

WORKING DRAFT FOR OPEN GOVERNMENT TASK FORCE IMPLEMENTATION
SUBCOMMITTEE

ORDINANCE NO. ____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 1-10 TO THE SANTA ROSA CITY CODE ENTITLED “OPEN GOVERNMENT”

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Chapter 1-10, “Open Government” is hereby added to Title 1 of the Santa Rosa City Code to read as follows:

“Chapter 1-10

OPEN GOVERNMENT

Article I. Introduction

Section 1-10.010. Findings and Purpose

- (A) The City of Santa Rosa embraces a culture of Open Government in an effort to ensure public trust, engage the community, and establish a system of transparency, public participation, and collaboration.
- (B) In 2013, the Mayor of Santa Rosa convened the Mayor’s Open Government Task Force (herein known as the Task Force) to improve openness and transparency in Santa Rosa municipal government. The Task Force presented its report to the Santa Rosa City Council on December 2, 2014. The report and offered recommendations fell into four groups: in four areas:
 - 1. Immediate Actions for Council
 - a. Set a Council goal of “open and transparent government”
 - b. Set three strategic objectives for the organization:
 - 1 Hire a communications director (now Community Engagement Director)
 - 2 Adopt a sunshine ordinance based on the recommendations of the Task Force
 - 3 Create a mission statement for the City which embraces community engagement
 - 2. Develop a culture that values public engagement
 - 3. Develop a culture based on communication
 - 4. Develop policies that promote openness

This ordinance is just one component of the recommendations of the Task Force.

- (C) Democracy in our representative form of government requires that the public have an early and adequate opportunity to understand the government's activities and to communicate its thoughts and concerns to its elected and appointed representatives, and that those representatives have an early and adequate opportunity to consider those thoughts and concerns and then act effectively and in a timely manner. The City of Santa Rosa honors all of those who live in our community and values their input and feedback.
- (D) The government's obligation is to balance these expectations responsibly in such a way that it is able to function and carry out its mission of ensuring the public's health, safety and general welfare in a fiscally and environmentally sustainable manner.
- (E) Openness strengthens our democracy and promotes efficiency and effectiveness in Government, and must be embedded in the City's way of doing business by implementing sustainable structures that transcend political and staffing fluctuations.
- (F) Accordingly, the purpose of this chapter is to establish new local standards to clarify and supplement the provisions of the Ralph M. Brown Act, and the California Public Records Act, and to codify certain existing policies and practices that exceed the state law these legal requirements. In addition, This chapter, allows opportunities to adopt new practices based on the recommendations of the Mayor's Open Government Task Force to ensure that the public has an early and adequate opportunity to be informed of the City's activities, to communicate its thoughts and concerns to its elected and appointed officials, and to work collaboratively to develop solutions in a participatory manner.

Section 1-10.020. Definitions

The following words and phrases shall have the meanings specified below.

- (A) "Agenda" means a document that informs the public of the time and place of a public meeting and the items to be transacted or discussed at that meeting, including items to be discussed in closed session, about the scope of a particular public Mmeeting, published in advance of the Meeting
- (B) "Agenda Packet" means the Agenda of a particular Meeting with all associated its relevant Supporting Documents submitted by staff.
- (C) "Brown Act" means the Ralph M. Brown Act codified inunder California Government Code sections 54950 et seq., as itthey may be amended from time to time.
- (D) "Citizen's Guidebook" means a reference tool prepared by the city in accordance with section 1-10.060 of this Chapter, ordinance for residents of the City of Santa Rosa

Commented [A1]: Compare Brown Act: "contains a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session."

~~that outlines City government structure, organization, responsibilities, and basic functions, as well as local government terms and definitions, and how to participate in local government activities, meetings, and proceedings. This guidebook will be made available in English and Spanish languages on the City's website.~~

(E) "Closed Session" means a Meeting ~~of the Legislative Body conducted in private without the attendance of the public or press in accordance with state law and the provisions of section 1-10.050 of this Chapter, that begins with a public comment period, followed by a session that excludes the public as permitted by state law, and ends with an open session at which a public report is made as and to the extent required by state law.~~

(F) "Legislative Body" shall have the meaning set forth in Government Code sections ~~54952~~~~54950 through 54960~~, as ~~it~~they may be amended, or any successor sections.

