



Memorandum

**TO: HONORABLE MAYOR AND
CITY COUNCIL**

FROM: TONI TABER

**SUBJECT: APPROVE POLICY AND
MUNICIPAL CODE UPDATES
FOR BOARDS AND COMMISSIONS**

DATE: June 10, 2016

RECOMMENDATIONS:

1. Adopt a resolution to approve Council Policy 0-4, "Consolidated Policy Governing Boards and Commissions," updating and combining Council Policy 0-4 (Consolidated Board and Commission Policies) and Council Policy 0-36 (City Council/Commission Code of Conduct).
2. Approve an ordinance amending various sections of Chapter 2.08 of Title 2 of the San José Municipal Code to update and clarify provisions such as voting and appointment processes for various boards and commissions, Retirement Board and Youth Commission term limits, and deleting sections relating to eliminated commissions.
3. Approve an ordinance amending Sections 2.08.1600, 12.02.010, 12.04.025, 12.04.080, 12.04.100, 12.05.080, 12.06.920, and 12.21.430 of the San José Municipal Code renaming the Ethics Commission to Title 12 Commission to reflect the commission's duties and responsibilities regarding Title 12 as set forth in Section 12.04.070 of the Municipal Code.

BACKGROUND:

The Boards and Commissions Structural Improvement Project began in 2007 with the creation of the pilot program for the Neighborhoods Commission. Over the ensuing years, many changes have been made including changing how boards and commission members are appointed, changing the number of members on many of the boards and commissions, and combining or eliminating boards and commissions. The "final" piece of this project is a consolidated boards and commissions policy which will address the appointment process, give commission members direction on what their roles and duties are, and give staff direction on their roles and duties. Additionally, some changes will be required to Chapter 2.08 of the municipal code to address items that were not addressed in previous actions taken by Council.

ANALYSIS

Action taken in 2013 included the direction that all Boards and Commissions adopt a standardized set of Bylaws and format for Agendas and Minutes with any proposed deviation reviewed and approved by the Rules and Open Government Committee. Furthermore, the City Council approved the consolidation of Council Policies 0-4 (last updated in 1991) and 0-36 into one unified policy to eliminate inconsistencies and redundancies, and to update procedures to reflect current practices.

From 2013 to present, the Office of the City Clerk has worked on refining the policy and has received feedback from several of the boards and commissions, and board and commission staff as to what should be included. In March 2015, a draft was presented to the Rules and Open Government Committee which addressed some of the feedback received from boards and commission members. The attached policy addresses the concerns of the Rules and Open Government Committee, board and commission staff, and board and commission members. It includes the roles of Department staff in the application process, residency requirements during a commissioner's term, the option of consecutive appointment for nominations to terms of less than six months, the issue of standing subcommittees, and workload for staff.

As staff worked with the revised policy and revised Title 2.08, there arose a need for some additional revisions to Title 2.08. The proposed ordinance changes include:

- Adding Deferred Compensation Advisory Committee, Airport Commission and Ethics Commission to adopt its own procedural rules and regulations for the conduct of its business subject to the approval of the Rules and Open Government Committee since these are quasi-judicial or decision-making bodies that hold hearings on petitions and other matters. Therefore, they will need to have their own procedural rules because the standard bylaws in the proposed Council Policy 0-4 would not address such items.
- Adding a section on voting that explains that resolutions, motions or actions require an affirmative vote of a majority of those voting, as long as there is a quorum present.
- For Council Nominated Commissions, allowing Council members or the Mayor to delegate their nomination to the Council Appointment Advisory Commission (CAAC) or request additional recruitment in addition to the current option of nominating a candidate itself.
- Explicitly stating Airport Commission and Arts Commission are appointed through the Council nomination process.
- Explicitly stating Appeals Hearing Board is appointed by same procedure as Planning Commission
- Clarifying that employee members of the Retirement Boards have no term limits
- Deleting Boards that no longer exist (Building Codes and Disabled Access Advisory Board; Suggestion Award Commission)
- Removing the requirement that CAAC review all applications and interview applicants for all city commissions. The sheer volume of applications has made this requirement very difficult to fulfill within the timeframe allowed for the application process
- Changing the appointment process of the Historic Landmarks Commission to interview by CAAC and nomination by Mayor

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- Deleting reference to pilot program for Neighborhoods Commission which ended in 2013 when it was formally codified
- Clarifying term limits for Youth Commissioners

Finally, it was brought to the attention of staff that a new name for the Ethics Commission is recommended. When complaints are filed against a candidate, the term "Ethics Commission Complaint" gives the impression that the candidate made an ethical violation, when the violation could be a mere accident. Prior titles of this commission include "Campaign Finance Review and Ethics Commission," and "Elections Commission." As the commission may receive complaints on items outside of elections (including public records requests and lobbyist ordinance issues), the term "Elections Commission" was determined to be too narrow. "Ethics Commission" was chosen as several other cities have "Ethics Commissions" that deal with the same scope as our Ethics Commission. The current recommendation placeholder in the proposed ordinance is "Title 12 Commission;" however, there are several alternatives the Council may elect to use. Several alternatives are listed below with staff recommendations noted with an asterisk:

- Campaign Finance and Ethics Commission
- Ethics and Open Government Commission
- San José Fair Political Practices Commission
- Political Campaign and Ethics Commission
- San José Political Practices Commission
- Commission on Local Political Practices *
- Board of Fair Campaign and Political Practices *

PUBLIC OUTREACH:

The Office of the City Clerk will post this item on the City's website for the June 21, 2016 City Council Agenda.

COORDINATION:

This memorandum has been coordinated with the Office of the City Attorney.

CEQA:

Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment.



TONI J. TABER, CMC
City Clerk

For questions, please contact Toni J. Taber, City Clerk at 408-535-1260

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COUNCIL POLICY

TITLE Consolidated Policy Governing Boards and Commissions	PAGE 1 of 29	POLICY NUMBER 0-4
EFFECTIVE DATE	REVISED DATE	
APPROVED BY COUNCIL ACTION August 28, 1984, Item 8b(2); August 28, 1990, Item 7d(4); November 20, 1990, Item No. 7d(1); February 19, 1991 - Item No. 7b(6); August 1, 1991, Item No. Item 7d(4)		

BACKGROUND

This policy consolidates Council Policy 0-4 (Consolidated Board and Commission Policies) and Council Policy 0-36 (City Council / Commission Code of Conduct), former Council Policy 0-20 (Appointment of City Employees and Council Assistants to Boards and Commissions), and former Council Policy 0-22 (Political Involvement of Boards, Commissions and Committees and their Members), and incorporates portions of Council Policies 0-15 (Code of Ethics for Officials and Employees of the City of San Jose). It is intended as a comprehensive selection of policies as they relate to Boards and Commissions and updated as part of the Board and Commission Consolidation approved by City Council on May 7, 2013.

