



CITY OF LIVERMORE PLANNING COMMISSION RULES OF PROCEDURE

Prepared by the City Clerk's Office
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CITY OF LIVERMORE PLANNING COMMISSION RULES OF PROCEDURE

1. Duties and Responsibilities – The Planning Commission shall have the following duties and responsibilities:

The Planning Commission shall have the powers imposed upon city planning commissions by Government Code section 65000 et. seq., incorporated by reference. In addition, the Planning Commission shall have the following duties and responsibilities:

- A. Advise the City Council in the adoption and maintenance of a comprehensive General Plan for the physical growth and development of the city. Such plan shall reflect the future goals of the City and, after its adoption by the City Council, shall represent the City's policy on matters of physical growth. It shall also serve to guide the general location of future public facilities and improvements and to aid in the encouragement and regulation of private development;
- B. Serve as an advisory body to the City Council on matters related to City growth and development and on such matters as may be requested by the Council;
- C. Promote public interest in planning and encourage citizen participation in the formulation of land use policies;
- D. Engage in a program of acquainting the public with the problems and alternate solutions relating to the local physical environment;
- E. Make recommendations to the City Council on final legislative decisions such as amendments to the General Plan, Development Code or Zoning Map;
- F. Make recommendations and take final actions on development projects regarding conformance with codes, land use compatibility and design review;
- G. Interpret and implement the City's Development Code;

- H. Interpret and implement the City's Design Standards and Guidelines, and
 - I. Support the goals and priorities adopted by the City Council.
- 2. Members – The Planning Commission shall consist of five members, all of whom shall be residents of the City of Livermore.
 - 3. Term limits – Planning Commission members shall serve no more than two consecutive four-year terms or a total of eight years unless the member was selected to complete an unexpired term or unless otherwise noted.

Time served in an unexpired term shall not count against the eight-year maximum limit. Commission members who have already completed eight years of service or other specified maximum terms are not eligible for appointment to an unexpired term. However, members may be appointed back to an advisory body after a break in service from that body of two years.

- 4. Attendance Policy – Planning Commission members may miss six meetings per calendar year. A member who misses more than six meetings per year may be subject to removal from the Commission. The staff liaison will document all absences and report to the City Clerk when a member of the Commission has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Commission is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Commission rests solely with the City Council.
- 5. Elections and Officers – The Planning Commission shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Commission. The role of the officers shall be as follows:
 - a. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.
 - b. Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.
 - c. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Planning Commission shall meet on the first and third Tuesday of each month at 7:00 p.m. at the Civic Center Meeting Hall at 1016 S. Livermore Avenue, Livermore, California and occasional special meetings as required to fulfill the Commission's duties and responsibilities. The body shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. Meetings shall begin promptly as noticed pursuant to this provision. All meetings shall be open to the public. The Commission may not meet in closed session. The Commission members may not participate in a meeting remotely, via teleconference or videoconference.
7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Planning Commission meeting in the kiosk in front of the Civic Center Meeting Hall, the Civic Center Library and on the City's website.

- a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

- b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Commission Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956].

8. Minutes of Proceedings – An account of all final actions or recommendations of the Planning Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as summary minutes.
9. Quorum – Three members constitute a quorum of the Planning Commission. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Commission or scheduled for a special meeting if deemed necessary. A

meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

- a. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Planning Commission.
- b. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act Rosenberg's Rules of Order, Revised 2011, Planning Commission Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.
- c. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011 and Parliamentary Procedures. The Planning Commission shall not take a sealed ballot vote in open session.
- d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order and the Commission Members present shall then select a presiding officer for that meeting.
- e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Commission Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Planning Commission or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].
- f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Planning Commission later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

- g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Planning Commission and announce the result of the vote and identify the no votes and any Commission Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Planning Commission on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Commission. The Chairperson may establish time limits per individual speaker. The Commission shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Commission, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Commission agenda.

12. Subcommittees

The Planning Commission may create standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support

The head of the department that is responsible for supporting the Planning Commission shall designate one or more employees to serve as staff liaison to the Commission. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee, and generally assist the Commission in performing its duties. The Staff Liaison shall have no voting authority.

Commissioners must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Commission may pursue self-initiated projects that can be accomplished utilizing the City resources currently allocated to the particular advisory body and that do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Planning Commission shall meet in the Civic Center Meeting Hall for all regular Commission meetings. The regular meetings shall begin on the first and third Tuesdays of each month at 7:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Planning Commission shall meet at a date and time designated by the Commission.

