

**Proposed Santa Clara County Planning Commission By-Laws**  
**Adopted by the Planning Commission January 23, 2014**  
**Approved by the Board of Supervisors \_\_\_\_\_, 2014**

**Article 1: Introduction**

The Planning Commission is a permanent commission made up of Santa Clara County residents appointed by the Santa Clara County Board of Supervisors to review, advise and act on planning and development matters.

**Article 2: Authority**

Section 1. The Planning Commission's authority is established pursuant to Section 65100 *et seq.* of the California Government Code; Sections 506 and 508 of the Santa Clara County Charter; Division A-6 (Sections A6-1 to A6-12) and A-33 (Sections A33-26 and A33-30 to A33-32) of the Santa Clara County Ordinance Code; Board of Supervisors Policy 3.0 *et seq.*; and, general law where not otherwise in conflict with County Charter, Ordinances or State Code.

Section 2. The Planning Commission is required to follow the open and public meeting requirements of the Ralph M. Brown Act (Cal. Govt. Code §§ 54950 *et seq.*) ("Brown Act"), including the requirement that the Commission notice and set the time, place and description of business to be transacted for meetings and hearings.

Section 3. The Planning Commission authority and process are also guided by the following available resources: The Santa Clara County Handbook for Advisory Boards and Commissions (Rev. March 2007); and, Robert's Rules of Order (as revised from time to time).

Section 4. Certain decisions of the Planning Commission are final decisions that may be appealed to the Board of Supervisors and other decisions are recommendations of the Commission to the Board of Supervisors.

Section 5. Reporting and Planning. The Planning Commission is responsible for annually preparing a Work Plan, which is reported to the Board of Supervisors. The Work Plan sets out the Commission's goals and objectives for the following fiscal year and the achievements of the immediately preceding fiscal year. (See the Santa Clara County Handbook for Advisory Boards and Commissions (Rev. March 2007).)

**Article 3: Appointment of Members**

Section 1. Members of the Planning Commission are appointed by the Board of Supervisors as set forth in Section A33-31 of the Santa Clara County Ordinance Code.

**Approved: 04/29/2014**

**Article 4: Election Process for Officers of the Planning Commission**

Section 1. Election of Chairperson. In accordance with Section 506 of the Charter of Santa Clara County, as soon as practicable following the first day of July of every year, the Planning Commission shall organize by electing one of its members to serve as a Chairperson at the pleasure of the Planning Commission. The Chairperson shall not serve two succeeding terms in office.

Section 2. Election of Vice Chairperson. Concurrently with the election of the Chairperson, the Planning Commission shall organize by electing one of its members as a Vice Chairperson to serve at the pleasure of the Planning Commission. The Vice Chairperson shall not serve two succeeding terms in office. The Vice Chairperson shall assume the functions and duties of the Chairperson when the Chairperson is for any reason temporarily unable to serve. In the event of a vacancy in the office of the Chairperson, the Vice Chairperson shall become Chairperson for the remainder of the term and a new Vice Chairperson shall be elected.

Section 3. Vote. The election of a Chairperson and Vice Chairperson shall be by majority vote of the entire membership of the Commission.

**Article 5: Duties of Planning Commission Officers**

Section 1. Chairperson. The Chairperson presides at all meetings and hearings of the Commission and decides the points of order and procedure. The general duties of the Chairperson are described in the County of Santa Clara Handbook for Advisory Boards and Commissions and as follows:

- A. Takes roll-call to establish a quorum and calls the meeting to order (opens the meeting) or allows the Secretary to do the same.
- B. Reviews the agenda, notes any changes thereto, announces the sequence of business per the agenda (or as modified), and explains why the meeting/hearing is being held.
- C. Reviews the procedures, rules and time limits to be in effect.
- D. Limits the number of witnesses or the time of testimony upon a particular issue or item, and allows a witness to read into the record written material, or may direct that material be summarized in the interest of time.
- E. Directs the order of parties offering oral argument before a hearing is closed.
- F. Administers oaths when necessary.
- G. Moderates discussions.

