

CITY OF MOUNTAIN VIEW

**COUNCIL  
ADVISORY  
BODIES  
HANDBOOK**

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**A.**

# ORGANIZATION

## **City Government Organization**

The City of Mountain View operates under a Council-Manager form of government. The City's seven Councilmembers are elected at large for four-year terms which are staggered so that three or four Council seats are filled at the general municipal election in November of every even-numbered year. Service on the Council is limited to two consecutive full terms. Each year in January, the Council elects one of its members as Mayor and another as Vice Mayor.

The Council is the legislative body of the City. Under the provisions of the City Charter, the Council appoints a City Manager who is responsible for the efficient administration of City operations. The City Attorney, City Clerk and City Auditor are also Council appointees.

## **City Council**

The City Council is the legislative and policy-making body for the City, having responsibility for enacting City ordinances, appropriating funds to conduct City business and providing policy direction to administrative staff.

There are seven standing City Council committees, each with three members and the Mayor may appoint an alternate. From time to time, special-purpose committees are also formed. In addition, Councilmembers represent the City and serve on numerous regional agencies and organizations.

The City Council meets at 6:30 p.m. on the second and fourth Tuesday of each month in the Council Chambers located in the City Hall, 500 Castro Street.

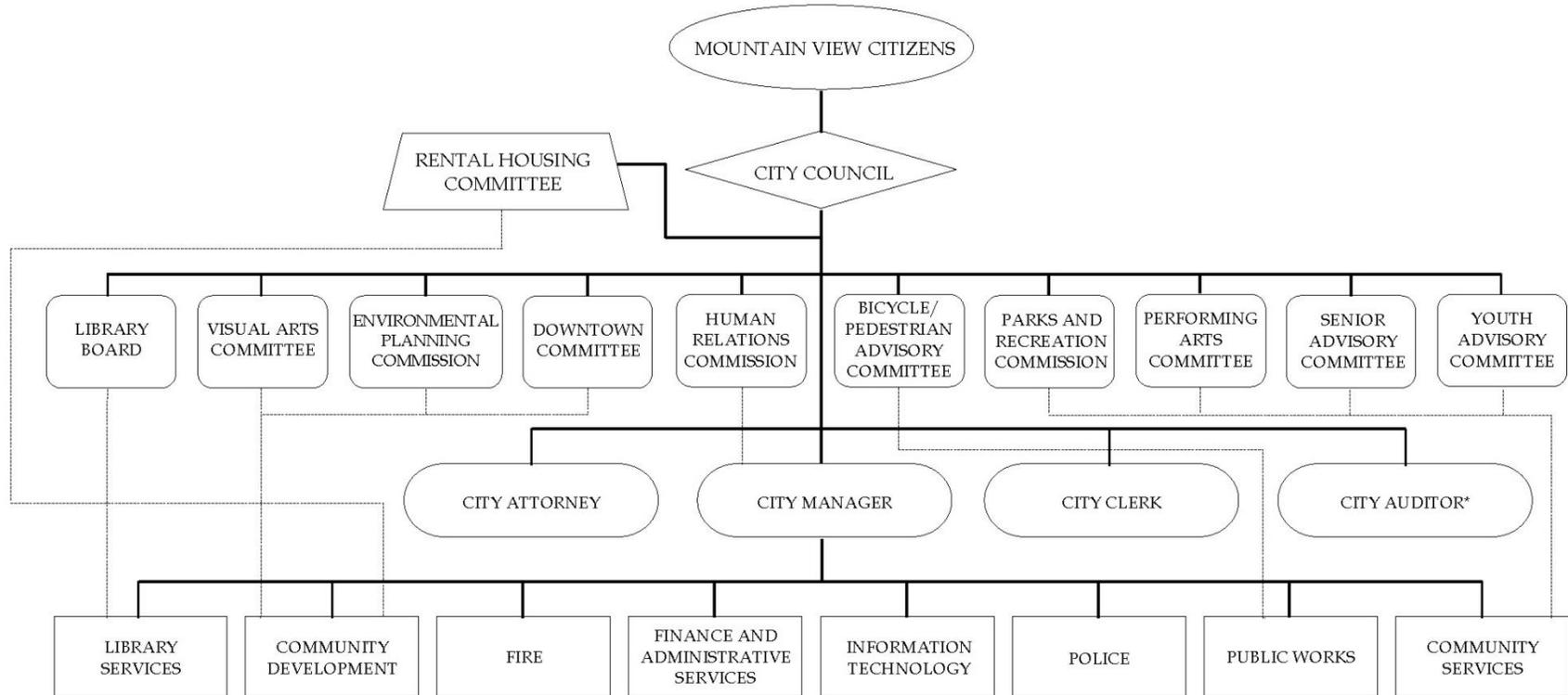
## **Role of Board, Commissions and Committees**

To assist the Council in making its policy decisions, the City Charter provides for the establishment of various board, commissions and committees. City board, commissions and committees serve in an advisory capacity on a wide range of matters, including zoning and land use, library policy, parks and recreation programs, social concerns/cultural issues, bicycle/pedestrian facilities, downtown revitalization issues, performing arts, and public art and aesthetics. Board, commissions and committees do not set or establish City policy or administrative direction for City staff.

## **Role of Staff Liaison**

A staff member from appropriate departments is the primary liaison to City board, commissions and committees and is responsible for the preparation of agendas, minutes and other general business relating to the board, commission or committee.

# CITY GOVERNMENT ORGANIZATION



\*Finance and Administrative Services Director serves as City Auditor

- KEY:
-  ELECTED
  -  APPOINTED BY COUNCIL
  -  APPOINTED BY CITY MANAGER
  -  OTHER

-  LINE OF COMMAND
-  STAFF SERVICES

GRAPHICS/City Govt Org Flowchart (Rev. 07-30-18)

# **Board, Commissions and Committees of the City of Mountain View**

## **Library Board of Trustees**

### Structure and Composition

The Library Board of Trustees consists of five members appointed by the City Council from the general citizenry. Members are eligible to serve a maximum of two consecutive four-year terms.

At the first Board meeting each January, the Board elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

### Responsibilities

- Adopt rules and regulations necessary for the administration and protection of the Library.
- Advise the City Council in all matters pertaining to the Library.
- Assist in the planning of Library services for the community.
- Accept money, personal property or real estate donated to the Library.

### Meetings and Agenda

The Library Board meets on the third Monday of each month at 7:00 p.m. in the Library Program Room, 2<sup>nd</sup> Floor, 585 Franklin Street. Meeting agendas are prepared and posted as prescribed by law. Citizens may examine the agenda and staff reports at the Mountain View Library, 585 Franklin Street, beginning the Friday before each meeting.

### Staff Liaison

The Library Services Director is the primary liaison to the Library Board and is responsible for the preparation of Board agendas, minutes and other general business relating to the Board.

## **Environmental Planning Commission**

### Structure and Composition

The Environmental Planning Commission consists of seven members appointed by the City Council from the general citizenry. Commissioners are eligible to serve a maximum of two consecutive four-year terms.

At the first Commission meeting each January, the Commission elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

### Responsibilities

- Develop policies, goals and specific implementation plans for the physical development of the City, including the City of Mountain View General Plan.
- Evaluate matters of land use, rezonings and Zoning Ordinance amendments within the framework of the General Plan.
- Monitor the City's environment and communicating concerns with the City Council, public agencies and citizens.

### Meetings and Agenda

The Commission meets on the first and third Wednesdays of each month at 7:00 p.m. in the Council Chambers at City Hall, 500 Castro Street. Meeting agendas are prepared and posted as prescribed by law. Citizens may examine the agenda and staff reports at the Mountain View Library, 585 Franklin Street, beginning Friday afternoon before each meeting and at the Community Development Department beginning Monday morning. Copies of the agendas, minutes and staff reports are also available at the rear of the Chambers at each meeting. Meetings are broadcast live on Channel 26.

### Staff Liaison

The Principal Planner is the primary liaison to the Environmental Planning Commission and is responsible for the preparation of Commission agendas, minutes and other general business relating to the Commission.

## **Parks and Recreation Commission**

### Structure and Composition

The Parks and Recreation Commission consists of five members appointed by the City Council from the general citizenry. Commissioners are eligible to serve a maximum of two consecutive four-year terms.

At the first Commission meeting each January, the Commission elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

### Responsibilities

- Develop policy, goals and specific implementation plans regarding parks and recreation issues for the City.
- Evaluate matters of park acquisition and development within the framework of the General Plan.
- Monitor issues concerning parks and recreation and communicate them to the City Council, public agencies and citizens.
- Act as the Heritage Tree Board in resolving City forestry issues, and make recommendation to the City Council.

### Meetings and Agenda

The Commission meets on the second Wednesday of each month at 7:00 p.m. at the Senior Center, 266 Escuela Avenue. Meeting agendas are prepared and posted as prescribed by law. Citizens may examine the agenda at City Hall, 500 Castro Street, beginning the Friday evening before each meeting.

### Staff Liaison

The Community Services Director is the primary liaison to the Parks and Recreation Commission and is responsible for the preparation of Commission agendas, minutes and other general business relating to the Commission. The Parks Manager, Recreation Manager and Shoreline Manager also work with the Commission. Each staff member is responsible for issues within his/her own division as it relates to the function of the Commission.

# Human Relations Commission

## Structure and Composition

The Human Relations Commission consists of seven members appointed by the City Council. Commission members are eligible to serve a maximum of two consecutive four-year terms.

At the first Commission meeting each January, the Commission elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

The Commission may utilize committees of its members comprising less than a quorum of the Commission to study and advise the Commission on any subject within its purview.

## Responsibilities

- Act as an advisory body to the City Council on new and emerging social concerns/cultural diversity issues facing the community.
- Serve as a forum for public discussion regarding social issues/concerns facing the community and its residents.
- Serve as a liaison/facilitator between City government and the public, as may be directed by the City Council.
- Coordinate Commission activities, reports or recommendations with other City boards or commissions where identified as appropriate by City staff.

## Meetings and Agenda

The Commission meets on the first Thursday of each month at 6:30 p.m. in the Plaza Conference Room at City Hall, 500 Castro Street. Meeting agendas are prepared and posted as prescribed by law. Citizens may examine the agenda and staff reports at the City Manager's Office, 500 Castro Street, beginning the Friday before each meeting.

## Staff Liaison

The Assistant to the City Manager is the primary liaison to the Human Relations Commission and is responsible for the preparation of Commission agendas, minutes and other general business relating to the Commission.

Other members of the City Manager's Office staff as well as staff from other City departments also provide assistance to the Commission as needed.

## **Bicycle/Pedestrian Advisory Committee**

### Structure and Composition

The Bicycle/Pedestrian Advisory Committee consists of five members appointed by the City Council. Members shall live or work within the City limits and have a strong interest and enthusiasm for planning, improving and maintaining bicycle and pedestrian facilities. Majority of the members shall be Mountain View residents. Members are eligible to serve a maximum of two consecutive four-year terms.

At the first Committee meeting each January, the Committee elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

### Responsibilities

The fundamental responsibility of the Committee shall be to advise and make recommendations to staff on policy, improvement, operation and maintenance of the City's bicycle/pedestrian facilities. The Committee's role which defines and supports this basic charge includes, but is not specifically limited to, the following:

- Propose, review, prioritize and recommend bicycle/pedestrian projects for application to the Metropolitan Transportation Commission for the annual Transportation Development Act Article 3 funds. (The application for these funds is usually required by December 31 of each year.) Review and recommend projects for other State and Federal bicycle or pedestrian grant programs.
- Participate in the development and review of comprehensive bicycle/pedestrian facility plans and regulations (e.g., bicycle/pedestrian section of the Circulation Chapter of the General Plan, other circulation plans of the City, Zoning Ordinance requirements for bicycle parking).
- Review the City's existing bikeway and pedestrian facilities and make recommendations on operational improvements to the existing bicycle/pedestrian facilities.
- Make recommendations on capital improvements to bicycle/pedestrian facilities (e.g., bikeways, pedestrian/bicycle bridges, bike parking facilities, intersection and traffic signals and walkways, etc.).

- Review public and private development projects which impact bicycle and pedestrian facilities to ensure adequate consideration of the needs of bicyclists and pedestrians (site access, bicycle parking, etc.).
- Review the City's roadway system for bicycle suitability.
- Work with the Police Department to promote bicycle/pedestrian safety through education and enforcement.

### Meetings and Agenda

The Committee meets on the last Wednesday of every month except for May, July, and December at 6:30 p.m. in the Plaza Conference Room at City Hall, 500 Castro Street. Meeting agendas are prepared and posted as prescribed by law.

### Staff Liaison

A Project Manager is the primary liaison to the Bicycle/Pedestrian Advisory Committee and is responsible for the preparation of Committee agendas, minutes and other general business relating to the Committee.

## **Downtown Committee**

### Structure and Composition

The Downtown Committee consists of 11 members that represent a cross-section of the Mountain View community, including business and property owners within the downtown. The composition of the Downtown Committee is as follows:

- a. Four (4) members who own property and/or a business in the downtown. Members should represent diverse types of businesses and properties.
- b. Two (2) community-at-large members who are residents of Mountain View and do not own a downtown business or property.
- c. Four (4) business-at-large members with one (1) representative each from the Central Business Association (the representative may be the Executive Director), the Chamber of Commerce (the Executive Director or a business representative outside the downtown) and two (2) businesses not in the downtown.

- d. One (1) Neighborhood Association member who is the president of the Old Mountain View Neighborhood Association (or other representative selected by the Association).

All Downtown Committee members, except the neighborhood association member, will serve three-year terms with a maximum of two consecutive terms. The City Council shall have the authority to extend a member's term pursuant to Council Policy K-2.

### Responsibilities

To promote the vitality of downtown Mountain View through recommendations to the City Council on programs, projects and policies for economic development of a quality downtown environment and the maintenance and development of parking facilities.

### Meetings and Agenda

The Committee meets as needed on a Tuesday at 8:00 a.m. in the Plaza Conference Room at City Hall, 500 Castro Street. Meeting agendas are prepared and posted as prescribed by law.

### Staff Liaison

The Economic Development Manager is the liaison to the Downtown Committee and is responsible for the preparation of Committee agendas, minutes and other general business relating to the Committee.

## **Performing Arts Committee**

### Mission Statement

To provide a responsive forum, for both the community and region regarding maintenance, staging, operation, service provision and program development for the Center for Performing Arts.

### Goals

To promote maximum utilization of Center facilities.

To promote active participation from the community and region in the support of the Center and its programming.

To promote theatre, dance and music and all other forms of performing arts.

To hear and respond to both the community and region with creativity and objectivity and serve as their link to the City Council and City staff.

Balance City and Public concerns with consideration of fiscal resources.

To promote access to the Center by a diverse range of people whenever possible through such efforts as outreach coordination and Home Company solicitation.

### Structure and Composition

The Performing Arts Committee consists of five members appointed by the City Council. All candidates for membership must have a demonstrated special interest or training in the performing arts and may not be a current or past (within 24 months) board member or employee of a user of the Center or a current office-holder of the City. Appointments made during a two-year pilot period, beginning February 27, 2018, may include individuals employed by the City of Mountain View if there is no conflict between the duties, functions, or responsibilities of the Council advisory body position and the roles and duties of the City employment position, and provided the individual meets other advisory body eligibility requirements. The Pilot Program will terminate February 27, 2020, unless further action is taken by the City Council.

All these elements being equal, preference will be given to those residing in or employed in Mountain View. Members are eligible to serve a maximum of two consecutive four-year terms.

