



Working with Your City Clerk

Resources and tools for complying with statutes, regulations, and transparency laws

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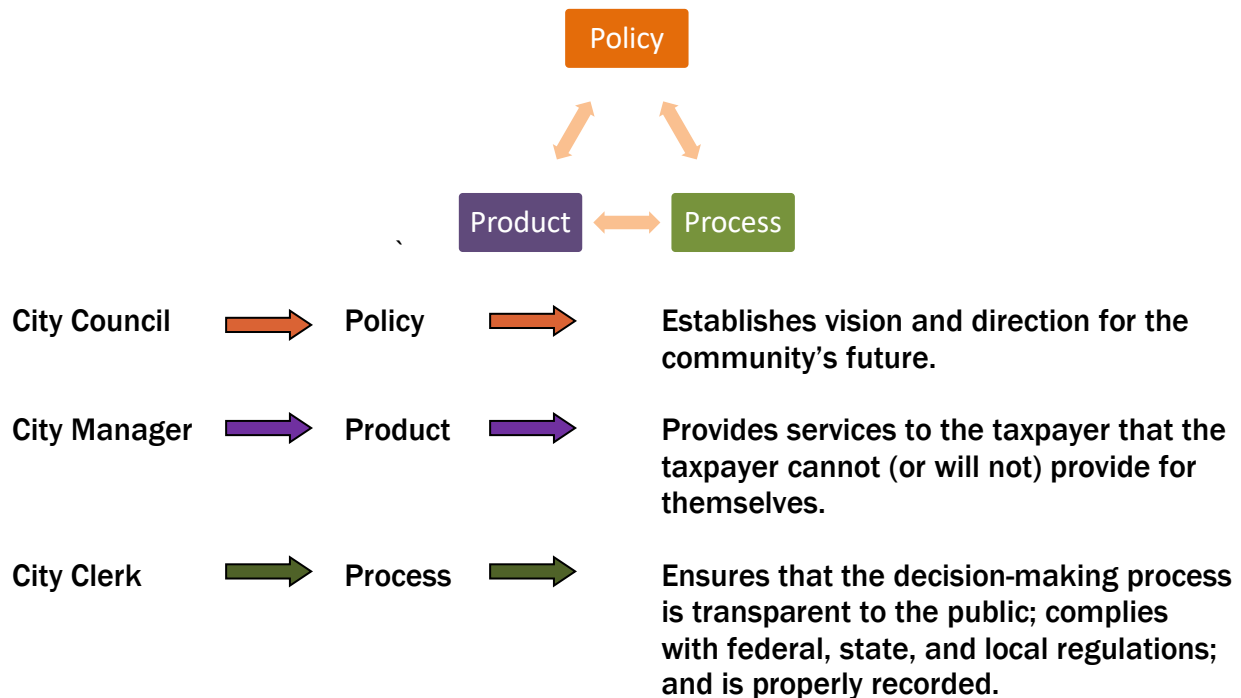
The Robert Ming
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The City Clerk is the local official who administers democratic processes such as elections, access to city records, and all legislative actions ensuring transparency to the public. The City Clerk acts as a compliance officer for federal, state, and local statutes including the Political Reform Act, the Brown Act, and the Public Records Act. The City Clerk manages public inquiries and relationships and arranges for ceremonial and official functions.

www.californiacityclerks.org



Public Service—A Balanced Triangle



Success in public service requires an even-sided, balanced triangle. The City Council, City Manager, and City Clerk must understand and respect each other's roles and share an obligation in maintaining this balance.

Advocates for Democracy

Elected Officials, City Managers and City Clerks shoulder equal responsibility in preserving and promoting democracy, the very backbone of our society. The more we invite public participation, the more democracy will thrive, and citizens will take pride in shaping the community's future.

Responsibilities of the City Clerk

Thousands of statutes and regulations exist which protect democracy and provide a system of "checks and balances." It is the city clerk's responsibility to ensure compliance with these laws, which are complex and constantly changing and evolving. The city clerk, as the local official, must have the professional education, training, and knowledge necessary to understand and administer these laws.