- H. Describes, or asks staff to describe, each item to be discussed.
- I. Asks that speakers identify themselves and take turns when giving testimony and asks speakers to limit themselves to new testimony.
- J. Opens public hearings.
- K. Closes the meeting or hearing to testimony prior to deliberations.
- L. Leads deliberations, helps to summarize the issues, and asks for input or clarification from the Commission and Planning staff as needed.
- M. When Commissioners disagree, assists them in expressing their various concerns.
- N. When a motion is proposed, makes sure that it is stated understandably and in full before a vote is taken and makes sure that findings are adopted when required.
- O. Calls for a vote on an action by the Commission. At the discretion of the Chairperson, the vote may be taken by voice, light, or roll call. Abstentions for conflict of interest or any other reason shall be recognized by the Chairperson and recorded by the Secretary.
- P. Certify Planning Commission Minutes.
- Q. Approve Planning Commission expenditures.
- R. Enforces the bylaws.

Section 2. Vice-Chairperson. The Vice-Chairperson shall preside as the Chairperson at all meetings and hearings where the Chairperson is absent or is required to recuse himself or herself.

Section 3. Chairperson Pro Tem. At any regular business meeting or public hearing where both the Chairperson and Vice-Chairperson are absent, or where both are required to recuse themselves, the remainder of the Planning Commission present who form a quorum shall, by majority vote among its members, elect a member to be Chairperson Pro Tem for the duration of that meeting or public hearing. The Chairperson Pro Tem shall serve in the same capacity as the Chairperson.

**Article 6: Staff of the Planning Commission and Their Duties**

Section 1. Duties of Planning Commission Secretary.

- A. Notice. The Secretary of the Planning Commission shall cause notice of hearings and meetings to be given as required by the Zoning Ordinance of the

County of Santa Clara, State law, other applicable laws, the Chairperson, and the Board of Supervisors.

- B. Public Hearings. Where required by law, the Secretary shall set for public hearing those matters necessitating or requiring a hearing, including but not limited to referrals from the Board of Supervisors, petitions for zone change, applications for use permits and adjustments or appeals.
- C. Attendance. The Secretary shall take the attendance of the Commissioners at each meeting and hearing and keep a record of the same.
- D. Opening the Hearing/Meeting. When requested by the Chairperson, the Secretary shall take roll call and open all public hearings and meetings.
- E. Exhibits. The Secretary shall be responsible for the proper handling of any exhibits filed in connection with a pending matter. Such exhibits shall become part of the public record.
- F. Docket. The Secretary shall maintain an administrative record of all proceedings, which may be assigned an appropriate number. The administrative record will be a public record and available for public inspection.
- G. Record Voting. The Secretary shall maintain a record of the vote on any action by the Commission, including all abstentions.
- H. Review of Commission Action. At the request of the Chairperson or as needed, the Secretary shall orally restate a motion or the results of the Commission's action in order to clarify the Commission's action, to clarify the motion or as otherwise needed.
- I. Recording of Meetings & Hearings/Preparation of Minutes. The Secretary or designee shall make an audio recording of all Commission meetings and hearings on any reliable media and shall retain such recordings. The Secretary or designee shall prepare the official minutes and keep a record of the same in a well bound book or other appropriate means.
- J. Correspondence. The Secretary shall conduct all correspondence of the Commission as directed by the Commission or the Chairperson.
- K. Other Duties. The Secretary shall carry out such other official duties as may be assigned by the Chairperson or the Commission.

## **Article 7: Meetings, Hearings and Workshops of the Planning Commission**

Section 1. Generally. The Planning Commission schedules public meetings at least once per month to consider land use matters, such as the general plan, specific plans, zoning and rezoning, use permits and subdivisions. The Planning Commission also holds special meetings, workshops and other hearings as needed or as otherwise required by law. Some meetings may be cancelled or rescheduled at the discretion of the Chair. All meetings, workshops and hearings shall be open to the public and comply with the requirements of the Ralph M. Brown Act, as amended.

