amendment, or repeal shall not affect any pending matter.

RULE 30. Any rule of these By-Laws may be temporarily suspended by unanimous consent of the Commission.

RULE 31. A Resolution of the Planning Commission may be adopted conditionally and referred to the Secretary of the Commission for drafting in proper form.

RULE 32. Commission members shall decide for themselves whether they have a conflict of interest on any matter before the Commission. Such determination shall be made in accordance with State law and the City of St Helena Protocol for Committee, Commissions and Boards or any amendment thereto. When a member has disqualified himself/herself, he/she shall remove himself/herself from the dais stating their reasons for conflict of interest. The member shall also remove himself/herself from the meeting room, unless they are permitted to remain for a qualified interest as set forth in State law.

RULE 33. Failure to adhere to any of these rules does not result in the invalidation of any decision or action of the Planning Commission.

RULE 34. Any violation of these rules does not result in a cause of action against the City of St. Helena.

RULE 35. Subject to compliance with all established laws and regulations, any violation of these rules shall not impact the outcome of a vote or action on a specific project.

Amended, Approved and Adopted at a Regular Meeting of the Planning Commission on July 17, 2018, by the following roll call vote:

MOTION CARRIED BY THE FOLLOWING ROLL CALL VOTE:

AYES: Commissioners Ponte, Monnette and Hardy

NOES: None

ABSENT: Commissioner Knudsen

ABSTAIN: None



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

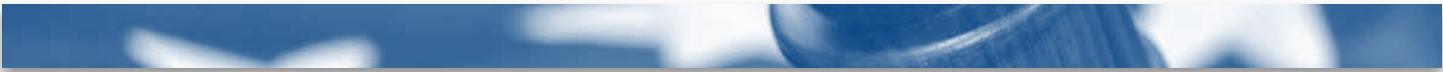


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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move ...”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.



Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



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2025-2026 Statement of Economic Interests Form 700



Reference Pamphlet

California Fair Political Practices Commission

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Telephone: (916) 322-5660 • Website: www.fppc.ca.gov

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Who Must File

1. Officials and Candidates Specified in Gov. Code Section 87200 and Members of Boards and Commissions of Newly Created Agencies

The Act requires the following individuals to fully disclose their personal assets and income described in Form 700, Statement of Economic Interests:

State Offices

- Governor
- Lieutenant Governor
- Attorney General
- Controller
- Insurance Commissioner
- Secretary of State
- Treasurer
- Members of the State Legislature
- Superintendent of Public Instruction
- State Board of Equalization Members
- Public Utilities Commissioners
- State Energy Resources Conservation and Development Commissioners
- State Coastal Commissioners
- Fair Political Practices Commissioners
- State public officials (including employees and consultants) who manage public investments
- Elected members of and candidates for the Board of Administration of the California Public Employees' Retirement System
- Elected members of and candidates for the Teachers' Retirement Board
- Members of the High Speed Rail Authority

Other officials and employees of state boards, commissions, agencies, and departments file Form 700 as described in Part 2 on this page.

Judicial Offices

- Supreme, Appellate, and Superior Court Judges
- Court Commissioners
- Retired Judges, Pro-Tem Judges, and part-time Court Commissioners who serve or expect to serve 30 days or more in a calendar year

County and City Offices

- Members of Boards of Supervisors
- Mayors and Members of City Councils
- Chief Administrative Officers
- District Attorneys
- County Counsels
- City Attorneys
- City Managers
- Planning Commissioners
- County and City Treasurers
- County and city public officials (including employees and consultants) who manage public investments

Members of Newly Created Boards and Commissions

Generally, such a member must file an assuming office statement within 30 days as well as subsequent statements until the member's position is designated in a conflict of interest code. See Regulation 18754.

2. State and Local Officials, Employees, Candidates, and Consultants Designated in a Conflict of Interest Code ("Code Filers")

The Act requires every state and local government agency to adopt a unique conflict of interest code. The code lists each position within the agency filled by individuals who make or participate in making governmental decisions that could affect their personal economic interests.

The code requires individuals holding those positions to periodically file Form 700 disclosing certain personal economic interests as determined by the code's "disclosure categories." These individuals are called "designated employees" or "code filers."

Obtain your disclosure categories from your agency – they are not contained in the Form 700. Persons with broad decisionmaking authority must disclose more interests than those in positions with limited discretion. For example, you may be required to disclose only investments and business positions in or income (including loans, gifts, and travel payments) from businesses of the type that contract with your agency, or you may not be required to disclose real property interests.

In addition, certain consultants to public agencies may qualify as public officials because they make, participate in making, or act in a staff capacity for governmental decisions. Agencies determine who is a consultant and the level of disclosure and may use Form 805.

Note: An official who holds a position specified in Gov. Code Section 87200 is not required to file statements under the conflict of interest code of any agency that has the same or a smaller jurisdiction (for example, a state legislator who also sits on a state or local board or commission).

Employees in Newly Created Positions of Existing Agencies

An individual hired for a position not yet covered under an agency's conflict of interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the agency's broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. The Form 804 may be used to satisfy this requirement.

Types of Form 700 Filings

Assuming Office Statement:

If you are a newly appointed official or are newly employed in a position designated, or that will be designated, in a state or local agency's conflict of interest code, your assuming office date is the date you were sworn in or otherwise authorized to serve in the position. If you are a newly elected official, your assuming office date is the date you were sworn in.

- Report: Investments, interests in real property, and business positions held on the date you assumed the office or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position.

For positions subject to confirmation by the State Senate or the Commission on Judicial Appointments, your assuming office date is the date you were appointed or nominated to the position.

- Example: Maria Lopez was nominated by the Governor to serve on a state agency board that is subject to state Senate confirmation. The assuming office date is the date Maria's nomination is submitted to the Senate. Maria must report investments, interests in real property, and business positions she holds on that date, and income (including loans, gifts, and travel payments) received during the 12 months prior to that date.

If your office or position has been added to a newly adopted or newly amended conflict of interest code, use the effective date of the code or amendment, whichever is applicable.

- Report: Investments, interests in real property, and business positions held on the effective date of the code or amendment must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the code or amendment.

Annual Statement:

Generally, the period covered is January 1, 2025, through December 31, 2025. If the period covered by the statement is different than January 1, 2025, through December 31, 2025, (for example, you assumed office between October 1, 2024, and December 31, 2024 or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2025.

- If your disclosure category changes during a reporting period, disclose under the old category until the effective date of the conflict of interest code amendment and disclose under the new disclosure category through the end of the reporting period.

Leaving Office Statement:

Generally, the period covered is January 1, 2025, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 2025, through the date you stopped performing the duties of your position (for example, you assumed office between October 1, 2024, and December 31, 2024, or you are combining statements), the period covered must be specified. The reporting period can cover parts of two calendar years.

- Report: Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2025.

Candidate Statement:

If you are filing a statement in connection with your candidacy for state or local office, investments, interests in real property, and business positions held on the date of filing your declaration of candidacy must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date of filing your declaration of candidacy is reportable. Do not change the preprinted dates on Schedules A-1, A-2, and B.

Candidates running for local elective offices (e.g., county sheriffs, city clerks, school board trustees, or water district board members) must file candidate statements, as required by the conflict of interest code for the elected position. The code may be obtained from the agency of the elected position.

Amendments:

If you discover errors or omissions on any statement, file an amendment as soon as possible. You are only required to amend the schedule that needs to be revised; it is not necessary to refile the entire form. The amended schedule(s) is attached to your original filed statement. Obtain amendment schedules from the FPPC website at www.fppc.ca.gov.

Where to File

1. Officials Specified in Government Code Sections 87500, 87200.5 (See Form 700, page 3) and 87200 (See Reference Pamphlet, page 3):

Depending upon the office, some filing officials listed below will retain a copy of your statement and forward the original to the FPPC. Certain filers listed under Section 87500 are required to file electronically with the FPPC.

Please see the next page for a list of officials specified in Sections 87500, 87200, and 87200.5, and where they should file.

Note: Individuals that invest public funds for a city or county agency must file Form 700 with the agency. Unlike most other 87200 filers, the original statement will **not** be forwarded to the FPPC pursuant to Regulation 18753.

2. Code Filers — State and Local Officials, Employees, Candidates, and Consultants Designated in a Conflict of Interest Code:

File with your agency, board, or commission unless otherwise specified in your agency's conflict of interest code. In most cases, the agency, board, or commission will retain the statements.

Candidates for local elective offices designated in a conflict of interest code file with the elections office where the declaration of candidacy or other nomination documents are filed.

3. Members of Newly Created Boards and Commissions:

File with your agency or with your agency's code reviewing body. See Regulation 18754.

State Senate and Assembly staff members file statements directly with the FPPC.

Exceptions:

- Elected state officers are not required to file statements under any agency's conflict of interest code.
- Filers listed in Section 87200 are not required to file statements under any agency's conflict of interest code in the same jurisdiction. For example, a county supervisor who is appointed to serve in an agency with jurisdiction in the same county has no additional filing obligations.

4. Positions Not Yet Covered Under a Conflict of Interest Code

An individual hired for a position not yet covered under an agency's conflict of interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Agencies may use FPPC Form 804 for this disclosure. Such individuals are referred to as "code filers." See Regulation 18734.

Where to File - (continued)

Filers	Where to File
FPPC Filers (87500) - Statewide Elective Officers and Candidates: - Governor - Lieutenant Governor - Attorney General - Insurance Commissioner - Controller - Secretary of State - Treasurer - Superintendent of Public Instruction - Member of the Board of Equalization	Electronically with FPPC
FPPC Filers (87500) - State Officeholders and Candidates: - Members of and candidates for the Legislature - Designated employees of the Legislature directed to file directly with the FPPC by the house of the Legislature by which they are employed - Members of the Public Utilities Commission, State Energy Resources Conservation and Development Commission, or California Coastal Commission - Members of a state licensing or regulatory board, bureau, or commission - Members of the Fair Political Practices Commission - Member of the Board of Administration of the Public Employees Retirement System (CalPERS) - Member of the Teachers' Retirement Board (CalSTRS) - Appointed members to a state board, commission, or similar multimember body of the state if the FPPC has been designated as the filing officer in the conflict of interest code of the respective board, commission, or body. (Please contact your agency for a copy of your agency's conflict of interest code.) - A public official who manages public investments	Electronically with FPPC
FPPC Filers (87500) - County, City, and Multi-County Officeholders and Candidates: - Judges (Supreme, Appellate, Superior Court), Retired Judges, Pro Tem Judges, court commissioners, or candidates for judge - Officeholder or candidate for the office of district attorney, county counsel, county treasurer, or county board of supervisors - Officeholder or candidate for the office of city council member, city treasurer, city attorney, or mayor - County chief administrative officer, city manager, or if there is no city manager, the chief administrative officer - County or city planning commissioner - Head of a local government agency or member of a local government board or commission, if the FPPC has been designated as the filing officer in the conflict of interest code of the respective agency, board, or commission. (Please contact your agency for a copy of your agency's conflict of interest code.) - Designated employees of more than one joint powers insurance agency who elect to file a multiagency statement pursuant to Section 87350 - A public official who manages public investments	Electronically with FPPC

Filers	Where to File
87200 Filers (Not Listed in Section 87500) - State offices - Multi-County offices	File with your agency, board, or commission unless otherwise specified in your agency's code. Some filers may be required to file their statements directly with the FPPC. Please contact your agency for a copy of your agency's conflict of interest code.
87200.5 Filers - Groundwater Sustainability Agency - Members of the board of directors - Executive (e.g., executive director, general manager, or other equivalent position)	Electronically with FPPC
Candidates, for offices not listed in Section 87500: County offices (e.g., candidates running for local elective office that are designated in a conflict of interest code) City offices (e.g., candidates running for local elective office that are designated in a conflict of interest code) Multi-county offices	File with your county elections official File with your City Clerk File with your county elections official with whom you file your declaration of candidacy

When to File

Assuming Office Statements:

Filer	Deadline
Elected officials	30 days after assuming office
Appointed positions specified in Gov. Code Section 87200 or Members of newly created boards and commissions not covered by a conflict of interest code	30 days after assuming office or 10 days after appointment or nomination if subject to Senate or judicial confirmation
Other appointed positions (including those held by newly-hired employees) that are or will be designated in a conflict of interest code	30 days after assuming office (30 days after appointment or nomination if subject to Senate confirmation)
Positions newly added to a new or amended conflict of interest code	30 days after the effective date of the code or code amendment

Exceptions:

- Elected state officers who assume office in December or January are not required to file an assuming office statement, but will file the next annual statement due.
- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file an assuming office statement. Instead, you will simply file the next annual statement due.
- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected as mayor), you are not required to file an assuming office statement. Instead, you will simply file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.
- If a due date falls on a weekend or an official state holiday, the due date is the next regular business day.

Late statements are subject to a late fine of \$10 per day per position up to \$100 for each day the statement is late.

Annual Statements:

1. Elected state officers (including members of the state legislature, members elected to the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board);
Judges (Supreme, Appellate, Superior Court), Retired Judges, Pro Tem Judges, and court commissioners;
and
Members of state boards and commissions specified in Gov. Code Section 87200:
File no later than **Monday, March 2, 2026.**
2. County and city officials specified in Gov. Code Section 87200:
File no later than **Wednesday, April 1, 2026.**
3. Multi-County officials:
File no later than **Wednesday, April 1, 2026.**
4. State and local officials and employees designated in a conflict of interest code:
File on the date prescribed in the code (April 1 for most filers).

Exception:

If you assumed office between October 1, 2025, and December 31, 2025, and filed an assuming office statement, you are not required to file an annual statement until March 1, 2027, or April 1, 2027, whichever is applicable. The annual statement will cover the day after you assumed office through December 31, 2026.

Incumbent officeholders who file candidate statements also must file annual statements by the specified deadlines.

When to File - (continued)

Leaving Office Statements:

Leaving office statements must be filed no later than 30 days after leaving the office or position.

Exceptions:

- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file a leaving office statement. Instead, you will simply file the next annual statement due.
- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected as mayor), you are not required to file a leaving office statement. Instead, you will simply file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.

Candidate Statements:

All candidates (including incumbents) for offices specified in Gov. Code Section 87200 must file statements no later than the final filing date for their declaration of candidacy.

Candidates seeking a position designated in a conflict of interest code must file no later than the final filing date for the declaration of candidacy or other nomination documents.

Exception:

A candidate statement is not required if you filed an assuming office or annual statement for the same jurisdiction **within 60 days** before filing a declaration of candidacy or other nomination documents.

Late Statements:

Late statements should be submitted as soon as possible after the filing deadline, in the same manner and place as a timely filed statement.

The filing officer who retains originally-signed or electronically filed statements of economic interests may impose on an individual a fine for any statement that is filed late. The fine is \$10 per day up to a maximum of \$100. Late filing penalties may be reduced or waived under certain circumstances.

Persons who fail to timely file their Form 700 may be referred to the FPPC's Enforcement Division (and, in some cases, to the Attorney General or District Attorney) for investigation and possible prosecution. In addition to the late filing penalties from the filing officer, a fine of up to \$5,000 per violation may be imposed.

Terms & Definitions

The instructions located on the back of each schedule describe the types of interests that must be reported. The purpose of this section is to explain other terms used in Form 700 that are not defined in the instructions to the schedules or elsewhere.

Blind Trust: See Trusts, Reference Pamphlet, page 17.

Business Entity: Any organization or enterprise operated for profit, including a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, or association. This would include a business for which you take business deductions for tax purposes (for example, a small business operated in your home). When reporting a business entity on the Form 700, do not use acronyms for the name of entity, unless it is one that is commonly understood by the public.

Code Filer: An individual who has been designated in a state or local agency's conflict of interest code to file statements of economic interests.

An individual hired on or after January 1, 2024 for a position not yet covered under an agency's conflict of interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Agencies may use FPPC Form 804 for such disclosure. See Regulation 18734.

Commission Income: "Commission income" means gross payments of \$500 or more received during the period covered by the statement as a broker, agent, or salesperson, including insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers, and retail or wholesale salespersons, among others.

In addition, you may be required to disclose the names of sources of commission income if your pro rata share of the gross income was \$10,000 or more from a single source during the reporting period. If your spouse or registered domestic partner received commission income, you would disclose your community property share (50%) of that income (that is, the names of sources of \$20,000 or more in gross commission income received by your spouse or registered domestic partner).

Report commission income as follows:

- If the income was received through a business entity in which you and your spouse or registered domestic partner had a 10% or greater ownership interest (or if you receive commission income on a regular basis as an independent contractor or agent), use Schedule A-2.

- If the income was received through a business entity in which you or your spouse or registered domestic partner **did not receive commission income on a regular basis** or you had a less than 10% ownership interest, use Schedule C.

The "source" of commission income generally includes all parties to a transaction, and each is attributed the full value of the commission.

Examples:

- You are a partner in Jameson and Mulligan Insurance Company and have a 50% ownership interest in the company. You sold two American Insurance Company policies to XYZ Company during the reporting period. You received commission income of \$5,000 from the first transaction and \$6,000 from the second. On Schedule A-2, report your partnership interest in and income received from Jameson and Mulligan Insurance Company in Parts 1 and 2. In Part 3, list both American Insurance Company and XYZ Company as sources of \$10,000 or more in commission income.
- You are a stockbroker for Prince Investments, but you have no ownership interest in the firm. You receive commission income on a regular basis through the sale of stock to clients. Your total gross income from your employment with Prince Investments was over \$100,000 during the reporting period. On Schedule A-2, report your name as the name of the business entity in Part 1 and the gross income you have received in Part 2. (Because you are an employee of Prince Investments, you do not need to complete the information in the box in Part 1 indicating the general description of business activity, fair market value, or nature of investment.) In Part 3, list Prince Investments and the names of any clients who were sources of \$10,000 or more in commission income to you.
- You are a real estate agent and an independent contractor under Super Realty. On Schedule A-2, Part 1, in addition to your name or business name, complete the business entity description box. In Part 2, identify your gross income. In Part 3, for each transaction that resulted in commission income to you of \$10,000 or more, you must identify the brokerage entity, each person you represented, and any person who received a finder's or other referral fee for referring a party to the transaction to the broker.

Note: If your pro rata share of commission income from a single source is \$500 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report the income. (See Reference Pamphlet, page 13.)

Terms & Definitions - (continued)

Conflict of Interest: A public official or employee has a conflict of interest under the Act when all of the following occur:

- The official makes, participates in making, or uses their official position to influence a governmental decision;
- It is reasonably foreseeable that the decision will affect the official's economic interest;
- The effect of the decision on the official's economic interest will be material; and
- The effect of the decision on the official's economic interest will be different than its effect on the public generally.

Conflict of Interest Code: The Act requires every state and local government agency to adopt a conflict of interest code. The code may be contained in a regulation, policy statement, or a city or county ordinance, resolution, or other document.

An agency's conflict of interest code must designate all officials and employees of, and consultants to, the agency who make or participate in making governmental decisions that could cause conflicts of interest. These individuals are required by the code to file statements of economic interests and to disqualify themselves when conflicts of interest occur.

The disclosure required under a conflict of interest code for a particular designated official or employee should include only the kinds of personal economic interests they could significantly affect through the exercise of their official duties. For example, an employee whose duties are limited to reviewing contracts for supplies, equipment, materials, or services provided to the agency should be required to report only those interests they hold that are likely to be affected by the agency's contracts for supplies, equipment, materials, or services.

Consultant: An individual who contracts with or whose employer contracts with state or local government agencies and who makes, participates in making, or acts in a staff capacity for making governmental decisions. The agency determines who is a consultant. Consultants may be required to file Form 700. Such consultants would file under full disclosure unless the agency provides in writing a limited disclosure requirement. Agencies may use FPPC Form 805 to assign such disclosure. The obligation to file Form 700 is always imposed on the individual who is providing services to the agency, not on the business or firm that employs the individual.

FPPC Regulation 18700.3 defines "consultant" as an individual who makes a governmental decision whether to:

- Approve a rate, rule, or regulation
- Adopt or enforce a law

- Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
- Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval
- Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract
- Grant agency approval to a plan, design, report, study, or similar item
- Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any of its subdivisions

A consultant also is an individual who serves in a staff capacity with the agency and:

- participates in making a governmental decision; or
- performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's conflict of interest code.

Designated Employee: An official or employee of a state or local government agency whose position has been designated in the agency's conflict of interest code to file statements of economic interests or whose position has not yet been listed in the code but makes or participates in making governmental decisions. Individuals who contract with government agencies (consultants) may also be designated in a conflict of interest code.

A federal officer or employee serving in an official federal capacity on a state or local government agency is not a designated employee.

Digital Signature: Under the Act and Commission regulations, the Form 700s may be filed with a "digital signature," which may be used to sign documents electronically, if permitted by the filing officer. A digital signature is a type of certificate-based electronic signature that offers increased security to ensure the identity of the signer and prevent the alteration of documents after signing. For more information on how to use a digital signature, please refer to the Filing with a Digital Signature Fact Sheet on the FPPC's website.

For filing officers required to forward original statements filed via digital signature to the FPPC, the filing officer must verify the signature on the statement, and forward the statement via email to the FPPC at Form700@fppc.ca.gov. Do not mail the FPPC a copy of a Form 700 with a digital signature affixed.

Terms & Definitions - (continued)

Disclosure Categories: The section of an agency's conflict of interest code that specifies the types of personal economic interests officials and employees of the agency must disclose on their statements of economic interests. Disclosure categories are usually contained in an appendix or attachment to the conflict of interest code. Contact your agency to obtain a copy of your disclosure categories.

Diversified Mutual Fund: Diversified portfolios of stocks, bonds, or money market instruments that are managed by investment companies whose business is pooling the money of many individuals and investing it to seek a common investment goal. Mutual funds are managed by trained professionals who buy and sell securities. A typical mutual fund will own between 75 to 100 separate securities at any given time so they also provide instant diversification. *Only diversified mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 are exempt from disclosure.* In addition, Regulation 18237 provides an exception from reporting other funds that are similar to diversified mutual funds. (See Reference Pamphlet, page 14.)

Elected State Officer: Elected state officers include the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, State Controller, Secretary of State, State Treasurer, Superintendent of Public Instruction, members of the State Legislature, members of the State Board of Equalization, elected members of the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board.

Enforcement: The FPPC investigates suspected violations of the Act. Other law enforcement agencies (the Attorney General or district attorney) also may initiate investigations under certain circumstances. If violations are found, the Commission may initiate administrative enforcement proceedings that could result in fines of up to \$5,000 per violation.

Instead of administrative prosecution, a civil action may be brought for negligent or intentional violations by the appropriate civil prosecutor (the Commission, Attorney General, or district attorney), or a private party residing within the jurisdiction. In civil actions, the measure of damages is up to the amount or value not properly reported.

Persons who violate the conflict of interest disclosure provisions of the Act also may be subject to agency discipline, including dismissal.

Finally, a knowing or willful violation of any provision of the Act is a misdemeanor. Persons convicted of a misdemeanor may be disqualified for four years from the date of the conviction from serving as a lobbyist or running for elective office, in addition to other penalties that may be imposed. The Act also provides for numerous civil penalties, including monetary penalties and damages, and injunctive relief from the courts.

Expanded Statement: In some circumstances, an official or an employee who holds multiple positions subject to filing obligations (for example, a city council member who also holds a designated position with a county agency, board, or commission) may complete one expanded statement for all those positions. The expanded statement must disclose all reportable interests for all jurisdictions and list all positions for which it is filed. The rules and processes governing the filing of an expanded statement are set forth in Regulation 18723.1.

Fair Market Value: When reporting the value of an investment, interest in real property, or gift, you must disclose the fair market value – the price at which the item would sell for on the open market. This is particularly important when valuing gifts, because the fair market value of a gift may be different from the amount it cost the donor to provide the gift. For example, the wholesale cost of a bouquet of flowers may be \$10, but the fair market value may be \$25 or more. In addition, there are special rules for valuing free tickets and passes. Call or email the FPPC for assistance.

Gift and Honoraria Prohibitions

Gifts:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and officials and employees of state and local government agencies who are designated in a conflict of interest code were prohibited from accepting a gift or gifts totaling more than \$630 in a calendar year from a single source in 2025-2026. The gift limit in calendar year 2024 was \$590.

In addition, elected state officers, candidates for elective state offices, and officials and employees of state agencies are subject to a \$10 per calendar month limit on gifts from lobbyists and lobbying firms registered with the Secretary of State.

Terms & Definitions - (continued)

Honoraria:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and employees of state and local government agencies who are designated in a conflict of interest code are prohibited from accepting honoraria for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

Exceptions:

- Some gifts are not reportable or subject to the gift and honoraria prohibitions, and other gifts may not be subject to the prohibitions, but are reportable. For detailed information, see the FPPC fact sheet entitled “Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans,” which can be obtained from your filing officer or the FPPC website (www.fppc.ca.gov).
- The gift limit and the honorarium prohibitions do not apply to a part-time member of the governing board of a public institution of higher education, unless the member is also an elected official.
- If you are designated in a state or local government agency’s conflict of interest code, the gift limit and honorarium prohibition are applicable only to sources you would otherwise be required to report on your statement of economic interests. However, this exception is not applicable if you also hold a position listed in Gov. Code Section 87200 (See Reference Pamphlet, page 3.)
- For state agency officials and employees, the \$10 lobbyist/lobbying firm gift limit is applicable only to lobbyists and lobbying firms registered to lobby your agency. This exception is not applicable if you are an elected state officer or a member or employee of the State Legislature.
- Payments for articles published as part of the practice of a bona fide business, trade, or profession, such as teaching, are not considered honoraria. A payment for an “article published” that is customarily provided in connection with teaching includes text book royalties and payments for academic tenure review letters. An official is presumed to be engaged in the bona fide profession of teaching if they are employed to teach at an accredited university.