(G) "Meeting" shall have the meaning set forth in Government Code sections ~~54952,254950 through 54960~~, as ~~it~~they may be amended, or any successor sections.

(H) "Minutes" means a ~~summary~~ document ~~summarizing of~~ what transpired at a ~~Meeting, prepared in accordance with section 1-10.070 of this Chapter, for which it is summarizing. At minimum, the minutes shall state the time the meeting was called to order, the names of the members attending the meeting, a one sentence summary of, and roll call vote on, each matter considered at the meeting, the time the local body began and ended any closed session, those members of the public who spoke on each matter if the speakers identify themselves, and the time the meeting was adjourned. The minutes shall also include a link to the meeting video recording, if available.~~

(I) "Open by Default" means that all ~~data generated by the City shall be public information must be considered open to public review unless they contain information that is designated as sensitive, private, or confidential or information that is exempt from disclosure under the Public Records Act as defined by the City Attorney's Office, or any other provision of a federal, or state or local law, rule or regulation or local law.~~

(J) "Open Data Portal" ~~shall have the meaning of~~ means a single web portal incorporated into the City's ~~new~~ website that contains all ~~disclosable City data available City information~~ for view and use by the public.

(K) "Policy" ~~shall have the meaning of a course or principle of action adopted or proposed by government, party, business, or individual.~~

Commented [A2]: Substantive requirements are included in section 1-10.050.

Commented [A3]: Substantive requirements are included in section 1-10.070.

Commented [A4]: Following the Subcommittee's direction, this has been revised (1) to focus on data rather than documents, and (2) to include only data generated by the City.

(L)(K) "Policy Body" shall have the meaning of an official elected or appointed council, board and/or commission that has the authority to discuss, approve, and/or veto proposed policy.

Commented [A5]: "Policy Body," as defined here, is encompassed with the definition of "Legislative Body."

(M)(L) "Public Records Act" means the Public Records Act codified in under California Government Code sections 6250 et seq., as itthey may be amended from time to time.

(N)(M) "Presiding Officer" shall have the meaning means the officer with the authority and responsibility for presiding over a Meeting, including, in the case of the City Council, the Mayor, Vice Mayor, Mayor Pro Tem as set forth in the City Charter, Section 15, and in City Council Resolution No. 28783.

(O)(N) "Supporting Documents" means (i) materials prepared by staff for submission to the Legislative Body in connection with a particular agenda item, including staff report, proposed resolutions(s), powerpoint presentations(s), and attachments, if any; and (ii) correspondence submitted by the public through the City Clerk or designated portal, identified for inclusion in the Agenda Packet in connection with a particular agenda item, and received at least one business day prior to the posting of the final agenda in accordance with section 1-10.030©(all documents, regardless of form or medium or author, that are provided to members of a Legislative Body for their use in considering Agenda items for a particular Meeting.)

Commented [A6]: Revised per Subcommittee discussion and direction.

Article II. Public Access to Meetings

Section 1-10.030. Agenda Requirements: Regular Meetings.

(A) The purpose of this section is codify and supplement Council Policy 000-35, Early Council Agenda Policy.

(B)(A) No later than twelve (12) business days before a regular meeting of the City Council, the City Clerk's Office shall post on the City's website and at the official posting locations at City Hall a preliminary agenda containing a brief meaningful description of each item of business to be transacted or discussed at the meeting. An email shall be sent to the GovDelivery or similar database composed of group of individuals and/or organizations who have requested to be notified of when the agenda is posted. Agendas shall specify for each item of business any potential financial impacts and the recommended action or a statement that the item is for discussion only. Supporting Documents will be added to the preliminary agenda posted on the City's website as those documents as they become available.

Commented [A7]: Brown Act calls for "brief general description." "Meaning ful" is defined below in (B).

Commented [A8]: OGTF recommended addition of "potential budget impacts" to the agenda. Should this language remain? Or be revised?

(C)(B) A description of the agenda item is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item of the general substance and significance of the item. The description should be concise and written in plain, easily understood language. The

~~description should also contain links to any background documents or recordings from previous meeting discussion on said item, when applicable. When possible, the item will be tagged for content, allowing the item to be linked to previous items of a similar purpose.~~

Commented [A9]: What is the intended scope? For example, if we have an agenda item for approval of an amendment to a contract for road repair, is the link just to the original contract item? Or all road repair contracts? Or other items regarding road maintenance?