At the first Committee meeting each January, the Committee elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

### Responsibilities

- Act in an advisory capacity to the City Council in matters pertaining to the Center for the Performing Arts.
- Consider provisions of the annual budget for the Center for the Performing Arts as recommended by the City Manager during the normal budget process and make recommendations with respect thereto to the City Council.
- Accept money or personal property donated to the City for performing arts purposes subject to the approval of the City Council.
- Perform such other duties as Council may direct.

## Meetings and Agenda

The Committee meets on the third Wednesday of each month at 6:15 p.m. in the Atrium Conference Room at City Hall, 500 Castro Street. Meeting agendas are prepared and posted as prescribed by law. Citizens may examine the agenda at City Hall, 500 Castro Street, beginning the Friday evening before each meeting.

## Staff Liaison

The Performing Arts Manager is the primary liaison to the Performing Arts Committee and is responsible for the preparation of Committee agendas, minutes and other general business relating to the Committee.

## **Senior Advisory Committee**

### Structure and Composition

The Senior Advisory Committee consists of seven members appointed by the City Council. The members are seniors and/or senior service providers from the general citizenry. Members are eligible to serve a maximum of two consecutive four-year terms.

At the Committee meeting each January, the Committee elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

### Responsibilities

- Advise the City Council regarding matters pertaining to broader senior issues and operation of the Mountain View Senior Center.
- Submit an annual work plan.
- Compose an annual written report to Council on its activities for the prior year.

### Meetings and Agendas

The Senior Advisory Committee meets on the third Wednesday of each month at 2:00 p.m. in the Senior Center small meeting room at 266 Escuela Avenue. Meeting agendas are prepared and posted as prescribed by law. Citizens may examine the agenda and staff reports at the Mountain View Senior Center at 266 Escuela Avenue beginning the Friday before each meeting.

## Staff Liaison

The Recreation Supervisor responsible for senior programming is the primary liaison to the Senior Advisory Committee and is responsible for the preparation of Committee agendas, minutes and other general business relating to the Committee.

## **Visual Arts Committee**

### Structure and Composition

The Visual Arts Committee consists of seven members appointed by the City Council. The majority of members shall be Mountain View residents, and all shall have a strong interest in and enthusiasm for the visual arts. Two of the members should be recognized specialists in one or more aspects of the creation of art, the judgment of quality of art or the placement of art. Members are eligible to serve a maximum of two consecutive four-year terms.

At the first Committee meeting each January, the Committee elects one of its members as Chairperson and another as Vice Chairperson for the upcoming year.

### Responsibilities

The Visual Arts Committee is responsible for the promotion of public art programs and community involvement in the arts. It is also responsible for recommending the acceptance, purchase and placement of public art to the City Council. The program has three major components: public project percent for art, the display of temporary exhibits within the Civic Center area and the encouragement of private accessible art within the corporate community.

### Meetings and Agenda

The Committee meets on the second Wednesday of the month at 6:00 p.m. in the Atrium Conference Room at City Hall, 500 Castro Street. Meeting agendas are prepared and posted as prescribed by law.

## Staff Liaison

The Economic Development Manager and the Administrative Analyst I in the Community Development Department are the primary liaisons to the Visual Arts Committee and are responsible for the preparation of Committee agendas, minutes and other general business relating to the Committee.

## **Youth Advisory Committee**

### Structure and Composition

The Youth Advisory Committee consists of a combined maximum of 15 middle-school and high-school students who are Mountain View residents. Members are appointed by the City Council for a one-year term of office and are eligible for reelection to the Committee for up to six terms as long as he or she remains active on the Committee and continues to meet eligibility requirements.

### Responsibilities

The Committee is an advisory body authorized to make recommendations to the City Council on the following:

- Policy matters affecting the youth of the community;
- Planning, organizing, coordinating and carrying out social, cultural, recreational, achievement, educational and other activities for the youth in the community;
- Establishing guidelines, rules and procedures for participation in such activities; and
- Attending conferences relating to the Committee.

### Meetings and Agenda

The Committee meets twice a month on Mondays at 4:30 p.m. in the Castro Room of The View Teen Center, 263 Escuela Avenue. Meetings and agendas are prepared and posted as prescribed by law.

### Staff Liaison

The Recreation Supervisor responsible for youth development is the primary liaison to the Youth Advisory Committee and is responsible for the preparation of Committee agendas, minutes and other general business relating to the Committee.

## **City Attorney**

The City Attorney is appointed by the City Council as the Attorney for the City and legal advisor to the City Council. The City Attorney appoints subordinate attorneys to assist in the discharge of assigned responsibilities. The City Attorney defends and

prosecutes all civil actions and proceedings in which the City or any of its officers is a party and prosecutes all criminal actions involving the City Code. The Office represents and advises the Council, board, commissions, departments and all City officials in matters of law related to the conduct of City business.

The City Attorney drafts necessary legal documents, ordinances, resolutions, contracts and other documents pertaining to the City's business and handles claims against the City. The City Attorney is also responsible for providing legal services in connection with environmental planning, the North Bayshore Community, Downtown Parking District and Downtown Revitalization District.

## **City Clerk**

The City Clerk is appointed by the Council. The Clerk is responsible for facilitating the conduct of business by the Council and fulfilling legal requirements as set forth in the Charter, City Code and State law. The City Clerk's Office conducts all City elections and administers campaign and financial disclosure laws.

The Office maintains a true record of all proceedings of the Council; meets all requirements regarding public postings, legal advertising, recordations and mailing of public hearing notices; and processes Assessment Districts, annexations, deeds, tax cancellations, appeals and initiative petitions. The City Clerk's Office provides administrative assistance to the Council, edits and maintains the City Code, is custodian of the City Seal, administers oaths or affirmations and executes City contracts and agreements. The Office also maintains official City records and provides certified copies thereof, and assists and provides information to the public regarding the legislative operations of government.

## **City Manager**

The City Manager provides: professional leadership in the administration and execution of policies and objectives formulated by the City Council; effective management to the City organization; accurate information about City services and issues to the community through a public information program; and promotes the City's best interest in interactions with other levels of government.

City Administration responsibilities include: providing professional leadership in the administration and execution of policies and objectives formulated by the Council; developing and presenting to the City Council solutions and strategies in response to community issues; planning and executing programs to meet the current and future needs of the City of Mountain View; and management of the Human Resources function.

## **Community Development Department**

The Community Development Department is responsible for comprehensive planning activities for the physical, economic and social environment of the community. It initiates, formulates and implements plans based upon basic data, the California Environmental Quality Act (CEQA), community input, urban design and economic factors. The Department is responsible for zoning, planning and the issuance of building permits that guide land use development. The Department staffs the Environmental Planning Commission (EPC), the Council Neighborhoods Committee, the Downtown Committee, the Visual Arts Committee and other citizen committees in addition to establishing and maintaining communications with citizens, developers, businesses, other governmental agencies and City departments. The Department also provides technical and policy support to the City Manager and other departments on administrative committees and special projects.

## **Community Services Department**

The Community Services Department is responsible for delivery of recreation programs and services and for the maintenance of City-owned parks, roadway landscaping and street trees. In addition, the Department is responsible for the continued development and operation of commercial and recreational activities at the City's 550-acre Shoreline Regional Park and for the programming and operation of the Mountain View Center for the Performing Arts.

## **Finance and Administrative Services Department**

The Finance and Administrative Services Department is responsible for the administration of the financial affairs and internal support activities of the City; provision of fiscal support services for all City departments and programs; and management of the annual independent audit, Information Technology, Document Processing and Purchasing functions.

## **Fire Department**

The Fire Department provides effective disaster planning and preparedness training, fire prevention, fire suppression, rescue, emergency medical care, hazardous materials incident prevention and response, industrial waste discharge and general surface water pollution prevention, multi-dwelling housing inspection services and special services to the community. Department equipment and personnel are strategically deployed to provide timely response to requested emergency assistance throughout the City.

## **Library Services Department**

The Library affirms each person's right to the information, enrichment and pleasure found in books and other forms of recorded knowledge. The highest quality in selection and organization of Library resources is provided. Library resources are made easily accessible to the community. The Library promotes constant improvement in services to the community by providing a nurturing environment for patrons and staff conducive to innovation, creativity and leadership.

A member of the South Bay Cooperative Library System, which includes most public libraries in Santa Clara County, the Library cooperatively develops regional services and solutions to meet the needs of all residents in the area.

## **Police Department**

The Police Department, joining other City departments, is responsible for maintaining community quality of life by providing contemporary police response systems to meet community expectations for service. The Police Department depends on community partnership for the protection of life and property, and the promotion of community order through crime prevention and educational programs, the apprehension and prosecution of criminals, and the management of noncriminal public activities.

## **Public Works Department**

The Public Works Department is responsible for engineering, designing, constructing, operating and maintaining public facilities, utilities and infrastructure in the City of Mountain View. The Public Works Division develops and implements the adopted Capital Improvement Program and manages regional transportation policy planning and neighborhood traffic issues. The Division also reviews and inspects private development to ensure work in the public domain conforms to the City Code and standards. The Public Services Division is responsible for operating and maintaining the City's public infrastructure, including water; wastewater; storm water; streets and sidewalks; City buildings, vehicles and equipment; and closed landfills.

## **B.**

# **BOARD MEMBER, COMMISSIONER AND COMMITTEE MEMBER RESPONSIBILITIES AND OBLIGATIONS**

# Responsibilities and Obligations

Provided below is a brief listing of the responsibilities and obligations of persons serving on City boards, commissions and committees.

- Members of the Environmental Planning Commission, Board of Library Trustees, and Parks and Recreation Commission may not hold any paid office or be employed by the City of Mountain View as set forth in the City Charter. For all other non-Charter advisory bodies, appointments made during a two-year pilot period, beginning February 27, 2018, may include individuals employed by the City of Mountain View if there is no conflict between the duties, functions, or responsibilities of the Council advisory body position and the roles and duties of the City employment position, and provided the individual meets other advisory body eligibility requirements.
- All board, commission and committee members receive no compensation.
- Per the City Charter, it is the policy of the City Council to appoint qualified electors (i.e., registered voters) of the City to the Environmental Planning Commission, Board of Library Trustees, and Parks and Recreation Commission. Persons serving on non-Charter advisory bodies are not required to be registered voters and may serve regardless of immigration status.
- If a member of a board or commission is absent without excuse from three consecutive meetings, their office will become vacant and subject to reappointment by the City Council.
- If a board, commission or committee member is convicted of a crime involving moral turpitude, their office will become vacant and subject to reappointment by the City Council.

## Council/Staff/Board/Commission/Committee Relationships

### Interaction with the Public

Members of City boards, commissions and committees are representatives of the City of Mountain View. Members need to be sensitive that, when expressing opinions, they need to indicate whether or not they are speaking on behalf of themselves, their board or commission, and/or the City. As a rule, it is difficult for any board member to

express an opinion on behalf of the City outside of the public meeting because the discussion and debate necessary to the process is not present.

## **Relationship with the City Council**

Boards and commissions are appointed to assist the Council in fulfilling their goals, visions and objectives for the community. This does not mean that individual members cannot have opinions or positions divergent from those the Council has taken. The boards' and commissions' recommendations are advisory to the City Council. Council values the comments from the boards and commissions when doing their final deliberation; however, there may be times when the Council may choose to take a position different from that recommended.

There are also certain less clearly defined parameters for board or commission action. These generally involve an understanding of whether the particular subject matter lies within their purview, or that of the Council or another City board, commission or committee. For example, any final or "official" City position can be recommended by a board, commission or committee to the Council but must be endorsed by the Council prior to communication to an outside agency.

## **Access to Information**

Members are entitled to complete access, as is any member of the public, to City records and information. Requests are typically routed through the staff liaison and unless they are voluminous or require too much time in compiling, they are typically responded to immediately. Any requests that require greater staff time than is typical are routed through the City Manager or City Council prior to being filled.

## **Subcommittees**

As a general rule, boards, commissions and committees may form subcommittees to fulfill their role in City government. Subcommittees cannot, however, take on a life of their own that requires an excessive amount of effort on the part of subcommittee members or staff members or requires the commitment of other resources that impact the board or commission's budget. If the board or commission identifies a particular focus it would like to pursue that requires an expenditure of time or effort not contemplated during the budgetary cycle, said request should be forwarded to the City Council for approval. This is the only effective way that staff and City resources can be managed.

C.

# CITY COUNCIL POLICIES

## CITY COUNCIL POLICY

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SUBJECT: COUNCIL ADVISORY BODY APPOINTMENTS

NO.: K-2

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### PURPOSE:

To establish policies and procedures governing the appointment of City commission, board, and committee members (collectively, "Council advisory bodies").

### POLICY:

1. The Mayor shall appoint three Councilmembers to the Council Appointments Review Committee, one of whom shall be designated as Chair. The responsibility of the Committee is to systematically screen candidates and make recommendations to the entire Council.
2. Per the City Charter, it is the policy of the City Council to appoint qualified electors (i.e., registered voters) of the City to the Environmental Planning Commission (EPC), Library Board of Trustees, and Parks and Recreation Commission. For all other non-Charter advisory bodies, members are not required to be registered voters and may serve regardless of immigration status. It is also the policy of the City Council to appoint members to all advisory bodies who will provide, as nearly as possible, a representative balance of the broad population of the City. Appointees to Council advisory bodies serve at the pleasure of the City Council.

Charter Section 900 prohibits members of any board or commission established by the City Charter (the Environmental Planning Commission, Board of Library Trustees, and Parks and Recreation Commission) from holding any employment in the City government. For all other non-Charter advisory bodies, appointments made during a two-year pilot period, beginning February 27, 2018, may include individuals employed by the City of Mountain View if there is no conflict between the duties, functions, or responsibilities of the Council advisory body position and the roles and duties of the City employment position, and provided the individual meets other advisory body eligibility requirements. The pilot program will terminate February 27, 2020, unless further action is taken by the City Council.

The overriding criterion for appointment, however, must be the Council's belief that the person appointed can bring skill, integrity, knowledge, interest, and especially an understanding of the basic obligation to evaluate issues in the broad context of the public interest.

CITY COUNCIL POLICY

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SUBJECT: COUNCIL ADVISORY BODY APPOINTMENTS

NO.: K-2

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Appointed persons shall be limited to two consecutive terms prior to reappointment on a given advisory body with the exception of the Downtown Committee. However, where the City Council expressly determines it to be in the best interest of the community, the City Council may reappoint beyond this limit.

3. A person appointed to an advisory body can only serve on one advisory body at a time. Unless appointed to an unexpired term of less than two years caused by resignation or other such vacancy, the term of office for each advisory body member shall normally be four years or until a successor is appointed and shall, where possible, commence on the first day of January.
4. The City Clerk shall provide application forms and shall maintain a composite listing of all applications on file which have been received. The names of applicants on file in the City Clerk's Office shall be available to the public. An application may be submitted at any time, but must be renewed every year on or before September 30.
5. Persons being considered for appointment (or reappointment) must be interviewed at least once to qualify for appointment.

PROCEDURES:

1. Appointments/Reappointments
  - a. During August of each year, the City Clerk shall poll all incumbents eligible for reappointment regarding their interest in being reappointed.
    - (1) Incumbents must update their applications.
    - (2) In NO case shall automatic reappointment of an incumbent be assumed.
    - (3) The Appointments Review Committee will consider the actual performance, contribution, and record of incumbents in determining whether the person should be reappointed.