15.2 Special Meetings

Special meetings may be called by the Commission Chair, the Commission liaison or by a majority of Commissioners. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Planning Commission may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Planning Commission may meet informally in special meetings designated as workshops that are called by the Chairperson, the Commission liaison, or by a majority of Commission Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Planning Commission may provide direction, but unlike other special meetings the Planning Commission may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Planning Commission may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if

the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Commission liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Planning Commission's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The Planning Commission shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Commission Members and staff may briefly respond to statements made or questions posed by the Planning Commission or by members of the public addressing the Planning Commission. Commission Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that it has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Commission Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Commission Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Planning Commission has concluded and the item was returned to the Planning Commission for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Planning Commission. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Commissioners present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Commission Member.

18.2. No New Items Considered after 11:00 p.m.

Generally, the Planning Commission will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Planning Commission may commence consideration of an item after 11:00 p.m. under the following circumstances:

- a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,
- b. The Planning Commission votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Commission Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Commission Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Commission Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Commission Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Planning Commission's meeting, such as the inability to hear testimony because of disruption.

A Commission Member may ask for a point of personal privilege when the integrity, character, or motives of the Commission Member are called into

question by a speaker; or where the welfare of the Planning Commission is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Planning Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as summary minutes

20.1 Approval

The minutes for a Planning Commission meeting shall be reviewed and approved as set forth in this section.

- a. The Planning Commission shall approve minutes for a regular meeting, special meeting, and special meeting workshops.
- b. A Planning Commissioner may not approve the minutes for any meeting that the Commissioner did not attend.

Also, a Planning Commissioner may not approve the minutes for a meeting that they were not eligible to attend as a commissioner.

- c. If no Commissioners are eligible to approve the minutes for a Planning Commission meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Planning Commission liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Planning Commission meetings shall be summary minutes that capture the action taken by the Planning Commission and the outcome of each agenda item.

- 20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Planning Commission on any item of interest to the public that is within the Planning Commission's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Planning Commission when that item is called for consideration.

Citizens forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Planning Commission discussion. Examples of items for the consent calendar include the approval of minutes. Any Planning Commissioner may pull an item for separate discussion. Members of the public may address the Planning Commission on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Planning Commission by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Commission Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Planning Commission action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

- a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Planning Commission's consideration, as well as any written comments received from the public.
- b. Identify any supplemental written materials that have been provided to the Planning Commission for consideration, which were received or prepared for the item after the meeting agenda was published.
- c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Planning Commission questions.
- d. State whether the applicant is present and whether the applicant intends to make a presentation to the Planning Commission.
- e. Make an oral report, unless waived by the Planning Commission.

21.4.3 Planning Commission Questions or Comments

Following the staff presentation, the Commission Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Commission Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Commission. After the Chair determines that no other participating parties wish to address the Planning Commission on the hearing item, the Chairperson will then invite Commission Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Planning Commission concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Planning Commission on the item. Public speakers shall address the Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Planning Commission on the hearing item, the Chairperson will formally close the public comment period and return the item to the Planning Commission for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Planning Commission for deliberation, the Chairperson will invite the Commission Members to discuss the item to develop concurrence for a motion. Commission Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Planning Commission Action

After Planning Commission deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Planning Commission may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Planning Commission has discretion to decide not to hear further comment if they choose. Public speakers shall address the Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Planning Commission shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Planning Commission shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

- a. Each member of the Planning Commission to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Commissioner attended at the City's expense [53232.2(d)].
- b. The City staff to provide information of community interest to the Planning Commission and to seek direction from the Planning Commission concerning items to be included on future agendas.
- c. The Planning Commission to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum;
- d. The Planning Commission to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Commission action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Planning Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Planning Commission meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Planning Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Planning Commission.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Planning Commission on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Planning Commission on any item of interest to the public that is within the Planning Commission's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Planning Commission may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

A Planning Commission meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Planning Commission and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Planning Commission on any item of interest to the public that is within the Planning Commission's subject matter jurisdiction.

Members of the public also have the right to address the Planning Commission before the Planning Commission considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Planning Commission Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Planning Commission concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Planning Commission are as follows:

23.1 Addressing the Planning Commission

Members of the public that want to address the Planning Commission during citizens forum or before the Planning Commission considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Planning Commission will be described at each meeting. The staff liaison will prominently display the methods to address the Planning Commission in the William H. Mendenhall Community Room.

Before an item is considered by the Planning Commission, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Planning Commission begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Planning Commission's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Planning Commissioner's successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens

addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Planning Commission

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Planning Commission. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the Planning Commission when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Planning Commission. A speaker is not required to provide his or her name or address to address the Planning Commission. However, to the extent such information is relevant to the issues being considered by the Planning Commission, the absence of such information may bear on the speaker's credibility and the weight the Planning Commission affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Planning Commission as a body and not to a particular member.