~~(D)(C) No later than four (4) business days before a regular Meeting of the City Council, Final agendas and staff reports will shall be posted, no later than four five four (4-5) business days, to the City's website and at the official posting locations at City Hall, and hard copies shall be made available at the front counter in the City Manager's Office and at the Central Branch of the Sonoma County Public Library. All Supporting Documents shall be included in the City's website posting and in the hard copies made available at the front counter of the City Manager's Office and at the Central Branch of the Sonoma County Public Library.~~

Commented [A10]: The staff report and other materials are included only in the on-line and front-counter agendas.

~~(D)(D) Complete agenda packets for City Council regular meetings shall remain be posted on the~~

~~City's website and paper copies shall be made available for review at the City Manager's Office and the Central Branch of the Sonoma County Public Library and at the City Clerk's Office during normal business hours, from the initial time of posting in accordance with subdivision (C) until the scheduled meeting is complete. The time for compliance with this subsection shall be in accordance with the time of the posting of the agenda for the meeting as set forth in subdivision (D).~~

~~(D)(E) A correction or supplement to an item already included in an Agenda Packet may be considered by the City Council if the correction or supplement to the item (i) is posted on the City's website no later than the fifth calendar day prior to the City Council meeting at which it is to be considered and an email is sent to the GovDelivery or similar database described in Section 1-10.030, B. gGermaine to within the scope of the description provided on the final agenda, and (ii) . Any all materials provided to the City Council in connection with such correction or supplement are shall be made available to the public at the same time such materials are provided to the City Council.~~

~~(F) An urgent item of business that does not appear on the preliminary agenda posted pursuant to subdivision (A) may nevertheless be placed on the final agenda posted pursuant to subdivision (C), but shall not be discussed or acted upon except upon a showing of good cause and with the concurrence of five council members, or by unanimous vote if fewer than seven members are present. The Council shall determine that good cause exists prior to taking action upon the item. If good cause is not found to exist, the item may be heard at the Council's next regular meeting. For purposes of this section, a showing of "good cause" will require a finding by the Council that as a result of exceptional circumstances beyond the control of the Council, compliance with the 12-day notice requirement would impose a~~

Commented [A11]: This subsection tracks the provisions of Policy No. 000-35 with an addition as noted below.

Commented [A12]: This is the current language of Policy 000-35, but creates a rather odd result – if 7 council members are present, a vote of five suffices, but if only 6 members are present, all 6 must concur. The original settlement does not require this result.

substantial burden on the City's ability to conduct its business or result in prejudice to a private person. Prior to making such a finding, staff shall provide a detailed explanation of the reason the agenda item could not be provided to Council and members of the public within the 12-day notice requirement.

Commented [A13]: This is an addition to Policy 000-35 recommended by the OGTF.

(G)(F) No action or discussion shall be undertaken on any item not appearing on the posted final agenda, except that, following public comment on items not on the agenda, members of a legislative policy-body may briefly respond to statements made or questions posed by persons members of the public exercising during the their public testimony rights comment period. In addition, members of the legislative body may to the extent of asking ask a question for clarification, providing provide a reference to staff or other resources for factual information, or requesting request staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony the public, or request that the matter be place on the agenda for a subsequent meeting.

(H)(G) Notwithstanding subdivision F, the City Council may take action on items of business not appearing on the posted agenda under any of the following conditions:

- (1) Upon a determination by a majority vote of the City Council that an emergency, such as an accident, act of war, natural disaster or public disruption (e.g. work stoppage, crippling activity or other activity work force strike, public protest, civil disobedience, etc.) poses a severe threat to public health and safety.
- (2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the final agenda being posted in accordance with subsection (C).
- (2) On a showing of good cause and with the concurrence of four council members, majority of those present, an urgent item of business may be discussed and acted upon if the item appears on a revised regular meeting agenda released to the public at least five (5) days prior to the day of the regular meeting at which the item is scheduled. The Council shall determine that good cause exists prior to taking action upon the item. If good cause is not found to exist, the item may be heard at the Council's next regular meeting. For purposes of this section, a showing of "good cause" will require a finding by the Council that as a result of exceptional circumstances beyond the control of the Council, compliance with the 12-day notice requirement would impose a substantial burden on the City's ability to conduct its business or result in prejudice to a private person. Prior to making such a finding, staff shall provide a detailed explanation of the reason the agenda item could not be provided to Council and members of the public within the 12-day notice requirement.