Section 2. Regular meetings. Regular meetings of the Planning Commission are noticed meetings, open to the public, during which the Planning Commission deliberates and may take substantive votes on specific items. All matters identified on a meeting agenda are referred to as Items which are numbered on the written meeting Agenda, and any of these Items may also involve a public hearing or a discussion item. The Planning Commission may continue an Item on its own motion, at the request of staff or at the request of an applicant. Regular Meetings usually take the following order:

- A. Call to order/Roll call. A quorum is established.
- B. Public Comment
- C. Approval of Consent Items
- D. Any Changes to the Agenda
- E. Approval of Minutes not Previously Approved
- F. Agenda Items
- G. Other Business
  - a. Report of the Chairperson
  - b. Report of Planning Commissioners
  - c. Committee meetings and reports
  - d. Report of the Secretary
  - e. Report of County Counsel
  - f. Report of the Planning Manager
- H. Update regarding activities of the Department of Planning and Development
- I. Correspondence/Announcements
- J. Adjourn.

Section 3. Workshops. Workshop sessions may be provided to educate Planning Commission members on various issues, trends, and legislative changes related to land use decisions, land use planning, environmental review, and other similar items. Workshops are noticed in accordance with the Brown Act and open to the public. On occasion, the Commission may convene mobile workshops where the Commission may travel to a point or area of interest, for education and information purposes.

Section 4. Special and Adjourned Meetings. Special and adjourned meetings may be called in accordance with the provisions of Government Code Sections 54955 and 54956.

Section 5. Sub-committee Meetings. Sub-committees may be formed from time to time, at the discretion of the Planning Commission Chairperson, to research, discuss, and report on information to the Planning Commission regarding specific items of interest. Depending on the nature and scope of the sub-committee and its duties, it may be subject to the Ralph M. Brown Act.

Section 6. Hearings. A Planning Commission public hearing occurs during a Planning Commission meeting and can involve the Commission receiving staff reports, taking public testimony, acting to approve or deny permit applications or taking action for the use or development of property. The Commission also holds hearings before it recommends County development plans and regulations to the Board of Supervisors. For example, a recommendation to amend a General Plan or a zoning ordinance will require a

noticed public hearing. At a public hearing any interested party may express their support or opposition or other concerns about a project or proposal which is before the Commission. Not all Items on a meeting Agenda are necessarily public hearings. If an Item on an Agenda is a public hearing, the Agenda shall so state.

Section 7. Quorum and Voting Requirements. Per Section 506 of the County Charter, a majority of the members of the Planning Commission shall constitute a quorum for the transaction of business and no act of the Planning Commission shall be valid unless at least a majority of the entire membership concurs therein.

Section 8. Time and Place of Meetings. The regular meeting of the Planning Commission shall be held the fourth Thursday of each month, or at such time as set forth each year by the Chairperson or by vote of the Planning Commissioners. The time and place shall be shown on the agenda, which shall be available at the office of the County Department of Planning and Development. The Commission may cancel any meeting as long as it does not conflict with local or State law.

Section 9. Notice of Hearings. Notice of all Planning Commission meetings and hearings shall be provided in accordance with the Brown Act, other applicable state and federal laws, and County ordinances. The Chairperson may, in his or her discretion, direct staff to provide additional notice for any matter, including but not limited to matters of broad public concern; however, failure to provide additional notice (not otherwise required by law) in accordance with such Chairperson direction shall not be grounds for setting aside the Planning Commission's action on the matter.

Section 10. Availability of Agenda. Copies of the written agenda, requests, staff reports, and related documents shall be delivered to each Planning Commissioner no less than five business days prior to a public hearing, regular meeting or workshop.