CITY COUNCIL POLICY

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SUBJECT: COUNCIL ADVISORY BODY APPOINTMENTS

NO.: K-2

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- (4) The City Clerk will provide the Appointments Review Committee Chair with a listing of all eligible incumbents interested in being appointed.
- b. During September of years when any advisory body terms are expiring, the City Clerk shall, in coordination with the Council Appointments Review Committee Chair, be responsible for ensuring that there is suitable advertisement of upcoming appointments. This shall include appropriate display ads in local newspapers, as well as other special ads where possible, including a suitable ad (e.g., one-half page in *The View*) providing informative descriptions of the various advisory bodies, their responsibilities, etc.; and other possible methods, such as cable television announcements, a special, reusable television production on commission membership, etc.

Advertisements shall state whether or not the incumbent for an appointment is eligible for reappointment and whether or not the incumbent has requested reappointment.

Also during the month of September, the City Clerk shall send all current applicants a new application form and a brief synopsis of this City Council policy.

- c. During the first week of October, the City Clerk shall provide the Council Appointments Review Committee with copies of applications received for all advisory body openings.

Also during the first week of October, the City Clerk shall coordinate with the Council Appointments Review Committee Chair to schedule interviews with all applicants for each advisory body opening.

- d. Between October 15 and November 30, the Council Appointments Review Committee shall interview all applicants, with the exception of EPC applicants. The entire City Council will interview EPC candidates at a Council Study Session during the month of November and, at the conclusion of the interviews, the Council shall determine their appointment recommendations and take final action at the next Regular Council meeting. Attachment A to this policy outlines the selection process for the EPC.

## CITY COUNCIL POLICY

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At the conclusion of the interviews, the Council Appointments Review Committee shall determine its appointment recommendations. The Appointments Review Committee (or City Council for EPC appointments) may also identify additional members to serve as “alternates” who could be appointed directly, if a vacancy is created by the election of a current board, commission, or committee member to the City Council.

If the majority of the Appointments Review Committee determines that a sufficient number of or cross-section of suitable applicants was not available to be considered, no recommendation need be made. In this case, the opening(s) shall be readvertised and recommended qualified appointments forwarded to the Council at the earliest possible date.

- e. The Council Appointments Review Committee shall make a written recommendation to the City Council at a Council meeting in November or December, at which time the appointments shall be made.

In the event of delay or other inability to make a prompt appointment, the departing incumbent may, unless otherwise directed by the City Council, continue to serve until replaced.

- f. Upon the City Council adoption of the resolution of appointment, the Council Appointments Review Committee Chair shall notify each appointee in writing and include a statement concerning the legal requirements that the appointee must meet. A copy of the notice of appointment shall be sent to the secretary of the appropriate advisory body.
- g. All persons appointed to an advisory body must take either the loyalty oath required by the State Constitution as set forth in Attachment B or, if they are not a U.S. citizen, the alternative oath in Attachment C. The City Clerk shall administer and file the oath of office and determine that all other legal requirements have been met and shall then notify the secretary of the advisory body that the appointee is ready to act in official capacity.

CITY COUNCIL POLICY

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2. Vacancies

- a. The secretary of each advisory body shall notify the City Clerk promptly in the event that any advisory body member is absent without excuse for three regularly scheduled meetings consecutively or within a calendar quarter.
- b. The City Charter requires an office to become vacant if an advisory body member has been absent from three regular consecutive meetings without a qualified excuse. A qualified excuse occurs if any of the following apply:
  - The advisory body consents to the absence either before, or at the meeting immediately after the absence, for the advisory board member to attend to official duties of the City, including, but not limited to, representing the City at conferences or official functions;
  - The advisory board member is ill;
  - The advisory board member is on bereavement leave due to the death of a family member as defined in the City's Personnel Rules;
  - The meeting was not on the advisory board member's formally adopted annual schedule of meetings if an annual schedule was adopted.
- c. In that event or if the advisory body member is convicted of a crime involving moral turpitude or ceases to be a qualified elector of the City, the City Clerk shall notify the City Council who shall then declare that such office is vacant.
- d. Resignations may be submitted at any time to the City Council, either directly or through the advisory body chair.
- e. Whenever a vacancy occurs for any reason except for the expiration of the term, the City Clerk shall post a special notice of vacancy in the City Clerk's Office and other places as directed by the City Council no earlier than twenty (20) days before or later than twenty (20) days after the occurrence of the vacancy.

CITY COUNCIL POLICY

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SUBJECT: COUNCIL ADVISORY BODY APPOINTMENTS

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- f. Upon notice of the vacancy, the Council Appointments Review Committee shall initiate Steps 1.d and 1.e, leading to a recommendation to the City Council for a successor to such vacancy, and a successor shall be appointed to serve only to the date of the unexpired term pursuant to Section 905 of the City Charter.
- g. Notwithstanding the foregoing, the City Council shall not make a final appointment to an advisory body for at least ten (10) working days after the posting of the notice of vacancy in the City Clerk's Office, City Hall bulletin board, Library bulletin board, and other places as directed by the City Council. However, upon a finding that an emergency exists, the City Council may fill the unscheduled vacancy immediately with a person appointed to serve only on an acting basis until the final appointment to the advisory body is made.

3. Removal

An advisory body member is subject to removal by motion of the City Council adopted by at least four affirmative votes.

Revised: February 27, 2018  
Revised: December 13, 2016  
Revised: March 3, 2015, Resolution No. 17945  
Revised: January 14, 2014, Resolution No. 17832  
Revised: November 17, 2009, Resolution No. 17441  
Revised: October 28, 1997  
Effective Date: January 26, 1976

CNL POL  
K02-CP

ENVIRONMENTAL PLANNING COMMISSION (EPC) MEMBERS  
SELECTION PROCESS

1. EPC candidates will be interviewed by the full Council.
2. Council will conduct individual interviews, allotting 15 minutes time for each candidate.
3. Interview questions will be handled as follows:
  - Supplemental Questionnaire (Preinterview Application): Candidates are required to submit, along with their City application form, a typewritten response, limited to a total of approximately 350 words, to the following questions:
    - (1) What qualifies you for this position?
    - (2) What do you think are the major issues for land-use planning in the City of Mountain View?
    - (3) Give some Mountain View examples of successes and failures in planning.
  - Oral Interview:
    - (1) A two-minute opening statement by each candidate including why he/she wants to serve on the EPC.
    - (2) Council will ask each candidate the same core questions, allowing three minutes for each question:
      - a. How would you balance private and community benefits?
      - b. What criteria would you use to evaluate a Mountain View development? In your answer, refer to both residential and commercial/retail projects.
      - c. What issues do you think would be of particular importance to you as an EPC Commissioner?

Within the time limits of each individual interview, Council may ask the candidate a limited number of follow-up questions relating to the candidate's opening statement or to clarify the candidate's answers to the core questions.

CNLPOL/K02-CP-Att A

**California Constitution Oath**

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

CNLPOL/K02-CP-Att B

Alternate Oath

"I, \_\_\_\_\_, accept my appointment to the Mountain View \_\_\_\_\_ (name of advisory body). I understand the duties of a Mountain View \_\_\_\_\_ (name of advisory body) and promise I will well and faithfully discharge the duties upon which I am about to enter and uphold the Mountain View City Charter."

## CITY COUNCIL POLICY

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SUBJECT: EXPENSES OF COUNCIL-APPROVED BOARDS AND COMMISSIONS

NO.: A-2a

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### PURPOSE:

To establish a policy governing travel and certain other expenses of the boards and commission members appointed by the City Council.

### POLICY:

#### 1. General

Members of advisory boards and commissions appointed by the City Council may be required to travel and to incur other expenses in the course of their official duties. City Charter Section 905 authorizes reimbursement of expenses of board and commission members incurred in the course of their official duties. This policy establishes the criteria for City payment of these expenses.

#### 2. Limitations

- a. Transportation costs to and from the authorized destination will not exceed economy class airfare unless such fare is not available.
- b. Expenses incurred by board or commission members must be coordinated in advance with appropriate City staff (i.e., City Manager or department head serving as staff liaison) to ensure budgeted funds are available to provide reimbursement.
- c. Expenses for spouses/guests are limited to recognition functions sponsored by the City and approved by the City Council.
- d. Contributions are not permitted.
- e. Board and commission members will be required to pay for any nonreimbursable expenses if they register for an event (e.g., conference, meeting, etc.) but do not attend, unless they are able to designate an appropriate substitute to attend in their place, or if they cannot attend as the result of a personal illness or emergency.

CITY COUNCIL POLICY

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SUBJECT: EXPENSES OF COUNCIL-APPROVED BOARDS AND  
COMMISSIONS

NO.: A-2a

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3. Expenses Defined

Expenses while in travel status will include, but not be limited to, the following:

- a. Meals, lodging, cost of transportation, tips, taxi and bus fares, legislation or special meeting fees, telephone charges for City business; clerical or technical assistance such as faxing or copy service; and any other normal, necessary and reasonable expenses, the benefit of which accrues to the City's interest.
- b. All lodging and transportation costs will be reimbursed or paid only on the presentation of a receipt or suitable evidence of payment for cost by the traveler.
- c. Mileage will be paid at an amount equal to the Internal Revenue Service rate approved for nonitemized travel.

4. Claims for Reimbursement

Claims for reimbursement of travel and allowed expenses shall be presented on City reimbursement forms, signed by the City Clerk and submitted to the Finance and Administrative Services Department.

Effective Date: March 26, 1991, Resolution No. 15243

CNL POL  
A2a-601CP

**D.**

# **CONFLICT OF INTEREST**

# Conflict of Interest

This discussion will provide an overview of the various conflict of interest laws found in the Political Reform Act, Section 1090 of the Government Code, and other statutes pertaining to conflicts of interest. It is intended as a brief primer on these laws that can be used to familiarize and as a handy reference; it is not a substitute for legal or filing advice available from your own legal counsel and/or Fair Political Practices Commission (FPPC). General guidance on these issues is available from the City Clerk and City Attorney; however, neither can provide individual legal advice to members.

## Political Reform Act

By far, the most comprehensive and complex conflict of interest provisions are found in the Political Reform Act, Government Code Section 81000, *et seq.*, enacted by initiative (Proposition 9) in 1974. The Political Reform Act is administered by the Fair Political Practices Commission (“FPPC”) and also at the local level by the City Clerk and City Attorney.

The Political Reform Act prevents conflicts of interest in two primary ways: (1) by disclosure; and (2) by disqualification. As to disclosure, the Political Reform Act requires designated public officials and employees to disclose all economic interests such as income investments, interest in real estate, and other sources of income or gifts which may be affected by the exercise of the official’s duties. These disclosures are made on a form called a Statement of Economic Interests (Form 700). If a public official has a conflict of interest, the Political Reform Act may require the official to disqualify himself or herself from making or participating in a governmental decision or using his or her official position to influence or attempt to influence a governmental decision. The Political Reform Act sets out four (4) criteria for determining when a public official has a conflict of interest.

1. The official makes, participates in, or uses his or her official position to influence a **governmental decision**.
2. It is **foreseeable** that the decision will affect the official’s economic interests.
3. The effect of the decision on the official’s economic interest will be **material**.
4. The effect of the decision on the official’s economic interest will be distinguishable from its effect on the **public generally**.

## Participation

The first component of a conflict of interest is whether the official makes, participates in or uses his or her official position to influence a governmental decision. A governmental decision is any decision made by a government body or by a government official or employee in his or her official capacity. Governmental decisions include: decisions on ordinances, regulations and resolutions; decisions on contract awards, purchases, leases; decisions on hiring, firing, personnel actions; decisions on land use, zoning, redevelopment plans, permits, and variances, and a host of other matters which may come before the official body. Governmental decisions do not include purely private decisions made by a public official in his or her personal capacity.

The public official makes a governmental decision when he or she, acting within the authority of his or her office, does any of the following: votes on a matter, appoints a person, obligates or commits his or her agency to any course of action, enters into any contractual agreement on behalf of his or her agency, determines not to act in any of the ways described above unless that determination is made because the official has disqualified himself or herself due to a conflict of interest.

In addition, public officials make governmental decisions when they take or authorize any official action on behalf of their agencies. A determination that an agency will not take a particular action is also a governmental decision. A public official participates in a governmental decision when he or she responds to comments, takes part in discussion, advises or makes recommendations to a decision-maker, whether or not the advice is followed by the decision-maker.

A public official who negotiates on behalf of his or her agency with any other public or private agency or with any person outside his or her agency concerning the governmental decision participates in that decision. Employees whose actions are solely ministerial, secretarial, clerical or manual do not "make or participate" in governmental decisions.

A public official influences or tends to influence a governmental decision when the official appears before any governmental agency in his or her official capacity and urges that a particular governmental decision be made. This includes contacts with any individual within a government agency for the purpose of urging a particular decision.

A public official can sometimes influence a governmental decision when acting in a private as well as in an official capacity. An official who appears as the representative of a third party before the official's own agency is influencing or attempting to influence a governmental decision. The FPPC has made the following determinations as to what is not considered an official influencing or attempting to influence a governmental decision: (1) appearing before any agency, including the official's own agency, in the

same manner as any other member of the general public to represent only himself or herself on a matter affecting real property or a business entity wholly owned by the official, his or her spouse, or dependent children; (2) appearing as a private citizen before an agency that is independent of the appointing or budgetary control of the official's own agency; and (3) communicating with the general public or the press.

## **Foreseeability**

The second component of a conflict of interest is whether it is foreseeable that the decision will affect the official's economic interest. The FPPC's regulations and opinions on this matter are complex, lengthy and can only be partially summarized in this discussion. They are as follows:

1. The decision affects the official's personal financial status or that of his or her spouse or dependent children. This does not include the official's government salary.
2. The decision affects a business entity located in, doing business in, owning real property in, or planning to do business in the official's jurisdiction in which the official, his or her spouse, or dependent children have an investment of \$1,000 or more.
3. The decision affects real estate located in the official's jurisdiction and the official or his or her spouse or dependent children has an interest of \$1,000 or more in that real estate.
4. The decision affects a person, business entity or nonprofit entity located in, doing business in, owning real property in or planning to do business in the official's jurisdiction from which the official has received income of \$250 or more or the official's spouse has received income of \$500 or more in the past 12 months.
5. The decision affects a person, business or nonprofit entity from whom the official has received gifts of \$250 or more in the past 12 months.
6. The decision affects a business entity other than a nonprofit organization in which the official is a director, officer, partner, trustee, employee or holds a position of management.

In order to create a conflict of interest, the effect of a governmental decision on an official's economic interest must be foreseeable. An effect of an official's economic interest is foreseeable when there is a substantial likelihood that it will ultimately occur as a result of the governmental decision.

## **Materiality**

The third component for conflict of interest is whether the effect of the decision on the official's economic interest will be material. It is usually necessary to estimate the dollar value of the effect of a decision on the official's economic interest to determine whether the effect is material. Specific circumstances under which an effect is material are set forth in the Commission's regulations which because of their length and complexity cannot be summarized here.

## **The "Public Generally" Exception**

The fourth component of a conflict of interest is whether the effect of the decision on the official's economic interest will be distinguishable from its effect on the public generally. An official does not have a conflict of interest if the effect of a governmental decision on the official's economic interest is no different from its effect on most other persons or interests in the jurisdiction. The Commission has recently published guidelines to be utilized in applying this exception.

## **Disqualification**

In the event it is determined that the public official has a conflict of interest, the official is not counted for the purposes of establishing a quorum and must not vote on, make, participate in any way, or attempt to influence the decision. In other words, the official is disqualified from participating in any manner in the decision. The member, in stepping aside, must announce that he or she is doing so due to the conflict of interest.

Although not an FPPC rule, a good practice is for the member who steps aside due to a conflict of interest to leave the chambers or meeting room during discussion on the item.