City of San Jose Boards and Commissions are established in order to provide independent recommendations to Council or, in the context of quasi-judicial boards such as the Planning Commission, Civil Service Commission, Title 12 Commission, and Appeals Hearing Board, to make independent decisions and take administrative actions. The Boards and Commissions play an important role by being visible in the community and bringing a broad representation of ideas into the process.

The City Charter provides that, in addition to those Boards and Commissions established by the City Charter, the City Council may create such other Boards and Commissions as in its judgment are required, and grant them such functions, powers and duties as are consistent with the City Charter. This Policy intends to fully define the policies and customs as related to those Boards and Commissions.

This Policy only applies to Boards and Commissions whose members are appointed by the City Council pursuant to the City Charter and San José Municipal Code. Therefore, it does not apply to the San José Arena Authority Board of Directors, Deferred Compensation Advisory Committee, Mayor's Gang Prevention Task Force, Federated Retirement Board, Police and Fire Retirement Board, and work2future Board.

SECTIONS

- I. RECRUITMENT, SELECTION, APPOINTMENT, AND RESIGNATION
- II. REQUIREMENTS FOR BOARD MEMBERS AND COMMISSIONERS
- III. BOARD AND COMMISSION GOVERNANCE AND OPERATIONS
- IV. CODE OF CONDUCT
- V. AUTHORITY OF BOARDS AND COMMISSIONS
- VI. BOARD AND COMMISSION RECOGNITION
- VII. IMPLEMENTATION

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DEFINITIONS

For purposes of this Policy, the following definitions are in effect throughout:

Appointee – An individual who has been appointed by the City Council to a Board or Commission, but has not been sworn in as a Commissioner by the City Clerk.

Charter Commission – The following commissions established by and whose membership, powers and duties are defined in the City Charter, Article X, Boards and Commissions: Planning Commission, Civil Service Commission, and Salary Setting Commission.

Council Liaison – See Section IV.B of this Policy.

Council Nominated Commission – Commissions whose members without special eligibility requirements are nominated by each Council Member, including the Mayor, and appointed by City Council pursuant to San José Municipal Code Section 2.08.180. A listing of current Council Nominated Commissions is included in Appendix A of this Policy.

Council Appointment Advisory Commission Nominated Commission – Commissions whose members with special eligibility requirements are nominated by the Council Appointment Advisory Commission. See Appendix A of this Policy.

SECTION I: RECRUITMENT, SELECTION, APPOINTMENT, AND RESIGNATION

Purpose

This Policy establishes a systematic procedure for accepting and reviewing applications from persons interested in serving on Boards and Commissions and provides members of the City Council a process to make nominations to the various Boards and Commissions for appointment by the City Council.

A. **PROCESS AND PROCEDURE**

1. **Roster**: A current roster of Board and Commission members will be maintained by the City Clerk. The roster shall show the first appointment date of each Commissioner, the current term expiration date, and whether the Commissioner is eligible for reappointment.
2. **Applications**: The City Clerk will provide an application form to all persons wishing to serve on a Commission. Those persons wishing to serve on a Commission, including current Commissioners who wish to be reappointed, must file an application. Applicants who were not appointed to a Board or Commission will have their applications maintained on file in the City Clerk's Office for a period of one year from the date of application. During that year, the applicant may be eligible for appointment to an unanticipated vacancy on the Board or Commission for which they applied. If so eligible, the City Clerk will contact the applicant to confirm their interest and obtain any

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changes to their application. The City Clerk may continue to accept applications for Boards and Commissions while there are no vacant positions in order to have an applicant pool to fill unanticipated vacancies.

3. City Residency Requirement: Except as provided below, all applicants to Boards and Commissions must be San José residents. Except for Charter Commissions and the Neighborhoods Commission, in specific cases where a qualified San José resident has not applied to fill the vacancy, the Council may appoint a non-resident.
 - a. Residents of land annexed by the City of San José are considered San José residents. Residents of unincorporated County of Santa Clara land are not considered San José residents.
 - b. Except for Charter Commissions and the Neighborhoods Commission, if a Commissioner moves out of the City of San José with less than six months left on their term, they shall be allowed to finish their term; otherwise, Commissioners must retain residency in the City of San José during their term of office.
 - c. If a Commissioner moves out of the City of the San José with six or more months left on their term, the commissioner shall be deemed automatically resigned.

4. Vacancies: The City Clerk shall notify the City Council via memorandum of vacancies and recruitments occurring within the next sixty days. Copies of such notices shall be sent to the secretaries of Boards or Commissions listed therein. When a vacancy exists, the Clerk shall place a notice of said vacancy on the City Calendar and Website for viewing by the public.

5. Terms of Office: The following term limits apply to Boards and Commissions other than the Charter Commissions and Youth Commission. Under San José Municipal Code Section 2.08.150, members of Council Nominated Commissions and the Neighborhoods Commission, except for the Youth Commission, shall serve for a term of four years and are eligible for reappointment at the expiration of their first term for one additional four-year term. Members of the Youth Commission shall serve for a term of two years and are eligible for reappointment at the expiration of their first term for one additional two-year term. Should a Commissioner be off a commission for at least one full term (four years, or two years for the Youth Commission), the Commissioner shall be eligible for a new appointment to that Commission.

6. Limited to Single Legislative Body: No commissioner shall serve on more than one commission at a time. Should a commissioner seek appointment to another commission, upon his/her new appointment, the commissioner shall be deemed automatically resigned from his or her original commission. Other than Standing Committees of their respective commission, no commissioner shall serve on "Other Advisory Entities" as defined by the Consolidated Open Government and Ethics Resolution.

7. Review of Applications: Applications to all Commissions except Youth Commission will be reviewed by the Office of the City Attorney for potential conflict of interest and Department of Planning, Building, and Code Enforcement for any pending code violations.

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8. Appointment Process for Charter Commissions, Appeals Hearing Board and Title 12 Commission. The City Council holds public interviews of the applicants according to the following procedure:
- a. On or before the occurrence of a vacancy, the Commission Secretaries will prepare and send to the City Clerk’s Office for distribution a background memo on the Commission which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
 - b. The City Clerk shall post a vacancy notice on the City Clerk’s website, San José Public Libraries, and City community centers.
 - c. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications and Commission Secretary’s background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications.
 - d. Upon close of the vacancy notice period, the City Clerk will provide full application packages to each member of the City Council. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement Code memo, Commission Secretary’s background memos, and any other information as necessary.
 - e. After receipt of the full application package, each Council Member, including the Mayor, shall notify the Clerk in writing of the applicants he/she wishes to interview. If four Council Members indicate they would like to interview the same applicant, the Clerk shall contact the applicant to notify him/her of the time, place and date of the interview, which shall occur during an open meeting of the City Council.
 - f. At the Council meeting at which the interviews are held, the Clerk shall supply the Council Members with a ballot, which may be electronic, containing the names of all the applicants to be interviewed. Upon completion of the interviews, each Council Member shall mark his/her selection of applicant on the ballot. The Clerk shall publicly read the votes of the Council Members, and the applicant(s) receiving the most Council votes (six or more) shall be appointed. If there are two or more vacancies, and more than two applicants receive six or more votes, then the applicants receiving the highest number of votes shall be appointed. In the case of a tie, a second balloting shall take place.
 - g. After the Council makes an appointment to a Board or Commission, the City Clerk’s Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

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9. Appointment Process for Council Nominated Commissions (See Appendix A for a complete list)
- a. Regularly Scheduled Vacancies for Seats Nominated by Council Members: The following appointment process applies to all regularly scheduled vacancies for seats for Council Nominated Commissions specifically referencing 2.08.180.
- i. On or before the occurrence of a vacancy, the City Clerk shall notify the Council Member responsible for the nomination of that seat.
 - ii. The Commission Secretaries will prepare and send to the City Clerk's Office for distribution a background memo on the Commission which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
 - iii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
 - iv. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
 - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
 - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to, completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.
 - v. The City Clerk shall then forward a copy of the applications, Department staff liaison memo, and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
 - vi. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to each member of the City Council making appointments. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo,

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Commission Secretary's background memos, and any other information as necessary.