Judges:

Section 170.9 of the Code of Civil Procedure imposes gift limits on judges and prohibits judges from accepting any honorarium. Section 170.9 is enforced by the Commission on Judicial Performance. The FPPC has no authority to interpret or enforce the Code of Civil Procedure. Court commissioners are subject to the gift limit under the Political Reform Act.

Income Reporting: Reporting income under the Act is different than reporting income for tax purposes. The Act requires **gross** income (the amount received before deducting losses, expenses, or taxes, as well as income reinvested in a business entity) to be reported.

Pro Rata Share: The instructions for reporting income refer to your pro rata share of the income received. Your pro rata share is normally based on your ownership interest in the entity or property. For example, if you are a sole proprietor, you must disclose 100% of the gross income to the business entity on Schedule A-2. If you own 25% of a piece of rental property, you must report 25% of the gross rental income received. When reporting your community property interest in your spouse’s or registered domestic partner’s income, your pro rata share is 50% of their income. You must also report the name of your spouse’s or registered domestic partner’s employer as the source of income, not the name of spouse or registered domestic partner.

Separate Property Agreement: Generally, a public official is required to disclose their community property share of their spouse’s income. But, when a public official and their spouse have a legally separate property agreement (e.g., prenuptial agreement), the official is not required to report the spouse’s community property share of income, unless the funds are commingled with community funds or used to pay for community expenses or to produce or enhance the separate income of the official.

Note: This reporting exception does not apply to investments and interests in real property. Even if a public official and their spouse have a separate property agreement, the spouse’s investments and interests in real property must still be disclosed because the definitions of reportable investments and interests in real property include those held by the official’s immediate family (spouse, registered domestic partner, and dependent children). These definitions are not dependent on community property law.

Income to a Business Entity: When you are required to report sources of income to a business entity, sources of rental income, or sources of commission income, you are only required to disclose individual sources of income of \$10,000 or more. However, you may be required to **disqualify** yourself from decisions affecting sources of \$500 or more in income, even though you are not required to report them.

Examples:

- Alice Ruiz is a partner in a business entity. Alice has a 25% interest. On Schedule A-2, Alice must disclose 25% of the fair market value of the business entity; 25% of the gross income to the business entity (even though all of the income received was reinvested in

Terms & Definitions - (continued)

the business and Alice did not personally receive any income from the business); and the name of each source of \$40,000 or more to the business.

- Pat and Mark Johnson, a married couple, own Classic Autos. Income to this business was \$200,000. In determining the amount to report for income on Schedule A-2, Part 2, Mark must include Mark's 50% share (\$100,000) and 50% of Mark's spouse's share (\$50,000). Thus, Mark's reportable income would be \$150,000 and Mark will check the box indicating \$100,001-\$1,000,000. (See Reference Pamphlet, page 14, for an example of how to calculate the value of this investment and interest in real property.)
- Renee Smith is an employee of a private company. Renee's employer offers the option of receiving a stipend in lieu of healthcare insurance provided by the employer. Since Renee Smith receives payments from their employer instead of healthcare insurance, Renee is required to report the gross income from the stipend payments. Renee would aggregate and report the total gross income received from both their stipend and salary on Schedule C.

You are not required to report:

- Salary, reimbursement for expenses or per diem, social security, disability, or other similar benefit payments received by you or your spouse or registered domestic partner from a federal, state, or local government agency
- A travel payment that was received from a nonprofit entity exempt from taxation under Internal Revenue Code Section 501(c)(3) for which you provided equal or greater consideration, such as reimbursement for travel on business for a 501(c)(3) organization for which you are a board member.
- Campaign contributions
- A cash bequest or cash inheritance
- Returns on a security registered with the Securities and Exchange Commission, including dividends, interest, or proceeds from a sale of stocks or bonds unless the purchaser can be identified.
- Redemption of a mutual fund
- Payments received under an insurance policy, such as life insurance policy payments, including an annuity
- Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union, an insurance policy, or a bond or other debt instrument issued by a government agency
- Your spouse's or registered domestic partner's income that is legally "separate" income so long as the funds are not commingled with community funds or used to pay community expenses
- Income of dependent children

- Automobile trade-in allowances from dealers
- Loans and loan repayments received from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin unless they were acting as an intermediary or agent for any person not covered by this provision
- Alimony or child support payments
- Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a)
- Any loan from a commercial lending institution made in the lender's regular course of business on terms available to the public without regard to your official status
- Any retail installment or credit card debts incurred in the creditor's regular course of business on terms available to the public without regard to your official status
- Loans made to others. However, repayments may be reportable on Schedule C
- A loan you co-signed for another person unless you made payments on the loan during the reporting period

Incentive Compensation: "Incentive compensation" means income over and above salary that is either ongoing or cumulative, or both, as sales or purchases of goods or services accumulate. Incentive compensation is calculated by a predetermined formula set by the official's employer which correlates to the conduct of the purchaser in direct response to the effort of the official.

Incentive compensation does not include:

- Salary
- Commission income (*For information regarding disclosure of "commission income," see Reference Pamphlet, page 9.*)
- Bonuses for activity not related to sales or marketing, the amount of which is based solely on merit or hours worked over and above a predetermined minimum
- Executive incentive plans based on company performance, provided that the formula for determining the amount of the executive's incentive income does not include a correlation between that amount and increased profits derived from increased business with specific and identifiable clients or customers of the company
- Payments for personal services which are not marketing or sales

Terms & Definitions - (continued)

The purchaser is a source of income to the official if all three of the following apply:

- the official's employment responsibilities include directing sales or marketing activity toward the purchaser; and
- there is direct personal contact between the official and the purchaser intended by the official to generate sales or business; and
- there is a direct relationship between the purchasing activity of the purchaser and the amount of the incentive compensation received by the official.

Report incentive compensation as follows:

- In addition to salary, reimbursement of expenses, and other income received from your employer, separately report on Schedule C the name of each person who purchased products or services sold, marketed or represented by you if you received incentive compensation of \$500 or more attributable to the purchaser during the period covered by the statement.
- If incentive compensation is paid by your employer in a lump sum, without allocation of amounts to specific customers, you must determine the amount of incentive compensation attributable to each of your customers. This may be based on the volume of sales to those customers.

(See Regulations 18700.1 and 18728.5 for more information.)

Investment Funds: The term "investment" no longer includes certain exchange traded funds, closed-end funds, or funds held in an Internal Revenue Code qualified plan. These non-reportable investment funds (1) must be bona fide investment funds that pool money from more than 100 investors, (2) must hold securities of more than 15 issuers, and (3) cannot have a stated policy of concentrating their holdings in the same industry or business ("sector funds"). In addition, the filer may not influence or control the decision to purchase or sell the specific fund on behalf of their agency during the reporting period or influence or control the selection of any specific investment purchased or sold by the fund. (See Regulation 18237.)

Investments and Interests in Real Property: When disclosing investments on Schedules A-1 or A-2 and interests in real property on Schedules A-2 or B, you must include investments and interests in real property held by your spouse or registered domestic partner, and those held by your dependent children, as if you held them directly.

Examples:

- Julia Pearson, spouse, and two dependent children each own \$600 in stock in General Motors. Because the total value of their holdings is \$2,400, Julia must disclose the stock as an investment on Schedule A-1.

- Pat and Mark Johnson, a married couple, jointly own Classic Autos. Mark must disclose Classic Autos as an investment on Schedule A-2. To determine the reportable value of the investment, Mark will aggregate the value of each of their 50% interest. Thus, if the total value of the business entity is \$150,000, Mark will check the box \$100,001 - \$1,000,000 in Part 1 of Schedule A-2. (Also see Reference Pamphlet, page 13, for an example of how to calculate reportable income.)

The Johnsons also own the property where Classic Autos is located. To determine the reportable value of the real property, Mark will again aggregate the value of each of their 50% interest to determine the amount to report in Part 4 of Schedule A-2.

- Katie Lee rents out a room in their home. Katie receives \$6,000 a year in rental income. Katie will report the fair market value of the rental portion of the residence and the income received on Schedule B.

Jurisdiction: Report disclosable investments and sources of income (including loans, gifts, and travel payments) that are either located in or doing business in your agency's jurisdiction, are planning to do business in your agency's jurisdiction, or have done business during the previous two years in your agency's jurisdiction, and interests in real property located in your agency's jurisdiction.

A business entity is doing business in your agency's jurisdiction if the entity has business contacts on a regular or substantial basis with a person who maintains a physical presence in your jurisdiction.

Business contacts include, but are not limited to, manufacturing, distributing, selling, purchasing, or providing services or goods. Business contacts do not include marketing via the Internet, telephone, television, radio, or printed media.

The same criteria are used to determine whether an individual, organization, or other entity is doing business in your jurisdiction.

Exception:

Gifts are reportable regardless of the location of the donor. For example, a state agency official with full disclosure must report gifts from sources located outside of California. (Designated employees/code filers should consult their disclosure categories to determine if the donor of a gift is of the type that must be disclosed.)

When reporting interests in real property, if your jurisdiction is the state, you must disclose real property located within the state of California unless your agency's conflict of interest code specifies otherwise.

Terms & Definitions - (continued)

For local agencies, an interest in real property is located in your jurisdiction if any part of the property is located in, or within two miles of, the region, city, county, district, or other geographical area in which the agency has jurisdiction, or if the property is located within two miles of any land owned or used by the agency.

See the following explanations to determine what your jurisdiction is:

State Offices and All Courts: Your jurisdiction is the state if you are an elected state officer, a state legislator, or a candidate for one of these offices. Judges, judicial candidates, and court commissioners also have statewide jurisdiction. (*In re Baty* (1979) 5 FPPC Ops. 10) If you are an official or employee of, or a consultant to, a state board, commission, or agency, or of any court or the State Legislature, your jurisdiction is the state.

County Offices: Your jurisdiction is the county if you are an elected county officer, a candidate for county office, or if you are an official or employee of, or a consultant to, a county agency or any agency with jurisdiction solely within a single county.

City Offices: Your jurisdiction is the city if you are an elected city officer, a candidate for city office, or you are an official or employee of, or a consultant to, a city agency or any agency with jurisdiction solely within a single city.

Multi-County Offices: If you are an elected officer, candidate, official or employee of, or a consultant to a multi-county agency, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. (Example: A water district has jurisdiction in a portion of two counties. Members of the board are only required to report interests located or doing business in that portion of each county in which the agency has jurisdiction.)

Other (for example, school districts, special districts and JPAs): If you are an elected officer, candidate, official or employee of, or a consultant to an agency not covered above, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. See the multi-county example above.

Leasehold Interest: The term “interest in real property” includes leasehold interests. An interest in a lease on real property is reportable if the value of the leasehold interest is \$2,000 or more. The value of the interest is the total amount of rent owed by you during the reporting period or, for a candidate or assuming office statement, during the prior 12 months.

You are not required to disclose a leasehold interest with a value of less than \$2,000 or a month-to-month tenancy.

Loan Reporting: Filers are not required to report loans from commercial lending institutions or any indebtedness created as part of retail installment or credit card transactions that are made in the lender’s regular course of business, without regard to official status, on terms available to members of the public.

Loan Restrictions: State and local elected and appointed public officials are prohibited from receiving any personal loan totaling more than \$250 from an official, employee, or consultant of their government agencies or any government agency over which the official or the official’s agency has direction or control. In addition, loans of more than \$250 from any person who has a contract with the official’s agency or an agency under the official’s control are prohibited unless the loan is from a commercial lending institution or part of a retail installment or credit card transaction made in the regular course of business on terms available to members of the public.

State and local elected officials are also prohibited from receiving any personal loan of \$500 or more unless the loan agreement is in writing and clearly states the terms of the loan, including the parties to the loan agreement, the date, amount, and term of the loan, the date or dates when payments are due, the amount of the payments, and the interest rate on the loan.

Campaign loans and loans from family members are not subject to the \$250 and \$500 loan prohibitions.

A personal loan made to a public official that is not being repaid or is being repaid below certain amounts will become a gift to the official under certain circumstances. Contact the FPPC for further information, or see the FPPC fact sheet entitled “Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans,” which can be obtained from your filing officer or the FPPC website (www.fppc.ca.gov).

Original Statement: A statement containing either a handwritten “wet” signature or a “secure electronic signature” signed under the penalty of perjury and verified by the filer pursuant to Gov. Code Section 81004. A “secure electronic signature” means either (1) a signature submitted using an approved electronic filing system or (2) if permitted by the filing officer, a digital signature submitted via the filer’s agency email address. (See Regulations 18104 and 18757.)

Privileged Information: FPPC Regulation 18740 sets out specific procedures that must be followed in order to withhold the name of a source of income. Under this regulation, you are not required to disclose on Schedule A-2, Part 3, the name of a person who paid fees or made payments to a business entity if disclosure of the name would violate a legally recognized privilege under California

Terms & Definitions - (continued)

or Federal law. However, you must provide an explanation for nondisclosure, separately stating for each undisclosed person: the legal basis for the assertion of the privilege, facts demonstrating why the privilege is applicable, and that to the best of your knowledge you have not and will not make, participate in making, or use your official position to influence a governmental decision affecting the undisclosed person in violation of Government Code Section 87100. This explanation may be included with, or attached to, the public official's Form 700.

We note that the name of a source of income is privileged only to a limited extent under California law. For example, a name is protected by attorney-client privilege only when facts concerning an attorney's representation of an anonymous client are not publicly known and those facts, when coupled with disclosure of the client's identity, might expose the client to an official investigation or to civil or criminal liability. A patient's name is protected by physician-patient privilege only when disclosure of the patient's name would also reveal the nature of the treatment received by the patient. A patient's name is also protected if the disclosure of the patient's name would constitute a violation by an entity covered under the Federal Health Insurance Portability and Accountability Act (also known as HIPAA).

Prospective Employment: The term "arrangement for prospective employment" is defined as an agreement pursuant to which a prospective employer's offer of employment has been accepted by the prospective employee, including through verbal or written acceptance. (See Gov. Code Section 82004.2.)

Public Officials Who Manage Public Investments: Individuals who invest public funds in revenue-producing programs must file Form 700. This includes individuals who direct or approve investment transactions, formulate or approve investment policies, and establish guidelines for asset allocations. FPPC Regulation 18700.3 defines "public officials who manage public investments" to include the following:

- Members of boards and commissions, including pension and retirement boards or commissions, and committees thereof, who exercise responsibility for the management of public investments;
- High-level officers and employees of public agencies who exercise primary responsibility for the management of public investments (for example, chief or principal investment officers or chief financial managers); and
- Individuals who, pursuant to a contract with a state or local government agency, perform the same or substantially all the same functions described above.

Registered Domestic Partners: Filers must report investments and interests in real property held by, and sources of income to, registered domestic partners. (See Section 82048.8.)

Retirement Accounts (for example, deferred compensation and individual retirement accounts (IRAs)): Assets held in retirement accounts must be disclosed if the assets are reportable items, such as common stock (investments) or real estate (interests in real property). For help in determining whether your investments and real property are reportable, see the instructions to Schedules A-1, A-2, and B.

If your retirement account holds reportable assets, disclose only the assets held in the account, not the account itself. You may have to contact your account manager to determine the assets contained in your account.

Schedule A-1: Report any business entity in which the value of your investment interest was \$2,000 or more during the reporting period. (Use Schedule A-2 if you have a 10% or greater ownership interest in the business entity.)

Schedule B: Report any piece of real property in which the value of your interest was \$2,000 or more during the reporting period.

Examples:

- Anaya Tiwari deposits \$500 per month into the employer's deferred compensation program. Anaya has chosen to purchase shares in two diversified mutual funds registered with the Securities and Exchange Commission. Because Anaya's funds are invested solely in non-reportable mutual funds (see Schedule A-1 instructions), Anaya has no disclosure requirements with regard to the deferred compensation program.
- Earl James Jones has \$6,000 in an individual retirement account with an investment firm. The account contains stock in several companies doing business in his jurisdiction. One of the stock holdings, Misac Computers, reached a value of \$2,500 during the reporting period. The value of the investment in each of the other companies was less than \$2,000. Earl must report Misac Computers as an investment on Schedule A-1 because the value of the stock in that company was \$2,000 or more.
- Adriane Fisher has \$5,000 in a retirement fund that invests in real property located in Adriane's jurisdiction. The value of Adriane's interest in each piece of real property held in the fund was less than \$2,000 during the reporting period. Although this retirement fund holds reportable assets, there is no disclosure requirement because it did not have a \$2,000 or greater interest in any single piece of real property. If, in the future, the value of Adriane's interest in a single piece of real property reaches or exceeds \$2,000, it will be required to be disclosed on Schedule B for that reporting period.

Terms & Definitions - (continued)

Trusts: Investments and interests in real property held and income received by a trust (including a living trust) are reported on Schedule A-2 if you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater interest in the trust and your pro rata share of a single investment or interest in real property was \$2,000 or more.

You have an interest in a trust if you are a trustor and:

- Can revoke or terminate the trust;
- Have retained or reserved any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
- Have retained any power of appointment, including the power to change the trustee or the beneficiaries.

Or you are a beneficiary and:

- Presently receive income (see Gov. Code Section 82030); or
- Have an irrevocable future right to receive income or principal. (See FPPC Regulation 18234 for more information.)

Examples:

- Sarah Murphy has set up a living trust that holds Sarah's principal residence, stock in several companies that do business in the jurisdiction, and a rental home in the agency's jurisdiction. Since Sarah is the trustor and can revoke or terminate the trust, Sarah must disclose any stock worth \$2,000 or more and the rental home on Schedule A-2. Sarah's residence is not reportable because it is used exclusively as a personal residence.
- Chao Yee is listed as a beneficiary in a family's trust. However, Chao does not presently receive income from the trust, nor an irrevocable future right to receive income or principal. Therefore, Chao is not required to disclose any assets contained in the family trust.

Blind Trusts:

A blind trust is a trust managed by a disinterested trustee who has complete discretion to purchase and sell assets held by the trust. If you have a direct, indirect, or beneficial interest in a blind trust, you may not be required to disclose your pro rata share of the trust's assets or income. However, the trust must meet the standards set out in FPPC Regulation 18235, and you must disclose reportable assets originally transferred into the blind trust and income from those original assets on Schedule A-2 until they have been disposed of by the trustee.

Trustees:

If you are only a trustee, you do not have a reportable interest in the trust. However, you may be required to report the income you received from the trust for performing trustee services.

Wedding Gifts: Wedding gifts must be disclosed if they were received from a reportable source during the period covered by the statement. Gifts valued at \$50 or more are reportable; however, a wedding gift is considered a gift to both spouses equally. Therefore, you would count one-half of the value of a wedding gift to determine if it is reportable and need only report individual gifts with a total value of \$100 or more.

For example, you receive a place setting of china valued at \$150 from a reportable source as a wedding gift. Because the value to you is \$50 or more, you must report the gift on Schedule D, but may state its value as \$75.

Wedding gifts are not subject to the \$630 gift limit in calendar years 2025 and 2026 (\$590 gift limit in 2024), but they are subject to the \$10 lobbyist/lobbying firm gift limit for state officials.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Gov. Code Sections 81000-91014 and California Code of Regulations Sections 18110-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Notice or how to access your personal information, please contact the FPPC at:

General Counsel
Fair Political Practices Commission
1102 Q Street, Suite 3050
Sacramento, CA 95811
(916) 322-5660
(866) 275-3772

Frequently Asked Questions: Form 700 Disclosure

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The FAQs listed below are selected from questions often asked about the Statement of Economic Interests (Form 700). Because it is not possible to address all of the unique variables and circumstances related to disclosure, individuals are encouraged to contact the FPPC with specific facts. Most officials must also consult their agency's conflict of interest code to determine their disclosure level and their reportable interests. The Form 700 is a public document. Form 700s filed by State Legislators and Judges, members of the FPPC, County Supervisors, and City Council Members are available on the FPPC's website.

General Questions

1. Q. Do officials have to complete all schedules of the Form 700?
 - A. Not necessarily. The majority of individuals who file the Form 700 must do so by following the rules set forth in their agency's conflict of interest code ("designated employees"). Before completing the Form 700, an official should be familiar with the disclosure category for their position. For example, since job duties differ from agency to agency and even unit to unit within the same agency, an analyst for one agency, or unit of that agency, may not have the same reporting requirements as an analyst from another agency, or even another unit of the same agency. **Designated employees should obtain a copy of their agency's conflict of interest code from the agency.**

Officials listed in Government Code Section 87200 (e.g., boards of supervisors, city council members, planning commissioners, elected state officials, etc.) must report investments, business positions, and sources of income, including receipt of gifts, loans, and travel payments, from sources located in or doing business in their agency's jurisdiction. All interests in real property within the agency's jurisdiction must also be reported. For local officials, real property located within two miles of the boundaries of the jurisdiction or any real property that the agency has an interest in is deemed to be "within the jurisdiction."

2. Q. Is it necessary to read all of the information before completing the Form 700?
 - A. Each individual must verify the Form 700's content under penalty of perjury. Therefore, every effort must be made to understand what the form requires. When necessary, you may contact the FPPC for specific guidance. You may only obtain immunity from a potential enforcement action when you receive formal written advice.
3. Q. Where are the Form 700s filed?
 - A. Filers should refer to page 3 of the FPPC's Form 700 and page 5 of the Reference Pamphlet for general information on where to file Form 700 depending upon the office held or sought. Certain filers under Section 87500, FPPC Filers, are required to file their statements electronically with the FPPC. Additionally, if the agency has a conflict of interest code, please refer to the incorporation page for information on where to file your Form 700.

4. Q. If the Form 700 is postmarked by the due date, is it considered filed on time?
 - A. Yes.
5. Q. If an official holds multiple positions subject to filing obligations, is a statement required for each position?
 - A. Yes. However, in some circumstances, such an official may file an expanded statement instead. The expanded statement must cover all reportable interests for all jurisdictions and list all positions for which it is filed. The rules and processes governing the filing of an expanded statement are set forth in Regulation 18723.1.
6. Q. Do individuals need to file a complete Form 700 when they leave office?
 - A. Yes. The same requirements apply for the assuming office, the annual, and the leaving office filings.
7. Q. An individual is hired into a newly created management position in their agency's Information Technology Department. How do they complete the Form 700?
 - A. Because it is a newly created position, the law requires that economic interests be reported under the broadest disclosure category in the agency's conflict of interest code unless the agency sets an interim disclosure that is tailored to the limited range of duties of the position. An individual may request that the agency complete the Form 804 (Agency Report of New Positions) to tailor the disclosure category to the job duties of the new position. Generally, the Form 700 must be filed with the agency within 30 days of the date of hire.
8. Q. Must board members of a non-profit public benefit corporation that operates California charter schools file Form 700?
 - A. Yes. Members of charter schools are public officials and must file the Form 700.

Income Questions

9. Q. Must an official report a spouse's or registered domestic partner's salary?
 - A. Generally, an official is required to report their community property share (50%) of their spouse's or registered domestic partner's salary. The disclosure lists the employer's name as the source of income on Schedule C of the Form 700. If the spouse or registered domestic partner is self-employed, the business entity is reported on Schedule A-2. Officials should check their disclosure category, if applicable, to determine if the income is reportable. A spouse or registered domestic partner's government salary is not reportable (e.g., spouse is a teacher at a public school).
10. Q. If an official receives income as a gig worker for companies such as Uber, Lyft, DoorDash, Instacart, etc., is that income reportable on the Form 700?
 - A. Yes, this income is reportable if the source of income is doing business in the official's jurisdiction. If the official is an independent contractor of the company, the official will report the income on Schedule A-2. If the official is an employee of the company, the official will report the income on Schedule C.

11. Q. If an official and their spouse have a legally separate property agreement (e.g., prenuptial), must the official still report their community property share (50%) in their spouse's income?
- A. No. If there is a legally separate property agreement, the official is not required to report their community property share in their spouse's income so long as the funds are not commingled with community funds or used to pay for community expenses or to produce or enhance the official's separate income. This reporting exception does not apply to investments and interests in real property. Even if a public official and their spouse have a separate property agreement, the spouse's investments and interests in real property must still be disclosed because the definitions of reportable investments and interests in real property include those held by the official's immediate family (spouse, registered domestic partner, and dependent children). These definitions are not dependent on community property law.
12. Q. If an official owns a business in which they have received income of \$10,000 or more from a client, is the official required to disclose the client's name on Schedule A-2, Part 3?
- A. Yes, except for under rare circumstances where disclosure of the identity would violate a legally recognized privilege under California or federal law. In these cases, the FPPC may authorize an exemption. (See Regulation 18740.)
13. Q. When an official purchases a new car and trades in the old car as credit toward the purchase price, is the trade-in allowance considered reportable income on the Form 700?
- A. No. A trade-in allowance is not considered income and is not reportable on an official's Form 700. However, income received from the sale of an auto may be reportable.
14. Q. An official owns a rental property that they are required to report. The renter/tenant pays a property management company and the company deposits the funds into the official's checking account. Would the source of rental income be listed as the property management company or the person living at the residence who is paying the property management company?
- A. The source of the rental income is the person living at the residence (renter/tenant). The property management company does not need to be disclosed.