Section 11. Meeting Minutes. Official minutes shall be made and kept of every regular meeting, special meeting, and public hearing by the Secretary.

#### **Article 8: Public Hearings Generally**

Section 1. Applicant. The applicant, if any, may appear on his or her own behalf or be represented by an agent or attorney. In the absence of any personal appearance on behalf of an applicant, the Commission may proceed to take action on the matter on the record before it.

Section 2. Witnesses and Evidence. At public hearings, witnesses may appear and factual evidence and exhibits may be submitted for the Commission's review.

Section 3. Staff Report. Where Staff Reports are prepared, they will become a part of the official record of the proceedings to which they relate. Copies of such reports will be made available to the public upon request after such reports have been provided to the Commission.

Section 4. Commission Investigations. Commission members individually may inspect real property that is the subject of an Agenda Item before the Commission, provided they report their investigations to the Commission on the record at the public meeting on the matter.

Section 5. Requesting Information. The Commission may request any available information, advice, or opinions as may be required to carry out its function.

Section 7. Reconsideration of Vote. No reconsideration of any decision (vote) by the Planning Commission on an Agenda Item will be had except on motion by a member of the Commission to reconsider the vote made, acted on and carried at the same meeting at which the original decision was made.

Section 8. Appeals. Anyone dissatisfied with an appealable decision of the Planning Commission may file an appeal to the Board of Supervisors. An appeal must be filed within fifteen (15) calendar days after the date the Commission makes its decision. All appeals must be submitted to the Planning Office accompanied by a nonrefundable filing fee. It is important to note that not all decisions of the Planning Commission are appealable (e.g., Recommendations to the Board of Supervisors).

Section 9. Order of Public Hearings. If an Agenda Item calls for a public hearing, then the general order for such an Item is as follows (subject to change as determined by the Chairperson):

- A. Call to order (determine quorum).
- B. Chair, or Secretary, announces the Public Hearing open with a brief explanation and history of the Item.
- C. Presentation is made by staff summarizing the Agenda Item, inclusive of any Staff Reports. If applicable, presentation is made by other agencies or departments related to the Item, with any supporting documentation.
- D. D.  
Chairperson announces the opening of the public portion of the hearing.
- E. Opportunity is given to the applicant (project applicant or his/her representative) to make a presentation in support of the Item.
- F. Public comment accepted regarding the Item, received in the order of those presenting it. No order is made to distinguish proponents from opponents.
- G. Opportunity is made for applicant rebuttal.
- H. Announcement is made of the closing of the public portion of the hearing (by the Chairperson or by vote).
- I. Discussion/Deliberation of the Item by the Planning Commission.
- J. Call by the Chairperson for a motion regarding the Item.
- K. Motion made, seconded, the motion deliberated. Any amendments or withdrawals of the motion considered, as well as any other motions.
- L. Commissioners vote (on the motions in the order received).

**Article 9: Ex Parte Contacts**

Any Commissioner who has had ex parte contacts on a particular matter shall briefly summarize all such contacts at the beginning of the meeting on the matter and shall provide the Secretary with copies of all evidence received during such contacts for inclusion in the public record. If, due to oversight, a Commissioner fails to fully comply with this requirement, he or she shall rectify the situation as soon as practicable and before final action is taken on the matter. Failure to comply with this requirement shall not be grounds for invalidating any Commission action.

**Article 10: Planning Commission Recommendations to the Board**

Section 1. Recommendations to the Board are not appealable items for agenda items that are recommendations from the Planning Commission to the Board of Supervisors, the following general procedures will be observed.

Section 1.1. Once the Planning Commission votes to forward a recommendation to the Board of Supervisors, the Secretary prepares a transmittal which is the formal document transmitting a request or recommendation or advising the Board of support or opposition to a particular issue. All transmittals are reviewed by the Secretary to ensure that the transmittal best expresses the position taken by the Planning Commission at the meeting. Once the transmittal is prepared, the Secretary will forward a copy to the Planning Commission Chair for review prior to forwarding to the full Board of Supervisors for consideration in open session.