- vii. After receipt of the full application package, each Council Member, including the Mayor, shall submit their nominations for approval by the City Council. Each Council Member, including the Mayor, may interview applicants prior to submitting their nominations.
- viii. In the event that a Council Member or the Mayor does not provide a nominee within the specified deadline, chooses to delegate their nomination to the Council Advisory Appointment Commission, or request additional recruitment, the Council Advisory Appointment Commission shall be authorized to submit a nominee to the City Council.
- ix. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

b. Vacancies for Seats Nominated By Council Appointment Advisory Commission:

The following appointment process applies to seats on Council Nominated Commissions with special eligibility requirements that are nominated by the Council Appointment Advisory Commission:

- i. On or before the occurrence of a vacancy, the City Clerk shall notify the Commission Secretary. The Commission Secretary will prepare and send to the City Clerk's Office for distribution a background memo on the requirements for those seats needing to be filled which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
- ii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- iii. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
 - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
 - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to, completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant

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meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.

- iv. The City Clerk shall then forward a copy of the applications, Department staff liaison memo, and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
 - v. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to the Council Advisory Appointment Commission for review. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Commission Secretary's background memos, Department staff liaison memo, and any other information as necessary.
 - vi. After receipt of the full application package, the Council Advisory Appointment Commission will interview applicants, select their nominee and submit their nomination to the City Council for final approval.
 - vii. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.
- c. Unanticipated Vacancies for Seats Nominated by Council Members. The following appointment process applies to all unanticipated vacancies for seats for Council Nominated Commissions specifically referencing Section 2.08.180 of the Municipal Code.
- i. Upon receipt of a Board or Commission member resignation, the City Clerk shall notify the Council Member for the represented district of the unanticipated vacancy, and post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
 - ii. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
 - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
 - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to,

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completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.

- iii. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- iv. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to each member of the City Council making nominations to the vacant seat(s). The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Commission Secretary's background memos, Department staff liaison memo, and any other information as necessary. Each Council Member, including the Mayor, may interview applicants prior to submitting their nominations.
- v. After receipt of the full application package, if the Council Member chooses to nominate one of the applicants, the nomination will be submitted to the City Council for approval.
- vi. If the Council Member chooses not to nominate any of the applicants, they may conduct outreach for additional applicants or request the City Clerk to conduct additional recruitment.
- vii. In the event that a Council Member or the Mayor does not provide a nominee within the specified deadline, chooses to delegate their nomination to the Council Advisory Appointment Commission, or request additional recruitment, the Council Advisory Appointment Commission shall be authorized to submit a nominee to the City Council.
- viii. If no candidate is nominated, the vacancy will be filled during the next normal Board and Commission recruitment period.
- ix. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.
- x. Less Than Six Month Term: If a Commissioner is nominated to fill an unexpired term with less than six months remaining, the City Council may choose to additionally appoint him/her to the following four year term.

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10. Appointment Process for Neighborhoods Commission

a. Regularly Scheduled Vacancies for Seats Nominated by Neighborhood Groups:

The following appointment process applies to all regularly scheduled vacancies for seats for Neighborhoods Commission.

- i. The Department staff liaison to the Commission shall obtain approval from the City Council of the rules developed by the Commission for the caucus process, in accordance with Section 2.08.3440.A of the Municipal Code.
- ii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- iii. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications to the Department staff liaison to the Commission for a preliminary review of applicants, including, but not limited to, District residency verification and identification, and application completeness. Within 7 days of receipt, the Department staff liaison shall submit the results of its review as a Department staff liaison memo to the City Clerk's Office.
- iv. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- v. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to the Department staff liaison to the Commission, to provide to the neighborhood groups during their caucus process. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Department staff liaison memo, and any other information as necessary.
- vi. After receipt of the full application package, and in accordance with the caucus process in Section 2.08.3440.A-C of the Municipal Code, the Department staff liaison shall submit the nominations of the neighborhood groups for approval by the City Council.
- vii. After Council makes an appointment to the Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

- b. Unanticipated Vacancies Nominated By Council Appointment Advisory Commission: The following appointment process applies to unanticipated vacancies for seats on the Neighborhoods Commission:

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- i. Upon receipt of a resignation, the City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- ii. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications to the Department staff liaison to the Commission for a preliminary review of applicants, including, but not limited to, District residency verification and identification, and application completeness. Within 7 days of receipt, the Department staff liaison shall submit the results of its review as a Department staff liaison memo to the City Clerk's Office.
- iii. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- iv. After receipt of the conflicts of interest and code review memos, and in accordance with the appointment process in Section 2.08.3440.D of the Municipal Code, the City Clerk will provide full application packages to the Council Advisory Appointment Commission for review. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Department staff liaison memo, and any other information as necessary.
- v. After receipt of the full application package, the Council Advisory Appointment Commission will interview applicants, select their nominee and submit their nomination to the City Council for final approval.
- vi. After Council makes an appointment to the Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

11. Resignations:

- a. Voluntary Resignation: Voluntary resignations from Boards and Commissions shall be submitted in writing to the City Clerk and Commission Secretary. Resignations are effective on the date submitted to the City Clerk or Commission Secretary, unless a different date is noted on the resignation. Resignations cannot be rescinded or revoked.
- b. Automatic Resignation: Commission Secretaries will notify the City Clerk of vacancies occurring due to absences pursuant to the provision of the San José Municipal Code Section 2.08.060 that automatically deem a seat vacant.

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B. CITY EMPLOYEES

1. Because City Boards and Commissions are intended to provide the City Council with a perspective different and additional to that provided by staff and other persons retained to provide that advice, unless a particular Board or Commission is required by the San José Municipal Code or Resolution of the Council to have staff representatives appointed thereto, no City employee or City intern, paid or unpaid, shall be appointed to any City Board or Commission.
2. Notwithstanding the above, Youth Commissioners may also serve the City as a paid or unpaid intern.
3. Former or retired City employees shall not be appointed to the Civil Service Commission.