Investment Questions

15. Q. An official holds various stocks through an account managed by an investment firm. The account manager decides which stocks to purchase with no input from the official. Are the stocks subject to disclosure?
- A. Yes. Unless the stocks are in a diversified mutual fund registered with the SEC or in a fund similar to a diversified mutual fund (e.g., exchange traded fund (ETF)) if the similar fund meets the specific criteria outlined in Regulation 18237. Any investments worth \$2,000 or more in a business entity located in or doing business in the jurisdiction must be disclosed on Schedule A-1 or A-2 if the official's disclosure category requires that the investments be reported.
16. Q. Are funds invested in a retirement account required to be disclosed?
- A. Investments held in a government defined-benefit pension program plan (e.g., CalPERS) are not reportable. Investments held in a fund such as a defined contribution plan 401(k) or exchange traded fund (ETF) are not required to be disclosed if the fund meets the specific criteria outlined in Regulation 18237. An official may need to contact their account manager for assistance in determining what assets are held in the account.

17. Q. If an official reported stocks that were acquired last year on their annual Form 700, must the stocks be listed again on the official's next Form 700?
- A. Yes. Stocks that are worth \$2,000 or more during the reporting period must be reported every year that they are held. The "acquired" and "disposed" dates are only required if the stocks were initially acquired or entirely disposed of during the period covered by the Form 700.
18. Q. How are interests in a living trust reported if the trust includes: (1) rental property in the official's jurisdiction; (2) a primary residence; and (3) investments in diversified mutual funds? Are there different disclosure rules?
- A. The name of the trust is reported, along with the rental property and its income, on Schedule A-2. The official's primary residence, if used exclusively as a personal residence, and investments in diversified mutual funds registered with the SEC, are not reportable. Although the official's primary residence is not required to be disclosed on the Form 700, it is still considered an economic interest for conflict of interest purposes. (See Question 18.) A secondary residence not used exclusively for personal purposes may be reportable. (See Question 19.)
19. Q. A Form 700 filer has a 10% or greater ownership interest in a company that provides uncompensated, pro-bono, or volunteer services within the filer's jurisdiction. Must this investment be disclosed on Schedule A-2 of the Form 700?
- A. Yes. An investment must be disclosed if there is any financial interest in a business entity that does business or plans to do business within the jurisdiction. (See Government Code 82034.) Although the services are uncompensated, "doing business in the jurisdiction" is defined as having business contacts on a regular or substantial basis, including those providing services or goods. (See Regulation 18230.)
20. Q. An official holds an investment (stocks, partnership, etc.) or receives income from a business entity. How is the name of the business entity reported?
- A. An official must report the full name of the business entity interest. Do not use acronyms for the name of the business entity unless it is one that is commonly understood by the public.

Real Property Questions

21. Q. Is an official's personal residence reportable?
- A. Generally, any personal residence occupied by an official or their family is not reportable if used exclusively as a personal residence. However, a residence for which a business deduction is claimed is reportable if the portion claimed as a tax deduction is valued at \$2,000 or more. In addition, any residence for which an official receives rental income is reportable if it is located in the jurisdiction.
22. Q. When an official is required to report interests in real property, is a secondary residence reportable?
- A. It depends. First, the residence must be located in the official's jurisdiction. If the secondary residence is located in the official's jurisdiction and rental income is received (including from a family member), the residence is reportable. However, if the residence is used exclusively for personal purposes and no rental income is received, it is not reportable. Although the secondary residence may not be reportable, it is still considered an economic interest for conflict of interest purposes.

23. Q. If a primary or secondary personal residence is required to be reported, is the street address required to be disclosed?

A. No. The assessor's parcel number may be listed instead of the street address.

Enforcement Question

24. Q. What is the penalty for not filing the Form 700 on time or not reporting all required economic interests?

A. A late fine of \$10 per day up to a maximum of \$100 may be assessed. If an individual does not pay a late fine, the matter may be referred to the Franchise Tax Board for collection. In addition, if a matter is referred to the FPPC's Enforcement Division for failure to file or failure to include all required economic interests, the fine may be substantially higher.

Eligible non-filers may be referred from the FPPC's Enforcement Division to the FPPC's Political Reform Education Program (PREP). The program allows persons with little to no experience with the Act to resolve minor violations by completing an online educational course in lieu of paying a monetary penalty. Those who complete the program will have their Enforcement cases closed with no action and, in many circumstances, will be exempted from paying late filing fees assessed by their filing officer.

Gift/Travel Questions

25. Q. What is the gift limit for 2025-2026?

A. **\$630:** This means that gifts from a single, reportable source, other than a lobbyist or lobbying firm (see below), may not exceed \$630 in a calendar year. For officials and employees who file the Form 700 under an agency's conflict of interest code ("designated employees"), this limit applies only if the official or employee would be required to report income or gifts from that source on the Form 700, as outlined in the "disclosure category" portion of the agency's conflict of interest code. For conflict of interest purposes, the gift must be under \$630 to avoid consideration under the conflict rules.

State Lobbyist & Lobbying Firm Limit:

\$10: State candidates, state elected officers, and state legislative officials may not accept gifts aggregating more than **\$10 in a calendar month that are made or arranged by a registered state lobbyist or lobbying firm**. The same rule applies to state agency officials, including members of state boards and commissions, if the lobbyist or firm is registered to lobby, or should be registered to lobby, the official's or employee's agency.

26. Q. During the year, an official received several gifts of meals from the same reportable source. Each meal was approximately \$35. Is the source reportable?

A. Yes. Gifts from the same reportable source are aggregated, and the official must disclose the source when the total value of all meals reaches or exceeds \$50.

27. Q. How does an individual return a gift so that it is not reportable?

- A. Unused gifts that are returned to the donor or reimbursed within 30 days of receipt are not reportable. The recipient may also donate the unused item to a charity or a governmental agency within 30 days of receipt or acceptance so long as the donation is not claimed as a tax deduction. An individual may not, however, reimburse a charity for the value (or partial value) of a gift from another source, in order to not report the gift, unless the charity was the original source of the gift.

28. Q. Two people typically exchange gifts of similar value on birthdays. Are these items reportable?

- A. No. Gift exchanges with individuals, other than lobbyists, on birthdays, holidays, or similar occasions, are not reportable or subject to gift limits. The gifts exchanged must be similar in value.

29. Q. Must an official report gifts received from an individual whom the official is dating?

- A. No. Gifts of a personal nature exchanged because the individuals are in a bona fide dating relationship are not reportable or subject to gift limits. However, the official remains subject to the conflict of interest rules, and some matters may require recusal from voting.

30. Q. If an official makes a speech related to national public policy and their spouse attends the dinner at the event, is the spouse's meal considered a gift to the official?

- A. Yes. The official's meal is not a reportable gift; however, their spouse's meal is a gift and reportable on the official's Form 700 if the value is \$50 or more.

31. Q. A vendor that does business with the agency provided entertainment tickets to the spouse of one of the agency members. Must the member report the tickets as gifts?

- A. Yes. Unless an exception applies, the tickets are a reportable gift. A gift to an official's spouse is a gift to the official when there is no established working, social, or similar relationship between the donor/vendor and the spouse or there is evidence to suggest that the donor had a purpose to influence the official.

32. Q. An agency received two free tickets to a concert from a local vendor. The agency has a policy governing the reporting of tickets and passes distributed to persons for use in ceremonial roles or other agency related activities. The agency had discretion to determine who in the agency received the tickets. Each ticket was valued at \$140. If the agency director used the tickets, how are they reported?

- A. Assuming the tickets meet the agency's policy as an appropriate use of public funds, the agency may report the tickets (worth \$280) on the Form 802 (Agency Report of Ceremonial Role Events and Ticket/Pass Distributions), which is a public record. The director does not need to report the tickets on the Form 700.

33. Q. An agency received a large box of chocolates as a holiday gift from a local merchant. It was addressed to the agency and not to a particular employee. Is there a reporting requirement?
- A. No. There is no reporting requirement if the value received by each agency employee is less than \$50.
34. Q. An agency official receives a gift basket specifically addressed to the official worth more than \$50 from a local merchant. Is there a reporting requirement?
- A. If the source of the gift basket is reportable by the official, the official must report the gift, even if they share the gift with other agency employees.
35. Q. Do prizes donated to a governmental agency by an outside source constitute gifts under the Act if they were received by city employees in a drawing conducted by the city for all city employees participating in the city's charitable food drive?
- A. Yes. The prizes are gifts if donated by an outside source and subject to the Act's limits and reporting requirements.
36. Q. An official won a scholarship in a raffle at a software update training class. The scholarship covered the cost of the class. All attendees, including other public officials and members of the public, were eligible to apply for the scholarship. Is the official required to report the scholarship as a gift?
- A. A scholarship received in a "bona fide" competition may be reported as income instead of a gift. Whether or not a competition or contest is "bona fide" depends on specific facts, such as the nature of the pool of contestants. Contact the FPPC for assistance.
37. Q. Is a ticket provided to an official for their admission to an event at which the official performs a ceremonial role or function on behalf of their agency reportable on the official's Form 700?
- A. No, so long as the organization holding the event provides the ticket and so long as the official's agency completes the Form 802 (Agency Report of Ceremonial Role Events and Ticket/Pass Distributions). The form will identify the official's name and explain the ceremonial function. (See Regulation 18942.3 for the definition of "ceremonial role.")
38. Q. An official makes an annual donation to an educational organization that has a 501(c)(3) tax-exempt status. The organization is holding a two-hour donor appreciation event, which will include wine, appetizers, and music. Free access to the event is being provided to all donors to the organization. Must the official report the event as a gift from the organization?
- A. Because free access to the event is offered to all of the organization's donors, without regard to official status, access to the event is not a reportable gift.
39. Q. Are frequent flyer miles reportable?
- A. No. Discounts received under an airline's frequent flyer program that are available to all members of the public are not required to be disclosed.

IMPORTANT NOTE: See Regulation 18950.1 for additional information on reporting travel payments. In some circumstances the agency may report the travel in lieu of the official reporting the travel.

40. Q. If a non-profit organization pays for an official to travel to a conference after receiving the funds to pay for the travel from corporate sponsors, specifically for the purpose of paying for the official's travel, is the non-profit organization or the corporate sponsors the source of the gift?
- A. The corporate sponsors are the source of the gift if the corporate sponsors donated funds specifically for the purpose of the official's travel. Thus, the benefit of the gift received by the official would be pro-rated among the donors. Each reportable donor would be subject to the gift limit and identified on the official's Form 700. The FPPC should be contacted for specific guidance to determine the true source of the travel payment.
41. Q. May an official accept travel, lodging and subsistence from a foreign sister city while representing the official's home city?
- A. Yes. If the travel and related lodging and subsistence is paid by a foreign government and is reasonably related to a legislative or governmental purpose, it is not subject to the gift limit. However, the payments must be disclosed as gifts on the Form 700 for this exception to apply. While in the foreign country, any personal excursions not paid for by the official must also be disclosed and are subject to the gift limit. If private entities make payments to the foreign government to cover the travel expenses, the gift limit will apply and travel payments will likely be prohibited. Please contact the FPPC for more information.
42. Q. An analyst for a state or local agency attends a training seminar on the new federal standards related to the agency's regulatory authority. If the analyst's travel payments are paid by the federal agency, must the analyst report the payment on the Form 700?
- A. No. A payment for travel and related per diem received from a government agency for education, training, or other inter-agency programs or purposes, is not considered a gift or income to the official who uses the payment.
43. Q. A state legislator and a planning commissioner were guest speakers at an association's event. Travel expenses were paid by the association, and the event was held in the United States. Is this reportable?
- A. Yes. The payment is reportable, but not subject to the gift limits. In general, an exception applies to payments for travel within the United States that are provided to attend a function where the official makes a speech. These payments are not limited, but are reportable as gifts. The rules require that the speech be reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy; and the travel payment must be limited to actual transportation and related lodging and subsistence the day immediately preceding, the day of, and the day immediately following the speech. (See Government Code Section 89506. Other rules may be applicable if this exception is not used.)

44. Q. An official serves as a board member for two organizations – one has a 501(c)(3) tax-exempt status and the other has a 501(c)(6) tax-exempt status. The organizations pay the official's travel expenses to attend board meetings. Must the official report these travel payments?
- A. Under the Act, travel payments provided to an official by a 501(c)(3) organization are exempt from the definition of "income" and therefore, not reportable. However, travel payments from other organizations, including a 501(c)(6) organization, are likely required to be reported. Designated employees must report such travel payment if the organization is reportable pursuant to the official's disclosure category in their agency's conflict of interest code.
45. Q. The local airport authority issues a certain number of airport parking cards to the County to allow the cardholders to use the parking facilities at the airport at no charge, provided the cardholder is on official business. Must the officials who use the parking cards report a gift on the Form 700?
- A. No. As long as the parking cards are used for official business only, the parking cards do not provide a personal benefit, so no gift is received. If a parking card is used for *personal* purposes, a gift must be reported.

Tickets to Non-Profit and Political Fundraisers Questions

46. Q. An official is offered a ticket from a 501(c)(3) organization to attend its fundraising event. The face value (price) of the ticket is \$500, and the ticket states that the tax deductible portion is \$350. If the official accepts the ticket, what must be reported?
- A. Nothing is required to be reported on the Form 700, so long as the ticket is provided directly by the 501(c)(3) organization for its own fundraising event and is used for the official's own attendance at the fundraiser. In this case, the ticket is deemed to have no value. The official may also accept a second ticket provided directly by the 501(c)(3) organization for their guest attending the event, without a reporting obligation by either the official or the guest.
47. Q. What if someone purchases a table at a non-profit fundraiser and offers an official a seat at the table?
- A. If another person or entity provides a ticket, it is a gift and subject to the gift limit. The value is the non-deductible portion on the ticket. If there is no declared face value, then the value is the pro-rata share of the food, catering service, entertainment, and any additional item provided as part of the event. The "no value" exception only applies if the official receives no more than two tickets for their own use directly from the 501(c)(3) organization and it is for the organization's fundraising event.
48. Q. A 501(c)(3) organization provides a ticket to an official for its fundraising event. The organization seats the official at a table purchased by a business entity. Does the official have to report the ticket?
- A. No. So long as the ticket is provided directly by the 501(c)(3) organization and is used for the official's own attendance at the fundraiser, the ticket is not reportable regardless of where the official is seated.

49. Q. An agency employee who holds a position designated in their agency's conflict of interest code receives a ticket to a fundraiser from a person not "of the type" listed in the agency's code. Is the agency employee required to report the value?
- A. No. A ticket or any other gift may be accepted under these circumstances without limit or reporting obligations. Agencies must ensure the conflict of interest code adequately addresses potential conflicts of interests but not be so overbroad as to include sources that are not related to the employee's official duties.
50. Q. An official receives a ticket to attend a political fundraiser held in Washington D.C. from a federal committee. Is the official required to disclose the ticket as a gift, and is it subject to the gift limit?
- A. No. The value of the ticket is not a gift, so long as the ticket is provided to the official directly by the committee holding the fundraiser and the official personally uses the ticket. (See Regulation 18946.4.) Separate rules apply for travel provided to attend the fundraiser. Regulation 18950.3 covers issues on travel paid by or for a campaign committee.
51. Q. A political party committee is holding a political fundraiser at a golf course, and a round of golf is included. If the committee provides an elected official a ticket, is the ticket reportable by the official?
- A. No, so long as the official uses the ticket for their own use. If someone other than the political party provides a ticket, the full cost of the ticket is a gift. The political party must report the total amount spent on the fundraiser on its campaign statement.
52. Q. If a business entity offers an official a ticket or a seat at a table that was purchased for a political fundraiser, what is the value?
- A. Because the ticket was not offered by the campaign committee holding the fundraiser, it is a gift to the official. The value is either the face value of the ticket or the pro-rata share of the food, catering services, entertainment, and any additional benefits provided to attendees.
53. Q. If an official attends an event that serves only appetizers and drinks, does the "drop-in" exception apply no matter how long the official stays or how many appetizers or drinks are consumed?
- A. No. The focus of the "drop-in" exception is on the official's brief attendance and limited consumption, not on the nature of the event as a whole. If an official attends an event that serves only appetizers and drinks, the "drop-in" exception applies only if the official just "drops in" for a few minutes and consumes only a "de minimis" amount of appetizers and drinks. The "drop-in" exception does not automatically apply just because the event does not serve more than appetizers and drinks.

54. Q. An organization, which is not a 501(c)(3) organization, is holding a fundraiser at a professional sporting event. Tickets to this sporting event are sold out, and it appears that tickets are only available at a substantially higher price than the face value amount of the ticket provided to the official by the organization. If the official attends the event, what is the value of the gift?
- A. The value is the face value amount of the ticket to the sporting event. This valuation rule applies to all tickets to such events that are not covered by a separate valuation exception, such as non-profit and political party fundraisers.
55. Q. An official receives a ticket to a fundraiser, and if accepted, the ticket will result in a reportable gift or a gift over the current gift limit. What are the options?
- A. The official may reimburse the entity or organization that provided the ticket for the amount over the gift limit. Alternatively, the official may pay down the value of the ticket to under the \$50 gift reporting threshold if the official does not want to disclose the ticket. Reimbursement and/or pay down must occur within 30 days of receipt of the ticket. A candidate or elected official may use campaign funds to make the reimbursement if the official's attendance at the event is directly related to a political, legislative, or governmental purpose. A ticket that is not used and not given to another person is not considered a gift to the official and therefore is not reportable.

UNDERSTANDING THE BASICS OF

LAND USE AND PLANNING

Guide to Local Planning

The Institute is grateful to the following firms for their support for the Land Use and Environment program:



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Prepared by the Land Use and Environment Program, Steve Sanders, Director

Remember to always consult a knowledgeable attorney when confronted by legal issues.

UNDERSTANDING THE BASICS OF LAND USE AND PLANNING: Guide to Local Planning

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UNDERSTANDING THE BASICS OF LAND USE AND PLANNING

GUIDE TO LOCAL PLANNING

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About This Guide

County and city officials have many responsibilities. Among the most important is determining how the physical configuration of their communities will change, develop and adapt to meet the present and future needs of their residents.

Communities guide their physical growth and development through *local planning*. Planning covers a broad spectrum of activities, ranging from new development on vacant land, to adaptation of existing structures for new uses, to more sweeping redevelopment of individual parcels and whole neighborhoods with new buildings and facilities.

This guide is designed to provide a basic overview of the planning process for local elected and appointed officials and the general public. The

guide describes the typical participants in the planning process and the major plans and policies that comprise the framework of local planning. Following the description of the planning framework, the guide presents some of the emerging issues in local planning, and outlines important legal issues that local officials should consider when they make land use and planning decisions. The tab divider that accompanies the guide presents the “nuts and bolts” of the process of reviewing a typical application for development.

Resources to learn more about particular topics are highlighted throughout the guide. The endnotes include information on important legal citations and other references for those who wish to explore issues in more detail.

Planning – a Process and Profession

Planning, at its most fundamental level, refers both to a process and a profession:

- Local officials and residents use a *collaborative process* to determine the location, character, level and intensity of development that will be permitted or encouraged throughout their community, as well as the areas to be conserved and protected from development.
- Planning is also a *professional discipline*, whose practitioners possess technical information, analytical tools and problem-solving approaches informed by both research and practice.

THE POWER TO PLAN

Local agencies derive their authority to shape their communities through planning and land use from the “police power.”¹ The source of this power is both the federal and California constitutions. The police power is broad and elastic and entitles cities and counties to take actions to protect the public’s general health, safety, and welfare. However, in most cases local regulations may not conflict with overriding state law.²

Local authority to regulate land use can expand to meet the changing conditions or priorities of society. Thus, actions that might not have been thought of as part of the general welfare a century ago (for example, curbing sprawl or promoting affordable housing) can fall within its purview today.³

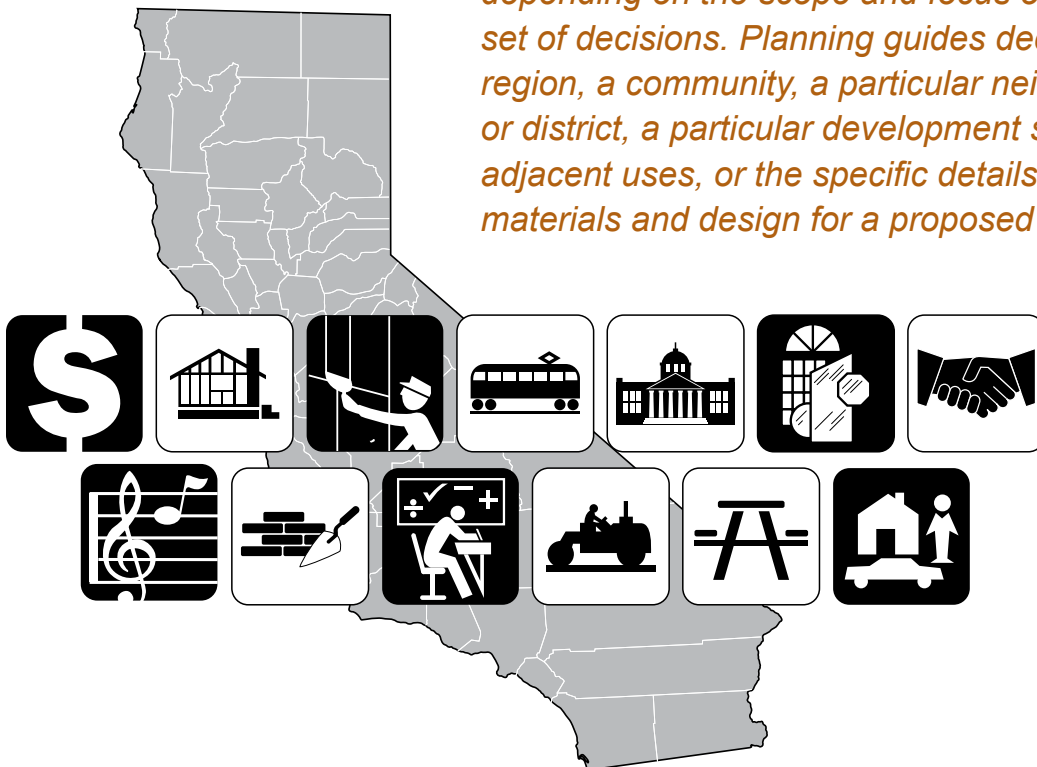
Courts have found that a wide variety of local concerns fall within this authority, including maintaining socio-economic balance, aesthetic values, property values, residential character, and growth management.⁴

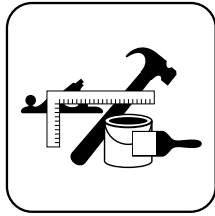
The Local Planning Framework

Cities and counties, when they plan, need to be able to consider a range of issues, from the big picture issues of how the community as a whole should grow and develop to the fine details of how particular buildings and facilities will fit in with other uses that share space on a neighborhood street.

Different planning tools have been developed to address the unique issues and considerations that occur at each of these levels. Taken together, these tools comprise a framework of local planning that officials can draw upon to manage the development and realize the collective vision for the future of their community and its residents.

The planning framework works along a continuum depending on the scope and focus of a particular set of decisions. Planning guides decisions for a region, a community, a particular neighborhood or district, a particular development site and its adjacent uses, or the specific details of building materials and design for a proposed project.





Why Plan?

Planning establishes goals and policies for directing and managing the future growth and development of a community or region. For example, cities and counties use planning to address fundamental issues such as the location and rate of growth, the character of development, transportation and housing needs, economic vitality, sustainability and environmental protection.

Proper planning offers the opportunity to:

- **Save Money.** Good planning can save on infrastructure and essential service costs by avoiding duplication, sizing facilities properly, and promoting efficient and cost-effective investments.
- **Create a Sense of Place and Reinforce a Sense of Community.** Planning can ensure that architectural, environmental and aesthetic elements are incorporated into projects to connect people to their community and establish a sense of place – the features and characteristics that define the unique identity of the community.
- **Protect and Enhance Property Values.** Property values are enhanced when a community plans for parks, trails, playgrounds, transit, and other amenities. Planning also protects property and property values by separating conflicting land uses.
- **Safeguard Public Health.** The way places are built, rebuilt, and maintained affects people's behavior and, as a result, their health. Good planning can provide opportunities for all residents to improve their health through greater physical activity and access to healthy foods and living situations, while reducing their exposure to air pollution and other health hazards.