Office of the City Clerk

- Elections Official
- Local Legislation Auditor
- Municipal Officer
- Political Reform Filing Officer
- Records & Archives
- Public Inquiries & Relationships
- City Council Support Services

Elections Official

- ❖ Voter Registration
- ❖ Stand-Alone or Consolidated Elections for Council / Mayor / Treasurer / City Clerk
- ❖ Ballot Measures / Charter Amendments
- ❖ Initiative ([Elections Code § 9200](#))
- ❖ Referendum ([Elections Code § 9236](#))
- ❖ Recall ([Elections Code § 11221](#))
- ❖ California Law: <http://leginfo.legislature.ca.gov>

Local Legislation Auditor

- ❖ **Brown Act (Gov. Code 54950 et. seq.)** Enacted to ensure all actions are taken openly and that all deliberations are conducted openly. Misdemeanor if elected official deliberately deprives public of information.
- ❖ **Public Notices / Public Hearings**
- ❖ **Contracts and Agreements**
- ❖ **Bonds and Insurance**
- ❖ **Authority to Execute Instruments**
- ❖ **Ordinances & Resolutions**
- ❖ **Municipal Code**
- ❖ **League Publication: Open & Public V “A Guide to the Ralph M. Brown Act”**

Municipal Officer

- ❖ **Government is vested in (Gov. Code 36501):**
 - **City Council**
 - **City Clerk**
 - **City Treasurer**
 - **Chief of Police**
 - **Fire Chief**
- ❖ **Clerk of the Council (Gov. Code 36814)**
- ❖ **Attestations (Gov. Code 40806)**
- ❖ **Administer Affirmations/Oaths of Office (Gov. Code 40814) (Gov. Code 36507)**
- ❖ **Custody of City Seal (Gov. Code 40811)**
- ❖ **Accept Subpoenas and Lawsuits (Gov. Code 37105)**
- ❖ **Countersign General Obligation Bonds (Gov. Code 43623 43625)**
- ❖ **File Official Bonds (Gov. Code 36520)**

Political Reform Filing Officer

- ❖ **Political Reform Act of 1974 (Gov. Code 83111)**
- ❖ **Filing Official for Form 700 – Statement of Economic Interests - Disclose personal assets and income—disqualify yourself if decision affects personal financial interests.**
- ❖ **Filing Officer for Form 460 - Campaign Statement - Elected officials shall respond to wishes of all citizens equally, contributors shall not gain disproportionate influence over others.**
- ❖ **www.fppc.ca.gov**
- ❖ **Manual 2 for Local Elected Officials**
- ❖ **FPPC Help Line: 1-866-275-3772 – Elected officials should contact FPPC directly and avoid asking City Clerk to ask questions for them.**
- ❖ **California Law: www.leginfo.ca.gov**
- ❖ **California Code of Regulations: www.calregs.com**

Records & Archives

- ❖ Public Records Act (Gov. Code 6250) - Information concerning the conduct of the people's business is a fundamental and necessary right of every person.
- ❖ Maintain Custody of Records - Most of our customers are "internal."
- ❖ Public Records Request – With few exceptions, only records available to the public are disclosable to elected officials. Records exempt from disclosure include personal information, medical information, crime/intelligence records, voter records, utility usage records.
- ❖ Indexing, Research & Retrieval
- ❖ Records Retention – All correspondence received/sent by Council Member shall be directed to the City Clerk for proper disclosure/indexing/retention. Includes e-mails.
- ❖ League Publication: The People's Business "A Guide to the CA Public Records Act"
- ❖ Minutes
 - History and legal record.
 - Record of actions and proceedings.
 - Refresh recollection.
 - Gives reader sufficient understanding of proceedings.
 - Are not transcriptions.
 - Are not an exact record of discussions and conversations.
 - Are not "to do" lists.
 - Summary minutes should include (the "TGIF" rule):
 - Topic
 - Germaine Discussion
 - In Conclusion
 - Follow up

Public Inquiries & Relationships

The City Clerk serves as a liaison between the public and the City Council. The City Clerk provides easy access to information and serves as a guide to open participation in the decision- and policy-making process. The City Clerk is often the first person a member of the public contacts when seeking assistance from the City Hall.