SECTION II: REQUIREMENTS FOR BOARD MEMBERS AND COMMISSIONERS UPON APPOINTMENT

Purpose

Based upon various local, state, and federal laws and requirements, Board Members and Commissioners are required to complete and have on file with the Office of the City Clerk certain paper work and complete certain trainings in order to serve on a Board or Commission. The City Clerk's Office will notify the Commission Secretary of commissioners who fail to complete any requirements.

Policy

1. Oath of Office: Upon appointment and reappointment, Commissioners and Board Members are required to file a current oath of office with the Office of the City Clerk (Article 20, Section 3 of the California Constitution). ***A new oath of office must be administered for each term of office.***
2. Code of Ethics: Commissioners and Board Members shall read and sign a Code of Ethics Statement. (San José City Council Policy 0-15).
3. Form 700 / Statement of Economic Interest: The following Board Members and Commissioners are required to file a Statement of Economic Interest, Form 700.
 - a. Any Commission designated in the City's conflict of interest code;
 - b. Pursuant to Government Code 87200, Planning Commissioners; and
 - c. Any Commissions added to Government Code 87200 following approval of this Policy.
4. AB 1234 Ethics Training: Commissioners who receive compensation, salary, stipend or reimbursement of expenses are required to complete state mandated ethics training. Said training must be for a minimum of two hours, and completion certificates must be filed with the Office of the City Clerk within 90 days of appointment. Such training must be completed every two years.
5. City Training: Within the first year of appointment, Commissioners will be required to complete a mandatory training session covering, but not limited to, the City Charter, the San José Municipal Code Section 2.08, City Council Policies related to Boards and Commissions, City Policies and Procedures, Brown Act and Consolidated Open Government and Ethics Resolution, Statement of Economic Interest Disclosure

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requirements, and Parliamentary Procedures. The training will be coordinated by the City Clerk's Office with the City Attorney's Office and Boards and Commission staff.

SECTION III: BOARD AND COMMISSION GOVERNANCE AND OPERATIONS

Purpose and Application

Standardized Rules and Regulations have been established to better serve the public in that any resident, business, or other interested party appearing before a City Commission may know what to expect regardless of the board or commission. This process standardization was ordered as part of the Boards and Commissions Consolidation approved by City Council on May 7, 2013.

Policy

A. BYLAWS

All City Commissions, except the Airport Commission, Appeals Hearing Board, Civil Service Commission, Salary Setting Commission, Title 12 Commission, and Planning Commission, will operate under a standardized set of Bylaws developed by the City Clerk. Any deviation from the standardized Bylaws must be approved by the Rules and Open Government Committee, or other designated Council Committee, of the City Council. See Appendix B for Commission Bylaws Template.

B. ANNUAL WORKPLAN, BUDGET AND REPORT

Each fiscal year, all City Commissions except for Charter Commissions and the Appeals Hearing Board, shall submit their annual workplan of activities to be undertaken, budget of personal and non-personal costs, and annual report of its accomplishments to the Rules and Open Government Committee or other designated Council Committee for approval, as delegated by the City Council pursuant to this Policy. Staff shall provide a cover memo indicating whether the workplan corresponds with the Department's workplan. The Commission's annual workplan, budget and annual report shall follow the standard template format provided by the City Clerk. Commissions shall not include items in the workplan that would extend their scope beyond the functions, powers, and duties granted to or bestowed upon them by San José Municipal Code Chapter 2.08.

C. SUBCOMMITTEES (STANDING, AD HOC AND TEMPORARY COMMITTEES)

1. Standing Committees: Unless approved by the Rules and Open Government Committee or other designated Council Committee, standing committees, which are subcommittees with a continuing subject matter jurisdiction or a meeting schedule fixed by formal action of the Commission are not allowed under the Commission Bylaws as they are Brown Act bodies that require additional staff support. The Board or Commission requesting the creation of a standing committee shall submit a formal request to the Rules and Open Government Committee that includes justification for the standing committee as well as a time and budget analysis by the Department staff in order to assist the Rules and Open Government Committee with their decision. The City Clerk shall provide a format for the standing committee request. Standing committees shall not meet more often than its Board or Commission. Standing committees must prepare and maintain Action Minutes.

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2. Ad Hoc or Temporary Committees: Limited term ad hoc or “temporary” committees, which are comprised of less than a quorum of members of the Commission, are allowed for specific short term tasks or projects with a narrow scope and shall not last longer than six months. Ad hoc committees are not subject to the notice and posting requirements of the Brown Act. The purpose for forming an ad hoc committee must be defined and the scope of the ad hoc committee must be within the functions, powers and duties of the commission as outlined in the San José Municipal Code and as approved by the Commission Secretary. Under no circumstances shall ad hoc committees be formed to bypass the rules and laws of this Council Policy, the Brown Act, or the City Council’s Consolidated Open Government and Ethics Resolution.
3. Subcommittees shall only be formed by and composed solely of members of its parent Board or Commission. Members of the public or former commissioners may not sit on subcommittees as voting or nonvoting members or officers of the subcommittee.
4. Commission members shall not be required to serve on subcommittees.

D. COMMISSION OPERATIONS

1. The California Ralph M. Brown Act (Gov’t Code § 54950 et seq.) applies to Boards and Commissions except where stricter standards are adopted by the City of San José pursuant to its Consolidated Open Government and Ethics Resolution . At no point will a policy be enacted that reduces the standards of the Brown Act.
2. The Commission shall not require commission members to perform additional duties outside what is required under San José Municipal Code section 2.08. The Commission may request its members to perform outside duties, but cannot penalize a Commission member who cannot perform these additional duties.
3. Members of the public or former commissioners may not sit on the Commission as voting or nonvoting members or officers of the Commission. Former Commission members shall be treated as members of the public. Emeritus members shall not be allowed.

E. MEETING SCHEDULE

1. Except for Charter Commissions, the frequency and schedule of meetings shall be determined by the Board or Commission’s workplan, as approved by the Rules and Open Government Committee, and align with the corresponding City Department, City Service Area, and Council Committee to allow flexibility in scheduling meetings.
2. Commission Meetings may not be cancelled or rescheduled due to personal conflicts in the Commissioners’ personal schedules.
3. Meetings will be conducted according to Robert’s Rules of Order.

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F. AGENDAS

1. A standardized agenda format will be provided to Commission Secretaries by the City Clerk and should be used for all agendas, for regular meetings and/or subcommittee meetings. Any proposed change to this format by a Commission must be approved by the Rules and Open Government Committee.
2. Agendas must include the following:
 - a. Commission Name
 - b. The Meeting Date and Time
 - c. Meeting Location
 - d. Description of each item of business to be transacted or discussed
 - e. Public Comments
 - f. Public Record
3. Agenda Distribution Policy:
 - a. Email: Agendas will be distributed via email to commissioners at the City-provided email address.
 - b. Hard Copy: If a Commissioner requires hard copies of the agenda and related materials, the Commissioner must put the request in writing to the Commission Secretary. Requests for hard copies of materials will be effective until the end of the calendar year in which the request was submitted. Requests must be renewed annually. The Commission Secretary will place hard copies in outgoing first-class mail on the same day the agenda is posted, unless the agenda is posted after 3:00 p.m., in which case the agenda will be mailed the following business day. There is no guarantee that the hard copy will arrive at the Commissioner's address prior to the meeting. Alternatively, the Commissioner may pick up a hard copy in person at the office of the Commission Secretary.
4. Agendas and related materials for regular meetings shall be posted seven (7) days in advance of the meeting per the City's Consolidated Open Government and Ethics Resolution. Agendas shall also be posted at City Hall and on the City's website. An amended agenda making administrative, non-substantive changes may be posted no later than three days before the meeting.
5. Agendas and related materials will be posted online and will contain a link to all of the documents referenced or distributed to members of the body. Quasi-judicial Commissions are not obligated to post online any documents presented at the time of an evidentiary hearing.