- **Promote Public Safety.** Proper planning and design can make communities safer places to live, work and travel. Planning safe routes for bicycles, pedestrians and motorists can reduce accidents. Building codes and other regulations can reduce the risk of fire, flooding or collapse in the event of an earthquake. Buildings, parking lots, streets, and neighborhoods can all be designed to reduce opportunities for crimes to occur.
- **Increase Fairness and Opportunity.** Planning can help ensure that the burdens and benefits of development are fairly shared by all members of a community. Planning can also increase opportunities for all residents to attend quality schools, access good jobs, and participate in community life on an equal footing.
- **Provide Public Facilities and Infrastructure.** Planning helps communities prepare to meet future demands for public services and facilities, such as water and sewer systems, roads and transit lines, fire and police stations, schools, parks and libraries. Planning can ensure that transportation and other public facilities meet the needs of all members of the community and are safe, efficient, reliable and environmentally sound.
- **Improve Economic Development and Quality of Life.** Economic development and quality of life issues go hand in hand because businesses want to locate in communities where their employees want to live. Well-planned communities offer residents and businesses a range of convenient and affordable choices – for business locations, transportation, housing, schools, parks, open space and other services and amenities.

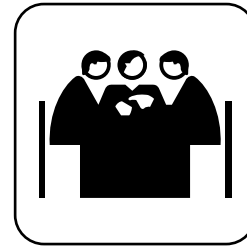
- **Protect the Environment and Conserve Resources.** Planning helps identify important natural and cultural resources and can direct development in a way that protects or enhances these resources. Planning can help communities reduce energy use, promote waste reduction and recycling, lower emissions of greenhouse gases that contribute to climate change, and otherwise conserve resources and protect the environment.
- **Provide a Forum for Resolving Conflicts and Reaching Agreement.** Planning processes provide a forum for developing a common vision, seeking community consensus and resolving disagreements about issues.
- **Set Clear Expectations.** Planning establishes the ground rules for decision-making regarding development. A comprehensive general plan, for example, sends a clear signal what standards and procedures will apply to development. Planning also signals which parties will be responsible for the various costs associated with development. This will not eliminate conflicts entirely, but does set expectations that can help minimize conflict – particularly when a jurisdiction has a practice of adhering to its plans.

MORE RESOURCES ON PLANNING

As a supplement to this guide, the Institute has published a handy glossary of the sometimes complex terminology that is used in the planning process: *Understanding the Basics of Land Use and Planning: Glossary of Land Use and Planning Terms* (see www.ca-ilg.org/planningterms).

To assist local agencies in helping the public understand common planning decisions, the Institute has also developed a series of plain-language, one-page descriptions of common land use actions. These can be attached to public hearing notices, made available at planning counters and through agency websites. Copies are available in PDF and Word formats in both English and Spanish. (See www.ca-ilg.org/onepagers)

Participants in the Land Use Decision-Making Process



The Role of Local Officials in Planning

Decisions regarding planning and land use are a shared responsibility among local decision-makers. While local elected officials typically have ultimate decision-making authority, planning is a very participatory process.

Other key participants include members of the planning commission and other advisory boards and commissions, agency professional staff and legal advisors, as well as officials from other public agencies who may be affected by a land use decision. Important stakeholders include property owners and project applicants, neighbors, business owners, and other members of the public.

Local officials play a number of roles in land use matters. Within their jurisdictions, local officials typically act in three capacities:

- **Legislative:** Adopting broad policies governing development, such as general plans, zoning ordinances, and fee schedules.
- **Quasi-adjudicatory:** Applying these policies and state law to specific projects.
- **Enforcement:** Taking steps to assure that projects, once approved, comply with the applicable laws and conditions of approval.

Local officials also play an important role in regional planning activities. A number of regional agencies have been established to make plans for transportation, housing, open space, and other issues that transcend local agency boundaries. Local officials are typically selected or appointed to serve on the governing boards of these regional agencies. In some cases the members of the governing board may be directly elected by voters.

WHO DOES WHAT IN THE PLANNING PROCESS?

City Council or County Board of Supervisors

- Evaluates staff analyses, recommendations and decisions by advisory bodies, and agency goals in making final decisions on land use plans and proposals
- May act as appellate body on entitlement decisions

Planning Commission and Other Planning Advisory Bodies

- Considers staff analyses, including agency goals and policies, along with community input
- Makes recommendations and decisions based on findings of fact when applying general policies to specific situations such as use permits and tentative maps
- Makes recommendations to the governing body on policy matters such as the general plan, zoning ordinances, and development agreements
- May act as appellate body on entitlement decisions

Planning Staff

- Acts as technical staff to the governing body, planning commission, or other planning advisory bodies
- Prepares and maintains local plans and ordinances
- Identifies relevant local regulations for plans and project applications
- Organizes hearings and meetings on plans and project proposals as authorized by local officials
- Works with applicants to ensure that a project complies with community policies and standards and state and federal law
- Coordinates with other professional departments and agencies to incorporate comments and technical recommendations into a proposed plan or project
- Ensures that all appropriate procedures are followed during the planning process
- Prepares a professional analysis and recommendation
- Monitors project implementation and compliance with planning policies and conditions of approval

Agency Counsel (City Attorney or County Counsel)

- Advises officials on legal process requirements for decision-making (for example, public notice obligations)
- Answers questions about applicable law and how the law applies in particular situations
- Distinguishes between legal advice and policy advice, providing the latter only when asked
- Represents local government in legal issues and disputes

City Council Members and County Supervisors

Primary responsibility for making land use and planning decisions rests with the individuals elected by the voters to serve on the governing boards of cities and counties. In the case of cities, the mayor and city council members make the decisions. The members of the county board of supervisors – five officials elected by district from throughout the county – make decisions for counties. While they may delegate some functions to staff or advisory bodies, final authority rests with the representatives elected by the public.

The Planning Commission

The planning commission is a permanent committee made up of five or more individuals who have been appointed by the governing body (the city council or board of supervisors) to review and act on planning and development matters.⁵

While the governing body may choose to keep this function,⁶ many cities and counties have chosen to establish separate planning commissions.

Commissions have authority to oversee the development and review of the local general plan and other plans, policies and ordinances related to land use. They also review (and sometimes decide) land use and development applications and proposals in the same manner as a board of zoning adjustments (described in the following section).⁷

Commissioners serve at the will of the city council or board of supervisors, so commission membership may change in response to changes in those bodies.⁸

Planning commission actions can be appealed to the governing body, which can uphold the commission's decision, overturn it, modify it, or send it back for further study.



► THE ROLE OF THE PLANNING COMMISSION

1. Acts as an advisory board to the governing body on all planning and development issues.
2. Reviews development applications and makes factual findings on a case-by-case basis to assure consistency with the provisions of the general plan and other local plans, policies and ordinances.
3. Functions as the primary decision-making body for many proposals (subject to appeal to the governing body, which retains final authority).
4. Through public hearings and other means, provides a key venue for residents and other community stakeholders to learn about planning issues and project proposals and provide their views.

Other Local Planning Bodies and Officials

Many cities and counties have established other advisory boards or commissions or assigned officials to assist the agency in making decisions on planning and land use issues. In larger jurisdictions, these bodies and appointees bring additional expertise into the decision-making process while allowing the planning commission and elected officials to focus on broad planning issues. They also provide an additional way to engage the public in planning and land use decisions, both through service as an appointee and through public meetings and hearings conducted by the body.

Some of these other advisory bodies and appointed officials include:

- **Board of Zoning Adjustment or Zoning Administrator.** A local body or hearing officer authorized to consider requests for variances to zoning requirements, created by ordinance and appointed by the governing body.⁹
- **Zoning Appeals Board.** An optional appointed body that hears and decides matters relating to the application of the zoning ordinance and considers appeals of the zoning administrator's decisions.¹⁰
- **Building Official.** An appointed agency official responsible for the administration and enforcement of building, housing, plumbing, electrical and related codes.
- **Design Review Commission or Architectural Review Board.** An optional commission appointed by the governing body to review development proposals to determine consistency with local adopted design goals, policies, guidelines, standards, and ordinances.¹¹
- **Historic Preservation Commission or Architectural Heritage Commission.** An optional commission appointed by the governing body charged with determining consistency with local historic and cultural resource preservation goals, policies, standards and ordinances.¹²

RESOURCES FOR FURTHER INFORMATION

The Planning Commissioner's Book is both a training tool for new planning commissioners as well as a handy general reference on planning. Originally published by the Governor's Office of Planning and Research, it is available on the ILG website at www.ca-ilg.org/opr.

The Role of the Public

There are many reasons to involve the public in planning and land use decision-making. Perhaps most importantly, participation enhances a sense of community. Individuals feel more connected when they are involved in the process of developing solutions to community problems.

Other benefits of public engagement in planning and land use decision-making can include:

- Better planning policies and documents that reflect issues flagged by a members of the public, particularly if a broad segment of the public participates in the decision-making process

- Enhanced community buy-in and support for policies ultimately adopted and less need to revisit the same planning issues repeatedly
- More knowledgeable residents that understand the trade-offs sometimes involved in planning and land use decisions

Public participation in local decision-making is fundamental to democracy. The public often evaluates the service of local officials based not only on the wisdom of their decisions, but also on their commitment to involving the public in decision making.



► ENGAGING THE PUBLIC IN PLANNING

The Institute for Local Government has developed a number of tools to help local officials foster greater public participation in land use and planning decisions. See www.ca-ilg.org/cgipubs.

For more information on these and other resources for involving the public, visit the Institute's website at www.ca-ilg.org.

The General Plan

The general plan is the foundation for local land use planning. When an agency adopts a general plan, it creates a vision for the foreseeable planning horizon — usually 10 to 20 years — and translates the vision into objectives, goals, policies and implementation programs for the physical development of the community.

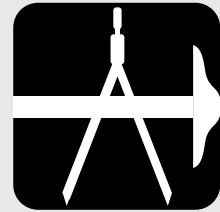
The general plan covers all of the land within the jurisdiction and any additional land that, in the agency's judgment, bears a relationship to its planning.¹³

Cities and counties may also prepare one or more community plans as part of their general plan to provide more detailed attention to particular areas of the locality.

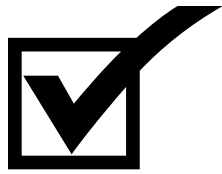
COMPONENTS OF PLANNING

✓ The General Plan

- Zoning
- Subdivisions
- Design Review
- Environmental Review
- Development Agreements
- Dedications and Fees



All other land use ordinances and policies flow from the general plan and must be consistent with the general plan.¹⁴ Projects will not be able to proceed unless they are found to be consistent with the general plan.¹⁵



Mandatory Elements

General plans are usually a combination of goals, policies, programs, diagrams, and maps. Every general plan at a minimum must address seven mandatory elements:¹⁶

- **Land Use Element.** Designates and provides a diagram or map illustrating the general type, intensity, and distribution of various land uses.¹⁷
- **Circulation Element.** Describes and provides a circulation diagram or map illustrating the location and extent of existing and proposed transportation routes, terminals, and other local public utilities and facilities.¹⁸
- **Housing Element.** Identifies and analyzes the existing and projected housing needs for all economic segments of the community, consistent with the regional “fair share” allocation of housing needs established through a regional planning process.¹⁹
- **Conservation Element.** Provides for the conservation, development and use of natural resources.²⁰
- **Open Space Element.** Details how open space, recreational areas and natural resources will be preserved and managed.²¹
- **Noise Element.** Establishes noise contours and standards, identifies and appraises noise sources and problems and includes implementation measures to address them.²²
- **Safety Element.** Addresses protection from any unreasonable risks associated with hazards such as fire, flood, and earthquakes.²³

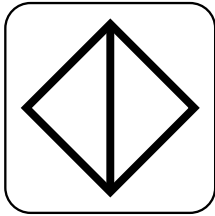
Optional Elements

Any number of optional elements may also be included in a general plan if, in the judgment of the city or county, they relate to the physical development of the area.²⁴ Optional elements frequently incorporated in general plans include: public facilities, economic development, design, historic preservation, air quality, growth management, agriculture, recreation, and scenic highways. More recent additions to this list include climate change, energy, water, and health. Once adopted, mandatory and optional elements have equal legal status and must be consistent with each other.²⁵

Local agencies can tailor general plans to fit community needs.²⁶ Individual elements may be combined so long as all legally required issues are addressed.

RESOURCES FOR FURTHER INFORMATION

The Governor's Office of Planning and Research has produced many useful resources on planning. See www.ca-ilg.org/opr.



Consistency Requirements

Land use and planning decisions require a finding that a land use action is consistent with the general plan.²⁷ Perfect conformity is not required, but the project must be found to be consistent with the general plan map and the general plan's objectives, goals, policies, and implementation programs.

The individual elements within a general plan must be integrated, internally consistent, and compatible.²⁸ In other words, the plan cannot contradict itself. This requirement is commonly referred to as “horizontal consistency” and has three primary components:²⁹

■ Consistency among Elements.

All elements of the general plan must be consistent with one another. For example, if the land use element contains proposals that would increase population but the circulation element does not provide for ways to deal with traffic related to the population increase, the general plan would be inconsistent.³⁰

■ Consistency within Each Element.

Each individual element must be consistent with itself. For example, if the circulation element presents data and analysis indicating insufficient road capacity while also stating that current roads and other transportation alternatives can handle increased development, the element would be inconsistent.³¹

■ Consistency between Language and Maps.

The text of the general plan must be consistent with accompanying maps and diagrams. For example, if the text of the general plan includes a policy of conserving prime farmland while at the same time a map designates all or most of existing prime farmland as an area for housing development, the plan would be internally inconsistent.³²

In addition, all other plans, ordinances and policies must be consistent with the general plan. This is often called “vertical consistency.” For example, subdivision and development approvals must be consistent with the general plan.³³ In counties and general law cities, zoning and specific plans must also be consistent with the general plan.³⁴ Charter cities can require consistency through their own charter or by ordinance, but otherwise are exempt from the consistency rule.³⁵

Relationship of the General Plan to Other Local Plans

Community Plans. A community plan is part of a general plan, focusing on a particular neighborhood or community within the larger jurisdiction

Community plans allow a city or county to concentrate on the most salient issues and develop planning strategies and actions best suited for particular communities without going through the time and expense involved in revising or updating the general plan as a whole.

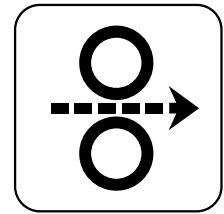
Specific Plans. Unlike general plans, specific plans are optional.³⁶ They are a flexible planning tool often used for larger areas, such as a downtown or a major transportation corridor, to encourage comprehensive planning.³⁷

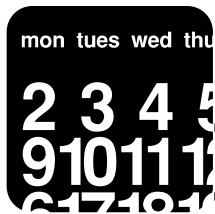
A specific plan may present broad policy concepts, focus on a particular planning or development issue, or provide detailed direction as to the type, location, intensity or design, financing, or infrastructure needed for development.

Many local agencies find specific plans to be a powerful and flexible planning tool. They often function as a macro-scale planning document similar to a community plan, but with the added power of a zoning ordinance coupled with a capital improvement program.

While not technically a part of the general plan as are community plans, specific plans must be consistent with the general plan.³⁸ All zoning, subdivisions, public works projects, and future development agreements within an area covered by a specific plan must be consistent with the plan once it is adopted.³⁹ A specific plan may be amended as often as necessary.⁴⁰

Redevelopment Plans. Cities and counties may create a redevelopment agency to act as a catalyst for the revitalization of “blighted” areas.⁴¹ Often the city council or board of supervisors acts as the governing board of the redevelopment agency,⁴² although some redevelopment agencies have a separate governing board.⁴³ Redevelopment agencies create a redevelopment plan outlining the programs and strategies the agency will employ to redevelop the area included in the agency’s purview.⁴⁴ Redevelopment plans must be consistent with the general plan.⁴⁵





Amending the General Plan

The general plan is a living document, meaning that it should change as conditions in the community change.⁴⁶

At the same time, it is also meant to provide some certainty for local planning. “General law” cities and counties (those operating under state law without a voter-approved local charter) may amend mandatory elements of the general plan up to four times per year.⁴⁷ Charter cities and counties may amend the general plan as often as necessary.⁴⁸ Many local agencies regulate how often they will consider general plan amendments to ensure that specific amendments are considered in the larger context of other proposed amendments and the general plan as a whole.

Amendments are adopted by resolution after a public hearing.⁴⁹ Optional elements can be amended as often as the local agency chooses. Project proponents may propose general plan amendments to fit the needs of a proposed development.

Updating the General Plan

While there are no hard-and-fast rules as to when a community should update its general plan, frequent piecemeal amendments can indicate that the general plan is dated or out of step with current conditions.⁵⁰ In such cases, an overhaul of the general plan may be needed to ensure that it remains an adequate basis for land use decision-making.

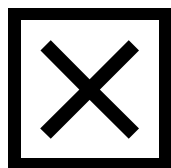
Periodic updates ensure that the long-term vision presented in the plan reflects the current needs or goals of the community. A general plan update can be quite expensive — often exceeding several hundred thousand dollars in mid- to large-size communities. A well thought-out plan update with broad public involvement and support usually pays dividends by reflecting current economic and development trends and reducing conflict over land use decisions.

The general plan does not have to be completed or updated on a fixed schedule (although new cities must adopt a plan within 30 months of their formation).⁵¹ The main exception to this rule is the housing element, which must be updated every eight years, to coincide with the schedule for regional planning for transportation mandated by SB 375.⁵²

Implementation and Follow-Through

The adoption of a general plan by itself does not guarantee orderly development. An agency can adopt a very good general plan only to find the original vision distorted by frequent amendments. City council members or county supervisors play a critical role in seeing that the plan's vision materializes, assisted by the planning commission and other advisory bodies.

State law provides for an annual reporting process on general plan implementation. These reports must be shared with a number of state agencies.⁵³ The reports enable the local agency to correlate recent land use decisions with the overall goals in the general plan, to assess how the plan is being implemented, and to identify modifications that will improve implementation.



Effects of a Deficient General Plan

In order to proceed, a development project must be found to be consistent with the general plan.⁵⁴ This is a difficult finding to make when the general plan is internally inconsistent, invalid, or insufficient (for example, because it fails to address a statutorily required issue). A court can invalidate any land use action if it determines that a plan is deficient in any of these respects.⁵⁵ Typically courts will limit such actions to instances where the specific general plan deficiency is related to the nature or circumstances of the project – for example, a residential subdivision proposed in a jurisdiction with a housing element that has been found to be deficient.⁵⁶

RESOURCES FOR FURTHER INFORMATION Institute for Local Government

Land Use One-Pager: About Specific Plans (2007) (www.ca-ilg.org/onepaggers)

Land Use One-Pager: About General Plan Amendments (2007) (www.ca-ilg.org/onepaggers)

Governor's Office of Planning and Research

The Governor's Office of Planning and Research has produced many useful resources on planning. See www.ca-ilg.org/opr.

California Planning Guide: An Introduction to Planning in California (December 2005)

General Plan Guidelines (October 2003)

The Planner's Guide to Specific Plans (January 2001)

Other Resources

Government Code Section 65350 and following (accessible from www.leginfo.ca.gov/calaw.html)

Government Code Section 65450 and following (accessible from www.leginfo.ca.gov/calaw.html)

Zoning

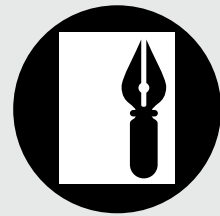
Historically, zoning is the separation of a community into districts, or “zones,” that regulate land uses and the intensity of development.⁵⁷ A zoning designation is assigned to every legally defined parcel within a zone in the community. An accompanying map shows officials and the public 1) the boundaries between zones, 2) which uses are permitted, and 3) the standards that apply to that use.

The goal of zoning is to assure that neighboring land uses are compatible.⁵⁸

Residential uses, for example, are generally incompatible with heavy industrial uses. Most agencies have multiple zones in which similar uses are permitted but with differing development standards. For example, a minimum residential density might be 12 units to the acre in one zone and 16 units to the acre in another.

COMPONENTS OF PLANNING

- The General Plan
- ✓ Zoning
- Subdivisions
- Design Review
- Environmental Review
- Development Agreements
- Dedications and Fees



Before approving or denying a project, a local agency must determine whether the project complies with the provisions of local ordinances regulating development. Examples include the zoning ordinance, requirements for a conditional use permit, or an historic preservation ordinance.

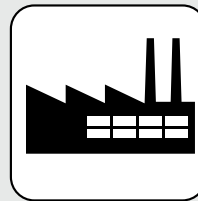
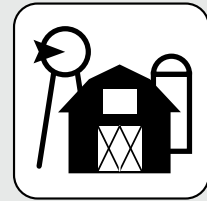
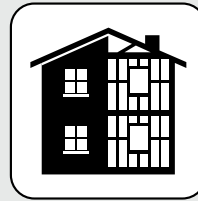
Zoning Ordinances

A traditional zoning ordinance will list land uses that are allowed “by right” for each zone. The term “by right” does not mean that the zoning ordinance confers an unconditional right to develop for a particular use.⁵⁹ Zoning is merely a legislative planning designation.⁶⁰ As such, zones are always subject to change and do not confer an entitlement. Instead, the term “by right” means that the permit is not subject to the discretionary review that is typical of the conditional use permit process.⁶¹

Form-based zoning codes have recently emerged as an alternative to traditional zoning. Under this type of zoning, the form of a development project (like height, footprint, materials or relationship to other buildings) is regulated rather than the specific uses (such as residential or commercial). The idea is to use zoning to ensure compatibility while allowing a greater mix of uses than traditional zoning affords.

WHAT TRADITIONAL ZONING ORDINANCES DO

- Divide a jurisdiction into various land use categories, such as heavy and light industrial, commercial, residential, open space, agricultural, recreational, scenic corridor, natural resource, and other purposes.
- List permitted uses within each category and provide for conditional and accessory uses.
- Regulate the intensity of use (for example, 18 residential units per acre).
- Establish development standards, such as building height and bulk, setbacks, lot coverage, parking, signage, and landscaping.
- Provide for administrative procedures for variances, conditional use permits, design review, and zone changes.



Cluster zoning is another variation on traditional zoning, allowing applicants to cluster uses on a portion of a site in order to preserve open space and natural areas or reduce infrastructure costs.

Zoning ordinances must be consistent with the general plan and, except in some charter cities, are invalid if inconsistent.⁶² Typically the planning commission is responsible for making zoning decisions on discretionary applications under the zoning ordinance.⁶³ Some agencies have appointed a board of zoning adjustment or a zoning administrator to consider requests for use permits and variances from zoning conditions.⁶⁴ Building design may also be subject to approval by a design review board or architectural review board.⁶⁵

RESOURCES FOR FURTHER INFORMATION

Institute for Local Government

Land Use One-Pager: About Zone Changes (Rezoning) (2007) (www.ca-ilg.org/onepagere)

Governor's Office of Planning and Research

Planning, Zoning, and Development Laws (February 2009), available at www.ca-ilg.org/opr

Other Resources

Form-Based Codes Institute,
www.formbasedcodes.org

Government Code Section 65800 and following (accessible from www.leginfo.ca.gov/calaw.html)



Conditional Use Permits

Conditional uses are land uses that may be approved under the zoning code but only upon meeting specific conditions.⁶⁶ The conditional use permit (also called a “special use permit”) allows a local agency to more closely review individual projects that could negatively affect neighboring land uses. Staff and the planning commission (or other review body) can then develop a set of conditions to minimize the impact before authorizing the development.

Common conditions on approval include limited hours of operation, road improvements, soundproofing, additional landscaping, and additional parking. The permit is granted on the land, not to the property owner, and will remain valid even if the property changes owners.⁶⁷ The original permit may provide that the agency can modify the permit terms in the future, subject to providing notice and a hearing.⁶⁸ A conditional use permit may be revoked for noncompliance or other reasons cited in the permit, subject to notice and a hearing.⁶⁹

Variances

A variance is a limited waiver of zoning standards for a use that is already permitted within a zone.⁷⁰ Variances are considered only in extraordinary circumstances when the physical characteristics of a property, (such as size, shape, topography, location, or surroundings) or its use pose a unique hardship to the property owner.⁷¹ A variance can only be granted in special cases where the strict application of zoning regulations deprives the owner of a use enjoyed by other property owners in the same zone.⁷²

Economic hardship alone is an insufficient justification to approve a variance. A variance may not be used to permit a land use that is not otherwise allowed in a zone, such as a heavy industrial use within a residential zone. This would require a zoning change.

Floating and Overlay Zones

A zoning ordinance may include regulations for a type of zone that is not tied to any piece of property on the zoning map. This is referred to as a floating zone. The zone “floats” until such time that a property owner requests to have it applied to his or her land through rezoning. A common example is a mixed-use district. The zoning conditions associated with mixed-use development “attach” as soon as the proposal is approved.

An overlay zone, on the other hand, places additional regulations on existing zones within areas of special concern. Their boundaries are fixed and usually encompass all or part of multiple zones. Overlay zones are often used in floodplains, hillsides, near fault lines, around airports, and in other areas where additional regulations are necessary to ensure public safety. Overlay zones are also commonly applied to downtowns and historic districts to ensure a certain aesthetic character.