City Council Support Services

- ❖ Ceremonial Functions
- ❖ Resolutions, Commendations, Awards
- ❖ Administrative
- ❖ Commissions
- ❖ Resources
- ❖ Research
- ❖ History, Institutional Knowledge

Classes of Cities

GOVERNMENT CODE
TITLE 4. GOVERNMENT OF CITIES
DIVISION 1. CITIES GENERALLY
CHAPTER 2. CLASSIFICATION OF CITIES
Government Code § 34100-34201

General Law Cities

Article XI, Section 7, Cal. Constitution (1879)

General Law cities derive their power from general laws enacted by the state legislature. In California, all cities (general law and charter cities) have home rule authority, meaning cities have power to enact city ordinances not in conflict with general state laws.

Charter Cities (see list of California Charter Cities)

Article XI, Section 5, Cal. Constitution (1896)

Charter cities derive their power from the California Constitution and provisions of their own charters. Charter cities have plenary authority over municipal affairs, meaning charter cities have power to enact city ordinances that conflict with state laws governing municipal affairs. The term “municipal affair” is not defined, but includes police force, conduct of city elections, procedures of initiatives and referenda, compensation of city officials, city contracts, and financing public improvements. This plenary authority does not apply to matters of statewide concern such as traffic laws, regulation of vehicles, eminent domain, meet and confer (labor), and transparency, e.g., public records, conflict of interest, and open meeting laws.

Forms of City Governance

GOVERNMENT CODE
TITLE 4. GOVERNMENT OF CITIES
DIVISION 3. OFFICERS
PART 1. GENERAL [36501 - 36525] (Part 1 added by Stats. 1949, Ch. 79.)

Government of Cities

Government Code § 36501

The government of a general law city is vested in:

- (a) A city council of at least five members.
- (b) A city clerk.
- (c) A city treasurer.
- (d) A chief of police.
- (e) A fire chief.
- (f) Any subordinate officers or employees provided by law.

City Council

Government Code § 36501

General Law cities to be governed by at least five council members. The number of council members may be increased by a vote of the electorate or when creating voting districts if it furthers the purpose of the California Voting Rights Act.

Mayor

Government Code § 36801

At the same meeting and following installation of elected officials, the City Council shall choose one of its number as mayor and one of its number as mayor pro tempore (“pro tempore” is Latin, literally “for the time being”).

Directly-Elected Mayor

Government Code § 34900

By a vote of the electorate, cities may have a directly-elected mayor (two-year or four-year term) and four council members. The term “directly-elected mayor” should not be confused with “strong mayor” discussed below. A directly-elected mayor is a member of the city council and has all powers and duties of a council member. Note: a directly-elected Mayor may be established without a vote of the electorate when creating voting districts if it furthers the purpose of the California Voting Rights Act (Government Code § 34886).

At-Large or District Elections

Government Code § 34870 et seq.

For general law cities, council members are elected at-large, without regard to where they reside in the city. However, general law cities may choose to create district elections by a vote of the electorate (Government Code § 34872) or by adopting an ordinance (Government Code § 34886). District elections provide for election of council members either “by” districts (candidates reside in district and are voted on by residents of the district) or “from” districts (candidates reside in district and are voted on by all voters of the city). Cities with districts may have five, seven or nine council members. For charter cities, the city’s charter may establish a structure for at-large or district elections.

Council-Manager

Government Code § 34857 et seq.

The council-manager form of government is the most prevalent form among municipalities. For general law cities, a council-manager form of government is established by ordinance; such ordinance may be adopted by the City Council or adopted by a vote of the electorate. The ordinance defines the powers and duties of the city manager.

The city manager may appoint the chief of police and other officers and employees except the city attorney. When the city clerk and city treasurer are made appointive, appointments are made by the city council unless the city council vests such appointing power in the city manager by ordinance.