G. MEETINGS

1. Commission Meetings must be audio recorded and the recording must be maintained for two years. Planning Commission meetings must also be video recorded and the recording must be maintained for two years. The Commission Secretary is responsible for maintaining the recording(s) for the two year retention period.

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2. Members of Boards and Commissions must follow the attendance rules set forth in Section 2.08.060 of the San José Municipal Code. Attendance at a regular meeting for purposes of Section 2.08.060 of the Municipal Code means attending at least 50% of the length of the entire meeting. Attending less than 50% of the length of the entire meeting is considered an absence for purposes of Section 2.08.060 of the Municipal Code. In the case of an excused absence, Commissioners should notify the Commission Secretary of their excused absence as soon as possible.
3. All members of Boards and Commissions will adhere to the Declaration of Conflict of Interest Policy set forth in the Council's Consolidated Open Government and Ethics Resolution.
4. Public meetings of a Board or Commission held in any location will follow the Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms set forth in Council Policy 0-37.
5. Commission Secretaries will be expected to:
 - a. Be a member of City staff
 - b. Attend all meetings, including subcommittee meetings
 - c. Prepare the meeting agendas in accordance with the approved Commission workplan, if any
 - d. Ensure meetings are effectively organized and recorded
 - e. Maintain effective records and administration, including the collection and retention of records submitted at meetings, and drafting meeting minutes
 - f. Manage communication and correspondence

H. MINUTES

Minutes are the official written record of what transpires during a meeting and serve as the permanent record of actions taken and staff direction.

1. Minutes will be taken in "Action Minute" format. Action Minutes include only a brief summary of the public comment and action taken by the Commission.
2. Minutes should include the following:
 - a. What type of meeting: Regular, Special, Adjourned, et al.
 - b. The name of the Commission
 - c. Date and Location of the meeting.
 - d. The word "Minutes"
 - e. Time the meeting convened
 - f. Names of commissioner and staff persons present
 - g. Public Comments
 - h. Approval of Minutes
 - i. Items on the agenda and actions taken for each item including, but not limited to, motions, direction to staff, brief summary of discussion, as well how each member voted, who made the motion and the second.
 - j. Time the meeting adjourned
 - k. Name of individual preparing the minutes.

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3. Commission Secretaries will be expected to follow the standardized “Action Minutes” format provided by the City Clerk.
4. Draft Action Minutes shall be posted within 10 days after the meeting.

SECTION IV: CODE OF CONDUCT

A. MEMBERS OF BOARDS AND COMMISSIONS

1. All Boards and Commissions

All Commissioners should conduct meetings in a dignified and courteous manner. No bias or prejudice against any individual or group of people should be manifested by any Commissioner or condoned by any Commission.

The following Code of Conduct applies to all Boards and Commissions.

- a. All Commissioners shall be professional, respectful and courteous to staff and the public.
- b. When speaking or writing publicly on matters within the purview of his or her Commission, unless a Commissioner has been authorized to speak on behalf of the Commission or the Commissioner is speaking on behalf of a position that the Commission has taken by formal action, the Commissioner should make very clear that he or she is speaking on his or her own behalf and not on behalf of the Commission.
- c. No Commissioner shall use his or her Commission title or speak or write as a Commissioner except when speaking on behalf of the Commission. Except when a Commissioner is speaking on behalf of the Commission, no Commissioner shall identify him or herself as a Commissioner without making clear that he or she is not speaking on behalf of the Commission.
- d. City business cards shall be provided to those Commissioners where requested by the Commission, as approved by the Commission Secretary based on Commission needs for community outreach. Information in the business cards must contain at a minimum: the name of the Commissioner, the title of the Commissioner, and the name of the Commission. Department staff will determine the additional information to be pre-printed on the business card. Such cards shall only be used when the Commissioner is on official business.
- e. City email addresses shall be provided to all Commissioners. Such email addresses shall only be used for official City business. Commissions shall not use private email addresses for City business.
- f. Use of City stationery must be limited to official Commission business. All correspondence concerning the Commission’s business should be processed by the Commission Secretary.
- g. Commission recommendations to the City Council must be recommendations of the Commission as a whole, and not subject to undue influence by Council Liaison, Council Member, City staff, or any outside agency.
- h. Individual Commissioners are free to discuss any issues and concerns with the Council Liaisons, Council District representative or any Council office. However,

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Commissioners cannot assign themselves as "liaison" to the various Council members and must take care that contact with Council members does not result in a prohibited seriatim meeting of either the Council or the Commission under the Brown Act.

- i. Commissions may not interview candidates for political office or make endorsements of such candidates. Individual Commissioners must not use their Commission title in making personal political endorsements, including using the title for identification purposes only.
- j. Commissioners individually or Commissions as a whole are free to recommend candidates for appointment to any City Board or Commission, including their own, to the City Council, Council Appointment Advisory Commission, Council Liaison or individual Council members.
- k. Commissions may not independently support or oppose state or federal legislation, but instead shall be free to make recommendations on legislation to the City Council through the Rules and Open Government Committee.
- l. Commissioners are prohibited from using their position as a commissioner to promote themselves for personal gain.
- m. Only the City Council has the authority to designate the City's representatives with non-City entities. Commissions may not appoint or invite anyone to act as the City's representative or to advocate a particular cause or viewpoint on behalf of the Commission with any non-City entity. Commissions, however, are free to seek the advice or input of others in the course of making their recommendations to the Council.
- n. Commissioners who are members of an organization which is in litigation against the City on issues related to the work of the Commission should not participate in any Commission discussion or review of matters affecting the organization if they are an officer of the organization, a named litigant in the lawsuit or disqualified because of a conflict of interest. Litigation includes an administrative enforcement action, lawsuit in a court of law or a claim filed with the City or Successor to the Redevelopment Agency.
- o. All conflicts of interest and circumstances giving rise to a perceived conflict of interest should be avoided. Commissioners must avoid the appearance of favoritism towards people and organizations with whom a Commissioner is affiliated. For example, if a Commissioner serves as a volunteer board member for a service organization, the Commissioner must not vote on any matter which will directly affect that organization. The exception to abstention based on organizational affiliation applies where the Commissioner was appointed as a representative of the organization such as the Housing and Community Development Commission.
- p. Commissioners may not contact consultants or others under contract with the City directly, outside of a Commission meeting, unless so authorized by City Administration.
- q. Commissions should only take actions within their authority, duties and responsibilities as specifically set forth in the City's Municipal Code. Assigned legal staff will advise on legal issues related to jurisdiction and authority as required.
- r. Commissioners shall not act as mediators or facilitators between the parties on matters that come before them. Any facilitation must be part of the public process and as requested or required by the City Council.