23.3.4 Members of the public may only address the Planning Commission from the lectern. No member of the public, other than the speaker at the lectern, may address the Planning Commission, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Commission Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Commission Member, except through the Chairperson. Commission Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Planning Commission's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Planning Commission has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Planning Commission in a non-disruptive manner,

provided those activities are completed within the allotted time. The City will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Planning Commission on any item of interest to the public within the Planning Commission's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Planning Commission. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Planning Commission

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Planning Commission, except that the participating parties shall each have up to a maximum of 10 minutes to address the Planning Commission. The Chairperson may set and announce the time limit for each active participant to address the Planning Commission based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Planning Commission, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a Planning Commission meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Planning Commission, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Planning Commission to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Planning Commission through the Planning Commission Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Planning Commission Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Planning Commission using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Planning Commission immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Planning Commission in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Planning Office before 12:00 p.m. noon on the day of the Planning Commission meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Planning Commission meeting, any member of the public that desires to submit materials to the Planning Commission for consideration at that meeting is hereby instructed to present 8 copies of the materials to the staff liaison for distribution to the Planning Commission at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Planning Commission

Once a meeting is called to order, no member of the public shall enter the area between the Commission and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Commission Members and City staff.

24. Planning Commission Deliberation

Planning Commission deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Commission Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Commission Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Commission Member wishes to make the motion, subject to another Commission Member's second.

25.2 Categories of Motions

There are four categories of motions that the Planning Commission may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Commission Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Planning Commission. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action

since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Commission's Attorney.

25.3 Simultaneous Motions

The Planning Commission may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Planning Commission have been resolved. When two or three motions are before the Planning Commission, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Planning Commission should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Commission Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Commission Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2 Non-Debatable Motions. Debate on a motion should continue as long as Commission Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Commission's deliberations and, upon receipt of a second, should be voted on immediately. The Commission's non-debatable motions are as follows:

- a. **Motion to Adjourn.** If passed, a motion to adjourn requires the Planning Commission to immediately adjourn to its next regularly scheduled meeting.
- b. **Motion to Recess.** If passed, a motion to recess requires the Planning Commission to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.
- c. **Motion to Fix the Time to Adjourn.** If passed, a motion to fix the time to adjourn the meeting requires the Planning Commission to adjourn at a specific time set in the motion.
- d. **Motion to Table an Item.** If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Planning Commission at a future meeting.
- e. **Motion to Continue an Item.** A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Commission Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Planning Commission at a future meeting.
- f. **Motion to Call the Question.** A motion to call the question, also known as moving the previous question or limiting debate, stops further Planning Commission deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Planning Commission as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Planning Commission may be made as follows: (1) The motion must be made by a Commission Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Commission Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Commission Member Appeal

Any Commission Member may appeal any ruling by the Chairperson. If a Commission Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, "Shall the decision of the Chair be sustained?"

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Planning Commission's actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Commission Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Commission Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Commission. The Chairperson's name shall be called last with other Commission Members' names called in alphabetical order by the staff liaison. Commission Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Commission Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3

Abstentions and Silence shall govern how the Commission Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Commission Member absence, and the absent Commission Member does not have a conflict of interest related to the item being voted on, the Planning Commission may continue the item to a subsequent meeting when the absent Commission Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Planning Commission and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Planning Commission's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of five and may diminish accountability of Commission Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Commission Member's right to choose not to speak or vote on an item.

If any Commission Member wishes to abstain from voting on a motion, the Commission Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Commission Member abstained from the vote.

If the Commission Member does not announce an abstention when the item of business is first called for consideration, or the Commission Member participates in the consideration of the item, and the Commission Member's abstains during the vote, then that Commission Member's vote shall be tabulated in favor of the motion.

Silence of any Commission Member shall be tabulated along with the majority of the votes cast by the Commission Members present and voting on the motion since the silent Commission Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order, Revised 2011 for counting votes with regard to abstentions and silence by a Commission Member.

26.4 Protests

Any Commission Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

27. Appeals

Development Code:

Any decision of the Community Development Director or Historic Preservation Commission regarding eligibility or planning permit decisions may be appealed to the Planning Commission, as outlined in Chapter 9.15 Appeals of the Livermore Development Code (LDC).

Municipal Code:

The Planning Commission hears appeals, outlined in the Livermore Municipal Code (LMC), for suspension or revocation of live adult entertainment (LMC 5.08.500), tree permit processed through Community Development Department (LMC 12.20.250), small residential rooftop solar system expedited permitting (LMC 15.36.060), and flood control boundaries (LMC 16.12.040),

Appeals from decisions of the Commission shall appear on the City Council agenda for discussion. Council has the options of affirming the action of the body, modifying the action of the body, referring the matter back to the Commission, or reversing the decision, unless otherwise required or provided by law.