Planned Unit Developments

A planned unit development (“PUD”) is both a zoning classification and a type of development. Also sometimes referred to as “planned communities,” planned unit developments normally consist of individually owned lots with common areas for open space, recreation and street improvements. Conventional zoning standards are often set aside to permit a more imaginative use of undeveloped property, such as clustering residential uses or integrating compatible commercial and industrial uses. Any substantial alteration in the physical characteristics of the development usually requires that rezoning procedures be followed.⁷³

Nonconforming Uses

There are two types of nonconforming uses: illegal and legal. Legal nonconforming uses — sometimes called grandfathered uses — are lawful uses that were in place prior to the adoption of the current zoning ordinance.⁷⁴ Such uses are generally permitted for as long as they operate lawfully.⁷⁵ However, the use typically is not allowed to expand or be replaced if voluntarily abandoned or accidentally destroyed.⁷⁶ The idea is to strike a balance between the notion of fairness (the use was lawful at the time of development) and the changed circumstances of the community (the use is no longer compatible with the character of the area).

A local agency may require that a legal nonconforming use terminate after a reasonable period of time (for example, after the investment has been amortized).⁷⁷ This allows the owner enough time to recoup the value of the investment in developing the property while also addressing the needs of the community.

On the other hand, *illegal* nonconforming uses are those that were built or started in violation of an existing zoning ordinance. Such uses are not allowed. Local agencies have the right to require that such uses be terminated immediately, regardless of the property owner's investment. Illegal nonconforming uses are usually addressed through code enforcement.

RESOURCES FOR FURTHER INFORMATION

Institute for Local Government

Land Use One-Pager: About Conditional Use Permits (2007) (www.ca-ilg.org/onepagers)

Land Use One-Pager: About Variances (2007) (www.ca-ilg.org/onepagers)

Governor's Office of Planning and Research

The Conditional Use Permit (August 1997), available at www.ca-ilg.org/opr

The Variance (July 1997), available at www.ca-ilg.org/opr

Other Resources

Government Code Section 65901 (accessible from www.leginfo.ca.gov/calaw.html)

Government Code Section 65906 (accessible from www.leginfo.ca.gov/calaw.html)

Subdivisions

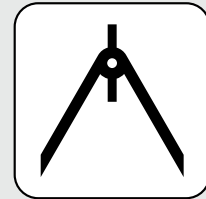
A subdivision is any division of contiguous land into separate parcels for sale, lease, or financing.⁷⁸ Any land transaction that legally separates property into distinct ownership units in which long-term ownership rights can be vested is a subdivision. California's Subdivision Map Act⁷⁹ governs how local agencies oversee the subdivision of land. The process encourages orderly development and also protects against fraud by assuring that all subdivisions are recorded with the county recorder.⁸⁰

Each city, charter city, and county must adopt an ordinance that designates a local process for subdivision approval.⁸¹ Local ordinances can be more restrictive than the Map Act so long as they are consistent with its provisions.

The Map Act contains two procedures to process subdivision applications based on project size. "Major subdivisions" — those with five or more parcels — require more formal procedures that involve filing both a tentative map and a final map for approval.⁸² On the other hand, "minor subdivisions" — those that involve four or fewer parcels — require only a single parcel map (unless the local ordinance specifies that tentative

COMPONENTS OF PLANNING

- The General Plan
- Zoning
- ✓ Subdivisions
- Design Review
- Environmental Review
- Development Agreements
- Dedications and Fees



maps be filed for minor subdivisions as well).⁸³ The reasoning for this distinction is that minor subdivisions are less likely to raise complex issues, such as traffic and infrastructure needs.

A tentative map depicts the design and improvement of the proposed subdivision and the existing conditions that surround it.⁸⁴ The local agency reviews the tentative map to see if it meets local subdivision and zoning requirements. The local agency may impose conditions of approval to ensure that the development of the project is consistent with the general plan, zoning, public works and building standards, and any environmental mitigation measures adopted for the project.⁸⁵

Once the tentative map is approved, the applicant will then prepare a final map that is more technically correct and incorporates any conditions imposed by the local agency. All conditions must either be performed or guaranteed — by agreement, bond, letter of credit, or other financial security — before the final map can be approved.⁸⁶ An engineer usually reviews the final map.⁸⁷

Approval of the final map is a ministerial act — meaning there is no discretion to reject the final map if all the conditions are met.⁸⁸ The approved final map is then recorded with the county and the applicant can proceed with the development.⁸⁹

RESOURCES FOR FURTHER INFORMATION Institute for Local Government

Land Use One-Pager: About Subdivisions (2007) (www.ca-ilg.org/onepaggers)

Other Resources

Government Code Section 66411 and following (accessible from www.leginfo.ca.gov/calaw.html)

TYPES OF SUBDIVISION MAPS⁹⁰

Parcel Maps

Procedures and approvals for parcel maps are left to local ordinance.⁹¹ The primary difference between parcel maps and tentative maps is the number of conditions that can be applied. With a parcel map, a city or county can only impose requirements for the dedication of rights-of-way, easements, and the construction of reasonable off-site and on-site improvements for the parcels that are being created.⁹²

Tentative Maps

Tentative maps typically illustrate the proposed design of the lots, public streets, sidewalks, parks, utilities, and other improvements. After a public hearing, the local agency may approve, conditionally approve, or deny the map. The agency may impose additional conditions that are consistent with the general plan and the zoning ordinance when approving a tentative map.⁹³

Vesting Tentative Maps

Some tentative maps are filed as “vesting tentative maps.”⁹⁴ This type of map confers a vested right to proceed with the development in accordance with the local ordinances, policies, and standards in effect when the local agency deemed the map application complete. Vesting tentative maps must be processed just like a standard tentative map. However, local agencies may impose additional application requirements and almost all do, which is why developers do not always use vesting tentative maps.

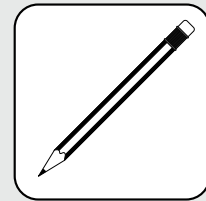
Design Review

Design review is often used to ensure that new development is compatible with the aesthetic character of a community or individual neighborhood. Whereas the zoning code usually focuses on the type and intensity of a use, design review focuses on aesthetic and architectural standards.⁹⁵ Design review procedures usually rely on deeply held values and beliefs about what is beautiful and what is ordinary.

In many communities, the planning commission functions as the design review board. In some communities, particularly larger communities or those with a concentration of architecturally significant structures or neighborhoods, the local agency may appoint a separate “design review board” or an “architectural review committee” to conduct design review.

COMPONENTS OF PLANNING

- The General Plan
- Zoning
- Subdivisions
- ✓ Design Review
- Environmental Review
- Development Agreements
- Dedications and Fees



Local design review ordinances are usually integrated into the zoning process. The amount of information included in a design review application will vary. An application for a small addition, for example, will probably not have as much information as an application for a large subdivision.

Design review can make it more difficult for the landowner or developer to determine whether the proposed project will be acceptable. Accordingly, the more specific the design standards are, the greater the certainty will be from the perspective of both the developer and neighborhood residents.

Design review can also breed monotony (or even mediocrity) to the extent that all buildings must conform to a narrow set of guidelines. The challenge is to develop design guidelines that leave enough room for creativity. Finally, in some instances, the design review process may be abused by those who are looking for an opportunity to stop a development.

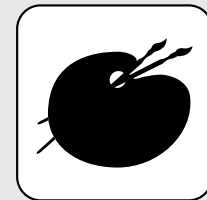
RESOURCES FOR FURTHER INFORMATION

Land Use One-Pager: About Design Review, Institute for Local Government (2007) (www.ca-ilg.org/onepaggers)

Curtin's California Land Use and Planning Law addresses design review issues, available from Solano Press, (www.solano.com)

TYPICAL INFORMATION FOR DESIGN REVIEW

- Color boards showing the site plan, including the shape and size of the buildings, their relationship to the site, landscaping, and parking.
- Conceptual color elevations of each wall, especially those seen by the public or from off-site.
- Models showing building mass, form, relationship to the landscape, and effects caused by grading. These can range from simple hand-built models to sophisticated computer-generated analyses.
- Design details, such as plazas, pavement design, window treatments (sills, awnings, etc.), entry gateways, building top and base treatment, screening details, pedestrian walkways, and lighting.
- Colored landscape plans illustrating how landscaping will be used to soften the building's impact on its environment.
- Controls to ensure that signage will fit in with the rest of the development.
- Summary data, including facts on adjacent properties and sight lines.



Environmental Review

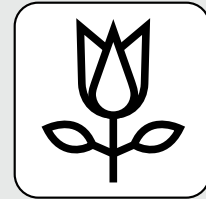
Requiring measures to protect the long-term health of the state’s environment has become an integral element of land use planning and project approvals. The environmental protection law most frequently applied to land use decisions is the California Environmental Quality Act (CEQA).

The California Environmental Quality Act is a complex law with a simple purpose: to assure that decision-makers understand and account for the environmental consequences of a project.⁹⁶ A key purpose of the California Environmental Quality Act is informational, since it gives decision-makers information on what the environmental impacts of a project will be and how to minimize those impacts.

What gives the environmental review process its “teeth” is a prohibition against approving projects as proposed if there are feasible alternatives or mitigation measures that would substantially lessen significant environmental effects.⁹⁷ In other words,

► COMPONENTS OF PLANNING

- The General Plan
- Zoning
- Subdivisions
- Design Review
- ✓ **Environmental Review**
- Development Agreements
- Dedications and Fees



agencies are not required to eliminate all potential harm to the environment, but they must reduce the risk of harm whenever they determine it is feasible to do so. Thus, a project with significant environmental impacts may be approved if the local agency finds that all alternatives or mitigation measures are infeasible and discloses the reasons for its findings, or adopts a “statement of overriding considerations” that particular social or economic factors override the environmental concerns.⁹⁸



Determining the Level of Review

The environmental review process involves three possible levels of analysis:

- Negative declaration,
- Mitigated negative declaration, and
- Environmental impact report (often known by the acronym EIR).

In addition, some projects are exempt from review.⁹⁹ Other projects may be subject to more limited environmental

review because they are consistent with standards that were previously subjected to environmental review.¹⁰⁰

An example is a 2008 law designed to promote reductions in greenhouse gas emissions from vehicle trips. The law allows projects that are consistent with an adopted regional sustainable communities strategy or alternative planning strategy to undergo less rigorous environmental review than other projects.¹⁰¹

WHAT TYPE OF REVIEW IS APPROPRIATE?

- **Is the Action a “Project?”** Only “projects” are subject to environmental review. A project is any discretionary governmental action that could directly or indirectly result in a physical change in the environment, such as a general plan amendment, rezoning, public works project or development permit.
- **Does an Exemption Apply?** A project may be exempt from the California Environmental Quality Act under state law or regulations.
- **Initial Study.** For projects that are not exempt, an initial study is completed to determine whether the project may have a significant effect on the environment.
- **Negative Declaration.** If the initial study shows that the project will not have a significant effect on the environment, a negative declaration is prepared that describes why the project will not have a significant effect.
- **Mitigated Negative Declaration.** If the initial study shows that the project may cause significant environmental effects, a mitigated negative declaration may be prepared. A mitigated negative declaration is appropriate if revisions can be made to the project that would clearly avoid or mitigate the significant effects.
- **Environmental Impact Report.** If the initial study identifies potential significant environmental effects that cannot be eliminated through redesign or other mitigation measures, then an environmental impact report must be prepared.¹⁰²

The Environmental Impact Report

For projects not exempt from environmental review, the general rule is that an environmental impact report must be prepared if substantial evidence shows that there is a fair argument that a project may have a significant environmental effect.¹⁰³ This is the case even when there is an equal amount of evidence suggesting that an environmental impact report may not be necessary. This is called the “fair argument” standard.¹⁰⁴

After determining that an environmental impact report is required, the agency with primary authority to approve the project (known as the “lead agency”) must solicit the views of other agencies with some level of authority over the project (called “responsible agencies”) regarding the scope of the environmental analysis.¹⁰⁵ The lead agency should also consult with individuals and organizations that have an interest in the project.¹⁰⁶ This early consultation is called scoping.

The lead agency then directs the drafting of an environmental impact report based on this information and other data it has collected. When the draft environmental impact report is completed, the lead agency files a notice of completion with the appropriate state agency.¹⁰⁷

The draft environmental impact report is then made available for public review and comment for a minimum period of 30 to 45 days.¹⁰⁸ The lead agency must evaluate and respond in writing to all comments it receives during the review period.¹⁰⁹ If significant new information is added to the draft environmental impact report after it has been released for public review, the agency must re-circulate the report for additional public review and comment.¹¹⁰

Once the public review period ends, the lead agency prepares a final environmental impact report, usually consisting of the draft report together with responses to public comments received during the review period.¹¹¹ The lead agency then reviews the project in light of the environmental impact report and other applicable standards and policies.

A key goal of the California Environmental Quality Act is to ensure that the decisions made by local officials regarding environmental impacts are as well informed as possible. The environmental impact report must provide enough information to allow decision-makers to analyze the environmental consequences of a project. Thus, the adequacy of an environmental impact report is usually not judged on perfection or correct conclusions, rather on completeness and whether the level of analysis is reasonable and done in good faith.¹¹²

BASIC ELEMENTS OF AN ENVIRONMENTAL IMPACT REPORT

Table of Contents and Summary. Required elements that assist in making environmental impact reports—which are sometimes hundreds of pages long—more accessible to the public.

Project Description. An accurate description of the project, including any reasonably foreseeable future phases of the project.

Environmental Setting. A description of the environment on the project site and in the vicinity of the project.

Evaluation of Impacts. An identification and analysis of each significant impact expected to result from the project. Any potential significant effect—such as incompatible land uses, air pollution, water quality, or traffic congestion—will have its own discussion.

Mitigation Measures. A detailed description of all feasible measures that could minimize significant adverse impacts. Any potential environmental consequences of the mitigation measures must also be addressed.

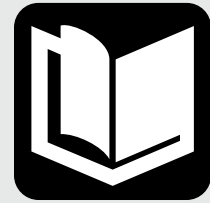
Cumulative Impacts. An evaluation of the incremental effects of the proposed project in connection with other past, current, and probable future projects.

Alternatives. A proposed range of reasonable project alternatives that could reduce or avoid significant impacts, including a “no project” alternative. This often involves reviewing the location or the intensity of the development, or both. The alternatives need not be exhaustive and should not be speculative.

Growth-Inducing Impacts. A description of the relationship of the project to the region’s growth and whether the project removes obstacles to growth.

Organizations and Persons Consulted. A list of groups and individuals contacted during the process, including during the scoping and public hearing phases.

Inconsistencies. A discussion of any inconsistencies between the proposed project and applicable general plans and regional plans.



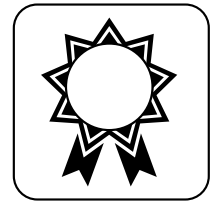
Certifying the Environmental Document

The first step in making a final determination on a project that has undergone environmental review is for the city council or board of supervisors to approve the negative declaration¹¹³ or certify the environmental impact report.¹¹⁴

The environmental review adds to the information decision-makers have about the pros and cons of a project. Just because a project has no significant unmitigated environmental effects does not mean the agency must approve the project. The local agency retains the discretion to reject the project or approve it in a manner that acknowledges any environmental consequences. The local

agency may also change the project, select an alternative project, impose conditions or fees, or take other actions (called “mitigation measures”) to avoid or minimize the environmental impacts of the project.¹¹⁵ When an agency adopts mitigation measures it must also adopt a program to monitor the implementation of the measures.¹¹⁶

In some cases, the environmental impacts of a project cannot be avoided. If decision-makers decide to approve a project with unavoidable significant adverse environmental effects, they must adopt a “statement of overriding considerations” explaining the specific social or economic factors that the agency considered in deciding to approve the project in spite of the environmental concerns.¹¹⁷



► UNDERSTANDING THE SCOPE AND APPLICATION OF ENVIRONMENTAL LAWS

For California Environmental Quality Act purposes, the term “environment” includes natural and man-made conditions that will be directly or indirectly affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, and objects of historic or aesthetic significance.¹¹⁸

Note that other state and federal environmental laws may also apply to a given project. Examples include the Endangered Species Act,¹¹⁹ the Clean Water Act,¹²⁰ the Clean Air Act¹²¹ and those pertaining to surface mining, timber harvesting and other natural resource issues.

Findings

Before the local agency can approve a project for which an environmental impact report or other environmental document has been prepared, it must certify the legal adequacy of the document and its review process.¹²² The findings must explain whether the project as approved would have significant impacts on the environment, whether mitigation measures are feasible, why other alternatives were rejected, and in some instances why the project's benefits outweigh its consequences (the statement of overriding considerations).¹²³ The public is entitled to comment on the adequacy of the final environmental impact report before it is certified by the governing body.¹²⁴

RESOURCES FOR FURTHER INFORMATION

Institute for Local Government

Land Use One-Pagers (2007)
(www.ca-ilg.org/onepagers):

About the Environmental Review Process

About Environmental Impact Reports

About Negative Declarations

Other Resources

State of California website on California Environmental Quality Act:
<http://ceres.ca.gov/ceqa/>

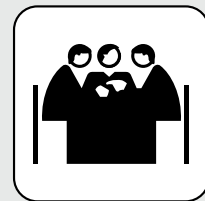
California Public Resources Code
Sections 21000 and following
(accessible from
www.leginfo.ca.gov/calaw.html)

Solano Press (www.solano.com) has a number of land use-related publications, including the *Guide to CEQA*, available for purchase.

PUBLIC INPUT INTO THE ENVIRONMENTAL REVIEW PROCESS

Even though the environmental review process draws on scientific information and policy analysis, the process also encourages the public to provide input into the analysis.¹²⁵

Public agencies must also explain their reasoning (typically through findings) when they make a decision on a project.¹²⁶



Development Agreements

In California, a project that is in the approval process or has been approved but not yet built may be subject to new regulations and fees as they are adopted. Landowners or developers generally do not have an assured (or “vested”) right to develop until they obtain a building permit and have performed substantial work in reliance on that permit.¹²⁷ Until then, there is no guarantee that the local land use policies and regulations will remain the same.

To offset this risk, developers sometimes propose that their project be approved through a development agreement — a detailed contract between a developer and a local agency that spells out the rules for a particular project in very specific terms.¹²⁸ Development agreements are typically reserved for projects that are likely to be developed in several phases over a number of years.

COMPONENTS OF PLANNING

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- Environmental Review
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- Dedications and Fees



For developers, the advantage is that they can “lock in” their entitlements and the local regulations that are in effect at the time the agreement is approved, allowing them to obtain financing and get the project underway.¹²⁹ For local agencies, the advantage is that the agency and developer may agree to additional conditions — such as extra park land, school facilities, affordable housing, and other public improvements — that go beyond what the agency could require through the normal development process.¹³⁰

A development agreement must describe the project's land uses, density, design features, and provisions for reserving or dedicating land for public purposes.¹³¹ It also must specify the duration of the agreement.¹³² However, most agreements go well beyond these minimums and will include construction and phasing elements, terms for financing public facilities, a description of the scope of subsequent discretionary approvals, and a number of other items.

The development agreement constitutes a negotiated — and thus voluntary — deal. The development agreement is adopted by ordinance, considered “quasi-legislative” in nature, and is subject to referendum.¹³³

Once approved, the agreement works like any contract. The developer therefore cannot come back later and challenge the conditions as being excessive. On the other hand, the local agency is also bound to the terms of the deal. If the agency wants to make changes, the developer will likely seek certain concessions if he or she agrees to modify the agreement at all.

RESOURCES FOR FURTHER INFORMATION

Institute for Local Government

*Land Use One-Pager: About
Development Agreements (2007)*
(www.ca-ilg.org/onepagers)

Other Resources

Government Code Section 65864
and following (accessible from
www.leginfo.ca.gov/calaw.html)

Dedications and Fees

Dedications of land and development fees are often imposed as conditions on projects to offset new demands on public services and facilities.¹³⁴ Dedications and fees are sometimes called “exactions.”

New development usually requires the extension of infrastructure, such as roads, water and sewer lines, parks, pathways, libraries, and schools. Cities and counties use dedications and fees to ensure that new development pays its way.

A dedication occurs when ownership of an interest in real property is transferred to a local agency.¹³⁵ Development fees are often imposed in lieu of dedications when the type of infrastructure does not lend itself easily to individual dedications of property, such as with sewers, water systems, affordable housing, libraries, and open space.

COMPONENTS OF PLANNING

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- ✓ Dedications and Fees



The basic rule when imposing dedications and fees is that they must be reasonably related in purpose and roughly proportional in amount to the impacts caused by the development.¹³⁶ This means dedication and fee requirements may be used to fund improvements necessary to address the effects of the project. Thus, a small development that will only generate light traffic cannot be required to cover the cost of an entire freeway interchange.

The legal basis for a dedication or fee is often established in the general plan,¹³⁷ but can also be established by a capital improvements plan,¹³⁸ the Subdivision Map Act,¹³⁹ or the California Environmental Quality Act.¹⁴⁰ When an agency imposes a development fee, it must make several specific findings.¹⁴¹ The findings are typically based on a detailed fee or “nexus” study.

Once development fees are collected, local agencies must also comply with detailed accounting requirements to ensure that the funds are used appropriately. Agencies must deposit the funds in a separate capital facilities account, and the beginning and ending balances, interest, other income, and expenditures from these accounts must be made public.

RESOURCES FOR FURTHER INFORMATION

Institute for Local Government

Land Use One-Pager: About Development Fees (2007) (www.ca-ilg.org/onepagers)

Development fees and dedications page at www.ca-ilg.org/fees

Other Resources

Government Code Section 66000 and following (accessible from www.leginfo.ca.gov/calaw.html)

Emerging Topics in Local Planning

Land use planning is a dynamic field. As new issues arise in importance, they are integrated over time into local agency plans and policies. For example, as public concern regarding conservation and pollution heightened over the last several decades, planning policies, tools and approaches evolved to address these concerns.

Two topics in particular have emerged as the focus of advances in the practice of planning, especially in California. Planning is evolving to integrate issues related to the links between health and the built environment, and the role that land use plays in climate change and the generation of greenhouse gases.

Planning is at the forefront of these issues in part because well-planned communities with a balance of housing, jobs, shopping, schools and recreation give people the option of walking, biking, or using transit rather than driving. This results in lower greenhouse gas emissions and also promotes physical activity and more vibrant, healthy and sustainable communities.





Health and the Built Environment

Because land use decisions affect the physical development of communities, they can have profound impacts on the health of people who live there. Obesity, diabetes, heart disease, asthma and other health conditions are linked to a long-term decline in both healthy eating habits and physical activity.¹⁴² These, in turn, are related to development practices and patterns of land use.¹⁴³

The design and layout of communities can discourage physical activity, restrict access to healthy foods, and disproportionately expose some communities and individuals to environmental pollutants that exacerbate health conditions such as asthma.

With the links between land use and public health established, attention has turned to developing planning policies and strategies to reverse the negative trends related to physical inactivity, unhealthy eating, and environmental hazards. Efforts to educate policymakers, the media, and the public on the problems and potential solutions have begun to take root, as well as efforts to bridge the professional and institutional barriers between the public health and planning and design professions.

WHAT MAKES FOR A HEALTHY NEIGHBORHOOD?

- Places where walking and bicycling are safe and convenient and where residents of all ages and abilities have the opportunity to be physically active.
- Nutritious, fresh, culturally appropriate food – grown locally whenever possible – is affordable and accessible, promoting health and boosting the local economy.
- Residents aren't exposed to environmental hazards or pollutants that endanger their present or future health or well-being.

Communities are pioneering a range of land use and planning approaches to create physical environments that promote health. Some examples of promising strategies include:

- Adding a health element to the local general plan to articulate policies and actions to improve community health, or incorporating health-related policies throughout the various elements of the general plan when it is updated or revised.
- Planning and developing facilities to accommodate pedestrian and bicycle travel, such as a network of safe bike routes, new and improved sidewalks, and traffic calming measures to reduce conflicts between pedestrians, cyclists and motor vehicles.
- Revising zoning regulations so that neighborhoods can accommodate farmers' markets that support local farmers and community gardens that can provide fresh food for local residents.
- Clustering a mix of new and existing development in areas with a range of good transportation choices, including walking, biking and transit.
- Partnering with schools, recreation districts and others to jointly develop and operate parks, playgrounds, sports fields, swimming pools and other facilities for physical activity.
- Providing incentives for corner stores to provide fresh fruits and vegetables and for full service grocery stores to locate in underserved neighborhoods.
- Adopting zoning policies that restrict fast food establishments near schools and playgrounds and limit the density of fast food outlets in residential communities.
- Preserving and enhancing open space and trails, urban forests and farms, community gardens, paths, and greenways. These amenities provide attractive destinations and recreation spaces that enhance residents' physical activity opportunities.
- Reducing the density of alcohol outlets coupled with incentives to increase healthy food retail at local markets can increase neighborhood safety, reduce violence, and reduce exposure to poor-quality food.
- Promoting "eyes on the street." The way that buildings, sidewalks and parking lots are designed and sited can make it easier for neighbors and passers-by to keep potentially unsafe areas in view, thereby discouraging crime.
- Providing safe routes to school for students to walk and bike. Local agencies can retrofit roadways with sidewalks, curb ramps and features that slow traffic, and strictly control the operation of motor vehicles on and near school sites, at bus stops and along school routes, making it easier and safer to walk.