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- s. Commissions shall place items on the Council agenda in accordance with the Council Rules for the Conduct of its Meetings Resolution. Commissions should not request of Council Members to place items on a Rules and Open Government Committee or City Council Agenda.
- t. The Chair, as defined by San José Municipal Code Section 2.08.070(B), shall preside at the meetings. The responsibility of the Chair is to make sure that each meeting is conducted in accordance with the San José Municipal Code, the approved Bylaws, this Code of Conduct, and Robert Rules of Order, and that matters before the Commission are dealt with in an orderly, efficient manner.

2. Quasi-Judicial Commissions

Commissions which sit as hearing bodies and take administrative actions, including the Planning Commission, Civil Service Commission, Title 12 Commission and Appeals Hearing Board must be diligent to ensure that a hearing is fair and impartial.

- a. Commissioners should not have ex parte conversations with anyone on the subject, outside of the hearing. If a Commissioner has a communication with a party or a party's representative regarding the subject matter, facts or the issues of an administrative action pending before the Commission, the communication shall be disclosed on the record of the administrative action or proceeding before the action is heard.
- b. Any visit to the site or other information gained outside of the hearing must be stated on the record. Commissioners should disqualify themselves if there is any appearance of bias.
- c. Commissioners should not make any public comment on a matter pending before them until after the Commission has rendered a decision.

B. COUNCIL MEMBERS

1. Council Liaisons

The Council Liaison is the Council Member who is specifically assigned to be the liaison between the City Council and the Commission. The primary role of the Liaison is that of facilitator of communications between the Commission and the Council. A Council Member who is appointed to sit as a member of a Board or Commission is not a liaison for purposes of this Policy.

a. Definition of the Role

The Council Liaison shall facilitate communications between the Commission and the Council. The Liaison should not be an advocate for the Commission, give direction or influence a decision of the Commission. The Liaison may, however, assist and provide guidance to Commissions with their workplans or agendas.

b. Purpose

The Council Liaison acts as:

- 1) Spokesperson on behalf of the Council when so directed by the Council.
- 2) Contact person, if the Commission or an individual Commissioner wants such a channel of communication.
- 3) Monitor for the Commission to identify procedural and structural issues relating to the effective functioning of the Commission for Council.

c. Participation Expectation

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- 1) Attendance is discretionary with the Council Member - attendance at Commission meetings is not required but is encouraged. The Council Member may send a member of his/her staff in his/her place.
 - 2) The Council Liaison shall have no vote on the Commission and shall not act as an ex officio member of a Commission.
 - 3) The Council Liaison's attendance at Commission retreats is discouraged unless attendance is requested by the Commission.
- d. Role of Council Liaison Staff
- 1) Council Liaison staff do not serve as "alternates" to the Liaison but may attend to observe, provide information on behalf of the Liaison and answer questions in order to report back to their respective Council members.
 - 2) Council Liaison staff members should not participate in the discussion by the Commission. However, staff can communicate messages on behalf of the Council Liaison and answer Commission questions.
 - 3) Council Liaison staff members who attend meetings may sit at the table with the Commission at the discretion of the Commission or the chair.
2. Council Members
The following guidelines apply to all Council Members.
- a. Council Members should not speak to any Commissioner on any matter that may come before the Council in a manner designed to influence the Commission. Nor should any Council Member privately lobby any Commissioner outside of the meetings in an attempt to influence his or her individual vote.
 - b. Any Council Member who has testified on his or her own behalf or as a witness before a Commission on any administrative action which then comes to Council is disqualified from participating as a Council Member on the matter only if there is a legal conflict of interest.
 - c. A Council Member must clearly state when he or she is speaking on behalf of the City Council.

SECTION V: AUTHORITY OF BOARDS AND COMMISSIONS

A. LEGISLATION

Boards and Commissions cannot independently take positions on legislation at the state and federal level. They can, however, recommend positions to the City Council on legislation in areas of their expertise. In addition, Boards and Commissions must act in a timely way to comply with the state and federal legislative schedule, using the following process:

- 1. Boards and Commissions will send a letter to the Mayor and City Council through the Commission Secretary requesting that they take a position on state or federal legislation.
- 2. The Mayor and City Council will refer the request to the City Clerk's Office in order to schedule the item on the next available Rules and Open Government Committee agenda.
- 3. If appropriate, the Rules and Open Government Committee will refer the legislation to the appropriate Council Committee for analysis and recommendation to the City Council. The Commission Secretary will be responsible for notifying the Chair of the Board or Commission when the legislation forwarded by the Board or Commission will be heard by the designated Council Committee.

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B. POLITICAL INVOLVEMENT

1. City of San José Boards and Commissions are strictly prohibited from endorsing any candidate or from taking an independent position on any legislation or ballot measure. Further, Boards and Commissions may not be involved in gathering or disseminating information on any candidates or ballot measures (e.g., surveys, public debates, mailings, etc.)
2. Individual members of Boards and Commissions are free to exercise their individual right of political participation such as endorsing or contributing to a particular campaign. Members of certain Commissions (e.g., Planning Commission) must also be aware that State law imposes certain legal restrictions on soliciting or accepting political contributions and participating in quasi-judicial or entitlement actions.
3. No Board or Commission or individual member of a Board or Commission may take or allow any action which gives the appearance of official City involvement in any political campaign. For example, individual members may not use the titles of "Chair," "Vice-Chair," "Commissioner," "Board member," the title of their Board or Commission, or their commissioner title for identification purposes on any endorsement listing. Actual or facsimiles of City stationery or City business cards may not be used for any political mailing or distribution.

C. BOARD AND COMMISSION REFERRAL SYSTEM

From time to time, a Board or Commission may have a request for information that is outside the Board or Commission's Work Plan.

1. A "Major Study" means a request for information and/or research which meets one or more of the following criteria:
 - a. It requires 20 staff-hours or more to complete. Exception: In the event of a hiring freeze, department-by-department basis dependent upon the impact of the freeze on a particular department.
 - b. It is not a planned budgeted activity.
 - c. Response action will seriously affect the respondent's annual planned performance or output.
 - d. It will require a formal report.
 - e. Possible change in current policy which was the culmination of extensive public input and/or as a result of committee/task force deliberations (i.e., C & C Tax Task Force or any policy task force, etc.).
 - f. New policy research on which there has been no Council discussion or direction or because of its sensitivity and would involve more than 5 hours of Staff time.
2. All requests for information and/or research outside the Work Plan requested by a Board or Commission must adhere to the following provisions:
 - a. A request for a Major Study requires approval of the Rules and Open Government Committee, and amendment to the Board or Commission's Work Plan.
 - b. A request for a Major Study by a Board or Commission must be submitted in writing from the Board or Commission Chair to the City Clerk to be placed on the next available Rules and Open Government Committee Agenda.
 - c. When a request for information and/or research is made to the Rules and Open Government Committee, it is the responsibility of the appropriate Council Appointee

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and his or her respective staff to determine the scope of the request and to advise the Council through the Rules and Open Government Committee if a Major Study will be required, if the request can be met by reports or material already on file, or a brief research effort will be required.