Commented [A14]: Revisions to better track Brown Act.

Commented [A15]: From Brown Act. Compare subsection (F) above. Subsection (F) concerns when matters not on the preliminary agenda might nevertheless be placed on the final agenda. This section concerns when a matter may be considered when it is not on the final agenda. For Subcommittee discussion.

NOTE: This provision is contained in Council Policy 000-35. The last sentence was added to codify the OGTF recommendation titled "Agenda Exceptions (Non-agenda items). Implementation of the 12-day publication will necessitate technical changes to the City's use of

~~Legistar and an advanced deadline for submission of agenda items by staff.]~~

- (3) The item was on an agenda posted pursuant to subdivision ~~(C)~~^A for a prior meeting of the City Council occurring not more than five (5) calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.
- ~~(H)~~(H) Nothing in this section shall limit the rights of the City Council to give notice of, and to hold, closed sessions and/or to call and hold special or emergency meetings as provided in the Brown Act.
- ~~(I)~~(I) The City Clerk's Office shall ensure that agendas for regular and special meetings are made available upon request to speech and hearing impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight impaired persons through Braille or enlarged type. Translation or interpreter services shall be available upon request no later than three (3) business days prior to the City Council meetings.
- ~~(J)~~(J) Copies of City Council Agendas in English and Spanish shall be provided to any resident of Santa Rosa who so requests and shall be made available in the City Clerk's Office free of charge no later than four (4) more than five (5) business days prior to the City Council meeting.
- ~~(L)~~~~Copies of City Council Agendas in Spanish shall be provided to any resident of Santa Rosa who so requests and made available in the City Clerk's Office free of charge no more than two (2) business days prior to the City Council meeting.~~
- ~~(M)~~(K) Copies of agendas in a language other than English or Spanish will be made available free of charge upon reasonable request. If the request is received at least ## business days prior to the City Council meeting, the copy shall be provided in the City Clerk's Office free of charge no later more than two (2) business days prior to the City Council meeting.
- ~~(N)~~(L) Copies of the agendas in a language other than English or Spanish will be made available automatically if the threshold of that particular non-English and non-Spanish speaking population reaches and/or exceeds 5% 10,000 people or 5% of the total city population (in alignment with the Department of Justice Voting Rights Act, Section 203).
- ~~(O)~~(M) The Open Government Ordinance will be posted on the City website and each City Council agenda shall include information on how to obtain a free copy of the ordinance (electronic and/or paper).

Section 1-10.040. Broadcast of meetings.

(A) All regular meetings of the City's Council, boards, commissions, and committees ~~Council, Board of Public Utilities, and Planning Commission, which~~ that are held in the City Council Chamber, shall be recorded, televised, video-streamed live via the City website, as well as archived for replay, and broadcast via radio. The live broadcasts and archived video shall be close captioned. Archived videos shall contain an index of agenda items that will enable members of the public to automatically advance to the start of a particular agenda item by clicking on that agenda item in the video index.

(B) The broadcast requirements shall not apply if necessary equipment malfunctions or if a public meeting is held in a location ~~other than the City Council Chambers that does not have the technological capacity to accommodate the broadcasting needs.~~ In such instances an audio recording shall be made of the proceedings and such audio recording shall be archived in the same manner as video recordings of meetings, with the same level of public access.

Commented [A16]: To be consistent with Subsection (A), which applies only to meetings held in the Council Chambers.

Section 1-10-050. Closed sessions and litigation reports.

(A) Before any closed session, the City Council shall disclose on the agenda and verbally during open session the basis for the closed session.

(A)(B) Before any ~~closed session~~, the City Council shall meet in open session for the purpose of taking public comment solely on the subject(s) of the Closed Session. Council minutes shall reflect the scope of individual comments.

(B)(C) Following the closed session, the City Attorney shall make a report in open session describing any final action taken as required by state law, as well as any other matter or statement the City Council directs the City Attorney decides to make, at the next publicly noticed City Council meeting.