**RESOURCES FOR
FURTHER INFORMATION
Institute for Local Government**

Healthy Neighborhoods Online
Resource Center at [www.ca-ilg.org/
healthyneighborhoods](http://www.ca-ilg.org/healthyneighborhoods)

Other Resources

*General Plans and Zoning:
A Toolkit on Land Use and Health*

*Healthy Planning Policies:
A Compendium from California
General Plans*

Both publications and other resources
available from Planning for Healthy

Places at Public Health Law and Policy
www.phlpnet.org and
www.healthyplanning.org

Center for Civic Partnerships
www.civicpartnerships.org

Cities, Counties and Schools Partnership
www.ccspartnership.org

HEAL Cities Campaign
www.healcitiescampaign.org

Healthy Eating Active Communities
www.healthyeatingactivecommunities.org

Leadership for Healthy Communities
www.leadershipforhealthycommunities.org

HEALTHY NEIGHBORHOODS RESOURCE CENTER

The Institute for Local Government's **Healthy Neighborhoods Project** provides resources local officials can use to protect and improve community health through planning, land use and other decisions. The Healthy Neighborhoods Resource Center includes information on a variety of topics, including:

- Economic Development and Redevelopment
- Housing
- Community Services
- Planning and Community Design
- Public Safety
- Transportation and Mobility
- Workplaces

See www.ca-ilg.org/healthyneighborhoods.

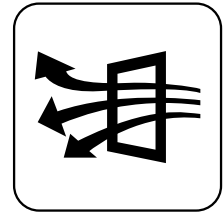
Land Use and Climate Change

California has embarked on an ambitious course to halt and then reverse the growth in emissions of greenhouse gases that trap infrared radiation, causing average global temperatures to rise and changing the climate.

Assembly Bill 32, California's Global Warming Solutions Act of 2006, gives the California Air Resources Board broad authority to regulate sources of greenhouse gas emissions.¹⁴⁴

Transportation accounts for 40 percent of greenhouse gas emissions, with cars

and light trucks accounting for almost three-quarters of those emissions (30 percent overall.)¹⁴⁵ With that in mind, another state law (SB 375 (Steinberg), adopted in 2008),¹⁴⁶ aims to reduce greenhouse gas emissions from cars and trucks through changes in regional and local planning for land use and transportation. That law directs the California Air Resources Board to set regional targets for reducing greenhouse gases for each of the eighteen metropolitan planning organizations (MPOs) that plan transportation investments in the larger urbanized regions of the state.



► LAND USE AND COMMUNITY DESIGN STRATEGIES TO REDUCE GREENHOUSE GAS EMISSIONS

- Create communities and neighborhoods that are safe and convenient for walkers and bicyclists
- Orient new development to capitalize on transit system investments and services
- Adopt policies that promote compact and efficient development in new and existing communities
- Incorporate greenhouse gas emissions considerations into the general plan and environmental review process
- Establish minimum levels of energy efficiency and green building standards for local agency buildings and facilities
- Establish and implement minimum levels of energy efficiency and green building standards for new and renovated commercial and residential buildings
- Implement sustainable landscaping
- Decrease the carbon footprint of the community's waste and recycling collection system
- Reduce energy use for traffic signals and street lights

Source: Institute for Local Government's California Climate Action Network Best Practices, www.ca-ilg.org/ClimatePractices

Because the existing regional transportation planning and housing allocation processes are overseen by local elected officials selected by their peers to serve on regional agency boards, SB 375 is intended to ensure that cities and counties are closely involved in developing an effective plan for the region to achieve the targets.

The new law establishes a collaborative process between regional and state agencies to set regional greenhouse gas reduction targets, and provides CEQA incentives for development projects that are consistent with a regional plan that meets those targets.

Housing and transportation decisions are coordinated through three planning processes. Regional agencies prepare the regional transportation plan and the regional housing needs assessment. Cities and counties are responsible for updating the housing element of the general plan.

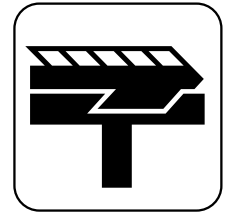
To increase public participation and local government input, the law strengthens several existing requirements for public involvement in regional planning.

SB 375 HAS THREE MAJOR COMPONENTS:

- Using the regional transportation planning process to achieve reductions in greenhouse gas emissions consistent with California's climate action goals.
- Coordinating the regional housing needs allocation process with the regional transportation process while maintaining local authority over land use decisions.
- Offering California Environmental Quality Act incentives to encourage projects that are consistent with a regional sustainable communities strategy that achieves greenhouse emission reductions.

The Regional Transportation Plan (RTP). An RTP is a plan that outlines transportation investments for a region. It is drafted by a Metropolitan Planning Organization (MPO) or Regional Transportation Planning Agency (RTPA) every four years (five years in regions that have attained federal air quality standards) and includes a 20-year outlook for likely growth in the region.

The RTP is the basis for state funding of transportation projects. Projects that are not in the RTP cannot be “programmed” for state or federal funding. The provisions of SB 375 apply only to the metropolitan planning organizations in the more urbanized regions of the state, and not to non-metropolitan regional transportation planning agencies typically found in more rural counties.



► HOW DOES SB 375 AFFECT THE REGIONAL TRANSPORTATION PLAN?

Under SB 375, the regional transportation plan must incorporate a sustainable communities strategy (SCS), a regional growth strategy that provides the basis for transportation investments in the region. The goal of the SCS is to reduce greenhouse gas emissions from transportation in the region.

To do this, the SCS identifies the “general location of uses, residential densities, and building intensities” within the region, including areas sufficient to house all economic segments of the projected regional population, while meeting the greenhouse gas targets set by the Air Resources Board. SB 375 requires that transportation funding decisions in the regional transportation plan be consistent with the sustainable communities strategy.

If the SCS falls short of meeting the targets, the region must prepare an “alternative planning strategy” (APS) that, if implemented, would meet the targets through a combination of alternative development patterns, infrastructure investments, or additional transportation measures or policies.





The Regional Housing Needs

Assessment (RHNA). The regional housing needs assessment is a forecast of future household growth prepared by the council of governments (COG) for each region, based on population projections provided by the California Department of Housing and Community Development (HCD).

The RHNA is used to allocate the number of housing units needed to serve all income categories to each individual city and county within the region. The jurisdictions in turn use their regional housing needs allocation to periodically update the housing element of their local general plan.

The Housing Element of the General

Plan. The housing element is one of seven elements required to be included in a city or county general plan, which governs land use and development within the community.

In general, the jurisdictions within a region where SB 375 applies must update their housing element every eight years (rather than every five years as required prior to SB 375). The updated element must demonstrate how the jurisdiction plans to accommodate its allocation of the regional housing need.

► HOW DOES SB 375 AFFECT THE REGIONAL HOUSING NEEDS ASSESSMENT AND THE LOCAL HOUSING ELEMENT?

SB 375 affects local planning for housing in two key ways. First, it synchronizes the schedule for the regional transportation plan, the regional housing needs allocation, and the update of the local housing element into a new eight-year planning cycle for each region. Secondly, SB 375 uses the SCS to serve as a common set of land use assumptions for both the regional transportation plan and the RHNA allocation.

The SCS influences RHNA and housing elements through what is essentially a four step process:

1. The California Department of Housing and Community Development (HCD) provides population growth projections to each region every eight years.
2. The MPOs for each region develop an SCS that accommodates that projection and strives to meet the regional greenhouse gas reduction target set by the Air Resources Board.
3. The council of governments for the region then allocates portions of the growth projections to the cities and counties in the region. SB 375 requires the allocation to be “consistent with the development pattern included in the sustainable communities strategy.”
4. The cities and counties then develop their housing elements to accommodate their housing allocation.

In the coming years, local planning efforts to address the causes and impacts of climate change are expected to increase dramatically in number, complexity and cost. By starting now, local communities can get ahead of the curve and guide land use and

development in ways that help reduce greenhouse gases, adapt to the changing climate, and avoid placing people, building, and critical infrastructure in harm’s way.

RESOURCES FOR FURTHER INFORMATION

Institute for Local Government

California Climate Action Network
website, www.ca-ilg.org/ClimateChange

SB 375 Web Resource Center,
www.ca-ilg.org/SB375

Understanding the Basics of SB375,
a series of publications available at
www.ca-ilg.org/SB375

*Balancing Local and Regional Interests
when You're Asked to Serve Both*,
at www.ca-ilg.org/ethicsbalance

Other Resources

The following resources, among others,
are available through the ILG SB 375
Resource Center at www.ca-ilg.org/SB375:

*CAPCOA Model Policies for
Greenhouse Gases in General Plans*
(2009), California Air Pollution Control
Officers Association

*CALCOG Guide to Regional Planning
as Revised by SB 375* (2009), California
Association of Councils of Government

Managing the Risk of Land Use Litigation



Land use decision-making can be contentious: developers want entitlements, environmentalists want growth management, and neighborhood organizations want a say in the approval process. Other groups may also take issue with any given decision.

Land use decision-making can therefore become a “Catch-22” for local agencies: the applicant may sue if the project is denied and opposition groups may sue if the project is approved.

Often the best way to avoid litigation is to understand the legal underpinnings of land use regulation and implement good decision-making processes. Just as “walking the beat” prevents more crime than a perfectly executed search warrant, properly managing project review and designing inclusive hearing procedures are better risk management tools than merely assuring the public three minutes of testimony.

Fair Process

Certain standards relating to fair process apply when an agency acts on a general plan amendment, specific plan,¹⁴⁷ zoning ordinance,¹⁴⁸ or subdivision approval.¹⁴⁹ The standards vary according to whether decision-makers are acting in a

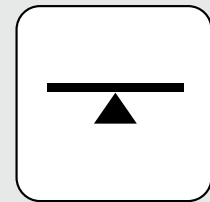
legislative or quasi-judicial capacity.¹⁵⁰ But the essence is the same: affected parties must receive adequate notice of all hearings (written in a way that can be reasonably understood) and have a fair opportunity to air concerns or rebut evidence presented.¹⁵¹

LEGAL ISSUE: EQUAL PROTECTION

The Equal Protection Clause of the federal constitution requires that similarly situated persons be treated in an equal manner.¹⁵² Because land use regulation is a system of classifying property requiring “line drawing,” nearly every regulation will make distinctions and affect different properties differently.¹⁵³ Doing so does not offend these protections. Generally, only when a regulation makes an *arbitrary* or *discriminatory* classification that affects a fundamental right will constitutional Equal Protection guarantees be implicated.¹⁵⁴ If it is “fairly debatable” that a regulation is reasonably related to a conceivable legitimate government purpose, it will generally be upheld.¹⁵⁵

Courts apply a *strict scrutiny* standard when a regulation abridges a fundamental individual right or applies only to a suspect class.¹⁵⁶ Suspect classes include race, national origin, and personal decisions relating to marriage, procreation, family relationships, and child-rearing. In these cases, the government must show that there is a “compelling interest” for the classification.¹⁵⁷

For example, a regulation that prohibited landlords from renting units to non-traditional couples would be more likely to be judged under the strict scrutiny standard.¹⁵⁸



► LEGAL ISSUE: FREEDOM OF SPEECH

When analyzing free speech rights, courts first classify the type of speech or expression being regulated. Courts have drawn a distinction between *political* speech (expressing one's views or engaging in some expressive activities) and *commercial* speech (providing information about goods and services).¹⁵⁹ Regulations that affect political speech will be more strictly scrutinized.¹⁶⁰



Most zoning regulations, however, affect commercial speech rather than political expression. Sign ordinances are a common example.¹⁶¹ Zoning regulations (such as licensing requirements for adult businesses) that control the time, place, and manner of speech without prohibiting the speech or activity outright will generally be upheld.¹⁶² To pass legal muster, the restrictions must be content neutral and there must be an alternative location where the speech or activity may take place.¹⁶³

In California, a number of laws require greater notice and public involvement. For example, open meeting law requirements (the Brown Act),¹⁶⁴ the notice and publishing requirements in the Planning and Zoning Law,¹⁶⁵ and the review and comment process in the California Environmental Quality Act¹⁶⁶ (as well as the National Environmental Policy Act¹⁶⁷) all assure specific notice and participation rights.

Courts accord a degree of deference to local agency decision-makers—particularly when decision-makers are acting legislatively.¹⁶⁸ However, courts increasingly require decisions to be supported by sound data and reasoning.¹⁶⁹ Providing such support reduces local agencies' exposure to liability and the costs of litigation.

Takings

The Takings Clause of the U.S. Constitution limits the police power, not by prohibiting certain actions but by requiring compensation when those actions impinge too far on private property rights.¹⁷⁰ For example, if a local agency acquires private property for a public road, the local agency must pay the owner the fair market value of the land acquired. This process is known as eminent domain.¹⁷¹

Regulations, including land use regulations, can also impinge too far on private property rights. This is known as a regulatory taking.¹⁷² An example would be a regulation that zoned an individual's entire parcel for use only as a public park. The regulation would have the same effect as a taking because it would prevent the owner from excluding others and putting the land to economic use.

There is a great deal of misunderstanding about the relationship between property rights and planning regulations. The Takings Clause is sometimes misunderstood to be a prohibition against any regulation that decreases property value or prevents the owner from "doing what they want with their land." In reality, compensation is required only in a limited set of circumstances. The Constitution permits property to be extensively regulated to protect public health and safety and promote the public's welfare; the courts have recognized that land use ordinances are just as likely to add value to property as to decrease it.¹⁷³

Nevertheless, some regulations may rise to the level of a compensable taking. For example, regulations that wipe out all or almost all of a property's economic value or all the uses of a property may be deemed a taking.¹⁷⁴

A Starting Point for Fairness and Predictability

Fair decision-making processes promote better governance and reduce the risk of litigation. Given the emotional and financial stakes often associated with land use decisions, it is understandable that people may act out of fear or anger when the process is perceived as unfair. Constitutional and statutory procedures and criteria are minimum requirements. In this context, it is helpful to think of the overarching goals of what land use decision-making processes are trying to achieve:

- **Well-Defined General Plan.** The general plan is the cornerstone for a community's physical development. It assures that there will be sufficient housing, jobs, open space, and infrastructure. But it is also the foundation for setting expectations about how land can be developed.

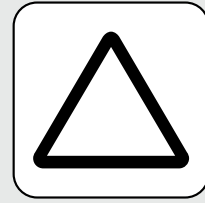
As such, a well-defined vision in the general plan serves as the baseline for a land use risk-management strategy.

- **Inclusive and Informed Decision-Making.** If a decision is only as good as the evidence supporting it, the information-gathering process is important to well-reasoned decisions. Inviting the public to weigh in on proposals helps decision-makers identify issues and limit the risk associated with unintended consequences. Such information can also identify measures that will address issues and unintended consequences. The information may also be used to craft findings that better support the final decision.
- **Predictability.** Interested parties should be able to reasonably predict what types of projects will be approved or denied. Failure to define or prioritize criteria results in inconsistent decisions that are more likely to be interpreted as arbitrary by courts.



GENERAL PREVENTATIVE RISK MANAGEMENT STRATEGIES

- **Regularly Review Land Use Controls.** Agency staff should regularly review zoning and subdivision ordinances to assure they are up-to-date. Areas to watch include environmental, sign, adult entertainment, telecommunications, and affordable housing requirements. Also, the agency should assure that the language in current regulations is consistent with past staff and council interpretations of policy.
- **Provide Strong Staff Support.** Provide support for all decision-makers, including elected officials, planning commissioners, design review board members, and even zoning administrators. Full staff support helps the process move more quickly and predictably. It also assures that all relevant information will be analyzed in the staff report and that adequate findings will be drafted in support of the decision.
- **Develop Written Hearing Procedures.** A written set of procedures to follow at each public hearing will help reduce contentiousness. Both the applicant and the public will know what to expect. Ideally, the procedures should include a description of the process, the time limits in which the hearing will be held, how testimony will be heard, and overall meeting decorum.
- **Act As An Unbiased Fact Finder.** Many land use matters involve a quasi-judicial hearing where the decision-maker evaluates standards and applies them to a given set of facts. Here, the decision-maker is playing a role similar to that of a judge and must retain a degree of neutrality. Decision-makers should refrain from talking with applicants (except at meetings) and avoid the appearance of favoritism.
- **Get Training.** Everyone involved in land use decision-making—from the new planning commissioner to the most seasoned staff—should have regular training opportunities to better understand each other's role, stay abreast of recent developments, and develop new ideas.



■ **Balance Benefits and Burdens.**

Predictability does not mean that the same decision must be made for each application. Each parcel is unique. Land use regulation is built on the premise that the sum of an agency's plans, ordinances, and policies will balance the benefits and burdens of regulation. This assures that different areas are set aside for housing, commercial activities, schools, and open space.

■ **Specificity, in Plain Language.**

Policies, final decisions, and even comments from decision-makers should be easy to understand. Avoid acronyms and definitions that can confuse those who do not work in the field professionally.

The decision-making process should always be objective and consistent. People do not generally fare well with uncertainty and predictability. With good planning, much of the contentiousness surrounding the land use decision-making process can be resolved.

**RESOURCES FOR
FURTHER INFORMATION**

Institute for Local Government

Regulatory Takings and Land Use Regulation: A Primer for Public Agency Staff (July 2006) (www.ca-ilg.org/takings)

An Ounce of Prevention: Best Practices for Making Informed Land Use Decisions (2006) (www.ca-ilg.org/ounce)

Understanding the Basics of Public Service Ethics: Transparency Laws (see www.ca-ilg.org/transparency)

Other Resources

Open and Public IV: A Guide to the Ralph M. Brown Act (2007). Available on the League of California Cities website at www.cacities.org/openandpublic, in hardcopy form by visiting www.cacities.org/publications, or by calling (916) 658-8257.

The Brown Act: Open Meetings for Local Legislative Bodies (2003). Available on the California Attorney General's website at <http://ag.ca.gov/> (select "Programs A-Z," click on "Publications," then click on "Open Meetings") or by going to. <http://ag.ca.gov/publications/brownAct2003.pdf>.

Endnotes

- 1 See Cal. Const. art. XI, § 7, *DeVita v. County of Napa*, 9 Cal. 4th 763, 38 Cal. Rptr. 2d 699 (1995).
- 2 Cal. Const. art. XI, § 7; *See Sequoia Park Associates v. County of Sonoma*, 176 Cal. App. 4th 1270, 98 Cal. Rptr. 3d 669 (2009).
- 3 *Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926); *See Big Creek Lumber Co. v. County of Santa Cruz*, 38 Cal. 4th 1139, 45 Cal. Rptr. 3d 21 (2006).
- 4 *See Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981); *Citizens for Jobs and the Economy v. County of Orange*, 94 Cal. App. 4th 1311, 115 Cal. Rptr. 2d 90 (2002), *DeVita v. County of Napa*, 9 Cal. 4th 763, 38 Cal. Rptr. 2d 699 (1995).
- 5 Cal. Gov't Code § 65100.
- 6 Cal. Gov't Code § 65101.
- 7 Cal. Gov't Code §§ 65900 – 65902.
- 8 Cal. Gov't Code §§ 36506, 65100.
- 9 Cal. Gov't Code §§ 65900 – 65901.
- 10 Cal. Gov't Code §§ 65900, 65903.
- 11 *See Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984), *Friends of Davis v. City of Davis*, 83 Cal. App. 4th 1004, 100 Cal. Rptr. 2d 413 (2000).
- 12 *See Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978).
- 13 Cal. Gov't Code § 65300.
- 14 Cal. Gov't Code §§ 66473.5, 65860.
- 15 *See Sierra Club v. Napa County (Beringer Wine Estates)*, 121 Cal. App. 4th 1490, 19 Cal. Rptr. 3d 1 (2004).
- 16 Cal. Gov't Code § 65302.
- 17 Cal. Gov't Code § 65302(a).
- 18 Cal. Gov't Code § 65302(b).
- 19 *See* Cal. Gov't Code §§ 65583 and following; *Black Property Owners Association v. City of Berkeley*, 22 Cal. App. 4th 974, 981-82, 28 Cal. Rptr. 2d 305 (1994).
- 20 Cal. Gov't Code § 65302(d).
- 21 Cal. Gov't Code § 65302(e).
- 22 Cal. Gov't Code § 65302(f); *see also* Cal. Gov't Code § 65302.3.

- 23 Cal. Gov't Code § 65302(g).
- 24 Cal. Gov't Code § 65303.
- 25 *See Pala Band of Mission Indians v. Board of Supervisors*, 54 Cal. App. 4th 565, 63 Cal. Rptr. 2d 148 (1997).
- 26 Cal. Gov't Code §§ 65301-65302.
- 27 *See, for example*, Cal. Gov't Code §§ 66473.5 and 66474 (subdivision map approvals); Cal. Gov't Code §§ 65359 and 65454 (specific plan or other development plan and amendments); Cal. Gov't Code § 65867.5 (development agreements); Cal. Gov't Code §§ 65401 and 65402 (public works projects, acquisition or disposition of public property and construction of public buildings); Cal. Gov't Code § 65403 (capital improvement programs by joint powers agencies); Cal. Health & Safety Code §§ 33331 and 33367 (redevelopment projects); and Cal. Health & Safety Code § 34326 (housing authority projects).
- 28 Cal. Gov't Code § 65300.5.
- 29 Governor's Office of Planning and Research, State of California, *General Plan Guidelines* (2003).
- 30 *See Federation of Hillside and Canyon Associations v. City of Los Angeles*, 126 Cal. App. 4th 1180, 24 Cal. Rptr. 3d 543 (2004).
- 31 *See Shea Homes Ltd. Partnership v. County of Alameda*, 110 Cal. App. 4th 1246, 2 Cal. Rptr. 3d 739 (2003), *Cadiz Land Co., Inc. v. Rail Cycle, L.P.*, 83 Cal. App. 4th 74, 99 Cal. Rptr. 2d 378 (2000).
- 32 Governor's Office of Planning and Research, State of California, *General Plan Guidelines* (2003).
- 33 Cal. Gov't Code §§ 66473.5 and 66474.
- 34 Cal. Gov't Code §§ 65359, 65454 and 65860. *Endangered Habitats League, Inc. v. County of Orange*, 131 Cal. App. 4th 777, 32 Cal. Rptr. 3d 177 (2005), *Mira Development Corp. v. City of San Diego*, 205 Cal. App. 3d 1201, 252 Cal. Rptr. 825 (1988).
- 35 Cal. Gov't Code § 65803.
- 36 Cal. Gov't Code § 65450.
- 37 Cal. Gov't Code §§ 65450 and following.
- 38 Cal. Gov't Code §§ 65359, 65454; *see Endangered Habitats League v. Orange County (Rutter Development)*, 131 Cal. App. 4th 777, 32 Cal. Rptr. 3d 177 (2005), *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors*, 91 Cal. App. 4th 342, 110 Cal. Rptr. 2d 579 (2001).
- 39 *Sierra Club v. Napa County (Beringer Wine Estates)*, 121 Cal. App. 4th 1490, 19 Cal. Rptr. 3d 1 (2004).
- 40 Cal. Gov't Code § 65453(a).

- 41 Cal. Health & Safety Code §§ 33000 and following. *See also* Cal. Health & Safety Code §§ 33030, 33031 (defining blight).
- 42 Cal. Health & Safety Code § 33200.
- 43 Cal. Health & Safety Code § 33110.
- 44 *See* Cal. Health & Safety Code §§ 33010, 33020, 33021.
- 45 Cal. Health & Safety Code § 33331.
- 46 *City of Poway v. City of San Diego*, 229 Cal. App. 3d 847, 280 Cal. Rptr. 368 (1991).
- 47 Cal. Gov't Code § 65358.
- 48 Cal. Gov't Code § 65700(a).
- 49 Cal. Gov't Code §§ 65355, 65356.
- 50 *See DeVita v. County of Napa*, 9 Cal. 4th 763, 38 Cal. Rptr. 2d 699 (1995).
- 51 Cal. Gov't Code § 65360.
- 52 *See* Cal. Gov't Code § 65588(b) and (e)(7).
- 53 Cal. Gov't Code § 65400.
- 54 Cal. Gov't Code §§ 66473.5 and 66474.
- 55 *Endangered Habitats League v. Orange County (Rutter Development)*, 131 Cal. App. 4th 777, 32 Cal. Rptr. 3d 177 (2005).
- 56 *Sierra Club v. Board of Supervisors*, 126 Cal. App. 3d 698, 179 Cal. Rptr. 261 (1981).
- 57 *Suter v. City of Lafayette*, 57 Cal. App. 4th 1109, 67 Cal. Rptr. 2d 420 (1997).
- 58 *See Village of Euclid v. Ambler Realty Company*, 272 U.S. 365 (1926).
- 59 *See Martin v. City and County of San Francisco*, 135 Cal. App. 4th 392, 37 Cal. Rptr. 3d 470 (2005).
- 60 *Pala Band of Mission Indians v. Board of Supervisors*, 54 Cal. App. 4th 565, 63 Cal. Rptr. 2d 148 (1997).
- 61 *Gonzalez v. County of Tulare*, 65 Cal. App. 4th 777, 76 Cal. Rptr. 2d 707 (1998).
- 62 Cal. Gov't Code § 65860; *Building Industry Association of San Diego v. City of Oceanside*, 27 Cal. App. 4th 744, 33 Cal. Rptr. 2d 137 (1994). *See also* Cal. Gov't Code § 65860(a) (defining consistency). All ordinances enacted by a charter city having a population of at least 2 million must be consistent with its general plan. Cal. Gov't Code § 65860(d).
- 63 *See* Cal. Gov't Code § 65902.
- 64 Cal. Gov't Code §§ 65900 – 65901.