- d. If approved by a majority of the Rules and Open Government Committee, the guidelines for the Major Study must be stated. Evaluation of the request will take place at the Rules and Open Government Committee meeting using the following criteria:
 - i. If the Major Study is within the parameters of the Board or Commission making the request.
 - ii. The informational value of the study.
 - iii. The parameters of the study.
 - iv. The Staff time to be involved in completing the study.
 - v. The estimated cost of the study.
 - vi. The general feasibility of the study.
- 3. Boards and Commissions may receive written information that may require minor staff time or is already consistent with the Board or Commission's Work Plan, i.e., requests for information which is part of the Board or Commission's Work Plan should be accommodated.
- 4. A request for brief verbal information or for copies of reports already prepared and ready for distribution may be made directly to the Board or Commission Secretary.

D. LETTERS REGARDING COUNCIL OR COUNCIL COMMITTEE ITEMS

From time to time, a Board or Commission may submit letters or communications to the City Council or Council Committee regarding items within their subject matter jurisdiction. The City Clerk will provide guidelines for such letters and communications. Such letters or communications shall be submitted through the Commission Secretary. Direct email to the entire Council Committee or City Council from the Commission Chair shall not be allowed.

E. LETTERS REGARDING BOARD OR COMMISSION ITEMS TO NON-CITY ENTITIES

From time to time, a Board or Commission may desire to submit letters or communications to non-City entities regarding items within their subject matter jurisdiction. The City Clerk will provide guidelines for such letters and communications. Such letters or communications shall be submitted through the Commission Secretary, and be authorized by the Rules and Open Government Committee, or other designated Council Committee, of the City Council. Upon approval by the Committee, the Commission Secretary shall send the letter or communication to the non-City entities on the City's behalf.

SECTION VI. BOARD AND COMMISSION RECOGNITION

A member of a Board or commission may be recognized for his or her service as follows:

- 1. The City Clerk will prepare and present a commendation for each outgoing member of a Board or Commission who have served for at least one year and who have not been reappointed to that Board or Commission. Commendations shall be prepared and presented to all Board and Commission Members that the City Council appoints.
- 2. No commendation shall be prepared if a person ceases to be a member of a Board or Commission for any reason set forth in San José Municipal Code Section 2.08.050 or

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2.08.130, except resignation or ineligibility, nor shall a commendation be prepared if the vacancy occurs because of insufficient attendance.

SECTION VI. IMPLEMENTATION

The City Clerk will provide this Policy to all current Board and Commission members, all Commission Secretaries, all City Council Members and appropriate City employees and will post this Policy on the City Clerk's Boards and Commissions page on the City's website.

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APPENDIX A

LIST OF COUNCIL NOMINATED COMMISSIONS

Each Council Member and the Mayor nominates one commissioner to the following commissions. Council Members are not required to nominate commissioners from the district they represent.

- Airport Commission, 11 members
- Arts Commission, 11 members
- Council Appointment Advisory Commission, 11 members
- Housing and Community Development Commission, 13 members:
 - 11 members nominated by Mayor and City Council
 - 1 member recommended by an organization of owners of San Jose mobilehome parks (nominated by the Council Appointment Advisory Commission if more than one)
 - 1 member recommended by an organization of residents of San Jose mobilehome parks (nominated by the Council Appointment Advisory Commission if more than one)
 - 1 member who is an owner/manager of a residential rent stabilized rental property nominated by the Council Appointment Advisory Commission
 - 1 member who is a tenant of a residential rent stabilized rental unit nominated by the Council Appointment Advisory Commission
- Human Services Commission, 13 members:
 - 11 nominated by Mayor and City Council
 - 1 disability service provider or disabled community representative nominated by the Council Appointment Advisory Commission
 - 1 domestic violence service provider or domestic violence survivor nominated by the Council Appointment Advisory Commission
- Library and Early Education Commission, 15 members
 - 11 nominated by Mayor and City Council
 - 4 representatives with an early childcare background nominated by the Council Appointment Advisory Commission
- Parks and Recreations Commission, 11 members
- Senior Citizens Commission, 11 members
- Youth Commission, 11 members

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APPENDIX B
Commission Bylaws Template

**A RESOLUTION OF THE _____ COMMISSION
ADOPTING AND ESTABLISHING RULES FOR THE CONDUCT OF ITS MEETINGS
PROCEEDINGS AND BUSINESS, AND REPEALING THE PREVIOUS RESOLUTION**

WHEREAS, the _____ Commission has found it necessary and desirable to adopt Rules of Order for the conduct of its business, now therefore,

BE IT RESOLVED BY THE _____ Commission of the City of San Jose that the Commission does hereby adopt Rules of Order for the conduct of its business, as follows:

RULES OF ORDER

ARTICLE I
GENERAL PROVISIONS

Section 100. DEFINITIONS. As used in these rules, unless the context clearly indicates otherwise:

- (a) "Commission" means the _____ Commission;
- (b) "Brown Act" means the Ralph M. Brown Act, California Government Code Sections 54950 et seq., as amended.

Section 101. GENERAL. The name of the Commission, the number of its members, the members' qualifications, and their appointment, removal and terms of office shall be prescribed by San José Municipal Code Chapter 2.08.

Section 102. OFFICE. San Jose City Hall, 200 E. Santa Clara Street, San Jose, California, is designated as the office of the Commission.

Section 103. REGULAR MEETING PLACE. Except as the Commission may from time to time provide an alternate location, the regular meeting place of the Commission shall be in San Jose City Hall, 200 E. Santa Clara Street, San Jose, California in a room to be designated on the meeting agenda. If a meeting cannot be held at the regular meeting place of the Commission or other City property, meetings may be held at any place designated by the Chairperson.

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Section 104. RECORDS. All books, records, papers, tapes and minutes of the Commission meetings shall be maintained in _____, San Jose City Hall, 200 E. Santa Clara Street.

Section 105. FORMER COMMISSION MEMBERS. Former Commission members shall be treated as members of the public. Emeritus members shall not be allowed.

ARTICLE II
OFFICERS
CHAIR AND VICE CHAIR

Section 200. ELECTION. The Chair and Vice-Chair of the Commission shall be elected by the Commission from its membership by signed ballot vote or by oral vote at a Commission meeting.