(C) ~~The location of reports to the public after a Closed Session has ended shall be in a venue that is open to the public, and where practicable, one that supports video transmission, audio, and video streaming.~~

(D) When litigation involving the City is finally adjudicated or otherwise settled, the text and terms of any final judgment or settlement shall be ~~subject to disclosure disclosed, subject to state and federal confidentiality law limitations. No attorney representing the City shall solicit or agree to any settlement provision that would restrict disclosure of terms or communications between each party after settlement and any such provision shall be void. The City Attorney will make reasonable efforts to disclose as much as legally permissible.~~

(E) When settlements are authorized by the City Council at a Closed Session but are not reported out immediately following the end of the Closed Session, the City Attorney shall prepare a monthly report for the City Council Agenda identifying any settlement agreements entered into by the City ~~with a settlement amount over \$25,000.~~

Section 1-10.060. Public Access and Comment.

(A) Whenever the number of attendees at a City Council meeting exceeds the legal capacity of the meeting room ~~as~~ determined by the Fire Marshall, any public address system used to amplify sound in the City Council Chambers shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent suitable location. If there be no public address system, or if supplementary speakers are not available at the time, the meeting shall be adjourned until this is appropriately addressed.

~~(A)~~(B) Every agenda for regular meetings of the City Council shall provide, no earlier than 5:00pm and again at the end of the meeting, an opportunity for members of the public to directly address the City Council on items of interest to the public that are within the City Council's subject matter jurisdiction, but not on the meeting's agenda., provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 1-10.030.

- (1) The first public comment period on non-agenda items shall begin no earlier than 5:00 p.m. and ~~shall begin will be as close as is feasible to 5:00 p.m. as is feasible. This first comment period will be~~ limited to ~~twelve~~ ~~en~~ speakers selected randomly by the City Clerk.
- (2) Speakers who do not have an opportunity to speak during the first public comment period shall be allowed to make public comment under the second public comment period at the end of the meeting.
- (3) Speakers who have an opportunity to speak during the first public comment period may not make additional comments during the second public comment period.

(B)(C) In connection with each item listed on an ~~Every~~ agenda for ~~a~~ regular or special meeting ~~s at which action is proposed to be taken on an item shall provide~~ an opportunity ~~shall be provided for for each~~ members ~~s~~ of the public to directly address the legislative body concerning that item before the legislative body takes ~~ing~~ action. Public comments on closed session items shall be taken before the closed session is convened. ~~The presiding officer may request speakers representing similar views, to the extent that they can have an organized and collective voice, to designate a spokesperson in the interest of time. Spokespersons for the proponent(s) of an agenda item and for the opponent(s) shall each have ten (10) minutes to present their case. The spokesperson for the proponent(s) shall have five (5) minutes to present any rebuttal. Other speakers may be requested to keep their remarks concise.~~

Commented [A17]: Deleted per Subcommittee discussion and direction.

~~(C)(D)~~ Except at meetings at which fees are adopted as part of the annual budget adoption, no public hearing may commence earlier than 5:00 p.m. or later than 9:00 p.m. unless there is a legal necessity to act ~~on that date~~ to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing. ~~If a public hearing cannot be completed in accordance with the section, the public hearing shall be continued to the next available meeting. When possible, the Mayor should strive for time-certain scheduling of public hearings, and should prioritize public hearings over non-urgent report items.~~

~~(D)(E)~~ To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer.

~~(E)(F)~~ All staff reports, presentations, comments from ~~applicants and appellants parties with a direct connection to~~ regarding the agenda item, and Council questions will be presented before the public has an opportunity to speak so as to provide the fullest opportunity for public input on all issues before the City Council.

~~(F)(G)~~ To enhance public knowledge of the City's policies and better inform the public as to the public's important role in City government, the Office of Community Engagement and the City Clerk's Office shall ~~prepare a Citizens Guidebook setting forth provide~~ written guidelines for members of the public explaining City policies regarding public participation and public comment. ~~The Citizens Guidebook shall include an ~~for residents of the City of Santa Rosa that outlines of City government structure, organization, responsibilities, and basic functions, as well as local government terms and definitions, and how to participate in local government activities, meetings, and proceedings. This guidebook will be made available in English and Spanish languages on the City's website~~~~