A governmental decision is not automatically invalidated for Political Reform Act purposes by the participation of an official who has a conflict of interest. However, it may be set aside by a court if a court determines that an official who made the decision had a conflict of interest that without that official's actions, the decision would not have been made and that setting aside the decision will not cause injury to innocent persons.

There is an exception to disqualification. The law recognizes the so-called "Rule of Necessity" for those rare situations in which a public official is legally required to make or participate in the decision even though the official has a disqualifying financial interest. The rule only applies when no one else has the legal authority to make or participate in the decision. In such a case, the Political Reform Act allows the official to make or participate in the decision so long as the existence and the nature of the official's financial interest is put on the public record and the official does not try to

influence the decision of others outside the public meeting. This exception cannot be utilized to allow participation without approval of the City Manager and City Attorney.

## Questions?

If the public official has questions whether or not he or she may have a potential conflict of interest, the official should contact the City Clerk, City Attorney or the FPPC for advice. The FPPC will not provide advice, however, on other conflict of interest laws such as Government Code Section 1090, discussed *infra*, and common-law conflict of interest principles.

## Government Code Section 1090

Government Code Section 1090 is a statutory embodiment of common-law principles. It grew from the proposition that public office is a public trust created in the interest and for the benefit of the people and was the code section under which State Schools Superintendent Bill Honig was prosecuted several years ago. Public officers are obligated to discharge their responsibilities with integrity and fidelity. Since the officers of a governmental body are trustees of the public weal, they may not exploit or prostitute their official position for their private benefit. When public officials are influenced in the performance of their public duties by base and improper considerations of personal advantage, they violate their oath of office and vitiate the trust reposed in them and the public is injured by being deprived of their loyal and honest services. It is, therefore, the general policy of this state that public officers shall not have a personal interest in any contract made in their official capacity. *Schaefer v. Berinstein* (1956) 140 Cal.App.2d 278, 295 P.2d 113.

Section 1090 reads in relevant part, "...[C]ity officers or employees shall not be financially interested in any contract made by them in their official capacities or by any body or board of which they are members. Nor shall...city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity...."

The purpose of Section 1090 is to insure absolute loyalty and undivided allegiance to the best interest of the government entity they serve and to remove all direct and indirect influence of interested officers as well as discourage deliberate dishonesty. To violate Section 1090, the officer or person making the contract must enter into the contract in an official capacity; however, it is also a violation where the contract is entered into by the body or board which the officer is a member; the element of participation is present by the mere fact of such membership irrespective of whether the employee or officer abstains from the making of the contract or is absent when the vote is taken. In the event the City enters into an agreement or contract in which an official had a conflict of interest, the effect is that the contract is void and has no legal effect.

The penalties for violations of Section 1090 can be severe. For example, in the case of *Thompson v. Call* (1985) 38 Cal.3d 633, a city councilmember sold property to the city using a corporation as a conduit. The councilmember also received clearance from legal counsel prior to the sale. The court found the officer was financially interested in this agreement and, therefore, the agreement was in violation of Section 1090. The fact that the contract was fair and equitable and that the city did not suffer a loss did not matter. The fact that the city councilmember's disclosure of his interest on the record did not shield the councilmember from liability under the statute. In this case, the councilmember had to return the purchase price of the property (\$258,000) plus interest and the city was allowed to keep the real property.

Violations of Section 1090 can also be prosecuted as felonies by the district attorney and California Attorney General. In addition to typical criminal sanctions, a conviction bars the person from ever holding public office in California again.

There are exceptions to Section 1090 which are found in Section 1091 dealing with remote interests of the officer or member of the legislative body. The section contains a listing of those types of interests which, under the statute, are considered remote interests which permit the legislative body to enter into a contract in good faith once the conflict is disclosed by the councilmember and that member's vote is not counted. By way of example, remote interests under this section include the circumstance(s) where: (1) the board member is also an officer of a nonprofit corporation; (2) the contract is competitively bid and is not for personal services; (3) the contracting party has 10 or more other employees; (4) the contracting party is the lowest responsible bidder; and (5) that of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his election or appointment to office. The above-referenced citations are merely examples of at least 12 remote interest exceptions. There are additional exceptions to the Section 1090 prohibition dealing with the ownership of corporate shares, reimbursement for expenses, and receipt of public services.

## **Health and Safety Code Section 33130**

Health and Safety Code Section 33130 is found in the Community Redevelopment Law. This section generally prohibits an officer or employee of the redevelopment agency who, in the course of his or her duties, is required to participate in the formulation of, or to approve plans or policies for the redevelopment of a project area and prohibits that person from acquiring any interest in any property included within the project area. In the event the officer does own property within the project area, that officer or employee is required to immediately make a written disclosure of that financial interest to the agency and the legislative body and the disclosure shall be entered on the minutes of the agency and the legislative body. Failure to do so constitutes misconduct in office.

There are some limited exceptions to this prohibition. Section 33130 does not prohibit the agency officer from acquiring an interest in property within the project area for the purpose of participating as an owner or reentering into business if the owner or employee has owned a substantially equal interest as that being acquired for three years immediately preceding the selection of the project area. An additional exception deals with a rental or lease agreement. An agreement may be entered into if all the following criteria are met: (1) the rental or lease agreement contains terms that are substantially equivalent to terms of a rental or lease agreement available to any member of the general public for a comparable property in the project area; (2) the agreement includes a provision which prohibits subletting, subleasing or other assignment at a rate in excess of the rate in the original rental or lease agreement; (3) the property which is subject to the agreement is used in the pursuit of the principal business, occupation or profession of the officer or employee; and (4) an agency officer or employee who obtains the agreement immediately makes a written disclosure of the fact to the agency and the legislative body.

However, notwithstanding this provision, the officer should always keep in mind Section 1090 which is the broader prohibition against entering into contracts in one's official capacity in which the officer has a financial interest and the possibility of disqualification under the Political Reform Act.

## **Miscellaneous Conflict of Interest Provisions**

### Incompatible Employment

Government Code Section 1126 prohibits any officer or employee of the local agency from engaging in any employment activity or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as an officer of the local agency. This section does not typically apply to elected officials; however, its use of the term "officer" could apply to elected officials and, therefore, the City Council could determine what types of activities are incompatible or in conflict with the duties expected of officials and employees of the local agency. Examples of prohibited activities would be employment, activity, or enterprise that (1) involves the use for private gain or advantage of his or her local agency's time, facilities, equipment and supplies or the badge, uniform, prestige, or influence of his or her local agency, office or employment; (2) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her local agency employment or as part of his or her duties as a local agency, officer, or employee; (3) involves performance of an act in other than his or her capacity as a local agency, officer or employee which act may later be subject, directly or indirectly, to the

control, inspection, review, audit, or enforcement of any other officer or employee of the agency by which he or she is employed; or (4) involves the time demands as would render performance of his or her duties as a local agency officer or employee less efficient.

### Common-Law Principles

In California common law (or “judge-made law”), precedents have been supplanted, to some extent, by the various statutes, discussed above. Nonetheless, these principles continue to apply and generally impart common-sense standards such as the prohibition against serving “two masters” or avoiding “divided loyalties.” This discussion, intended to be brief, is not a substitute for the careful analysis required of the common-law proscriptions, if a potential conflict is not clearly addressed by the aforementioned State statutes.

### **Appearance of Impropriety**

Perhaps the initial “gut” reaction that first produces the need to analyze conflict of interest is that an impending discussion or action before one’s board, commission or committee will tend to create “an appearance of impropriety.” In crafting the statutes discussed above, the voters, the courts and the State agencies in charge of administering the statutes have tried to delineate the most often encountered circumstances under which a conflict of interest will be presented.

Nevertheless, there are unique circumstances and circumstances that have not been contemplated that are not defined clearly by the rules but leave the decision-maker and perhaps the public with a “feeling” that the public official cannot participate or render a decision conflict-free.

Perhaps more importantly, there are circumstances where the official clearly does not have a conflict of interest as defined in State law but nonetheless, to the public, the official appears to be potentially influenced by what the public perceives to be a conflict of interest. This is perhaps the most difficult area that an official will find themselves in but one that they must be no less sensitive.

An example of this latter case is where a member of the planning commission owns 1,000 shares of Hewlett-Packard stock. Hewlett-Packard has applied for a rezoning determination on a piece of property held within the City of Mountain View. Pursuant to the FPPC rules and regulations, the planning commissioner’s stock ownership is not sufficient to create a financial conflict of interest for that individual because of the following analysis. It is true that the official is **participating** in a governmental decision. However, because Hewlett-Packard is such a large company, ownership of 1,000 shares

is not a sufficient enough investment interest to create a **foreseeable** impact on his investment interest that will be **material**.

Nonetheless, to a member of the viewing public, this planning commissioner could be seen as trying to advance his own economic well-being at the expense of good judgment or the best interest of the City. For that reason, the planning commissioner may want to step aside or, because they do not have a conflict of interest, they can choose to abstain from participation in the decision.

A counter situation would be presented if vacancies on the commission would require that official's participation. In that case, the official, upon the publicly stated advice of the City Attorney, could elect to participate for purpose of establishing a quorum or to actually vote having had the City Attorney's Office indicate that it was not a technical conflict of interest. The underlying principle of avoiding the appearance of impropriety is that the utmost concern of the member must be that the public's faith in the fairness and integrity of the City board or commission must be of primary concern and not that official's ability to participate.

## **Conclusion**

Because of the pitfalls facing public officials with respect to conflict of interest issues, the public officials should consult with the City Attorney whenever there may be potential conflict of interest so that undesirable consequences can be avoided.

**E.**

**BROWN ACT/  
OPEN MEETING LAW  
REQUIREMENTS**

## Open and Public Meetings

In 1953, the State Legislature passed the Ralph M. Brown Act, and the bill was signed into law in 1953 by then-Governor Earl Warren. The impetus for this new law was a 10-part series on “Your Secret Government” that ran in the *San Francisco Chronicle* in May and June 1952.

The Brown Act has evolved under a series of law changes and court decisions over the years and has been a model for other open meeting laws throughout the country.

Two key parts of the Brown Act have been unchanged since its passage. One is the intent section, which provides:

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in the 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 their 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.”

Not all intent language in statutes has an impact on the judiciary. But the courts have leaned on the intent section of the Brown Act to narrowly construe exceptions to the law and liberally construe provisions which further openness and access. Perhaps the most important sentence emphasized by the court in its rulings is the latter part of the intent section:

“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.”

As will be discussed more fully in this section of the handbook, the original Brown Act intended the “legislative body” to refer to the city council or board of supervisors, etc. The Brown Act has been expanded recently to include all boards, commissions and standing committees (subject to certain exceptions) under the term “legislative body” and, therefore, subject to each and every term of the Brown Act. With that as a

reference point, the remainder of this section of the handbook will address the principal parts of the Act and its application to City boards, commissions and committees.

## **Legislative Body**

The 1993 cleanup amendments to the Brown Act refined the definition of legislative body. It now provides that all commissions, committees or boards, whether permanent or temporary, decision-making or advisory, are considered legislative bodies if created by formal act of the Council.

Previously, committees made up of less than a quorum of the Council were not necessarily subject to the Act. The law now provides that they are subject to the Act if they have (1) continuing subject matter jurisdiction, or (2) have a fixed meeting schedule. Ad hoc committees dealing with a single subject and with few meetings are probably exempt.

Private corporations may be considered a legislative body if they (1) exercise delegated authority of the Council, or (2) receive funds from the Council and a member of the Council is on the board.

### **“All Meetings of ...”**

In 1994, the State Legislature for the first time defined meeting. That 1994 definition is as follows:

“Any congregation of a majority of the members of a legislative body at the same time and place **to hear, discuss, or deliberate** upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.”

Except for teleconferencing, the law specifically prohibits “any use of direct communication, personal intermediaries or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to the action to be taken on an item by the members of the legislative body.”

After that very inclusive language, the law carved out five exceptions:

1. **Individual contacts.**
2. **Conferences** – Allows a legislative body majority to attend a conference or similar gathering open to the public that discusses issues of general interest to the public or to public agencies. Among other things, this permits attendance at annual association conferences such as the League of California Cities, so long as

those meetings are open to the public. The one prohibition remains that the majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their agency's subject matter jurisdiction.

3. **Community meetings**— The majority of a legislative body can attend a local service club meeting that is open to the public or a local candidates' night but again cannot discuss City business among themselves.
4. **Social or ceremonial events**— Provided no official business is discussed.
  - a. Collective briefings.
  - b. Retreats and workshops.

### Serial Meetings

Among the most frequent controversies over the Brown Act are those involving serial, rotating or *seriatim* meetings. These "meetings" involve only a portion of the legislative body at any one moment but eventually involve a quorum.

The *seriatim* meeting prohibition is one of the most easily and often unintentionally violated provisions of the Act. It can involve telephone conversations in series between one member of the legislative body concerned about an issue that has discussions with a majority of the legislative body without other members knowing or one member talking to two members and one of those members talking to one or two other members, thereby building a consensus, or having "heard, discussed or deliberated" on a subject of interest to the agency.

Less obviously, the section can be violated by members responding to E-mails or faxes sent by one or more members or by a City staff member. In this advanced technological age, one must be ever vigilant for these types of unintentional violations.

### Informal Meetings

It is often a temptation to mix business with pleasure—for example, by holding a postmeeting luncheon; however, informal gatherings at which business is discussed are subject to the Brown Act and, thus, business may not be discussed unless the gathering is part of a noticed, open meeting and the public is permitted to attend.

### Technological Conferencing

The Brown Act now specifically allows a legislative body to use video teleconferencing to receive public comment or testimony or to deliberate. Agendas must be posted and

regulations adopted to protect the rights of the public. The Act specifically prohibits any other direct communications or technological devices to conduct the meeting – which means that meetings cannot be conducted over the telephone.

### Location

The Brown Act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction. There are seven narrow exceptions to this rule.

### Newly Elected Members

In 1994, the Brown Act for the first time covered newly elected members who have yet to assume office. It requires this individual to conform his/her conduct to the requirements of the Brown Act. This change means that meetings between incumbents and newly elected members could constitute a majority and, thus, be subject to the Brown Act. Even a meeting between two outgoing members and their successors could violate the law.

## **Meetings Shall Be Open and Public**

There are two essentials for an open and public meeting. One is **effective notice**; the other is **an agenda** which adequately describes the items to be considered. Every meeting of the legislative body of a local agency must have public notice and a binding agenda.

### Regular Meetings

The legislative body must set the time and place for regular meetings by ordinance, resolution, bylaws or similar formal rule for conducting business. If the meeting is not held on the date specified in that formal action, it is an adjourned regular meeting or a special meeting for all purposes.

An agenda must be posted at least 72 hours before a regular meeting in a spot “freely accessible to members of the public.” The City Clerk designates the location for such posting. And, new in 1994, the agenda 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.” Mountain View agendas have typically surpassed this minimum requirement.

With three exceptions, no action or discussion can take place on an item not on the posted agenda. However, there can be brief responses to questions, direction to staff

regarding agenda items for the future or some other limited, routine comments, as will be discussed below.

### Special Meetings

The presiding officer or a majority of the legislative body can call a special meeting at any time. For the majority to act, there must be implied authority for them to communicate to determine if they want to call a special meeting.

Written notice must be posted at least 24 hours prior to the meeting and must be sent to each member of the legislative body and to each local newspaper of general circulation or radio or television station which has requested such notice in writing. The notice must in effect constitute the agenda and must be in a form approved by the City Clerk.

### Adjourned Meetings

A regular or special meeting can be adjourned and readjusted to a time and place specified in the order of adjournment. Less than a quorum may so adjourn a meeting, and 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 is not introduced. Otherwise, notice provisions are the same as for special meetings. In addition, 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.