- 65 *See Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984),
Friends of Davis v. City of Davis, 83 Cal. App. 4th 1004, 100 Cal. Rptr. 2d 413 (2000).
- 66 *Gonzalez v. County of Tulare*, 65 Cal. App. 4th 777, 76 Cal. Rptr. 2d 707 (1998).
- 67 *Malibu Mountains Recreation v. Los Angeles County*, 67 Cal. 4th 359, 79 Cal. Rptr. 2d 25 (1995).
- 68 *Garavatti v. Fairfax Planning Comm.*, 22 Cal. App. 3d 145, 99 Cal. Rptr. 260 (1971); *Community
Development Comm. v. City of Fort Bragg*, 204 Cal. App. 3d 1124, 251 Cal. Rptr. 709 (1988).
- 69 *Bauer v. City of San Diego*, 75 Cal. App. 4th 1281, 89 Cal. Rptr. 2d 795 (1999); *Korean American
Legal Advocacy Foundation v. City of Los Angeles* 23 Cal. App. 4th 376, 28 Cal. Rptr. 2d 530
(1994).
- 70 Cal. Gov't Code § 65906.
- 71 *Id.*
- 72 *Id.*; *Craik v. County of Santa Cruz*, 81 Cal. App. 4th 880, 96 Cal. Rptr. 2d 538 (2000).
- 73 *Millbrae Association. for Residential Survival v City of Millbrae*, 262 Cal. App. 2d 222, 69 Cal.
Rptr. 251 (1968).
- 74 *Bauer v. City of San Diego*, 75 Cal. App. 4th 1281, 89 Cal. Rptr. 2d 795 (1999).
- 75 *Id.*
- 76 *Hansen Brothers Enterprises, Inc. v. Board of Supervisors*, 12 Cal. 4th 533, 48 Cal. Rptr. 2d 778
(1996).
- 77 *Id.*
- 78 Cal. Gov't Code § 66424.
- 79 Cal. Gov't Code §§ 66410 and following.
- 80 Cal. Gov't Code § 66464.
- 81 Cal. Gov't Code § 66411.
- 82 Cal. Gov't Code § 66426.
- 83 Cal. Gov't Code § 66426(a)-(e).
- 84 Cal. Gov't Code § 66424.5.
- 85 Cal. Gov't Code §§ 66411, 66418-66419.
- 86 Cal. Gov't Code § 66464.
- 87 Cal. Gov't Code § 66434.
- 88 Cal. Gov't Code § 66458.
- 89 Cal. Gov't Code § 66429.
- 90 Cal. Gov't Code § 66426.

- 91 Cal. Gov't Code § 66463.
- 92 Cal. Gov't Code § 66411.1(a).
- 93 Cal. Gov't Code §§ 66411, 66418-66419.
- 94 Cal. Gov't Code § 66498.1.
- 95 *See Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984), *Friends of Davis v. City of Davis*, 83 Cal. App. 4th 1004, 100 Cal. Rptr. 2d 413 (2000).
- 96 Cal. Pub. Res. Code §§ 21000 and following.
- 97 14 Cal. Code Regs. § 15063.
- 98 Cal. Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15093.
- 99 *See* Cal. Pub. Res. Code §§ 21080 - 21080.33.
- 100 *See* Cal. Pub. Res. Code §§ 21083.3, 21090, 21093, 21094, 21156 - 21159.4; 14 Cal. Code Regs. §§ 15152, 15165 - 15179.5, 15183.
- 101 Cal. Gov't Code § 65080(b)(2)(I).
- 102 *See Mejia v. City of Los Angeles*, 130 Cal. App. 4th 322, 29 Cal. Rptr. 3d 788 (2005); *Citizens for Responsible and Open Government v. City of Grand Terrace*, 160 Cal. App. 4th 1323, 73 Cal. Rptr. 3d 202 (2008); *Ocean View Estates Homeowners Association, Inc. v. Montecito Water Dist.*, 116 Cal. App. 4th 396, 10 Cal. Rptr. 3d 451 (2004). *See generally* Cal. Pub. Res. Code §§ 21080(d), 21082.2(d); 14 Cal. Code Regs. § 15064(f).
- 103 *See* 14 Cal. Code Regs. § 15382.
- 104 *See Moss v. County of Humboldt*, 162 Cal. App. 4th 1041, 76 Cal. Rptr. 3d 428 (2008).
- 105 Cal. Pub. Res. Code § 21067; 14 Cal. Code Regs. § 15367.
- 106 Cal. Pub. Res. Code § 21083.9.
- 107 This has been the responsibility of the Governor's Office of Planning and Research. *See* Cal. Gov't Code §§ 65040 - 65040.6. The status of this agency is uncertain as this publication goes to press.
- 108 Cal. Pub. Res. Code § 21091(a); 14 Cal. Code Regs. § 15105.
- 109 Cal. Pub. Res. Code § 21091(d); 14 Cal. Code Regs. § 15088.
- 110 Cal. Pub. Res. Code § 21092.1; 14 Cal. Code Regs. § 15088.5.
- 111 14 Cal. Code Regs. § 15132.
- 112 14 Cal. Code Regs. §§ 15003(i), 15151. *See generally* *Laurel Heights Improvement Association v. Regents of University of California*, 47 Cal. 3d 376, 390-93, 253 Cal. Rptr. 426, 429-32 (1988) (for a concise summary of CEQA principles applicable to an EIR).
- 113 14 Cal. Code Regs. § 15074.

- 114 Cal. Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15091; *City of Marina v. Board of Trustees of the California State University*, 39 Cal. 4th 341, 46 Cal. Rptr. 3d 355 (2006).
- 115 Cal. Pub. Res. Code § 21080(f); 14 Cal. Code Regs. § 15074.1.
- 116 Cal. Pub. Res. Code § 21081.6; 14 Cal. Code Regs. § 15097.
- 117 Cal. Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15093.
- 118 Cal. Pub. Res. Code § 21060.5.
- 119 16 U.S.C. §§ 1531-1544.
- 120 33 U.S.C. §§ 1251 and following.
- 121 42 U.S.C. §§ 7401 and following.
- 122 14 Cal. Code Regs. § 15090.
- 123 Cal. Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15093.
- 124 14 Cal. Code Regs. § 15105.
- 125 Cal. Pub. Res. Code §§ 21080.4, 21091, 21092.3.
- 126 Cal. Pub. Res. Code § 21081.6(a)(2); 14 Cal. Code Regs. §§ 15074(c), 15091(e).
- 127 *See Cotta v. City and County of San Francisco*, 157 Cal. App. 4th 1550, 69 Cal. Rptr. 3d 612 (2007).
- 128 *See* Cal. Gov't Code §§ 65864 and following.
- 129 Cal. Gov't Code § 65866. *See Stephens v. City of Vista*, 994 F.2d 650 (9th Cir. 1993).
- 130 *See* Cal. Gov't Code §§ 65864 and following; *National Parks & Conservation Assn. v. County of Riverside*, 42 Cal. App. 4th 1505, 50 Cal. Rptr. 2d 339 (1996).
- 131 Cal. Gov't Code § 65865.2.
- 132 *Id.*
- 133 Cal. Gov't Code § 65867.5.
- 134 Cal. Gov't Code § 66000(b).
- 135 *See Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).
- 136 Cal. Gov't Code § 66001. *See Dolan v. City of Tigard*, 512 U.S. 374 (1994).
- 137 59 Cal. Op. Att'y Gen. 129 (1976).
- 138 Cal. Gov't Code § 66002.
- 139 *See, for example* Cal. Gov't Code §§ 66475-66475.3.
- 140 14 Cal. Code Regs. § 15126.4.
- 141 Cal. Gov't Code §§ 66000-66025.

- 142 Ali H. Mokdad; Mary K. Serdula; William H. Dietz; Barbara A. Bowman; James S. Marks; Jeffrey P. Koplan, *The Spread of the Obesity Epidemic in the United States, 1991-1998*, Journal of the American Medical Association, 199;282:1523-29.
- 143 See Lawrence D. Frank, Peter O. Engelke, and Thomas L. Schmid, *Health and Community Design* (Island Press, 2003).
- 144 See Cal. Health & Safety Code §§ 38500 and following.
- 145 California State Association of Counties, *Addressing Greenhouse Gas Emissions from the Transportation Sector Via Regional Transportation Plans* (October 21, 2008).
- 146 SB 375 (Steinberg, Chapter 728, Statutes of 2008).
- 147 See *Kawaoka v. City of Arroyo Grande*, 17 F.3d 1227 (9th Cir. 1994).
- 148 *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern*, 127 Cal. App. 4th 1544, 27 Cal. Rptr. 3d (2005).
- 149 *McPherson v. City of Manhattan Beach*, 78 Cal. App. 4th 1252, 93 Cal. Rptr. 2d 725 (2000).
- 150 See *Committee to Save Hollywoodland Specific Plan v. City of Los Angeles*, 161 Cal. App. 4th 1168, 74 Cal. Rptr. 3d 665 (2008).
- 151 *Harris v. County of Riverside*, 904 F.2d 497 (9th Cir. 1990), *Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152, 56 Cal. Rptr. 2d 223 (1996).
- 152 U.S. Const. amend. XIV. See also Cal. Const. art. I, § 7.
- 153 *Ewing v. City of Carmel-By-The-Sea*, 234 Cal. App. 3d 1579, 286 Cal. Rptr. 382 (1991).
- 154 *Stubblefield Construction Co. v. City of San Bernardino*, 32 Cal. App. 4th 687, 714, 38 Cal. Rptr. 2d 413 (1995), *cert. denied*, 516 U.S. 913 (1995).
- 155 *Christensen v. Yolo County Board of Supervisors*, 995 F.2d 161 (9th Cir. 1993); *County Sanitation District No. 2 v. Kern County*, 127 Cal. App. 4th 1544, 27 Cal. Rptr. 3d 28 (2005).
- 156 *Nelson v. City of Selma*, 881 F.2d 836 (9th Cir. 1989).
- 157 Cf. *Moore v. City of East Cleveland*, 431 U.S. 494 (1977) (applying strict scrutiny to a regulation that prevented a grandmother from living with her grandson).
- 158 *Id.*
- 159 *Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980), *Kasky v. Nike, Inc.*, 27 Cal. 4th 939, 119 Cal. Rptr. 2d 296 (2002).
- 160 *Boos v. Barry*, 485 U.S. 312 (1988).
- 161 *Desert Outdoor Advertising, Inc. v. City of Moreno Valley*, 103 F.3d 814 (9th Cir. 1996), *cert. denied*, 522 U.S. 912 (1997).
- 162 *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *City of National City v. Wiener*, 3 Cal. 4th 832, 12 Cal. Rptr. 2d 701 (1992), *cert. denied*, 510 U.S. 824 (1993); see also *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002) (upholding an ordinance prohibiting the concentration of more than one adult business in a single structure).

- 163 *Topanga Press, Inc. v. City of Los Angeles*, 989 F.2d 1524 (9th Cir. 1993), *cert. denied*, 511 U.S. 1030 (1994).
- 164 Cal. Gov't Code §§ 54950 and following.
- 165 *See, example*, Cal. Gov't Code §§ 65854, 65856 (notice and hearing requirements for proposed adoption or amendment of zoning ordinance).
- 166 Cal. Pub. Res. Code § 21091.
- 167 40 C.F.R. § 1506.6.
- 168 *Small v. Superior Court*, 148 Cal. App. 4th 222, 55 Cal. Rptr. 3d 410 (2007).
- 169 *Committee to Save Hollywoodland Specific Plan v. City of Los Angeles*, 161 Cal. App. 4th 1168, 74 Cal. Rptr. 3d (2008).
- 170 U.S. Const. amend. V. To the same effect is Article 1, Section 19 of the California Constitution: "Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner."
- 171 *See Palazzolo v. Rhode Island*, 533 U.S. 606, 617 (2001).
- 172 *See Lingle v. Chevron U.S.A.*, 544 U.S. 528 (2005).
- 173 *Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2002).
- 174 *Long Beach Equities, Inc. v. County of Ventura*, 231 Cal. App. 3d 1016, 282 Cal. Rptr. 877 (1991).

Resources for Further Information

General Websites

California Land Use Planning Information Network

<http://ceres.ca.gov/planning/>

Institute for Local Government

www.ca-ilg.org

Publications

Land Use and Planning

Governor's Office of Planning and Research

The Governor's Office of Planning and Research has produced many useful resources on planning. See www.ca-ilg.org/opr.

Institute for Local Government

An Ounce of Prevention: Best Practices for Making Informed Land Use Decisions (2006) (www.ca-ilg.org/ounce)

Glossary of Land Use and Planning Terms (2010) (www.ca-ilg.org/planningterms)

Land Use One-Pagers (2007) (www.ca-ilg.org/onepaggers)

Regulatory Takings and Land Use Regulation: A Primer for Public Agency Staff (July 2006) (www.ca-ilg.org/takings)

Public Participation

Institute for Local Government

www.ca-ilg.org/cgipubs

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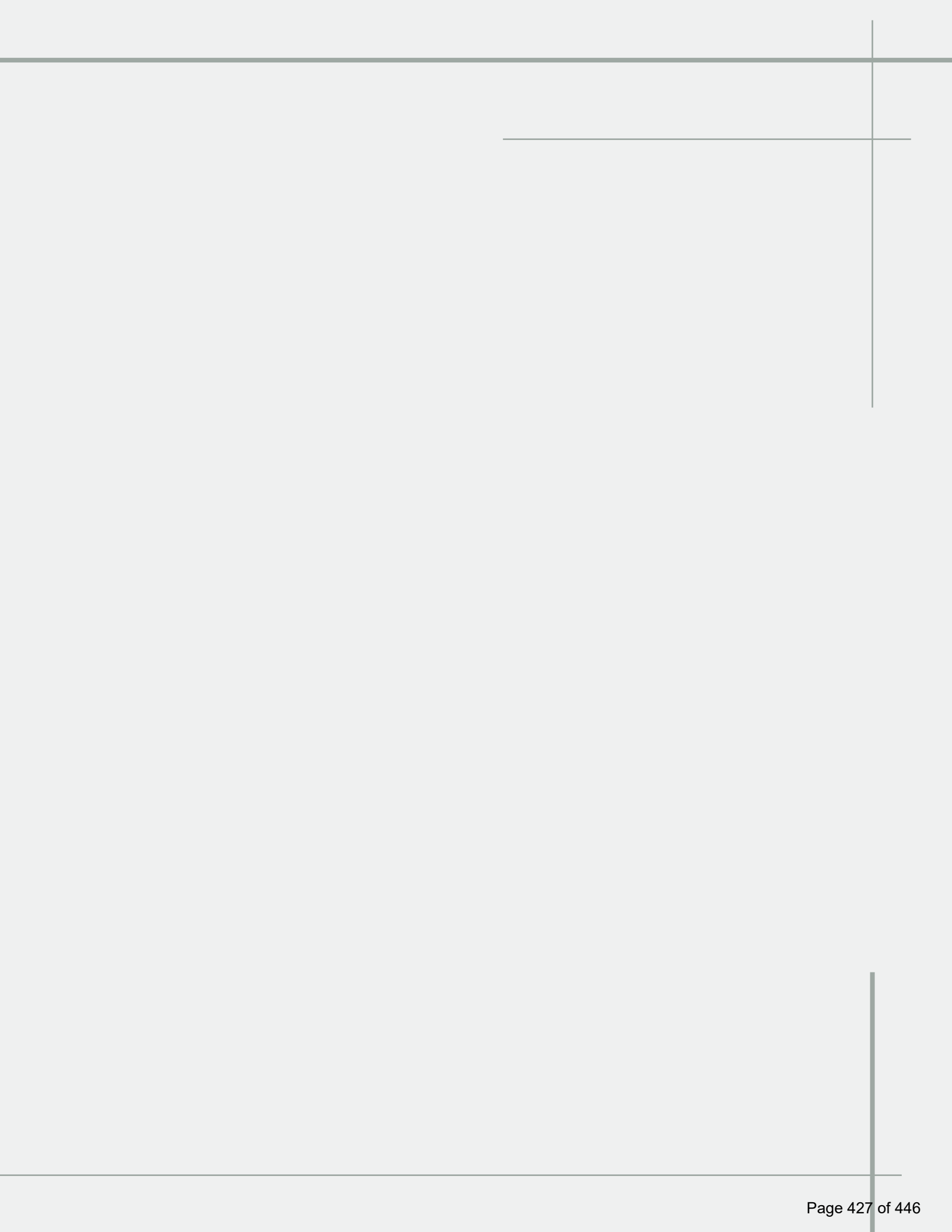
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Agenda Report to the Planning Commission

Agenda Section: SCHEDULED MATTERS

Department: Community Development Department - Planning Division

DATE:	September 15, 2026
FILE NUMBER:	PL26-025
SUBJECT:	Planning Commission By-Laws – Proposed Amendments
LOCATION OF PROPERTY:	Citywide
APN:	Citywide
GENERAL PLAN/ ZONING:	N/A
APPLICANT:	N/A
PROJECT PLANNER:	Leza Mikhail, Director of Community Development
REVIEWED BY:	Leza Mikhail
CEQA DETERMINATION:	Not a CEQA Project (CEQA Guidelines §15378)
RECOMMENDED ACTION:	Adopt a resolution recommending that the City Council approve the proposed amendments to the City of St. Helena Planning Commission By-Laws.

BACKGROUND:

The City of St. Helena Planning Commission By-Laws establish rules governing the organization of the City's Planning Commission, the convening and conduct of the Commission meetings, and the transaction of Commission business when acting in an official capacity.

The existing By-Laws were adopted in 2018. The proposed amendments update the By-Laws to address minor clarifications and changes to Commission procedures, meeting administration, agenda organization, public hearing procedures, and other provisions governing the conduct of Commission business.

Under the City's applicable procedures and the Planning Commission By-Laws, amendments recommended by the Planning Commission are subject to final approval by the City Council. The proposed amendments are presented in redline form as an attachment to this report for the Commission's review.

PROJECT DESCRIPTION:

The proposed amendments are intended to update and clarify the Planning Commission By-Laws and improve the organization and administration of Commission meetings. The principal amendments are summarized below.

ANALYSIS:

Organization and Officers

The proposed amendments revise provisions governing the election and duties of Commission officers. The revised provision continues to provide for annual election of the Chair and Vice Chair, while adding procedures to address vacancies resulting from resignation. In the event of a Chair vacancy, the Vice Chair would serve as acting Chair until a new Chair is formally elected.

The proposed language also introduces annual rotation of the Chair and Vice Chair positions as a general practice intended to provide Commissioners opportunities to serve in leadership roles, while recognizing that a Commissioner may decline to serve in either position.

The amendments also clarify the administrative roles of the Secretary of the Commission and the City Attorney. The Secretary would generally be the Director of Community Development or the Director's designee and would remain responsible for the preparation of the Commission minutes and maintenance of Commission records. The City Attorney would continue to be the designated legal counsel to the Planning Commission.

These changes are intended to provide greater clarity regarding Commission leadership and administrative responsibilities.

Meeting Schedule and Administration

One of the more substantive proposed amendments concerns the Commission's regular meeting schedule. The proposed amendments revise the provisions governing regular Commission meetings. The By-Laws currently provide for regular meetings on the first and third Tuesdays of the month. The proposed language provides for one regular meeting per month, designated for the third Tuesday, while retaining provisions addressing holidays, additional or special meetings, meeting locations, and notice requirements.

The amendments also update the provisions governing emergency and special meetings and address circumstances in which a quorum is not available.

This proposal for future amendments to the Commission's By-Laws with respect to holding one meeting a month was presented as a matter of Department operations at a previous Planning Commission meeting during the Director's report. At that time, the Director also noted that the change was also in line with the City's Municipal Code Section 2.60.030 of the St. Helena Municipal Code, which states that the Planning Commission shall meet a minimum of one day a month.

Agenda and Order of Business

The proposed amendments update both the provisions governing preparation of Planning

Commission agendas and revise the regular order of business.

The amendments retain the requirement that an agenda be prepared for each Planning Commission meeting and continue to require matters presented to the Commission to comply with applicable City requirements. The proposed order of business is also reorganized and consolidated. Among other changes, the revised list replaces the existing "Scheduled Matters" category with "Other Business" and modifies the organization of staff and Commission reports and the agenda forecast.

The proposed revisions are intended to make the regular order of business more straightforward and easier to administer while maintaining the major types of business regularly considered by the Commission.

Public Hearings and Public Participation

The proposed amendments update the procedures governing public hearings and public participation. The revised provisions address written materials submitted before and after distribution of the agenda packet, public testimony, applicant or appellant presentations, Commission questions, responses to issues raised during testimony, deliberation, motions, and voting.

The proposed By-Laws continue to provide an opportunity for members of the public to address the Commission and establish the sequence for presentations and testimony during a public hearing. The Chair would continue to manage the order and timing of presentations and public testimony consistent with the By-Laws.

The proposed amendments also clarify the sequence of a public hearing, including opening the hearing, disclosure of ex parte communications, presentation of the staff report, applicant or appellant presentation, Commission questions, public testimony, responses to information raised during testimony, closure of the public hearing, Commission deliberation, motion-making, and voting.

These revisions are intended to improve clarity concerning the sequence and administration of Planning Commission public hearings.

Motions, Voting, and Parliamentary Procedure

The proposed amendments retain the use of Rosenberg's Rules of Order for parliamentary procedure and clarify Commission motion-making practices.

The By-Laws continue to establish a majority of Commission members as constituting a quorum and provide procedures for Commission action when a majority vote cannot be obtained. The proposed amendments also retain provisions addressing tie votes, procedural motions, and the authority of the Chair concerning matters of procedure and order of business.

The proposed amendments retain provisions allowing the Chair to address procedural matters and order of business through the motion process.

Commission Conduct and Conflicts of Interest

The proposed amendments retain provisions addressing Commission conduct, communications, and conflicts of interest.

The By-Laws continue to encourage Commissioners to avoid communicating with one another by email regarding official Commission business or matters that may come before the Commission and emphasize independent review and decision-making.

The proposed amendments also continue to require Commissioners to conduct their duties in accordance with the City's applicable Standards of Conduct and Meeting Procedures and retain provisions addressing conflicts of interest under State law and applicable City procedures.

These provisions reinforce the expectation that Commissioners conduct official business consistently with applicable legal and City requirements.

Administrative and Housekeeping Amendments

In addition to the substantive procedural revisions described above, the redline includes updates to terminology, titles, addresses, rule numbering, dates, and other administrative provisions.

These changes are intended to improve the accuracy, clarity, and organization of the By-Laws and to reflect current City terminology and administrative practices.

ADDITIONAL INFORMATION

The proposed amended Planning Commission By-Laws are provided in both redline and clean form for Commission's consideration. The redline version illustrates the edits and amendments proposed for the Planning Commission's recommendation to the City Council. The City Council is the ultimate approving body of all Commission By-Laws that have been established throughout the City.

ISSUES:

No outstanding issues have been identified at the time of publication of this staff report.

CORRESPONDENCE:

Staff has not received any public correspondence at the time of publication of this staff report.

STAFF RECOMMENDATION:

Staff recommends that the Commission review the proposed amendments and provide any recommended amendments regarding revisions that will ultimately be presented to the City Council for approval. The By-Laws will need to also be consistent with the Department's operations, capacity and general workplan. For these reasons, Staff has prepared amendments that are supported by the Department of Community Development and have been reviewed and supported by the City Attorney.

ATTACHMENTS:

1. Planning Commission Resolution PL26-025
2. Proposed Planning Commission By-Laws, 2026 Amendments (Clean)
3. Proposed Planning Commission By-Laws, 2026 Amendments (Redline)

CITY OF ST. HELENA PLANNING COMMISSION

RESOLUTION NO. 2026-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ST. HELENA
RECOMMENDING THAT THE CITY COUNCIL APPROVE AMENDMENTS TO THE
CITY OF ST. HELENA PLANNING COMMISSION BY-LAWS**

RECITALS

WHEREAS, the City of St. Helena Planning Commission By-Laws establish rules governing the organization of the Planning Commission, the conduct of Commission meetings, and the transaction of Commission business; and

WHEREAS, the existing Planning Commission By-Laws were adopted in 2018; and

WHEREAS, the City has prepared amendments to update and clarify provisions relating to Commission organization and officers, meeting schedules and administration, agenda preparation and order of business, public hearing procedures, motions and voting, Commission conduct, and other administrative matters; and

WHEREAS, the proposed amendments are intended to provide a clearer and more consistent framework for the organization and administration of Planning Commission meetings; and

WHEREAS, amendments to the Planning Commission By-Laws are subject to approval by the City Council; and

WHEREAS, on September 15, 2026, the Planning Commission considered the proposed amendments at a duly noticed public meeting and considered all oral and written information presented regarding the amendments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of St. Helena hereby resolves as follows:

RESOLUTION

- A. **CEQA Determination.** The Planning Commission finds that the proposed amendments concern internal governmental organization and administrative procedures and do not constitute a “project” subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(b)(5).
- B. **Recommendation.** The Planning Commission recommends that the City Council approve the amended City of St. Helena Planning Commission By-Laws, substantially in the form attached hereto as Exhibit A, including any amendments approved by the Planning Commission at its September 15, 2026 meeting.