Section 1-10.070. Meeting Minutes

City Council and ~~its their~~ standing subcommittees shall record the minutes for each regular and special meeting convened under the provisions of this ordinance. At minimum, the minutes shall state the time the meeting was called to order, the names of the members attending the meeting, a one-sentence summary of, and roll call vote on, each matter considered at the meeting, the time the local body began and ended any closed session, those members of the public who spoke on each matter ~~if the speakers identify themselves and a brief description of their comments,~~ and the time the meeting was adjourned. ~~Public comment speaker cards shall have an option for a one-sentence description of the comments, which the clerk shall use to create a brief description of the comments for inclusion in transcribe into the final minutes. The final closed captioning of the meeting video will also be publicly available in English and Spanish.~~ The draft minutes of each meeting shall be available for inspection and copying upon request no later than 15 business days after the meeting. The officially approved minutes shall be available for inspection and copying upon request no later than five business days after the meeting at which the minutes were approved. Meeting minutes will be posted via the City's website once approved.

Article III. Public Records

Section 1-10.080. Release of Public Records

Release of public records by a body or by any department, whether for inspection of the original or by providing a copy shall be governed by the California Public Records Act (Government Code section 6250, et seq.) in any particulars not addressed by this chapter. The provisions of Government Code Section 6253.9 are incorporated herein by reference.

Section 1-10.090. Responsibilities of Staff

Commented [A18]: The reason for this incorporation by reference is unclear. Section 6253.9 concerns electronic records. It is part of the Public Records Act referenced in the preceding sentence.

~~[NOTE: This section codifies the OGTF recommendations titled "Public Access to Information," current City practices, and the City's Public Records Act Policy and Procedures.]~~

- (A) The City Clerk shall be the City Public Records Coordinator and each department head shall designate a Department Representative who shall ensure that all department staff who have contact with the public are prepared to provide ~~written and oral~~ information to the public.
- (B) Each Department Representative shall coordinate with the City Attorney's Office and the Public Records Coordinator to ensure compliance with this chapter and any related policies and procedures adopted by the City Manager.
- (C) ~~Requests for public records requests~~ can be submitted ~~via phone call, email, walk-ins, fax, U.S. post, etc~~ ~~in person, via phone, or in writing~~. If the request contains an email address, the Public Records Coordinator or responding department must acknowledge the request via an email reply to the sender ~~r~~ ~~within one business day of receipt~~. Whenever possible, the Public Records Coordinator or responding department will provide an estimate of the time needed to provide the ~~records~~ ~~information~~ requested.
- (D) At least once a year, and as otherwise requested by the City Council, the Public Records Coordinator shall prepare a tally and report of all record requests brought before it. The report shall, ~~at a minimum, at least~~ identify the total number of requests, nature of the requests, number of requests fulfilled, number of requests ~~denied~~ ~~unfilled~~, and ~~the reason they were not filled~~ ~~reason for denial~~.
- (E) The Public Records Coordinator shall ensure that staff is trained regarding their obligations under this article.
- (F) The Community Engagement Director shall make every effort to inform and educate the public about the provisions of this chapter through the creation of educational

materials, such as a Citizen's Guidebook, the Citizen's Academy, and through use of social media, television, radio, written efforts, presentations, etc.

Section 1-10.100. Disclosure of Records

- (A) The Public Records Coordinator and Department Representatives shall comply with a routine request to inspect or obtain copies of disclosable records that are easily identifiable and accessible within three business days, if possible.
- (B) A request to inspect or obtain copies of more complex public records submitted to any department or legislative body shall be responded to within ten (10) business days to advise whether the City has records that it will provide or that there is a legal basis to withhold disclosure of the records unless the requestor is advised in writing that additional time is needed based on:
 - (1) The need to search for and collect the requested records from facilities separate from the office processing the request.
 - (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
 - (3) The need for consultation with another department or agency that has substantial interest in the response to the request.
 - (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.
- (C) The response shall provide an estimate as to when records will be available for inspection and the cost for copies of such records.
- (D) **Additional time shall not be permitted to delay a routine or readily answerable request.**
- (E) The person seeking the information need not state a reason for making the request or the use to which the information will be put, but may be advised that providing such information may help the City assist the person finding all documents responsive to the request.
- (F) While not required, a written request is recommended in order to create a paper trail for the convenience and reference of the requestor and the City. The Public Records Coordinator and each Department Representative shall provide a form for this purpose.

Commented [A19]: The standards are set in (A) and (B).