### Closed Sessions

Part of all regular or special meetings or one which has been adjourned may be closed to the public under special conditions. Specific noticing and agenda disclosures are required to conduct a closed session and, generally, boards, commissions and committees do not schedule closed sessions, nor can they be scheduled or held without the approval of the City Manager and/or City Attorney.

### Continued Hearings

A hearing can be continued to a subsequent meeting. The process is the same as for adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the notice or order of continuance must be posted immediately following the meeting. If a meeting is continued to a date certain, further noticing of that hearing is generally not required.

## Emergency Meetings

An emergency meeting can be held when prompt action is needed because of actual or threatened disruption of public facilities. It is unlikely that a board, commission or committee would ever be called upon to hold an emergency meeting. As with closed sessions, special noticing provisions do apply, as does the requirement of approval by the City Manager and/or City Attorney.

## Nonagenda Items

The Brown Act generally prohibits any action or discussion of items not on the agenda. There are three specific situations in which a legislative body can act on an item not on the agenda:

1. **Emergencies.** When a majority decides that there is an emergency situation as defined for emergency meetings. Since emergencies are generally defined as those involving natural disasters or disruption due to fire, floods, war, riots, etc., it is unlikely that any board, commission or committee would need to add an item to their scheduled agenda as “an emergency situation.”
2. **Need for Immediate Action.** When two-thirds of the members (or all members if less than two-thirds are present) determine that (1) there is a need for immediate action; and (2) the need to take action “came to the attention of the local agency subsequent to the agenda being posted.” Generally, the staff will advise the legislative body when this situation presents itself and the body should take a vote on whether or not they believe these two prongs of the test are met before considering an item for addition to the agenda.
3. **Continued Item.** When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

These exceptions are narrow. The first two require specific determination by the legislative body. The determination can be challenged in court and, if unsubstantiated, can lead to invalidation of any action taken.

## **All Persons Shall Be Permitted to Attend**

A number of Brown Act provisions protect the public’s right to attend and participate at meetings.

1. 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 other**

**document circulated at a meeting must clearly state that its completion is voluntary, and that the person may attend whether or not they fill it out.** It is a good practice to indicate the purpose of the list (i.e., “Please sign this list if you wish to receive notice of future meetings”).

2. No meeting or any other function can be held in a facility that prohibits attendance based on race, religious creed, color, national origin, ancestry or sex, or which is inaccessible to handicap, nor can a meeting be held where the public cannot be present without making a payment or a purchase. If a lunch meeting is held at a restaurant or banquet facility, seating must be made available for the press and public at no charge.
3. No action may be taken by secret ballot, whether preliminary or final.

The legislative body may remove persons from a meeting who willfully interrupt proceedings. They may also have the room cleared; however, members of the news media who have not participated in the disturbance must be allowed to stay.

### Records and Recording

The public has a right to review agendas and other writings distributed to a majority of the legislative body. Except for privileged documents, those materials are public records and must be made available.

The public is also specifically allowed to use audio or videotape recordings or still or motion picture cameras at a meeting, absent a reasonable finding by the legislative body that they would disrupt proceedings. Disruption could be found to exist if they set up a camera in an aisle that would block a fire exit or path to a fire exit.

### Public Comment

Every agenda for a regular and special meeting must allow members of the public to speak on any item of interest so long as the item is within the subject matter jurisdiction of the legislative body. The public must be allowed to speak on a specific item **before or during** the body’s consideration of it.

Furthermore, the legislative body cannot prohibit public criticism of policies, procedures, programs or services of the agency or acts or omissions of the legislative body itself. This language, however, provides no immunity for defamatory statements.

## **Closed Sessions**

The major exceptions to the open meeting law are, of course, for closed sessions. They are sharply restricted by the Brown Act and for the most part are not available forums for City boards, commissions and committees. In short, the exceptions provide for closed sessions for the following reasons, each of which is carefully delineated within the Brown Act:

1. Personnel issues.
2. Pending litigation.
3. Real estate negotiations.
4. Labor negotiations.
5. Grand Jury testimony.
6. Certain license applications.
7. Public security (meeting with the Attorney General, District Attorney, Sheriff or Police Chief).

## **Remedies**

When first enacted, the Brown Act had no penalties or methods for enforcement. The Act was amended in 1961 to make violations a crime and to authorize civil action to stop or prevent violations. The 1994 amendments extended the time limit for starting an invalidation action and altered the definition of a misdemeanor violation. The following are methods through which the Brown Act can be enforced:

1. Criminal complaint.
2. Civil action.
3. Invalidation.
4. Informal resolution.

## **In Summary**

The Brown Act provides a very detailed set of rules for conducting the people's business in the open. Nonetheless, the City of Mountain View has historically viewed

the Brown Act as a minimum set of standards to be adhered to while trying to enhance the openness of government by going above and beyond the requirements of the Act when possible and appropriate. For example, before the 1994 legislative changes that required committees of less than a quorum to be conducted pursuant to the notice and agenda requirements of the Act, the City of Mountain View nonetheless did conduct those meetings pursuant to those requirements. This general approach and orientation to the open meeting law will continue in Mountain View, and it is important for all members of boards, commissions and committees to stay ever vigilant in pursuit of these goals.

# Open & Public V

A GUIDE TO THE RALPH M. BROWN ACT

REVISED APRIL 2016



Full document can be found at

<http://www.cacities.org/Resources-Documents/Resources-Section/Open-Government/Open-Public-2016>



**OPEN & PUBLIC IV:  
A Guide to the Ralph M. Brown Act  
(2<sup>nd</sup> Edition, July 2010)**

**September 2013 Supplement**

This supplement to *OPEN & PUBLIC IV: A Guide to the Ralph M. Brown Act* discusses changes to the law that have taken effect since the publication of the second edition of the guide in 2010. The supplement covers both statutory changes and appellate decisions that affect the Brown Act. For ease of reference, these updates direct the reader to the chapter, subheading and page of the guide's main text. Our objective is to provide the most complete and current resource to assist local agencies in complying with Brown Act requirements. This supplement is to be used in conjunction with the original publication.

This supplement is made available thanks to the hard work and dedication of the Brown Act Committee of the City Attorneys' Department and League Staff:

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**Full document can be found at**

[http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Publications/OP-IV-Supplement\\_Final\\_2013-09-16.aspx](http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Publications/OP-IV-Supplement_Final_2013-09-16.aspx)

# **F.**

## **PARLIAMENTARY PROCEDURE**

# Parliamentary Procedure

Organizations using parliamentary procedure usually follow a fixed agenda. This is a typical example:

- I. Call to Order  
The chairperson says, "The meeting will please come to order."
- II. Roll Call  
Members say "present" as their names are called.
- III. Minutes Approval  
Commission may request changes and/or vote to approve the minutes.
- IV. Posting of Agenda  
City staff certifies the agenda was posted in accordance with the Brown Act.
- V. Approval of Agenda  
Commission may request changes to the order of items and/or vote to approve the agenda.
- VI. Announcements /Correspondence  
Informing the assembly of other subjects and events.
- VII. Old Business  
Business left over from previous meetings.
- VIII. New Business  
Introduction of new topics.
- IX. Committee Reports  
Reports from "standing," or permanent committees; then from "ad hoc" or special committees.
- X. Staff Reports  
Questions or comments on staff reports may be raised at this time.
- XI. Commissioners' Comments  
Commission may make general comments, ask questions, request an item be agendaized, etc.
- XII. Adjournment

The meeting ends by a vote, or by general consent (or by chair's decision if time of adjournment was prearranged by vote).

## Motions

A motion is a proposal that the Commission take a stand or take action on some issue.

Members can:

- Present motions – make a proposal (“I move that...”).
- Second motions – express support for discussion of another member’s motion (“I second that motion”).
- Debate motions – give opinions on the motion (“I think...”).
- Vote on motions – make a decision (“Aye,” “No,” or “Abstain”).

There are four general types of motions:

1. Main motions

Introduce subjects to the Commission for consideration. They cannot be made when another motion is before the Commission. They yield to privileged, subsidiary and incidental motions. For example, “I move that we purchase....”

2. Subsidiary motions

Change or affect how the main motion is handled (voted on before the main motion). For example, “I move the question before the Commission be amended by striking out....”

3. Privileged motions

Are most urgent. They are about special or important matters not related to pending business. For example, “I move we adjourn.”

4. Incidental motions

Are questions of procedure that arise out of other motions. They must be considered before the other motion. For example, “I move to suspend the rules for the purpose of ....”

## Some Questions Relating to Motions

- Is it in order?  
  
Your motion must relate to the business at hand and be presented at the right time. It must not be obstructive, frivolous or against the bylaws.

- May I interrupt the speaker?

Some motions are so important that the speaker may be interrupted to make them. The original speaker regains the floor after the interruption has been attended to.

- Do I need a second?

Usually, yes. A second indicates another member would like to consider your motion. It prevents spending time on a question which interests only one person.

- Is it debatable?

Parliamentary procedure guards the right to free and full debate on most motions. Some privileged and incidental motions are not debatable.

- Can it be amended?

Some motions can be altered by striking out, inserting, or both at once. Amendments must relate to subject as presented in the main motion.

- What vote is needed?

Most require only a majority vote, but motions concerning the rights of the Commission or its members need a two-thirds (2/3) vote to be adopted.

- Can it be reconsidered?

Some motions can be debated and revoted to give members a chance to change their minds. The move to reconsider must come from the winning side.

## **How to Present a Motion**

- Obtain the floor.

Wait until the last speaker is finished. Address the chair. Say, "Mr. (or Madam) Chairperson." The chair will recognize you by repeating it.

- Make Your Motion.

Speak clearly and concisely.

State your motion affirmatively. Say, "I move that we..." instead of "I move that we do not..."

Avoid personalities and stay on the subject.

- Wait for a Second

Another member will say, "I second the motion." Or the chair will call for a second. If there is no second, your motion will not be considered.

- Chair States Your Motion

The chairperson must say, "It is moved and seconded that we..." After this happens, debate or voting can occur. Your motion is now "Commission property" and you cannot change it without consent to the members.

- Expand on Your Motion

Mover is allowed to speak first. Direct all comments to the chairperson. Keep to the time limit for speaking. You may speak again after all other speakers are finished.

- Putting the Question

The chairperson asks, "Are you ready for the question?"

If there is no more discussion, a vote is taken. The chairperson announces the results.

Or motion for previous question may be adopted.

## **Vote on a Motion**

The method depends on the situation and on the laws of your organization.

- By Voice

The chairperson asks those in favor to say "aye" and those opposed to say "no." (For majority votes only.) Member may move for exact count.

- By Roll Call

If a record of each person's vote is needed, each member answers "yes," "no" or "present" (indicating the choice not to vote) as his or her name is called.

- By Show of Hands

Members raise their hands as sight verification of or alternative to a voice vote. It does not require a count. Member may move for exact count.

- By Ballot

Members write their vote on a slip of paper. Done when secrecy is desired.

- By General Consent

When a motion is not likely to be opposed, the chairperson says, "If there is no objection...." Members show agreement by their silence. If someone says, "I object," the matter must be put to a vote.

#### Are We Ready for the Question?

- A question (motion) is pending when it has been stated by the chair but not yet voted on.
- The last motion stated by the chair is the first pending.
- The main motion is always the last voted on.
- A Motion to Table (lay on the table)

This motion is used to lay something aside temporarily to take care of a more urgent matter. There is always the option to "take from the table" any motion for reconsideration by the assembly.

- A Motion to Postpone Indefinitely

This is parliamentary strategy – allows members to dispose of a motion without making a decision for or against. It is useful in case of badly chosen main motion for which either "yes" or "no" vote would have undesirable consequences.

**G.**

**CITY COUNCIL  
CODE OF CONDUCT**

**CITY OF MOUNTAIN VIEW  
CITY COUNCIL  
CODE OF CONDUCT**

**ADOPTED  
NOVEMBER 19, 2002**

**REVISED  
JUNE 12, 2018**

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## CHAPTER 1 – FORM OF GOVERNMENT

### 1.1 Form of Government

- 1.1.1 The City of Mountain View municipal government operates under a council-manager form of government as established by the City Charter.
- 1.1.2 Under this form of government, the Council provides legislative direction, sets City policy and monitors its execution by City staff. The City Manager serves as the City's chief administrative officer and is responsible for directing the day-to-day operations of the City.
- 1.1.3 The key provisions that outline Mountain View's council-manager form of government are found in Section 607 of the City Charter.

"Neither the Council nor any of its members shall interfere with the execution by the City Manager of the City Manager's powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to any office or employment, or that person's removal therefrom. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately."

Specifically, Section 607 of the City Charter includes the following provisions:

- 1.1.3.1 Prohibits interference by either the City Council or any of its members with the City Manager's execution of his or her powers or duties.
- 1.1.3.2 Neither the Council nor a member shall interfere with the appointment by the City Manager of any of the department heads or any person to any office or employment.
- 1.1.3.3 Neither the Council nor any of its members shall interfere with the City Manager's power to remove any of those persons.

- 1.1.3.4 Except for purposes of inquiry (asking questions), the Council and its members shall deal only with the City Manager with respect to the administrative service of the City.

NOTE: See Chapter 4, Communications, for additional information regarding communications with staff.

- 1.1.3.5 Neither the Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.
- 1.1.4 Neither the City Council nor any of its members shall interfere with the administration of the City Attorney's or City Clerk's duties or give orders to the subordinates of the City Attorney or City Clerk.

## CHAPTER 2— COUNCIL POWERS AND RESPONSIBILITIES

### 2.1 City Council Generally

- 2.1.1 The City Council has the power, in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, the City Charter, or State or Federal laws.
- 2.1.2 The Council acts as a body. Policy is established by majority vote. A decision of the majority binds the Council to a course of action. The Council majority may be a majority of the quorum of the Council.
- 2.1.3 No Councilmember has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.
- 2.1.4 No member of the Council is permitted to hold any other City office or City employment (except as may otherwise be provided in the City Charter).
- 2.1.5 Councilmembers also serve as members of the Mountain View Capital Improvements Financing Authority, Successor Agency of the Mountain View Revitalization Authority, City of Mountain View Downtown Parking, Maintenance and Operations Assessment District, and Mountain View Shoreline Regional Park Community.

### 2.2 Mayor and Vice Mayor— Appointment, Power, and Duties

- 2.2.1 The selection of the Mayor and Vice Mayor occurs annually at the first Council meeting in January by majority vote of the City Council. City Council Policy A-6, Election of Mayor and Vice Mayor, sets forth nonbinding guidelines for the selection of the Mayor and Vice Mayor.
- 2.2.2 The Mayor is the presiding officer of the City Council. In the Mayor's absence, the Vice Mayor shall perform the duties of the Mayor.
- 2.2.3 The Mayor is the official head of the City for all ceremonial purposes.

- 2.2.4 The Mayor may perform such other duties consistent with the mayoral office as may be prescribed by the City Charter or as may be imposed by the Council.
- 2.2.5 The Mayor does not possess any power of veto.
- 2.2.6 The Mayor, or Council designee, coordinates with the City Manager in the development of agendas for meetings of the City Council. Once the agenda is published, the City Manager may withdraw an item; however, only the City Council may otherwise alter the agenda.
- 2.2.7 The Mayor and Vice Mayor serve at the pleasure of the Council and can be replaced at any time by a majority vote of the Council.

### **2.3 Council Actions**

- 2.3.1 Legislative actions by the City Council can be taken by means of ordinance, resolution, or minute action duly made and passed by the majority (unless otherwise provided).
- 2.3.2 Public actions of the Council are recorded in the minutes of the City Council meeting. The City Clerk is required to make a record only of business actually passed upon by a vote of the Council and is not required to record any remarks of Councilmembers or of any other person, except at the special request of a Councilmember, with the consent of the Council.
- 2.3.3 Actions of the Council concerning confidential property, personnel, and/or legal matters of the City are to be reported consistent with State law.