Section 201. TERMS OF OFFICE. The Chair and Vice-Chair shall be elected for terms of one (1) year commencing at noon on the first meeting day of [Month], and continuing to the first meeting day of [Month] of the succeeding year. Elections of the Chair and Vice-Chair shall be conducted at [the Commission's annual retreat OR the first meeting of the Commission immediately following the expiration of the terms of office]. The Chair and Vice-Chair shall serve at the pleasure of the Commission during the term of office and may be removed from office by the Commission at any time for any reason. [select appropriate month and language based on the Commissions terms].

Section 202. VACANCIES IN OFFICE. The office of the Chair or Vice-Chair shall become vacant before the expiration of his or her term of office upon the happening of any of the events set forth in sub-sections (A) and (B) of Section 2.08.050 of the City of San José Municipal Code, or upon such officer's absence pursuant to Section 2.08.060, unless excused by the Rules and Open Government Committee. If the Chair or Vice-Chair should cease to be a member of the Commission, or if for any other reason the office of the Chair or Vice-Chair should become vacant prior to the expiration of the term of office, the Commission shall elect a successor to the office of Chair or Vice-Chair for the unexpired portion of the term.

Section 203. CHAIR, POWERS AND DUTIES. The Chair shall have the following powers and duties:

- (a) The Chair shall preside at all meetings of the Commission.
- (b) The Chair shall conduct meetings in accordance with the San José Municipal Code, the approved Bylaws, Council Policy 0-4 (Consolidated Policy Governing Boards and Commissions), Council Policy 0-37 (Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms), and Robert Rules of Order. It is the

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responsibility of the Chair to make sure that matters before the Commission are dealt with in an orderly, efficient manner.

- (c) The Chair shall sign all written resolutions of the Commission and all minutes of all meetings of the Commission which are approved by the Commission.
- (d) The Chair shall perform all other duties which may be required by the City of San José Municipal Code, by ordinance of the City of San Jose, or by resolution or order of the Commission consistent with the Municipal Code and the ordinances of the City of San Jose.

Section 204. **VICE CHAIR, POWERS AND DUTIES.** The Vice-Chair shall have the following powers and duties:

- (a) In the event of and during the absence of the Chair, he or she shall preside as Chair at all meetings of the Commission and shall have and perform all other powers and duties of the Chair; and
- (b) He or she shall perform all duties which may be required of the Vice-Chair by the City Charter, by ordinance or Council Policy of the City of San Jose, or by resolution or order of the Commission consistent with the Charter, ordinances and policies of the City of San Jose.

ARTICLE III
OFFICERS
CHAIR PRO TEMPORE

Section 300. In the event of vacancies in offices of the Chair and Vice-Chair, or in the event of the absence of the Chair and Vice-Chair, at the time of any meeting, the Commission may elect one of its members Chair Pro Tempore to preside over such meeting during such vacancies or absences. The Chair Pro Tempore shall have all the powers and duties of the Chair during such meeting.

ARTICLE IV
SECRETARY

Section 400. **APPOINTMENT.** The Secretary shall be the City staff person designated to serve as such by the City Administration.

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Section 401. POWERS AND DUTIES. The Secretary shall have the following powers and duties:

- (a) The Secretary shall attend all meetings of the Commission and shall record or keep minutes of all that transpires;
- (b) The Secretary shall attest all minutes of the meetings of the Commission;
- (c) The Secretary shall preserve, and be custodian of, all books, records, papers and tapes of the Commission. Whenever necessary he or she shall certify true copies of Commission documents; and
- (d) The Secretary shall provide to the Commission agendas and agenda packets, and submit Commission letters, communications and recommendations to the Council.
- (e) The Secretary shall perform all duties required of him or her by these rules and regulations, Council Policy 0-4 (Consolidated Policy Governing Boards and Commissions), and/or required of him or her by resolution or order of the Commission consistent with the City of San José Municipal Code and ordinances of the City of San Jose.

ARTICLE V
MEETINGS

Section 500. GENERAL. Except as otherwise provided by this article, meetings of the Commission shall be open and public and shall comply with the requirements of the Brown Act and the City Council's Consolidated Open Government and Ethics Resolution.

Section 501. REGULAR MEETINGS. Regular meetings of the Commission shall be at the time and place designated by the Commission in coordination with the City Administration. If the time scheduled for a regular meeting falls on a City Holiday, the regular meeting shall be held on the next succeeding business day.

Section 502. SPECIAL MEETINGS. A special meeting may be called at any time by the Chair of the Commission, or by a majority of its membership, in accordance with the Brown Act and the additional rules of procedure as described in the City Council's Consolidated Open Government and Ethics Resolution. The agenda shall specify the time and place of the special meeting and the business to be transacted; no other business shall be considered by the Commission at the special meeting.

Section 503. ADJOURNMENT – ADJOURNED MEETINGS. The Commission may adjourn any regular, adjourned regular, special or adjourned meeting to a time and place specified in the order of adjournment; a majority of members present, even though less than a quorum

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may so adjourn. If all members are absent from a regular or adjourned regular meeting, the Secretary of the Commission may declare the meeting adjourned to a stated time and place; and he shall cause a written notice of the adjournment to be given in the manner provided in Section 502 for special meetings. A copy of the order or notice of adjournment shall be posted conspicuously on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment.

When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Section 504. CONTINUANCE. A convened meeting, or any meeting ordered or noticed to be held, may by order or notice of continuance, be continued or recontinued to any subsequent meeting of the Commission in the same manner and to the same extent set forth in Section 503 for the adjournment of meetings; provided, if a hearing is continued to a time less than twenty-four (24) hours after the time specified in the notice or order of hearing, a copy of the order or notice of continuance shall be posted immediately following the meeting which orders or declares the continuance.

ARTICLE VI
MEETING AGENDA AND PROCEDURE

Section 600. AGENDA. The Commission shall provide for an agenda. No discussion may be held of any item that is not on the agenda. The Secretary shall prepare and distribute the agenda for the Commission.

Section 601. QUORUM. Six (6) members, being a majority of the total number of seats of the Commission, whether filled or vacant, shall constitute a quorum to transact business. Less than a quorum may adjourn the meeting or adjourn the meeting to a stated time. [quorum is 50% of seats, plus 1. Change the quorum as appropriate for your commission]

Section 602. VOTING. No action shall be taken by the Commission except by affirmative vote of a simple majority of those voting, as long as there is a quorum present.

Section 603. MANNER AND RECORDATION OF VOTES. Voting by members of the Commission shall be by "ayes" and "noes," and the result of each vote shall be entered by the Secretary in the record of the Commission proceedings. Upon the request of any Commission member, a roll call vote shall be taken on any matter upon which a vote is called, and each vote shall be recorded by the Secretary to the record of the Commission proceedings.

Section 604. ORDER OF BUSINESS. At regular meetings of the Commission the order of business shall be conducted in accordance with the requirements of the Brown Act and the

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City Council's Consolidated Open Government and Ethics Resolution. The order of business may be changed at any meeting by the Commission.

ADOPTED this _____ day of _____, _____, by the following vote:

AYES: Commissioners –
NOES: Commissioners –
ABSENT: Commissioners –

Chair

_____ Commission

Attest:

_____ Commission

_____ - Secretary