Section 1-10.110. Website Information

- A. Open by Default.
 - a. All data generated by the City shall be open to public review ~~public information must be considered open unless they~~ data contain information

~~designated as sensitive, private, or confidential or information that is exempt as defined by the City Attorney's Office, exempt from disclosure under the Public Records Act~~ or any other provision of a federal ~~or~~ state ~~or local~~ law, rule or regulation ~~or local law~~. The department submitting the ~~data information~~ is required to review its status and maintain currency with public disclosure requirements.

- B. The City Clerk's Office shall post on the City's website and make available in each department a Citizen's Guide to Public Information that explains how to make a public records request and a Records Index that identifies the types of records that are maintained by all City departments and divisions.
- C. Open Data Portal.
 - a. Santa Rosa is committed to increasing transparency through timely and consistent publication of data ~~generated by City Departments, and the release of government documents.~~
 - b. Open and accessible government is fundamental to successful representative democracy because it empowers the public to participate in governance by providing easy and open access to maximum public data and information.
 - c. A single web portal incorporated into the City's new website shall be established and maintained by or on behalf of the City; administered by the Information Technology Department
 - d. Any dataset made accessible on the City's Open Data Portal shall use a format that permits automated processing of such data and be accessible to external search capabilities.
 - e. Each department will designate a Data Coordinator who will oversee implementation and compliance of the data.

Section 1-10.120. Appeals Complaints regarding requests for public records.

- (A) Complaints alleging that records or some part of records are being withheld improperly under the Public Records Act or this chapter may be appealed as follows:
 - (1) If ~~a person or entity who has submitted a public records request believes that~~ the Public Records Coordinator or Department Representative ~~has improperly refused, failed to comply, or incompletely complied with the~~ request, the person or ~~entity organization~~ making the request may submit a complaint form to the ~~City Council via the Office of Community Engagement~~ ~~City Clerk~~ for a determination whether the record requested is ~~subject to disclosure~~ ~~public~~ or not. ~~After consultation with the City Attorney's Office, and as soon as possible but no later than 10 days after receipt of the complaint form, the City Clerk Office of Community Engagement~~ shall inform the ~~complainant~~ ~~petitioner~~, as soon as possible and within 10 days, of its determination whether the record requested, or any part of the record requested, is ~~subject to disclosure~~ ~~public~~. Where requested by the complainant ~~form or and~~ where otherwise desirable, this determination shall be in writing. Upon determination by the ~~City Clerk Office of Community~~

~~Engagement and City Attorney's Office~~ that the record is disclosable, public, the Public Records Coordinator or Department Representative shall comply with the person's or entity's request.

(2) If a person or entity who has submitted a public records request believes that the Public Records Coordinator or Department Representative has improperly refused, faileds to comply, or incompletely complieds with a request described in Section 1-10.070 above and or if a filed complaint is denied or not acted upon by the City Clerk Office of Community Engagement and City Attorney's Office, the person or entity organization making the request may petition the City Council for a determination whether the record requested is disclosable public. The City Council shall consider the petition at its next available regularly scheduled meeting and shall inform the petitioner, as soon as possible and within two days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is disclosable public. Where requested by the petition, and where otherwise desirable, tThis determination shall be in writing. Where requested by the petition, the City Council may conduct a public hearing concerning the records request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested. Petitions for City Councilmember records shall be made directly to the City Manager for its determination, according to this paragraph.

(3) The appeal administrative remedy provided under this section chapter shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer or employee of any agency, executive office, department or board; nor shall the appeal administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, any California Supreme Court shall have jurisdiction to order compliance.

(4) In any court proceeding pursuant to this chapter there shall be a presumption that the record sought is disclosable public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

(5) At least once a year, and as otherwise requested by the City Council, the Public Records Coordinator shall prepare a tally and report of every appeal filed under this section~~petition brought before it for access to records~~ since the time of its last tally and report. The report shall, at a minimum, at least identify for each appeal petition the record or records sought, the custodian of those records, the ruling of the Office of Community Engagement ~~and City Attorney's Office~~, whether the ruling was overturned by a court and whether orders given to custodians of public records were followed. The report shall also summarize any court actions related to any appeals petitions during that period. At the request of the City Council, the report shall also include copies of all rulings made by the Office of Community Engagement ~~and City Attorney's Office~~ and all opinions issued.