### **2.4 Councilmember Committees** (Refer to City Council Policy A-13, City Council Meetings, Section 16, and City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees)

- 2.4.1 The City Council may organize itself into standing and/or special/ad hoc committees of the Council to facilitate Council review and action regarding certain matters referred to them by the City Council or in accordance with City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees.
- 2.4.2 All work undertaken by a Councilmember committee must originate with the Council or as permitted under City Council Policy A-23, Work Item

Referral Process for Council Advisory Bodies and Councilmember Committees, and all actions of committees shall be reported to the Council.

- 2.4.3 The Council may create or dissolve standing committees at any time by the affirmative vote of a majority of the Council.
- 2.4.4 The Mayor annually appoints members to standing committees.
- 2.4.5 The Council or the Mayor may create special or ad hoc committees. The Mayor appoints members to special or ad hoc committees.
- 2.4.6 The Council may dissolve special or ad hoc committees.
- 2.4.7 If permitted by the Ralph M. Brown Act, other members of the Council not assigned to a committee may attend meetings of a committee, as an observer, however, they shall be seated with the audience and may not participate in any manner or address the committee.
- 2.4.8 If an absence is anticipated on a committee and that absence may impede the work of the committee, the committee chair or other member may request that the Mayor designate another member of the Council to attend for the absent member and serve as an alternate member of the committee, provided that the member's attendance, in the opinion of the City Attorney, will comply with the Brown Act. The term for service by the alternate member will be the term designated in the appointment, or for one meeting, if no term is specified.

## 2.5 Establishment and Appointment of Council Advisory Bodies

- 2.5.1 The Mountain View City Charter requires a Planning Commission, Recreation and Parks Commission, and Library Board (refer to Mountain View City Charter, Article IX).
- 2.5.2 The City Council may also establish by ordinance or resolution, boards, commissions, and committees to assist the Council in making its policy decisions.
- 2.5.3 The rules of procedure and code of conduct that govern the City Council apply with equal force to all Council advisory bodies.

NOTE: See Chapter 5, Council Advisory Bodies, for additional information regarding boards, commissions, and committees.

## CHAPTER 3— LEGAL AND ETHICAL STANDARDS

### 3.1 Preamble

The residents and businesses of Mountain View are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be 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 legally confidential, in an atmosphere of respect and civility.

To this end, the Mountain View City Council has adopted a code of ethics to encourage public confidence in the integrity of local government and its fair and effective operation.

This City Council code of ethics shall reside in two documents—the City Council Code of Conduct and the City Council Personal Code of Conduct. The City Council Code of Conduct and the Personal Code of Conduct shall not be interpreted to conflict with other rights and responsibilities of public officials set forth in this code or Federal, State, or local law. The City Council Code of Conduct shall be considered to be the definitive document relating to ethical conduct by Mountain View Councilmembers. The Personal Code of Conduct shall be considered to be a summary of the full City Council Code of Conduct.

### 3.2 Public Interest

3.2.1 Recognizing that stewardship of the public interest must be their primary concern, Councilmembers shall work for the common good of the people of Mountain View and not for any private or personal interest. Councilmembers must endeavor to treat all members of the public and issues before them in a fair and equitable manner.

3.2.2 Councilmembers shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Mountain View City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer

responsibilities, and open processes of government; and City ordinances and policies.

### 3.3 Conduct

- 3.3.1 Councilmembers shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.
- 3.3.2 Councilmember duties shall be performed in accordance with the processes and rules of order established by the City Council.
- 3.3.3 Councilmembers shall inform themselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand.
- 3.3.4 Council decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of Councilmembers to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Councilmembers and the public prior to taking action on the matter.
- 3.3.6 Appropriate City staff should be involved when Councilmembers meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.
- 3.3.7 Councilmembers shall not attend internal staff meetings or meetings between City staff and third parties unless invited by City staff or directed by Council to do so.
- 3.3.8 Policy Role
  - 3.3.8.1 Councilmembers shall respect and adhere to the council-manager structure of Mountain View City government as provided in State law and the City Charter.
  - 3.3.8.2 Councilmembers shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

### 3.3.9 Implementation

- 3.3.9.1 Ethics standards shall be included in the regular orientations for City Council candidates. Councilmembers entering office and upon reelection to that office shall sign a City Council Personal Code of Conduct statement (Attachment 1) affirming they have read and understand this City of Mountain View City Council Code of Conduct.

## 3.4 Conflict of Interest

- 3.4.1 In order to assure their independence and impartiality on behalf of the public good, Councilmembers are prohibited from using their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.
- 3.4.2 In accordance with State law, Councilmembers must file annual written disclosures of their economic interests.
- 3.4.3 Councilmembers shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general.
- 3.4.4 Councilmembers shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They must neither disclose confidential information without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.
- 3.4.5 City Councilmembers should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of City stationery or other City resources to obtain or promote personal business.
- 3.4.6 Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Councilmembers for private gain or personal purposes.
- 3.4.7 In keeping with their role as stewards of the public interest, Councilmembers shall not appear on behalf of the private interests of a

third party before the City Council or any board, commission, or committee or proceeding of the City, except as permitted by law.

3.4.8 To the best of their ability, Councilmembers shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Council or the City.

3.4.9 Mountain View City Charter Provisions

3.4.9.1 Financial Interests in City Contracts Prohibited.

No officer or employee of the City shall become financially interested except by testate or intestate succession, either directly or indirectly, in any contract, sale, purchase, lease, or transfer of real or personal property to which the City is a party or be employed by any public service corporation regulated by or holding franchises in the City. ...[A]ny contract made in contravention of this section shall be void. (Section 706)

3.4.9.2 Nepotism.

The Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the second degree of any one or more of the members of such Council and neither shall any department head or other officer having appointive power appoint any relative within such degree to any such position. (Section 707)

3.4.9.3 Political Activities Prohibited; Discrimination.

This provision provides that:

1. No employee shall, while in uniform or during the employee's working hours, take an active part in any municipal or other political campaign.
2. No employee shall, while in uniform or during the employee's work hours, seek or accept contributions for or against a candidate or issue.

3. An employee may not seek or accept signatures to any petition for or against any such candidate or issue during his or her work hours.
4. No person in the classified service shall be employed, promoted, demoted, or discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race or religious belief. (Section 1003) (Also see Section 4.3.7)
5. For purposes of this section, the term "employee" shall include contract employees and consultants who function as City employees.

#### 3.4.10 Mountain View City Code Provisions

- 3.4.10.1 Use of City Property—Limited to Lawful Business of City. (Section 2.4)

No person or persons other than City officials or employees shall use any City-owned equipment, tools, or paraphernalia other than for the purpose of conducting the lawful business of the City.

- 3.4.10.2 Use of City Property for Private Purposes by City Official, Employee, etc. (Section 2.5)

No City official, City employee, or other person shall borrow, take, or remove any City-owned equipment, tools, or paraphernalia for private use.

- 3.4.10.3 Use of City Property—Loan, etc., by City Official, Employee, etc.

No City official, City employee, or any other person shall lend, give, or transfer possession of such City-owned equipment, tools, or paraphernalia to any other City official, employee, or any other person with knowledge that the same shall be used for private purposes. (Section 2.6)

### 3.4.11 California State Law Regarding Conflicts

Four key areas of California State law regulate the ethics of public officials.

#### 3.4.11.1 Constitutional prohibitions

State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies. The penalty for a violation includes the forfeiture of office.

#### 3.4.11.2 Contractual conflicts of interest

This prohibition, found in Government Code Section 1090, mirrors the City's Charter Provision Section 706 and applies to elected and appointed officials as well as other City staff members. It prohibits the City from entering into a contract if one of its members (i.e., a Councilmember) is financially interested in the contract. If the bar (or prohibition) applies, the agency is prohibited from entering into the contract whether or not the official with the conflict participates or not. In some limited circumstances, officials are allowed to disqualify themselves from participation and the agency may enter into the contract.

Financial interest has been defined to include employment, stock/ownership interests, and membership on the board of directors of a for-profit or nonprofit corporation, among others. Violations can be charged as a felony. A person convicted of violating Section 1090 is prohibited from ever holding public office in the State.

#### 3.4.11.3 Political Reform Act—Conflicts of Interest

The Political Reform Act (PRA) was adopted by the voters in 1974 and is the primary expression of the law relative to conflicts of interest (and campaign finance) in California. The Act created the Fair Political Practices Commission (FPPC), a five-member State board which administers the Act.

The Act and the regulations are complex and are continuously subjected to official interpretation. The following synopsis of

key parts of the Act will be helpful in spotting issues; however, the FPPC and/or City Attorney should be consulted for further advice and clarification.

With respect to conflicts of interest, the FPPC has promulgated a regulation which establishes an analysis which assists in determining whether a public official is participating in a government decision in which they have a qualifying financial interest and whether it is reasonably foreseeable that the decision will have a material financial effect on the public official's financial interest, which is distinguishable from the effect the decision will have on the public generally.

3.4.11.3.1 If a member has a conflict of interest regarding a particular decision, they must refrain from making or participating in the making of a decision unless otherwise permitted by law.

If a public official has a financial interest that gives rise to a conflict of interest, one of the key determinations in the eight-step analysis is to determine whether or not the public official is "participating in" or "making" a governmental decision.

3.4.11.3.1.1 A public official makes a government decision when they do the following:

- Vote on a matter.
- Appoint a person.
- Obligate or commit his or her agency to any course of action.
- Enter into any contractual agreement on behalf of his or her agency.
- Determine not to act in certain circumstances.

3.4.11.3.1.2 A public official participates in making governmental decisions when acting within the authority of his or her position, they do the following:

- Negotiate without significant substantive review with a governmental entity or private person regarding a governmental decision.
- Advise or make recommendations to the decision-maker either directly or without significant intervening substantive review by:
  - Conducting research or an investigation which requires the exercise of judgment on the part of the official and the purpose of which is to influence governmental decisions; or
  - Preparing or presenting any report, analysis, or opinion orally or in writing which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision.

3.4.11.3.2 When a public official has a qualifying financial interest, that official may not use their office or otherwise attempt to influence governmental decisions or make appearances or contacts on behalf of a business entity, client, or customer.

3.4.11.3.3 If an official has a qualifying financial interest, there are nevertheless exceptions which allow a public official to make an appearance before an agency in

very limited circumstances. The one that is most commonly encountered is an appearance by a public official to represent himself or herself with respect to a proposed project or change in their neighborhood. If the appearance is permitted under State law, the appearance is limited to appearing at a public meeting at the podium and addressing a board, commission, or the City Council. The official may not contact members of staff, the City Manager, or City Attorney, or discuss the matter with other Councilmembers. A public official with a conflict cannot interact with staff on that issue other than to ask questions, pay fees, etc.

#### 3.4.11.3.4 Political Reform Act – Gifts, etc.

Qualifying gifts of \$50 or more must be reported on an official's Statement of Economic Interest (SEI). In addition, the Political Reform Act imposes a limit on gifts a local official can receive. The dollar amount of the gift limit is modified every odd year to reflect changes in the Consumer Price Index.\* There are various exceptions that apply to whether or not a gift is a "qualifying gift." In some instances, the gift limit does not apply (e.g., wedding gifts); however, the obligation to report the gift typically does apply.

- A gift is a payment made by any person of anything of value, whether tangible or intangible, real or personal property, a good or service that provides a personal benefit to an official when the public official does not provide goods or services of equal or greater value. It can include forgiveness of a debt, a rebate or discount unless the rebate or discount is made through the regular course of business to members of the public.
- There are exceptions to gifts for informational material, gifts that are returned unused, gifts from relatives – close family, campaign

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\* The gift limit can be found in Government Code §89503.

contributions, home hospitality, benefits commonly exchanged, reciprocal exchanges, acts of neighborliness, bona fide dating relationship, acts of human compassion, ceremonial role, etc.

- There are specific regulations for how gifts are valued, particularly with the value of tickets and passes and attendance at dinners and events.
- Gifts can be given to the public agency and they are not charged as gifts to an individual who may use the gift (e.g., tickets) provided the express terms of the appropriate regulation are satisfied.

#### 3.4.11.3.4.1 Travel Reimbursements

The Political Reform Act contains extensive regulations on travel reimbursements; however, travel payment by one's own public agency as part of your official duties are typically exempt. Reimbursement from other entities (other than transportation companies) within California and outside of California are subject to very specific rules.

#### 3.4.11.3.4.2 Honoraria

Honoraria are defined as a payment made in return for giving a speech, writing an article, or attending a public or private conference, convention, meeting, social event, meal, or similar gathering. Honoraria should be distinguished from campaign funds that go into that person's campaign or to a political party. Campaign funds cannot be used for personal benefit.

- Local elected officials or candidates may not accept honoraria. A local agency employee who is required to file a Statement of Economic Interest (Form 700) may not accept honoraria from any source requiring disclosure on a public official's SEI. There are approximately 12 exceptions to honoraria, including payments made for comedic, theatrical, and musical performances; income from bona fide personal services in connection with teaching, practicing law, etc.; and travel, lodging, and subsistence in connection with a speech, limited to the day before, day of, and day after within the United States.
- The exceptions for income from personal services in connection with teaching and practicing law do not apply if the sole or predominant activity is giving speeches.

#### 3.4.11.3.4.3 Political Reform Act – Mass Mailings

A mass mailing is defined as 200 or more substantially similar pieces of mail sent at public or private expense by a public official within a calendar month.

- Sent at Private Expense – If sent for a political purpose, sender must place the name and address on the outside of the envelope.
- Sent at Public Expense – These mailings are subject to strict

limitations. For example, the mailing may not contain the name or pictures of elected officials except as part of the standard letterhead, and within the confines of that regulation they cannot be of different size or otherwise emblazoned on the mailing. Because the rules are complex, staff should be consulted for assistance.

#### 3.4.11.3.4.4 Political Reform Act – Enforcement

The FPPC can assess administrative fines and penalties for violation of the Act. The District Attorney and the State Attorney General may prosecute violators as civil or criminal matters. Violators may also be removed from office pursuant to Government Code Section 3060.

#### 3.4.11.5 Common Law Conflicts of Interest

This is the judicial expression of the public policy against public officials using their official position for private benefit. An elected official bears a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers or their office for the benefit of any private interest. This common law doctrine continues to survive the adoption of various statutory expressions of conflict law.

#### 3.4.11.6 Appearance of Impropriety

When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest; however, participation still does not "look" or "feel" right, that public official has probably encountered the appearance of impropriety.

For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists. An example is where a long-term nonfinancial affiliation exists between the public official and an applicant or the applicant is related by blood or marriage to the official. For the good of the community, members who encounter the appearance of impropriety should step aside.

NOTE: State laws governing conflicts of interest are written to ensure that actions are taken in the public interest. These laws are very complex. Councilmembers should consult with the City Attorney, their own attorney, or the Fair Political Practices Commission for guidance in advance.

### 3.5 Compliance and Enforcement – All Rules

Councilmembers take an oath when they assume their office in which they promise to uphold the laws of the State of California, the City of Mountain View, and the United States of America. Consistent with this oath is the requirement of this Council policy to comply with the laws as well as report violations of the laws and policy of which they become aware.