Absent such an ordinance, the City Council retains authority over management of the city. For charter cities, the city's charter establishes the form of government for that city.

Council-Administrator

While not explicitly authorized in California general law, a city council may define the powers of the duties of the city manager to be limited to administrative duties, such as day-to-day operations, and retain authority over personnel matters, financial transactions, and contracts.

Strong Mayor (Council-Mayor)

Cal. Constitution Art. XI, Sec 5 (b)

A strong mayor form of government is available to charter cities and must be approved by the voters. A strong mayor may have authority to hire and fire the city manager and department heads, present a budget to the city council, and be more involved in the day-to-day management of the city.

Collective Decision Making

Public decision making differs from the way businesses or individuals make decisions.

- ✓ No decision may be made without first engaging the public.
- ✓ No single person may make a decision, unless previously authorized by state law or city council.
- ✓ All decisions must be made in the public's best interest.

Thousands of statutes and regulations exist to protect democracy and provide a system of "checks and balances" for the collective decision-making process. The city clerk, as the local official, has responsibility to ensure compliance with these laws, which are complex and constantly changing and evolving.

Sources of Law for Cities

California Constitution

<http://leginfo.legislature.ca.gov>

The state Constitution declares people's rights, how the government of California is organized, the legislature's power and responsibilities, the duties of the branches of government, taxation, the powers and constraints of local government, and the non-partisan nature of municipal government. Other provisions relate to water rights, workers compensation, alcoholic beverage regulation, and public housing projects.

Charters

For those cities whose voters have elected to have charters, the charter may have regulations that differ from state law with respect municipal affairs. Municipal affairs may

include the conduct of city elections, procedures for initiatives and referenda, compensation of city officials, city contracts, and financing public improvements.

State Statutes

<http://leginfo.legislature.ca.gov>

California law consists of 29 codes. Typically, when the state legislature enacts legislation, the statutes are organized into one of the 29 codes. For example, the government code, election code, public contract code, and streets and highways code contain a number of provisions relating to city government. While some statutes are known by a popular name, such as The Brown Act, The California Public Records Act, and the Political Reform Act, all are still codified in California law. For example, the Political Reform Act of 1974 is found under Gov. Code § 81000.

California Code of Regulations

<http://www.oal.ca.gov>

The state has over 200 state agencies that create regulations. The California Code of Regulations (“CCR”) is the official compilation and publication of the regulations adopted, amended, or repealed by these state agencies. These regulations have the force of California law. For example, the Fair Political Practices Commission is charged with administering and implementing the Political Reform Act. The regulations created by the Fair Political Practices Commission are found in Title 2, Division 6, §§ 18104-18998 of CCR.

Local Ordinances

Example: <http://qcode.us/codes/buenapark/>

City councils have the power to make laws within jurisdictional boundaries. These laws are made through the adoption of ordinances. Ordinances are indexed and codified into a municipal code book to make it easier for the public to reference local laws.

U.S. Constitution

https://www.senate.gov/civics/constitution_item/constitution.htm

Areas of law that frequently arise for cities include:

- The First Amendment - establishment of religion, free exercise of religion and free speech clauses.
- The Fourth Amendment - prohibition against unreasonable search or seizure.
- The Fifth Amendment – the right to remain silent (for example, in police interrogations) and the requirement of just compensation for the taking of property.
- The Fourteenth Amendment - protection of due process, equal protection and property rights; and no state may make a law abridging the privileges or immunities of citizens.
- The Fifteenth Amendment - the right to vote for all citizens shall not be denied or abridged on account of race, color, or previous condition of servitude.

Federal Laws and Regulations

<https://www.usa.gov/laws-and-regulations>

Federal laws apply nationwide and may impose restrictions on a local government's exercise of power. A good way to learn about federal laws and government is through the federal agencies charged with enforcing them. Examples: U.S. Department of Justice (Americans with Disabilities Act); U.S. Department of Housing and Urban Development (Fair Housing Act), U.S. Department of Labor (Family and Medical Leave Act), Department of Homeland Security, U.S. Environmental Protection Agency, Food and Drug Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Fish and Wildlife Service.