Section 1.2. The Secretary of the Commission shall also include a map in Zoning Ordinance amendments, General Plan amendments and Precise Plans, and/or their amendments within the packets.

Section 1.3. The Secretary of the Planning Commission shall also be responsible to review the Planning Commission recommendation with the Board of Supervisors or their aides, prior to the hearing.

Section 1.4. At the time of the Board of Supervisors hearing, the Secretary of the Planning Commission shall be in attendance in order to give the Planning Commission's position on their recommendations.

Section 1.5. In cases where there are conflicting recommendations between the Commission's recommendation and staff's recommendation, the Secretary of the Planning Commission shall notify the Chairperson of the time and date of the Board hearing. The Chair or an assigned Commissioner may accompany the Secretary of the Commission to the Board.

**Article 11: Form and Character of Motions**

Section 1. The form and character of motions should generally conform to those offered within Robert's Rules of Order, Revised.



Section 2. Upon review of the public record and due deliberation among the members of the Planning Commission, any of its members may make a substantive motion. The motion should include not only direction (adoption, denial, recommendation, approval, approval with specified conditions, or disapproval) but also a recitation of or reference to findings that support the motion.

Section 3. A second shall be made by a member of the Planning Commission other than the member who made the motion.

Section 4. A motion may be withdrawn, modified or amended.

Section 5. A properly motioned action can be deliberated and voted upon by the Commission.

#### **Article 12: Conduct of the Members of the Planning Commission**

Section 1. Members of the Planning Commission should be prepared in advance for the Items to be discussed or determined at each hearing, workshop or meeting, including review of the materials for each Agenda Item, and consideration of the County's Rules of Ethics and any potential conflicts of interest that may arise for any given Agenda Items.

Section 2. Absence of Members. The Commission may report to the Board of Supervisors when a member of the Commission is absent from three consecutive regular meetings of the Commission.

Section 3. Conflict of Interest. A member of the Planning Commission who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Planning Commission shall abstain from voting on the matter.

If a Planning Commission member is disqualified from participating in a decision because of a conflict of interest, the Planning Commission member must

1. Publicly announce the source of the conflict of interest as soon as the matter is reached on the agenda;
2. Leave the room for the duration of the discussion and vote on the matter; AND
3. Not participate in the decision or be counted toward achieving a quorum while the item is discussed.

This provision is not intended to excuse a Planning Commission member's requirement to comply with the California Political Reform Act (Cal. Govt. Code §§ 87100 et seq.), California Government Code §§ 1090 et seq., and/or the common law.

**Article 13: Conduct of the Persons before the Planning Commission**

Section 1. During all meetings or workshops of, or public hearings before, the Planning Commission the public may be present but shall be silent unless specifically invited by the Chairperson to provide comment.

Section 2. Ethics of Petitioners and Applicants. Any person who signs a petition, enters an appearance at a hearing or transacts business with the Commission, by such act represents that (1) he or she is authorized to do so, (2) he or she will maintain the respect due the Commission and its staff, and (3) he or she will not mislead the Commission or its staff by an artifice or false statement of fact or law.

**Article 14: Adoption and Amendment of By-Laws**

Section 1. The Santa Clara County Board of Supervisors shall approve the By-Laws or any amendments to the By-Laws.

Section 2. The Planning Commission should endeavor to review the By-Laws annually by the Planning Commission at the time of the annual election of officers to ensure each Commission member is fully informed of their content.

Section 3. The Planning Commission should review the By-Laws every five years, or sooner from time to time as needed, in order to consider revisions, amendments, or other changes that may be necessary. Consideration and discussion of proposed revisions, amendments, or other changes shall take place during a Planning Commission meeting. Any such revisions, amendments, or other changes, shall be forwarded to the Board of Supervisors for a final action.