3.5.1 Any suspected violation or alleged violation by a Councilmember must be reported to the Mayor. In the case of a City staff member making the report regarding a Councilmember, the report should be made to the City Manager who will then report it to the Mayor. Upon report, the City Manager and City Attorney will assist the Mayor in following one of the two (2) protocols for addressing the violation or alleged violation:

3.5.1.1 If the Mayor, City Manager, and City Attorney all agree that the violation or alleged violation is minor in nature, the Mayor and either the City Manager or City Attorney may contact the individual Councilmember and advise the member of the concern and seek to resolve the matter (Protocol 1).

3.5.1.2 If the Mayor, City Manager, and City Attorney do not agree that the violation or alleged violation is minor (see Section 3.5.1.1) in nature, then the Mayor shall convene a special ad hoc committee of the Mayor (who will serve as Chair), Vice Mayor,

and most recent Mayor (the "Ethics Committee") who will meet with the City Manager and City Attorney and appropriate staff and/or witnesses to determine how the matter may proceed, be resolved or be reported to the appropriate authorities (Protocol 2).

- 3.5.1.3 In implementing the provisions of this section, the Ethics Committee will be authorized to conduct all inquiries and investigations as necessary to fulfill their obligation.
- 3.5.1.4 For purposes of Sections 3.5.1.1 and 3.5.1.2, the incident or violation is not minor if it involves the injury or potential injury to any person (e.g., physical, emotional, defamation, harassment, etc.), significant exposure to the City Treasury or the probability for a repeat occurrence.
- 3.5.2 Councilmembers wishing to report a suspected violation by a staff member should report it to both the City Manager and City Attorney.
- 3.5.3 In the event any Councilmember with a role in this policy is the subject of the inquiry, the role of that official shall be assumed by the next ranking official in the chain. For example, if the Mayor is the subject of the inquiry, the Ethics Committee shall be comprised of the Vice Mayor (who will serve as Chair) and the two (2) most recent former Mayors. If the City Manager or City Attorney is the subject, the Committee will exclude that individual.  
  
If there is no recent former Mayor available to fill the appropriate seat(s) on the committee, the Mayor or chair will select a member of the Council to serve—selection to be based on seniority as outlined in Policy and Procedure No. A-6.
- 3.5.4 The term "committee" or "Ethics Committee" is used for ease of reference only as it is not intended by this policy to create a permanent or standing committee but, rather, to assemble the officials necessary to review complaints should the need arise.
- 3.5.5 This policy and the protocols set forth are alternatives to any remedy that might otherwise be available or prudent. In order to ensure good government, any individual, including the City Manager and City Attorney, who believes a violation may have occurred is hereby authorized to report the violation to other appropriate authorities.

3.5.6 These same protocols may be utilized for any suspected violations or alleged violations by a Council advisory body member. In addition to those protocols, the Mayor may also refer the matter to the City Council if further action is needed.

### 3.6 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. It is the City’s policy to emphasize the importance of ethics in government and therefore requires all advisory body members, with the exception of the Youth Advisory Committee, to 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.

#### 3.6.1 Enforcement

- Noncompliant Council or advisory body members may not attend conferences, training (except ethics training), or Shoreline events using tickets provided through the City’s ticket distribution program at the City’s expense, during the period of noncompliance;
- Should noncompliance by an advisory body member continue for 30 days without substantiated extenuating circumstances such as illness, disability, family tragedy, etc., the City Clerk is directed to bring the matter to the City Council for consideration of removing

the advisory body member from service on their respective body;  
and

- Training deadlines may be temporarily postponed for noncompliant advisory body members who are temporarily unable to fulfill their duties, including attending scheduled meetings. Training must be completed within 30 days of returning to service.

## CHAPTER 4—COMMUNICATIONS

### 4.1 Written Communications

4.1.1 Written communications addressed to the City Council are to be referred to the City Clerk for:

- Forwarding to the Council with their agenda packet, or
- Placement on an agenda with or without a staff report, or
- Direct response to the citizen with a copy of the communication and staff letter to the Council.

### 4.2 Request for Staff Resources

4.2.1 Council requests for research or other staff work must be directed to the City Manager, or the City Attorney regarding legal matters or the City Clerk regarding matters within the Clerk's authority.

If more than one hour of staff time will be required to complete the task/project, the item will be agendaized to ask the City Council if time should be spent on preparing a report on the proposed item.

Staff responses prepared to Council inquiries shall be distributed to all City Councilmembers.

### 4.3 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

4.3.1 A Councilmember shall not direct staff to initiate any action, change a course of action, or prepare any report. Except as provided in City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees, a Councilmember shall not initiate any project or study without the approval of the majority of the Council.

4.3.2 Councilmembers shall not attempt to pressure or influence discussions, recommendations, workloads, schedules, or department priorities absent the approval of a majority of the Council.

- 4.3.3 When preparing for Council meetings, Councilmembers should direct questions ahead of time to the City Manager so that staff can provide the desired information at the Council meeting.
- 4.3.4 Any concerns by a member of the City Council regarding the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved. Councilmembers shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.
- 4.3.5 Councilmembers may direct routine inquiries to either the City Manager or appropriate department head.
- 4.3.6 Councilmembers serving on Council committees or as the City's representative to an outside agency may interact directly with City staff assigned to that effort as the City Manager's designee. The City staff member so designated and assigned will keep the City Manager appropriately informed.
- 4.3.7 Soliciting political support from staff (e.g., financial contributions, display of posters or lawn signs, name on support list, etc.) is prohibited. City staff may, as private citizens with constitutional rights, support political candidates, but all such activities must be done away from the workplace and may not be conducted while in uniform. (Also see Section 3.4.9.3)

#### **4.4 Council Relationship/Communication with Council Advisory Bodies**

- 4.4.1 Councilmembers shall not attempt to pressure or influence board, commission, or committee decisions, recommendations, or priorities absent the approval of the majority of the Council. However, the Mayor and Vice Mayor can authorize a work item for a Council advisory body under certain circumstances in accordance with City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees.

#### **4.5 Handling of Litigation and Other Confidential Information**

- 4.5.1 All written materials and verbal information provided to Councilmembers on matters that are confidential and/or privileged under State law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of any information in these materials may be made to anyone other than Councilmembers, the City Attorney, or City Manager.
  - 4.5.1.1 Confidential materials provided in preparation for and during Closed Sessions shall not be retained and electronic copies must be deleted or documents returned to staff at the conclusion of the Closed Session.
  - 4.5.1.2 Confidential materials provided to Councilmembers outside of Closed Sessions must be destroyed, deleted, or returned to staff within thirty (30) days of their receipt.
  - 4.5.1.3 Councilmembers may not request confidential written information from staff that has not been provided to all Councilmembers.

#### **4.6 Representing an Official City Position**

- 4.6.1 City Councilmembers may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.
- 4.6.2 Once the City Council has taken a position on an issue, all official City correspondence regarding that issue will reflect the Council's adopted position.
- 4.6.3 In most instances, the Council will authorize the Mayor to send letters stating the City's official position to appropriate legislators.
- 4.6.4 If a member of the City Council appears before another governmental agency organization to give a statement on an issue affecting the City, the Councilmember should indicate the majority position and opinion of the Council.

4.6.5 Personal opinions and comments may be expressed only if the Councilmember clarifies that these statements do not reflect the official position of the City Council.

#### 4.7 Quasi-Judicial Role/*Ex Parte* Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements.

In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to *ex parte* contacts applies.

4.7.1 *Ex Parte* Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

#### 4.8 No Attorney-Client Relationship

Councilmembers who consult the City Attorney, his or her staff, and/or attorney(s) contracted to work on behalf of the City cannot enjoy or establish an attorney-client relationship with said attorney(s) by consulting with or speaking to same. Any attorney-client relationship established belongs to the City, acting through the City Council, and as may be allowed in State law for purposes of defending the City and/or the City Council in the course of litigation and/or administrative procedures, etc.

## CHAPTER 5— COUNCIL ADVISORY BODIES AND RENTAL HOUSING COMMITTEE

### 5.1 Boards, Commissions, and Committees Generally

- 5.1.1 The Mountain View City Charter establishes the following boards and commissions to advise the City Council:
- Planning Commission (now known as the Environmental Planning Commission) (Section 906)
  - Recreation and Parks Commission (now known as the Parks and Recreation Commission) (Section 909)
  - Board of Library Trustees (now known as the Library Board) (Section 911)
- 5.1.2 The City Charter authorizes the City Council to establish additional advisory boards and commissions to assist the Council in its policy decisions. The City Council has the inherent power to create committees.
- 5.1.3 City boards, commissions, and committees (collectively “Council advisory bodies”) do not set or establish City policy or administrative direction to City staff, except as provided in City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees.
- 5.1.4 Appointments to boards, commissions, and committees are made by adoption of a resolution of the majority of the Council after the review and consideration of the recommendation(s) of the Council Appointments Review Committee. Appointees to Council advisory bodies serve at the pleasure of the City Council.
- 5.1.5 The terms "board" and "commission" can be used interchangeably. Boards and commissions typically have broader policy and advisory responsibilities than committees which typically have much more focused advisory roles to the Council.
- 5.1.6 The Mountain View City Charter establishes a Rental Housing Committee to be appointed by the City Council (Section 1709).

## **5.2 Board, Commission, and Committee Organization and Conduct**

- 5.2.1 Annually, each board, commission, and committee elects one of their members to serve as the presiding officer or chair.
- 5.2.2 Boards, commissions, and committees shall hold regular and special meetings as may be required. The conduct of board, commission, and committee meetings are governed by the same rules of policy and procedure as the City Council.
- 5.2.3 Boards, commissions, and committees should comply with all applicable open meeting and conflict-of-interest laws of the State.
- 5.2.4 Upon appointment or reappointment, Council advisory body members shall sign a Council Advisory Body Personal Code of Conduct statement (Attachment 2) affirming they have read and understand this City of Mountain View City Council Code of Conduct.

## **5.3 Board, Commission, and Committee Appointments**

- 5.3.1 The City Charter requires that members of City boards and commissions be qualified electors of the City (resident of Mountain View and United States citizen). Committees can include members that are not qualified electors.

Appointments will provide, as nearly as possible, a representative balance of the broad population of the City. All appointees should bring the skill, integrity, knowledge, interest, and commitment to evaluating issues in the broad context of the public interest.

- 5.3.2 Unless appointed to an unexpired term of less than two years caused by the resignation or other such vacancy, the term of office for each board, commission, or committee member is normally four years.

Appointees are limited to two consecutive terms prior to reappointment on a given board, commission, or committee (except where specifically provided). However, where the City Council expressly determines it to be in the best interest of the community, the City Council may reappoint beyond this limit.

- 5.3.3 The City Clerk provides application forms and maintains a composite listing of all applications on file which have been received.

- 5.3.4 The City Clerk solicits applications for vacancies in accordance with the procedures outlined in City Council Policy K-2, Board, Commission, and Committee Appointments.
- 5.3.5 Persons being considered for appointment (or reappointment) must be interviewed at least once to qualify for appointment.

**5.4 Boards, Commissions, and Committees– Vacancy of Office**

- 5.4.1 The City Charter provides that if "a member of a board or commission is absent from three regular meetings of such board or commission, consecutively or within a calendar quarter, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector and resident of the City, that office shall become vacant upon the declaration of Council. The Council may, for good cause, determine that a vacancy has not been created."
- 5.4.2 Resignations may be submitted at any time to the City Council either directly or through the board, commission, or committee chair. Resignations are effective upon submittal.
- 5.4.3 Upon notice of a vacancy, the Council Appointments Review Committee shall initiate the appointment procedure detailed in City Council Policy K-2, Board, Commission, and Committee Appointments, leading to a recommendation to the City Council for a successor of such vacancy and the successor will be appointed to serve only to the date of the unexpired term pursuant to Section 905 of the City Charter.

**5.5 Advisory Bodies and Rental Housing Committee– Admonition, Sanction, and Removal**

- 5.5.1 A majority of the City Council may admonish, sanction, or remove a member of the advisory body or the Rental Housing Committee (“RHC”) as set forth herein.
- 5.5.2 Definitions
  - 5.5.2.1 Admonishment: The first level of action is a public reminder or warning typically directed to all members of the advisory body or the RHC that a particular type of behavior is in violation of law, City policy, or Code of Conduct, and that, if the behavior continues, a member of the advisory body or the RHC could be subject to removal. An admonition may be issued by the City

Council prior to any findings of fact regarding allegations of wrongdoing. Since an admonition is a warning or reminder and not punishment or discipline, an investigation or separate hearing is not necessarily required.

- 5.5.2.2 Removal: The act of removing a member of the advisory body or the RHC from his or her seat so that the seat is vacant. Removal is a punitive action. The suspension of rights of the member is the penalty imposed for wrongdoing. Removal is reserved for cases in which the Council determines the violation of law or policy is a serious offense warranting the removal of a member from the advisory body or the RHC.
- 5.5.2.3 Sanction: The next level of action after an admonition. A sanction is public reminder or warning directed at a particular member of the advisory body or the RHC based on a particular action or set of actions that is determined to be in violation of law, City policy, or the Code of Conduct but is considered by the Council to not be sufficiently serious to require removal. A sanction is distinguished from a removal in that it is not punishment. A sanction may be issued based upon Council's review and consideration of a written allegation of a policy violation. As a sanction is not punishment or discipline, an investigation or separate hearing is not necessarily required. The member accused of such violation will have the opportunity to provide a written response to the allegation.
- 5.5.3 Grounds for admonition, sanction, or removal include, but are not limited to, absenteeism, failure to meet eligibility requirements, incapacity, violation of law such as the Political Reform Act, violation of the Code of Conduct, or City policy.
- 5.5.4 The request for admonition, sanction, or removal may be initiated by two Councilmembers. The request shall be forwarded to the Mayor, who will meet with the City Manager and City Attorney to determine whether the complaint can be resolved informally or if the alleged violation(s) requires further investigation. The request shall also be sent to the subject member of the advisory body or the RHC within five (5) business days of receipt.
- 5.5.5 If the complaint is minor in nature and is deemed to not require further investigation, the Mayor and either the City Manager or City Attorney may contact the individual members of the advisory body or the RHC and advise the member of the concern and seek to resolve the matter.

- 5.5.6 If the Mayor, City Manager, and City Attorney conclude that the alleged violation warrants further action, the Mayor shall convene a special ad hoc committee consisting of the Mayor (who shall serve as Chair), Vice Mayor, and most recent Mayor, who will meet with the City Manager and City Attorney and appropriate staff and/or witness(es) to determine how the matter may proceed. If necessary, the ad hoc committee may select an independent investigator to assist in conducting the investigation.
- 5.5.7 The ad hoc committee, after meeting and investigating the matter if necessary, shall make a recommendation to the City Council regarding whether an admonishment, sanction, or removal is warranted or if no further action should be taken.
- 5.5.8 Once the ad hoc committee has reached a recommendation, the ad hoc committee's written recommendation shall be placed on a future public meeting agenda. The report of the ad hoc committee shall also be sent to the subject member of the advisory body or the RHC within five (5) business days of completion of the written recommendation. If a sanction is proposed, the subject member of the advisory body or the RHC will have the opportunity to provide a written response for Council's consideration at the scheduled meeting. During such meeting, the City Council will receive the recommendation of the ad hoc committee and decide, by a majority vote, whether or not to proceed with the recommended action or take no further action. If an admonition or sanction is agreed upon, such admonition or sanction shall be based on a review of the written record and any information provided as part of the Council meeting, including any written response to the request of sanction. The Council may issue such admonition or sanction in the form of a letter at the same meeting.
- 5.5.9 If, after receiving the ad hoc committee's report, the Council determines that a removal may be warranted, a removal hearing shall be placed on a public meeting agenda at least fourteen (14) days from the meeting at which the Council received the ad hoc committee's recommendation in order to give the subject member of the advisory body or the RHC adequate time to review the allegations and evidence against him or her and to prepare for the hearing.
- 5.5.10 At the removal hearing, the subject member of the advisory body or the RHC will be provided the opportunity to present evidence, including making opening and closing statements and calling witnesses on his or her behalf. The hearing is informal and the rules of evidence and judicial

procedures do not apply. At a removal hearing, the member of the advisory body or the RHC could question witnesses. Any questioning or cross-questioning of witnesses may be reasonably limited by the Mayor.