C. **Effective Date.** The amended Planning Commission By-Laws shall become effective upon approval by the City Council.

APPROVED AND ADOPTED at a Regular Meeting of the Planning Commission of the City of St. Helena on September 15, 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Chris Warner
Chair, Planning Commission

Leza Mikhail
Director of Community Development



ST. HELENA PLANNING COMMISSION

BY-LAWS

The following rules shall be applicable to the organization of the St. Helena Planning Commission, to the convening or calling of meetings, and to the transaction of business when the Commission has convened and acts or serves in an official capacity, pursuant to law.

ORGANIZATION AND ELECTION AND DUTES OF OFFICERS

RULE 1. The Commission shall elect a Chairperson (Chair) and Vice Chairperson (Vice-Chair) and designate a Secretary at the first regular meeting of the Planning Commission in July to serve for a period of one year from the date of their election. However, the Planning Commission, by majority vote, may choose to elect a Chair or Vice-Chair at a different meeting to address a resignation. In the case of a resignation of the Chair, the Vice-Chair shall become the interim Chair until formal election of a new Chair occurs. As a general practice, the Chair and Vice-Chair positions should rotate annually to provide opportunities across the Commission to hold the respective positions of Chair and Vice-Chair. Any Commissioner may decline to take on the Chair or Vice-Chair position.

RULE 2. The Chair of the Planning Commission shall preserve order and decorum and shall decide questions of order. The Vice-Chair shall preside in the absence of the Chair.

RULE 3. The Chair of the Planning Commission may second any motion and present and discuss any matter as a member of the Commission without having to step down from the Chair and shall be entitled to vote on all matters before the Planning Commission.

RULE 4. The Secretary shall be a City employee, normally the Director of Community Development, or their designee.

RULE 5. The Secretary, or their designee, shall be responsible for the preparation of the Planning Commission minutes and the Secretary shall assure that all official actions or decisions by the Commission shall be recorded within the minutes. Consistent with Municipal Code Section 2.60.030, the Commission shall keep a public record of its resolutions, transactions, findings and determinations. Those records are kept as minutes that summarize Commission action, in the same manner as City Council minutes.

RULE 6. The City Attorney of the City of St. Helena shall be the legal counsel to the Planning Commission.

RULE 7. The video recordings of each meeting are designated as the official record of the Planning Commission agenda and action and are to be made available on the City of St. Helena website.

RULE 8. To the greatest extent possible, Commissioners should not correspond with each other via email regarding official business of the Commission, or when discussing matters that may be considered at a future public hearing. Commissioners are expected to make independent reviews and decisions on Agendized items that may be presented to the Commission.

SCHEDULE OF MEETINGS

RULE 9. The Planning Commission shall hold at least one Regular Meeting per month, consistent with Section 2.60.030 of the St. Helena Municipal Code. The designated meeting shall be held on the third Tuesday of the month. In the event the first or third Tuesday is a holiday, an alternate meeting may be held. An additional Adjourned Meeting may be held, if necessary. Such regular meetings may be canceled by a vote of the majority of Commission members present at a regular or special meeting, when a quorum is not available, or if there is a lack of items to be scheduled for consideration at the discretion of the Director of Community Development. Meetings shall be held in the same location used by the City Council or at City Hall or the Fire Department starting at 6:00 P.M. Adjourned Meetings, Special Meetings, meeting relocation, or revised starting time shall be by a three-fifths vote of the Planning Commission. Notice of such meeting shall be given in accordance with State law.

RULE 10. Emergency or special meetings may be called as provided in Section 54956 of the Government Code of the State of California. The Secretary of the Commission or their designee may poll the Commission for a quorum to establish an emergency or special meeting.

RULE 11. In the absence of a quorum for a regularly scheduled meeting, all items on the agenda shall be continued to the next scheduled meeting.

AGENDA

RULE 12. An agenda shall be prepared by the Secretary of the Planning Commission for each meeting of the Planning Commission.

RULE 13. All matters to be considered by the Commission shall be properly filed with the City in compliance with the provisions, standards, and procedures established by adopted City Ordinances and Department application requirements. The Secretary shall not accept for presentation to the Commission any matter unless it is properly made on the prescribed forms and properly filled out with all data attached.

RULE 14. Any matter that comes before the Commission orally under Public Forum shall not be discussed or acted upon by the Commission unless and until it is heard as a scheduled agenda item at a Regular, Adjourned, or Special meeting of the Commission.

RULE 15. Request for informal or advance decisions concerning potential future developments or plans shall not be considered by the Planning Commission.

RULE 16. The regular order of business of the Commission shall be:

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE & ROLL CALL
3. MINUTES APPROVAL
4. PUBLIC FORUM
5. CONTINUED ITEMS
6. PUBLIC HEARINGS
7. OTHER BUSINESS
8. REPORTS BY STAFF AND PLANNING COMMISSION
9. AGENDA FORECAST
10. ADJOURNMENT

RULE 17. The Chairperson may revise the order of the agenda for a particular meeting in order to expedite business for the convenience of the public or for improved continuity.

RULE 18. Commission meetings may remain in session up to, but no later than 10:00 P.M. However, the Commission may, by a unanimous vote, extend the meeting if the Commission deems such extension necessary. Otherwise, the meeting shall be adjourned to another day acceptable to the Commission, or unfinished business may be continued to the next Regular Meeting.

CONDUCT OF PUBLIC HEARINGS

RULE 19. Letters, petitions, or other written material pertaining to any item on the agenda may be filed with the secretary of the Commission prior to the time of the public hearing or may be presented to the Commission at the time of the public hearing. The Commission shall consider such material in deciding any issue before it. All written material shall become part of the Commission's file on the agenda item.

RULE 20. Items submitted after packet distribution: Materials related to any item on the Agenda submitted to the Planning Commission after distribution of the agenda packet are available for inspection in the Secretary of the Commission's office at 1088 College Ave., St. Helena, CA during normal business hours. All such materials will be brought to the meeting and will be available for public inspection at the meeting site. Either City Staff or the Chairperson at the hearing shall give public notice of any such materials. If copies are not available in sufficient quantity for interested parties or members of the public at the hearing, the Chairperson shall take reasonable steps to afford all such persons the opportunity to inspect the materials before the start of the hearing on a scheduled matter. The purpose of the foregoing is to avoid the interruption of testimony with requests for inspection of materials.

RULE 21. Any person desiring to address the Planning Commission may, when recognized by the Chair give his or her name and address. A person appearing in a representative capacity shall provide the name and should provide address of each represented party. Each person wishing to speak shall submit a speaker slip to the Secretary or their designee, and the Chair should hear testimony in the following order, when applicable:

1. Applicant and/or Appellant of subject application (if applicable),
2. Public Testimony in the order speaker slips are received, and
3. Rebuttal by Applicant and/or Appellant (if applicable).

RULE 22. Testimony and argument relative to any item scheduled on the agenda as a Public Hearing shall, unless otherwise ordered by the Chair, be presented in the following order and within the time limits specified.

- a. The Chair shall declare the Public Hearing to be open.
- b. The Chair shall ask if any Commissioners have any disclosure(s) of Ex Parte Communication*
- c. Staff Report, including acknowledgement and/or reading of written testimony.
- d. Presentation of the project by applicants or appellants, and/or agents/consultants directly associated with the project. (10 minutes)
- e. Commission questions to staff and the applicant for purposes of clarification of staff report and proposed project.
- f. Public Testimony in support or opposition of the project. (4 minutes per person)
- g. Applicant and/or staff response to new information or questions raised by public testimony.
- h. Chair declares public hearing to be closed.
- i. Planning Commission deliberation, and motion.
- j. Roll Call Vote.

- k. The Chair shall read Appeal language at the end of any matter where a decision is rendered on an appealable item.

Note: At the option of the Chair, the public, applicant and/or appellant may give further testimony on a question posed through the Chair, provided it is directly related to a motion.

* Ex Parte Communication is hereby defined as any additional factual information obtained by commissioners that pertains to an individual decision, including visiting a project site, meeting with a project applicant and/or meeting with interested citizens.

RULE 23. Motion Making Practices. Under Rosenberg's Rules of Order, up to three motions can be made at any time. The Chair should follow the motion making practices of the Rosenberg's Rules of Order, and a call to vote by the Chair should be taken first on the last motion successfully made. If passed, the prior motion(s) would no longer be applicable, and the matter would be finished.

RULE 24. The Chair may, in the interest of facilitating the business of the Planning Commission, limit the amount of time that a person may use in addressing the Planning Commission, but in no case shall the limitation be less than one minute. Opponents and proponents shall be given equal opportunity for presentation. A project applicant should always be given the right, reasonable opportunity and time, to respond fully to evidence and arguments presented after the applicant has made his/her opening presentation.

RULE 25. The applicant or his or her appointed representative may, with the permission of the Planning Commission, withdraw, or request a continuance on any matter pending before the Commission at any time prior to the Commission acting on such matter.

VOTING

RULE 26. A majority of the members of the Commission shall constitute a quorum. Unless otherwise required by federal, state or local regulation, the affirmative vote of a majority of the quorum is necessary to take action. If a majority is unable to be assembled on any motion (including a motion to continue a matter to a specific time) relating to a specific project for which the Commission must make a recommendation to the City Council, the project shall be referred to Council with a divided recommendation which reflects the individual votes of the Commissioners. If a majority is unable to be assembled on any motion (including a motion to continue a matter to a specific time) relating to a specific project for which the Commission has final authority, the matter before the Commission shall be deemed denied and the applicant may appeal such decision in accordance with the applicable rules. A tie vote, or deadlock, constitutes a denial unless the applicant requests a continuance of the item to a subsequent meeting at which a quorum is present, prior to a vote to deny the item.

RULE 27. On matters of procedure or order of business the Chairperson may make a motion and without a second and after calling for objection and hearing none, so order. In the event of objection, the Chairperson shall call for a second and a roll call vote.

MISCELLANEOUS

RULE 28. The Commission shall conduct their duties in keeping with the governing standards as provided by the Rules of Procedure for the Conduct of Meetings and Standards of Conduct document that is adopted by the City Council and amended from time to time, maintaining the highest level of professionalism during their tenure serving the residents of the City of St. Helena.

RULE 29. Unless otherwise provided by these Rules, all proceedings before the Commission shall be conducted in accordance with and pursuant to the parliamentary rules of procedure as prescribed in “Rosenberg’s Rules of Order.”

RULE 30. Testimony and argument relative to any other item on the agenda shall generally follow the procedure for a Public Hearing as may be modified at the discretion of the Chairperson.

RULE 31. Any rule of these By-Laws may be altered, amended, or repealed by majority vote of the Commission (subject to mutual acceptance by the Director of Community Development and approval by the City Council), except that such alteration, amendment, or repeal shall not affect any pending matter.

RULE 32. A Resolution of the Planning Commission may be adopted conditionally and referred to the Secretary of the Commission for drafting in proper form.

RULE 33. Commission members shall decide for themselves whether they have a conflict of interest on any matter before the Commission. Such determination shall be made in accordance with State law and the City of St Helena Protocol for Committee, Commissions and Boards or any amendment thereto. When a member has disqualified themselves, they shall remove themselves from the dais stating their reasons for conflict of interest. The member shall also remove themselves from the meeting room, unless they are permitted to remain for a qualified interest as set forth in State law.

RULE 34. Failure to adhere to any of these rules does not result in the invalidation of any decision or action of the Planning Commission.

RULE 35. Any violation of these rules does not result in a cause of action against the City of St. Helena.

RULE 36. Subject to compliance with all established laws and regulations, any violation of these rules shall not impact the outcome of a vote or action on a specific project.

Amended, Approved and Adopted at a Regular Meeting of the Planning Commission on September 15, 2026, by the following roll call vote, provided the City Council affirms the amendments at a subsequent public meeting:

MOTION CARRIED BY THE FOLLOWING ROLL CALL VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:



ST. HELENA PLANNING COMMISSION

BY-LAWS

The following rules shall be applicable to the organization of the St. Helena Planning Commission, to the convening or calling of meetings, and to the transaction of business when the Commission has convened and acts or serves in an official capacity, pursuant to law.

ORGANIZATION AND ELECTION AND DUTES OF OFFICERS

RULE 1. The Commission shall elect a Chairperson (Chair) and Vice Chairperson (Vice-Chair) and designate a Secretary at the first regular meeting of the Planning Commission in July to serve for a period of one year from the date of their election. However, the Planning Commission, by majority vote, may choose to elect a Chair~~person~~ or Vice-Chair~~person~~ at a different meeting to address a resignation. In the case of a resignation of the Chair~~f~~, the Vice-Chair shall become the interim Chair until formal election of a new Chair~~person~~ occurs. As a general practice, the Chair and Vice-Chair positions should rotate annually to provide opportunities across the Commission to hold the respective positions of Chair and Vice-Chair. Any Commissioner may decline to take on the Chair or Vice-Chair position.

RULE 2. The Chair~~person~~ of the Planning Commission shall preserve order and decorum and shall decide questions of order. The Vice-~~Chairperson~~ shall preside in the absence of the Chair~~person~~.

RULE 3. The Chair~~person~~ of the Planning Commission may second any motion and present and discuss any matter as a member of the Commission without having to step down from the Chair and shall be entitled to vote on all matters before the Planning Commission.

RULE 4. The Secretary shall be a City ~~e~~Employee, normally the ~~Planning Director~~Director of Community Development, or their designee.

RULE 5. The Secretary, or their designee, shall be responsible for the preparation of the Planning Commission minutes and the Secretary shall assure that all official actions or decisions by the Commission shall be recorded within the minutes. Consistent with Municipal Code ~~s~~Section 2.60.030, the Commission shall keep a public record of its resolutions, transactions, findings and determinations. Those records are kept as minutes that summarize Commission action, in the same manner as City Council minutes.

RULE 6. The City Attorney of the City of St. Helena shall be the legal counsel to the Planning Commission.

RULE 7. The video recordings of each meeting are designated as the official record of the Planning Commission agenda and action and are to be made available on the City of St. Helena website.

RULE 8. To the greatest extent possible, Commissioners should not correspond with each other via email regarding official business of the Commission, or when discussing matters that may be considered at a future public hearing. Commissioners are expected to make independent reviews and decisions on Agendized items that may be presented to the Commission.

SCHEDULE OF MEETINGS

RULE 89. The Planning Commission shall hold at least ~~two-one~~ Regular Meetings per month, consistent with Section 2.60.030 of the St. Helena Municipal Code. The designated meeting which shall be held on the ~~first and~~ third Tuesdays of the month. In the event the first or third Tuesday is a holiday, an alternate meeting may be held. An additional Adjourned Meeting may be held, if necessary. Such regular meetings may be canceled by a vote of the majority of Commission members present at a regular or special meeting, ~~or~~ when a quorum is not available, or if there is a lack of items to be scheduled for consideration at the discretion of the Director of Community Development. Meetings shall be held in the same ~~location~~ locale used by the City Council or at City Hall or the Fire Department starting at 6:00 P.M. Adjourned Meetings, Special Meetings, meeting relocation, or revised starting time shall be by a three-fifths vote of the Planning Commission. Notice of such meeting shall be given in accordance with State law.

RULE 910. Emergency or special meetings may be called as provided in Section 54956 of the Government Code of the State of California. The Secretary of the Commission or their designee may poll the Commission for a quorum to establish an emergency or special meeting.

RULE 101. In the absence of a- quorum for a regularly scheduled meeting, all items on the agenda shall be continued to the next scheduled meeting.

AGENDA

RULE 142. An agenda shall be prepared by the Secretary of the Planning Commission for each meeting of the Planning Commission.

RULE 123. All matters to be considered by the Commission shall be properly filed with the City in compliance with the provisions, standards, and procedures established by adopted City Ordinances and Department application requirements. The Secretary shall not accept for presentation to the Commission any matter unless it is properly made on the prescribed forms and properly filled out with all data attached.

RULE 134. Any matter that comes before the Commission orally under Public Forum shall not be discussed or acted upon by the Commission unless and until it is heard as a scheduled agenda -item at a Regular, Adjourned, or Special meeting of the Commission.

RULE 145. Request for informal or advance decisions concerning potential future developments or plans ~~will~~ shall not be considered by the Planning Commission.

RULE 156. The regular order of business of the Commission shall be:

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE & ROLL CALL
3. MINUTES APPROVAL
4. PUBLIC FORUM
- ~~5. COMMUNICATIONS & PETITIONS~~
- ~~6. RECOMMENDED CONSENT CALENDAR~~
- ~~7.5. CONTINUED ITEMS~~
- ~~8. SIGN PERMIT/ADMINISTRATIVE DETERMINATION~~
- ~~9. PUBLIC HEARINGS- PLANNING COMMISSION ACTION IS FINAL
(DR/UP/VAR/LLA/TPM)~~
- ~~10.6. PUBLIC HEARINGS- PUBLIC~~

~~HEARINGS/RECOMMENDATIONS TO CITY COUNCIL~~
~~(TSM/ZOTA/GPA/REZONE)~~
~~11. NAPA COUNTY REFERRALS~~
~~12.7. SCHEDULED MATTERS OTHER BUSINESS~~
~~13.8. REPORTS BY STAFF AND PLANNING COMMISSION~~
~~14.9. AGENDA FORECAST~~
~~15.10. ADJOURNMENT~~

RULE 167. The Chairperson may revise the order of the agenda for a particular meeting in order to expedite business for the convenience of the public or for improved continuity.

RULE 178. Commission meetings may remain in session up to, but no later than 10:00 P.M. However, the Commission may, by a unanimous vote, extend the meeting if the Commission deems such extension necessary. Otherwise, the meeting shall be adjourned to another day acceptable to the Commission, or unfinished business may be continued to the next Regular Meeting.

CONDUCT OF PUBLIC HEARINGS

RULE 189. Letters, petitions, or other written material pertaining to any item on the agenda may be filed with the secretary of the Commission prior to the time of the public hearing or may be presented to the Commission at the time of the public hearing. The Commission shall consider such material in deciding any issue before it. All written material shall become part of the Commission's file on the agenda item.

RULE 1920. Items submitted after packet distribution: Materials related to any item on the Agenda submitted to the Planning Commission after distribution of the agenda packet are available for inspection in the Secretary of the Commission's office at ~~1480 Main Street~~ 1088 College Ave., St. Helena, CA during normal business hours. All such materials will be brought to the meeting and will be available for public inspection at the meeting site. Either City Staff or the Chairperson at the hearing shall give public notice of any such materials. If copies are not available in sufficient quantity for interested parties or members of the public at the hearing, the Chairperson shall take reasonable steps to afford all such persons the opportunity to inspect the materials before the start of the hearing on a scheduled matter. The purpose of the foregoing is to avoid the interruption of testimony with requests for inspection of materials.

RULE 201. Any person desiring to address the Planning Commission may, when recognized by the Chairperson, give his or her name and address. A person appearing in a representative capacity shall provide the name and should provide address of each represented party. Each person wishing to speak shall submit a speaker slip to the Secretary or their designee, and the Chair should hear testimony in the following order, when applicable:

1. Applicant and/or Appellant of subject application (if applicable).
2. Public Testimony in the order speaker slips are received, and
3. Rebuttal by Applicant and/or Appellant (if applicable).

RULE 212. Testimony and argument relative to any item scheduled on the ~~agenda~~ as a ~~Public Hearing~~ shall, unless otherwise ordered by the Chairperson, be presented in the following order and within the time limits specified.

- a. The Chairperson shall declare the Public Hearing to be open.
- b. The Chair shall ask if any Commissioners have any Disclosure(s) of Ex Parte Communication*
- c. Staff Report, including acknowledgement and/or reading of written testimony.

- d. Presentation of the project by applicants or appellants, and/or agents/consultants directly associated with the project. (10 minutes)
- e. Commission questions to staff and the applicant for purposes of clarification of staff report and proposed project.
- f. Public Testimony in support or opposition of the project. (4 minutes per person)
- g. Applicant and/or staff response to new information or questions raised by public testimony.
- h. Chair~~person~~ declares public hearing to be closed.
- i. Planning Commission ~~debated~~deliberation, and motion.
- j. Roll Call Vote.
- k. The Chair shall read Appeal language at the end of any matter where a decision is rendered on an appealable item.

Note: At the option of the Chair~~person~~, the public, ~~or~~ applicant and/or appellant may give further testimony on ~~the a~~ question posed through the Chair, provided it is directly related to ~~the a~~ motion.

* Ex Parte Communication is hereby defined as any additional factual information obtained by commissioners that pertains to an individual decision, including visiting a project site, meeting with a project applicant and/or meeting with interested citizens.

RULE 23. Motion Making Practices. Under Rosenberg's Rules of Order, up to three motions can be made at any time. The Chair should follow the motion making practices of the Rosenberg's Rules of Order, and a call to vote by the Chair should be taken first on the last motion successfully made. If passed, the prior motion(s) would no longer be applicable, and the matter would be finished.

RULE 224. The Chair~~person~~ may, in the interest of facilitating the business of the Planning Commission, limit the amount of time that a person may use in addressing the Planning Commission, but in no case shall the limitation be less than one minute. Opponents and proponents shall be given equal opportunity for presentation. A project applicant should always be given the right, reasonable opportunity and time, to respond fully to evidence and arguments presented after the applicant has made his/her opening presentation.

RULE 235. The applicant or his or her appointed representative may, with the permission of the Planning Commission, withdraw, or request a continuance on any matter pending before the Commission at any time prior to the Commission acting on such matter.

VOTING

RULE 246. A majority of the members of the Commission shall constitute a quorum. Unless otherwise required by federal, state or local regulation, the affirmative vote of a majority of the quorum is necessary to take action. If a majority is unable to be assembled on any motion (including a motion to continue a matter to a specific time) relating to a specific project for which the Commission must make a recommendation to the City Council, the project shall be referred to Council with a divided recommendation which reflects the individual votes of the Commissioners. If a majority is unable to be assembled on any motion (including a motion to continue a matter to a specific time) relating to a specific project for which the Commission has final authority, the matter before the Commission shall be deemed denied and the applicant may appeal such decision in accordance with the applicable rules. A tie vote, or deadlock, constitutes a denial unless the applicant requests a continuance of the item to a subsequent meeting at which a quorum is present, prior to a vote to deny the item.

RULE 257. On matters of procedure or order of business the Chairperson may make a motion and without a second and after calling for objection and hearing none, so order. In the event of objection,

the Chairperson shall call for a second and a roll call vote.

MISCELLANEOUS

RULE 268. The Commission shall conduct their duties in keeping with the governing standards as provided by the ~~Planning Commission Standards of Conduct~~ Rules of Procedure for the Conduct of Meetings and Standards of Conduct document that is adopted by the City Council and amended from time to time, maintaining the highest level of professionalism during their tenure serving the residents of the City of St. Helena.

RULE 279. Unless otherwise provided by these Rules, all proceedings before the Commission shall be conducted in accordance with and pursuant to the parliamentary rules of procedure as prescribed in “Rosenberg’s Rules of Order.”

RULE 2830. Testimony and argument relative to any other item on the agenda shall generally follow the procedure for a Public Hearing as may be modified at the discretion of the Chairperson.

RULE 2931. Any rule of these By-Laws may be altered, amended, or repealed by majority vote of the Commission (subject to mutual acceptance by the Director of Community Development and approval by the City Council), except that such alteration, amendment, or repeal shall not affect any pending matter.

~~**RULE 30.** Any rule of these By-Laws may be temporarily suspended by unanimous consent of the Commission.~~

RULE 342. A Resolution of the Planning Commission may be adopted conditionally and referred to the Secretary of the Commission for drafting in proper form.

RULE 323. Commission members shall decide for themselves whether they have a conflict of interest on any matter before the Commission. Such determination shall be made in accordance with State law and the City of St Helena Protocol for Committee, Commissions and Boards or any amendment thereto. When a member has disqualified ~~himself/herself, he/shethemselves, they~~ shall remove ~~himself/herselfthemselves~~ from the dais stating their reasons for conflict of interest. The member shall also remove ~~himself/herselfthemselves~~ from the meeting room, unless they are permitted to remain for a qualified interest as set forth in State law.

RULE 334. Failure to adhere to any of these rules does not result in the invalidation of any decision or action of the Planning Commission.

RULE 345. Any violation of these rules does not result in a cause of action against the City of St. Helena.

RULE 356. Subject to compliance with all established laws and regulations, any violation of these rules shall not impact the outcome of a vote or action on a specific project.

Amended, Approved and Adopted at a Regular Meeting of the Planning Commission on ~~July 17, 2018~~ September 15, 2026, by the following roll call vote, provided the City Council affirms the amendments at a subsequent public meeting:

MOTION CARRIED BY THE FOLLOWING ROLL CALL VOTE:

AYES: ~~Commissioners Ponte, Monnette and Hardy~~

NOES: ~~None~~

ABSENT: ~~Commissioner Knudsen~~

ABSTAIN: ~~None~~