(6) The City Attorney's Office shall act to protect and secure the rights of the people of Santa Rosa to access public information and public meetings ~~and shall not act as legal counsel for any city employee or any person having custody of any public~~

Commented [A20]: This sentence creates a question regarding the need to exhaust administrative remedies.

Commented [A21]: Court jurisdiction is a matter of state law, not subject to local ordinance.

~~record for purposes of denying access to the public~~. The City Attorney or his/her designee will monitor the handling of public records when any elected public official or any department head leaves office and moves materials from the office. The City Attorney may publish legal opinions in response to a request from any person as to whether a record or other information is or is not ~~disclosable-a public record~~.

- (7) ~~Notwithstanding the provisions of this section, the City Attorney may defend the City or a City Employee in litigation under this ordinance that is actually filed in court to any extent required by California Law.~~
- (8) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) to the extent not addressed by this ordinance ~~and in accordance with the enhanced disclosure requirements provided in this ordinance.~~
- (9) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout, or monitor at a charge no greater than the cost of the media on which it is duplicated.

- (B) ~~This appeals process shall be available in addition to any other remedies provided under state law.~~

Commented [A22]: Clarify relation to requirement for exhaustion of administrative remedies.

- (C) The City's failure to follow these administrative procedures will not result in the invalidation of any action taken by the City.

Section 2. Enforcement Provisions.

Section 2-10.010. Primary Regulatory and Enforcement Body.

The primary regulatory and enforcement body of the Open Government Ordinance shall be the City Council via the City Manager's and City Attorney's Offices.

Section 2-10.020. Complaint Procedures Regarding Alleged Violations of the Open Government Ordinance.

- (A) A complainant must file a complaint no more than thirty (30) business days after an alleged violation of the Open Government Ordinance.
- (B) A person who makes more than three (3) complaints in one (1) 12-month period that are determined by the ~~City Manager and City Attorney's Office~~ to be unfounded shall be prohibited from making a complaint for one (1) year.
- (C) Upon filing of an official complaint form (including submittal of all evidence) with the City Clerk's Office, the complainant ~~and the City (as respondent)~~ shall appear at a hearing ~~before the City Manager and City Attorney~~, scheduled no later than thirty (30) business days ~~after the City Clerk's receipt of the complaint form~~. During this hearing the City

Manager's and City Attorney's Offices will provide the parties with the chance to present evidence and make arguments. The City Manager's and City Attorney's Offices will render a formal written decision on the matter within fourteen (14) business days of the hearing.

(D) No complaint will be accepted ~~by the City Council~~ against a member of the City Council or an officially declared candidate within forty-five (45) days of a City Election. ~~In this instance, the City Attorney's Office and the City Manager's Office shall accept and hear the case between the complainant and City Councilmember or an officially declared Council candidate.~~

Section 2-10.030. Cure and Correction.

Nothing in this article shall prevent a body from curing or correcting an action. ~~A body shall cure and correct an action by placing the challenged action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action, and if so, whether to affirm or supersede the challenged action after first taking any new public testimony. The time limits of the Brown Act shall not be tolled pending any action to cure an alleged violation of the Open Government Ordinance.~~

Commented [A23]: Cures will vary, depending upon the violation. Not all will require a public hearing.

Section 2-10.040. Responsibility for Administration.

The ~~City Attorney's Office and~~ Office of Community Engagement shall be responsible for the administration and coordination of the provisions of the Santa Rosa Open Government Ordinance.

Section 2-10.050. Annual Public Report.

The City Attorney's Office shall prepare an annual report to be placed on the City's website and made generally publicly available in printed form of alleged violations of the Ordinance brought to its attention during the previous calendar year. The report shall identify the nature of the alleged violation, the relief sought by each petition, the disposition or current status thereof and the location of all records relevant to each petition. With advance notice to the City Clerk's Office, the City Attorney's Office may also request a tally of records requests for statistical or comparative purposes.

Section 2-10.060. Relation to Other City Ordinances Open Government Ordinance Supersedes Other Local Laws.

~~The provisions of this Open Government Ordinance supersedes other local laws, Whenever a conflict arises between the provisions of this Chapter and of other City Ordinances, in local law is identified, the requirement that which would result in greater or more expedited public access to public information shall should apply within legal limitations..~~

Section 3. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California

Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on March 29, 2016.

IN COUNCIL DULY PASSED AND ADOPTED this _____ day of _____, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____

APPROVED:
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney