

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) Democracy in our representative form of government requires that the public have an opportunity to understand the government's activities and to communicate its concerns to its elected and appointed representatives, and that those representatives have an adequate opportunity to consider those concerns and then act effectively and in a timely manner.
- (B) To the extent these goals are sometimes in tension with each other in a given case, the government's obligation is to balance them responsibly, under the circumstances, 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.
- (C) Accordingly, the purpose of this chapter is to clarify and supplement the Ralph M. Brown Act, and the California Public Records Act, codify certain existing policies and practices that exceed these legal requirements, and adopt new practices based on the recommendations of the Mayor's Open Government Task Force to ensure that the public has an adequate opportunity to be informed of the City's activities and to communicate its concerns to its elected and appointed officials.

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 about a Meeting, published in advance of the Meeting which at a minimum (1) identifies the Legislative Body conducting the Meeting, (2) specifies the time and location of the Meeting, and

- (3) lists each item of business to be discussed or transacted and describes the proposed action for each such item, if any.
- (B) "Agenda Packet" means the Agenda of a particular Meeting with all its relevant Supporting Documents.
- (C) "Brown Act" means the Ralph M. Brown Act codified under California Government Code sections 54950 et seq., as they may be amended from time to time.
- (D) "Closed Session" means a Meeting 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.
- (E) "Legislative Body" shall have the meaning set forth in Government Code sections 54950 through 54960, as they may be amended, or any successor sections.
- (F) "Meeting" shall have the meaning set forth in Government Code sections 54950 through 54960, as they may be amended, or any successor sections.
- (G) "Supporting Documents" means 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.
- (H) "Public Records Act" means the Public Records Act codified under California Government Code sections 6250 et seq., as they may be amended from time to time.
- (I) "Presiding Officer" shall have the meaning Mayor, Vice Mayor, Mayor Pro Tem as set forth in the City Charter, Section 15.

## **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) No later than twelve (12) 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 an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business any potential financial impacts and the recommended action or a statement the item is for discussion only. Staff reports for said agenda items

will be posted online to the City's website and available at the front counter in the City Manager's Office.

- (C) A description 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. The description should be concise and written in plain, easily understood language.
- (D) Complete agenda packets for City Council regular meetings shall be posted on the City's website and shall be available for review at the Central Branch of the Sonoma County Public Library and at the City Clerk's Office during normal business hours. 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 (B).
- (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 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.
- (F) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.
- (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 accident, natural disaster or work force disruption poses a threat to public health and safety.
  - (2) On a showing of good cause and with the concurrence of five (5) Council members, or by unanimous vote if fewer than seven (7) members are present, an 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.

- (3) The item was on an agenda posted pursuant to subdivision 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) 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) 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 reasonable request.
- (J) Copies of City Council Agendas shall be provided to any resident of Santa Rosa who so requests in writing and made available in the City Clerk's Office free of charge.
- (K) Each City Council agenda shall include information on how to obtain a free copy of the Open Government Ordinance.

Section 1-10.040. Broadcast of meetings.

- (A) All regular meetings of the City Council, Board of Public Utilities, and Planning Commission, when held in the City Council Chamber, shall be recorded, televised and video-streamed live as well as archived for replay. 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 changed to a location that does not have the technological capacity to accommodate the broadcasting needs.

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.

- (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.
- (C) 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 decides to make.
- (D) 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.
- (E) When litigation involving the City is finally adjudicated or otherwise settled, the text and terms of any settlement shall be subject to disclosure. 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.
- (F) 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 quarterly report for the City Council Agenda identifying any settlement agreements entered into by the City with a settlement amount over \$50,000.

Section 1-10.060. Public Comment.

- (A) Every agenda for regular meetings shall provide, before undertaking report items 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, 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 will be limited to ten speakers selected randomly by the Mayor.
  - (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.
- (B) Every agenda for regular or special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item before taking 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 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.

- (C) 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 10:00 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.
- (D) 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) All staff reports, presentations, comments from parties with a direct connection to 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) 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 City Clerk's Office shall provide written guidelines for members of the public explaining City policies regarding public participation and public comment.

### **Article III. Public Records**

#### Section 1-10.070. 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 1-10.080. Responsibilities of Staff.

- (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) Records requests received by email, walk-ins, fax, U.S. post, oral, or by other means if the request contains an email address must be acknowledged by the Public Records Coordinator or responding department with an email reply to the sender within one business day of receipt.
- (D) The Public Records Coordinator shall ensure that staff is trained regarding their obligations under this article.
- (E) The Community Engagement Director shall assist that the public understands and is aware of the provisions of this chapter.

Section 1-10.090. Disclosure of Records

- (A) The Public Records Coordinator and Department Representatives shall comply with a routine request for disclosable records that are easily identifiable and accessible within three business days, if possible.
- (B) A request to inspect or obtain copies of 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.

Section 1-10.100. Website Information.

- (A) Each department shall make an effort to ensure its portion of the City's website is kept current. Each department shall also post public documents that are of interest to a wide number of the public. At a minimum, the following shall be posted on the City's website and provided in written form in the City Clerk's Office. These documents must be posted on the City's website for a period of at least four (4) years:
- City Charter;
  - Santa Rosa City Code;
  - City Council Policy Manual;
  - General Plan and Area Plans;
  - Santa Rosa Zoning Code;
  - Open Government Ordinance;
  - Citizen's Guide to Public Information;
  - Records Index;
  - City Council Manual of Procedures and Protocols;
  - Conflict of Interest Code;
  - Statements of Economic Interest for filers under Government Code section 87200;
  - Agendas and Minutes of the meetings of all Legislative Bodies;
  - Budgets; and
  - Comprehensive Annual Financial Reports
- (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.

Section 1-10.110. 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 to the City Council by submitting a complaint on a form provided by the City to the City Clerk's Office within 15 calendar days from and after the date of the decision to deny the request.
- (B) This appeals process shall be available in addition to any other remedies provided under state law.
- (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. 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 3. 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 4. 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