- 5.5.11 After the removal hearing, the City Council will determine the action to be taken by an affirmative vote of at least four (4) members. The City Council may remove the member of the advisory body or the RHC if it finds substantial evidence supports the allegations of misconduct giving rise to the removal. The decision to either remove a member of the advisory body or the RHC shall be memorialized by findings adopted in a resolution. The City Council may also determine a lesser action is warranted as provided in this procedure.

## CHAPTER 6— MEETINGS

### 6.1. Ralph M. Brown Act

All meetings of the City Council, standing Councilmember committees, and Council advisory bodies are governed by the Ralph M. Brown Act (Government Code 54950 *et seq.*). The City Council views the Brown Act as a minimum set of standards and in several respects, the City's open meeting requirements exceed the requirements of the Brown Act.

If any member of a City legislative body, or City staff, believe that action has been taken on an item in contravention of the Brown Act, that person is privileged to place the item on a future agenda for reconsideration and/or action.

### 6.2 Regular Meetings

6.2.1 Regular meetings of the City Council are held on the second and fourth Tuesday of each month at 6:30 p.m. in the Council Chambers of Mountain View City Hall, 500 Castro Street.

All regular Council meetings are open to the public.

### 6.3 Study Sessions

6.3.1 Study Sessions are conducted as part of a public meeting which the Council may set from time to time to allow for a detailed review of important matters. Study Sessions may be conducted jointly with another City board, commission, or committee or another governmental agency. Formal action is typically not taken at a Study Session unless the agenda indicates that action may be taken. All Study Session meetings are open to the public.

### 6.4 Closed Sessions

6.4.1 Closed Sessions are also regulated pursuant to the Ralph M. Brown Act. All written materials and verbal information regarding Closed Session items must remain confidential. Written reports and/or exhibits or materials furnished to members of the Council as part of a Closed Session must not be copied or saved and must be deleted or returned to staff at the conclusion of the Closed Session. No member of the Council, employee of the City, or anyone else present should disclose to any other

person the intent or substance of any discussion that takes place in a Closed Session unless authorized by a majority of the Council.

- 6.4.2 Permissible topics/issues for a Closed Session discussion include, but are not limited to: labor negotiations, pending litigation, personnel actions, real estate negotiations, and certain licensing and public security issues.
- 6.4.3 All public statements, information, and press releases relating to Closed Session items should be handled by the City Attorney or as otherwise directed by the Council majority.
- 6.4.4 Closed Session meetings are closed to the public and the press.
- 6.4.5 Any suspected violation of the confidentiality of a Closed Session discussion shall be reported to the City Attorney. "Confidential information" means a communication, verbal or written, made in Closed Session that is specifically related to the legal basis for conducting the Closed Session.

## **6.5 Special and Emergency Meetings**

- 6.5.1 Pursuant to the Ralph M. Brown Act, the Council may also hold special or emergency meetings as deemed necessary.

## **6.6 Meeting Agendas**

### **6.6.1 Preparation of Agendas**

- 6.6.1.1 Council agendas and supporting information are prepared by the City Manager and City Clerk.
- 6.6.1.2 For Council advisory bodies and Councilmember committees, agendas and supporting information are prepared by the supporting City department to the Council advisory body or Councilmember committee as directed by the City Manager.

### **6.6.2 Placing Items on Agendas**

#### **6.6.2.1 Council Agendas**

- 6.6.2.1.1 The City Manager determines, in consultation with the Mayor, which items are placed on the agenda and the timing for scheduling such items.

6.6.2.1.2 A Councilmember's request for an item to be agendaized will be done as an action item with support work of up to one hour by staff. If more than one hour of work is required, then the item will be agendaized to ask Council if time should be spent on preparing a full report on the proposed agenda item.

6.6.2.1.3 Any person may request placement of a matter on the Council agenda by submitting a written request with the agreement of a sponsoring Councilmember.

6.6.2.2 Council Advisory Body and Councilmember Committee Agendas

Agenda items for Council advisory bodies and Councilmember committees must originate with the Council or as permitted under City Council Policy A-23, Work Item Referral Process for Council Advisory Bodies and Councilmember Committees.

6.6.3 Order of Agenda Items

The Council shall conduct business in the following order, except as the order may be adjusted pursuant to City Council Policy A-13, City Council Meetings.

1. **Call to Order/Pledge of Allegiance**
2. **Roll Call**
- 2A. **Proclamations/Presentations**
3. **Minutes Approval**
4. **Consent Calendar**

The consent calendar includes all matters of a routine or noncontroversial nature. All items on the consent calendar are approved by a single motion and vote. Any item on the consent calendar can be removed at the request of any member of the Council, City staff, or member of the audience when properly

recognized by the Mayor. Any items removed are considered separately by the City Council after the consent calendar.

#### **5. Oral Communications from the Public**

This is the portion of the Council meeting devoted to oral presentations to the Council by members of the public. During this time, a speaker may address the Council on any issue which does not appear on the printed agenda.

In most instances, speakers will be limited to three minutes in addressing the City Council.

Members of the Council shall not engage in debate with a member of the public or respond to issues/questions raised during this portion of the meeting.

No person who addresses the Council shall make any belligerent, personal, slanderous, threatening or abusive remark, statement, or commentary toward the Council, staff or other individuals in a manner which disrupts, disturbs, or otherwise impedes the orderly conduct of the Council meeting, nor shall any person engage in any disorderly conduct which disrupts or impedes the orderly conduct of the meeting. Any violation of this rule shall be grounds for terminating the speaker's comment period. Continued inappropriate behavior or comments, after having been directed to discontinue, shall be grounds for removal from the meeting.

Nothing in this section shall prohibit or discourage orderly criticism of any City decision or policy within the limits of State or Federal law or these rules.

#### **6. Public Hearings**

During this portion of the meeting, public hearings are conducted on all matters that have been properly and legally noticed as public hearings. Any issue scheduled for a public hearing will provide the proponents and opponents of the issue with the opportunity to express their points of view to the City Council. After all views have been expressed, the Mayor will close the public hearing, invite Council to discuss the matter and ask Council to render its decision on that matter.

**7. Unfinished Business**

These are items of business which, for a variety of reasons, are carried over from a previous meeting and require final Council action.

**8. New Business**

This portion of the meeting is devoted to discussion or consideration of items of business that have not previously been before the City Council.

**9. Items Initiated by Council**

Under this item, any Councilmember may bring before the Council for consideration any item he or she believes should be considered by the Council.

**10. Council, Staff/Committee Reports**

Councilmembers may provide a brief report on their activities, including reports on their committee activities, reports on inquiries they have received from any member, or the Council itself may provide a reference to staff or other resources for factual information, request staff to report back to the Council at a subsequent meeting concerning a matter, take action to direct staff to place a matter of business on a future agenda, or refer a work item to a Council advisory body or Councilmember committee.

**11. Closed Session Report**

The City Attorney will announce any reportable Closed Session actions taken by the City Council.

**12. Adjournment**

**6.6.4 Order of Agenda Items for Council Advisory Bodies and Councilmember Committees**

The order of agenda business items for all boards, commissions, and committees and Councilmember committees shall be the same as the order of Council agenda business items.

## **6.7 Rules of Procedure**

- 6.7.1 City Council Policy A-13, *City Council Meetings*, provides general guidance for the conduct of Council meetings. From time to time, the Council may depart from its specific requirements for the convenience of the public, Council consideration and debate, or to expedite the processing of business. The Council by majority vote, however, may at any time reinvoke Policy A-13's specific requirements.
- 6.7.2 In instances not addressed by the rules provided in City Council Policy A-13, *City Council Meetings*, *The Modern Edition of Robert's Rules of Order* may be used for reference and/or guidance.

## **6.8 Decorum**

- 6.8.1 While the City Council is in session, all persons shall conduct themselves with reasonable decorum.
- 6.8.2 Any person who is so disorderly or who so persistently disrupts the business meeting so far as to interfere with the proper conduct of the business may be ordered removed from the meeting place. At such time, the Mayor may call a recess.
- 6.8.3 The Police Chief or authorized representative shall be sergeant at arms of the Council meeting. The sergeant at arms shall carry out all orders and all instructions of the presiding officer for the purpose of maintaining order and decorum at Council meetings.

## **6.9 Time of Adjournment**

It is the policy of the City that all evening meetings of the Council, including Study Sessions, be adjourned no later than 10:00 p.m., which time is referred to as the normal time of adjournment. No new item of business shall be taken up by the City Council after the normal time unless the Council has determined by majority vote to set aside this policy. In the event it appears that the entire agenda cannot be completed by the normal time of adjournment, the Council may take up and act upon the more pressing agenda items. All agenda items not considered at the meeting shall be on the agenda of the next regular, special, or adjourned regular meeting unless the Council directs otherwise.

## 6.10 Agenda Packets

- 6.10.1 Agenda packets are to be made available at the City Clerk's Office, the Mountain View Public Library, the City's web site ([www.mountainview.gov](http://www.mountainview.gov)), and at the Council meeting.

Council meeting agendas, minutes, and staff reports are generally available beginning the Thursday evening before each Council meeting.

NOTE: Also refer to City Council Policy A-13, City Council Meetings. This policy sets forth the rules of procedure for the conduct of City business.

## CHAPTER 7 – COUNCIL FINANCIAL MATTERS

### 7.1 Compensation

- 7.1.1 Pursuant to Article V, Section 503 of the Mountain View City Charter, each Councilmember will receive a monthly salary.
- 7.1.2 The Mayor receives a monthly salary equal to the salary of a Councilmember plus an additional 25 percent.
- 7.1.3 The City Council has no power to increase its salary by ordinance, resolution, or motion.
- 7.1.4 Section 503 of the Mountain View City Charter stipulates that "if a member of the City Council, or Mayor, does not attend all meetings of the City Council or Study Sessions called on order of the City Council and held during the month, that person's salary for such month shall be reduced by the sum of Twenty-Five Dollars (\$25) for each meeting or Study Session not attended unless that person is absent on official duty with the consent of or on order of the City Council."

### 7.2 Benefits

- 7.2.1 The California Government Code provides that Councilmembers may receive health, retirement, and other benefits.
- 7.2.2 City-funded medical, dental, and life insurance plan benefits are provided.

### 7.3 City Council Budget and Expenses

- 7.3.1 City Council Policy A-2, City Council Policy Governing Expenses of the Council, provides policy guidance regarding Council expenditures for equipment, supplies and communications; travel; local expenses; and expenses charged against the City Council budget.

NOTE: Also refer to City Council Policy A-2, City Council Policy Governing Expenses of the Council. This policy sets forth the policies governing expenses of the City Council.

CITY OF MOUNTAIN VIEW  
CITY COUNCIL  
PERSONAL CODE OF CONDUCT

PREAMBLE

The residents and businesses of Mountain View are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Mountain View City Council has adopted this Code of Ethics to encourage public confidence in the integrity of local government and its fair and effective operation.

City Councilmembers shall sign this Personal Code of Conduct upon assuming office and upon reelection to that office as a symbol of each Councilmember's continuing commitment to abide by the principles of this code.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Councilmembers shall work for the common good of the people of Mountain View and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Councilmembers shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Mountain View City Charter; laws pertaining to conflicts of interest, election campaigns, financial

**Attachment 1 to  
City Council Code of Conduct**

disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

Councilmembers shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.

4. Respect for Process

Councilmember duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Councilmembers shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council decisions shall be based upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Councilmembers to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Councilmembers.

8. Coordination with City Staff

Appropriate City staff should be involved when Councilmembers meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State, and the Federal government. As part

**Attachment 1 to  
City Council Code of Conduct**

of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Councilmembers shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interest and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Councilmembers shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Councilmembers shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Councilmembers for private gain or personal purposes.

**Attachment 1 to  
City Council Code of Conduct**

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Councilmembers shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission, or committee or proceeding of the City.

15. Advocacy

To the best of their ability, Councilmembers shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

16. Improper Influence

Councilmembers shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Councilmembers shall respect and adhere to the Council-Manager structure of Mountain View City government as provided in State law and the City Charter.

18. Positive Work Environment

Councilmembers shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

19. Implementation

Ethics standards shall be included in the regular orientations for City Council candidates. Councilmembers entering office shall sign a statement affirming they read and understood the City of Mountain View's City Council Code of Ethics.

20. Compliance and Enforcement

Councilmembers themselves have the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have full confidence in the integrity of City government.

**Attachment 1 to  
City Council Code of Conduct**

This Personal Code of Conduct shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Mountain View City Councilmembers.

*I affirm that I have read and understand the City of Mountain View City Council Personal Code of Conduct.*

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

CITY OF MOUNTAIN VIEW  
COUNCIL ADVISORY BODY  
PERSONAL CODE OF CONDUCT

**PREAMBLE**

The residents and businesses of Mountain View are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials, including Council advisory body members:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, Council advisory body members are expected to adhere to the Code of Conduct adopted by the Mountain View City Council to encourage public confidence in the integrity of local government and its fair and effective operation.

Council advisory body members shall sign this Personal Code of Conduct at the first meeting of the board, commission, or committee upon assuming office and, if applicable, upon reappointment to the board, commission, or committee as a symbol of each Council advisory body member's commitment to abide by the principles of this code during his or her term.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council advisory body members shall work for the common good of the people of Mountain View and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

**Attachment 2 to  
City Council Code of Conduct**

2. Comply with the Law

Council advisory body members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California Constitutions; the Mountain View City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Council Advisory Body Members

Council advisory body members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of Councilmembers; other members of the Council advisory body; other boards, commissions, or committees; staff; or the public.

4. Respect for Process

Council advisory body member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council advisory body members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council advisory body members shall base their decisions upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council advisory body members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council advisory body members.

**Attachment 2 to  
City Council Code of Conduct**

8. Coordination with City Staff

Appropriate City staff should be involved when Council advisory body members meet with officials from other agencies and jurisdictions to ensure proper staff support, as needed, and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the Constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council advisory body members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interest and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council advisory body members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council advisory body members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal

**Attachment 2 to  
City Council Code of Conduct**

authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council advisory body members for private gain or personal purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council advisory body members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee, or proceeding of the City.

15. Advocacy

To the best of their ability, Council advisory body members shall represent the official policies and positions of the City of Mountain View. When presenting their personal opinions or positions, members shall explicitly state that they represent neither the Council advisory body nor the City.

16. Improper Influence

Council advisory body members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council advisory body members shall respect and adhere to the Council-Manager structure of Mountain View City government as provided in State law and the City Charter.

18. Positive Work Environment

Council advisory body members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

**Attachment 2 to  
City Council Code of Conduct**

19. Implementation

Ethics standards shall be included in the regular orientations for Council advisory body members. Upon entering office and upon reappointment, Council advisory body members shall sign a statement affirming they read and understood the City of Mountain View’s City Council Code of Conduct.

20. Compliance and Enforcement

Council advisory body members themselves have the responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of City government.

This Personal Code of Conduct shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Mountain View City Council advisory body members.

*I affirm that I have read and understand the City of Mountain View City Council Code of Conduct.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date