Judicial Decisions

<http://www.courts.ca.gov/opinions.htm>

Judicial decisions (case law) (decisional law) (common law) serve to interpret or resolve conflicts among all the sources listed above.

Local Legislation Tools

Agenda and Staff Reports

All city councils are required to publish and post an agenda at least 72 hours prior to the meeting. Although not required by law, typically each agenda item will be accompanied by a detailed staff report (the "agenda packet"). The staff report provides a recommended action as well as background on the necessity and implications of the action to be taken. It is common practice for the agenda packet to be made available to the city council four to six days in advance of the meeting.

Ordinances

Local laws are made by the city council adopting an ordinance. Once adopted, ordinances are indexed and codified into a municipal code book. Ordinances are typically used to require or prohibit certain actions under certain circumstances. Ordinances are permanent records and can never be destroyed.

In addition to local laws, development agreements are also adopted by ordinance. Development agreements provide protection to developers that the project can be completed under *existing* policies, rules and regulations. Development agreements also give cities opportunities to impose requirements beyond standard land use regulations.

For general law cities, the adoption of a regular ordinance (non-urgency) involves at least two meetings, the first is known as the introduction (or "first reading") of the ordinance, and the last is the final adoption (or "second reading") of the ordinance. Most ordinances are effective 30 days after the adopted ordinance is attested by the city clerk. Ordinances must be published in the newspaper or posted. The purpose of the publication and the 30-day waiting period is to allow voters the opportunity to exercise referendum rights.

Resolutions

A resolution is a legal action taken by the city council. Resolutions are used to set fees, adopt policies, or express a formal opinion. Most resolutions do not require publication. Resolutions are permanent records and can never be destroyed.

Proclamation

A proclamation is an official announcement dealing with a matter of great importance.

Motions and Minute Orders

Most actions taken by the city council are done so by motions and summarized by minute orders. Typically, the agenda will list a “recommended action,” and this recommended action takes form of a motion that is voted upon by the city council.

Minutes

Minutes testify that the correct procedures for decision-making were followed. Auditors, judicial officers, the public, and other stakeholders rely on minutes to accurately reflect the final decisions of the body. Minutes are permanent records and can never be destroyed. Appropriate styles are *action* minutes or *brief summary* minutes. All components of minutes shall be for the primary purpose of memorializing decisions made by the *legislative body*. Any minute component that does not serve this primary purpose should be minimized or eliminated.

See the [CCAC Guidelines for Preparing Minutes for Governmental Agencies](#).

Relevant Government Codes regarding minutes:

- [Government Code § 40801](#). The city clerk shall keep an accurate record of the proceeding of the legislative body and the board of equalization in books bearing appropriate titles and devoted exclusively to such purposes, respectively. The books shall have a comprehensive general index.
- [Government Code § 36814](#). The council shall cause the clerk to keep a correct record of its proceedings. At the request of a member, the city clerk shall enter the ayes and noes in the journal.
- [Government Code § 54953\(c\) \(2\)](#). The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- [Government Code § 53232.3\(d\)](#). Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

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Transparency Laws (Sunshine Laws)

The Brown Act

GOVERNMENT CODE

(ACCESS TO INFORMATION LAW REGARDING OPEN MEETINGS & OPEN DELIBERATIONS)

TITLE 5. LOCAL AGENCIES

DIVISION 2. CITIES, COUNTIES AND OTHER AGENCIES

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES AND OTHER AGENCIES

CHAPTER 9. Meetings [54950 - 54963] (Chapter 9 added by Stats. 1953, Ch. 1588)

Government Code § 54950 et seq.

AB 339 (1953) (Brown)

League Publication: Open & Public V "A Guide to the Ralph M. Brown Act"

The Brown Act was enacted to ensure all actions are taken openly and that all deliberations are conducted openly. It is a misdemeanor for an elected official to deliberately deprive public of information.

- All meetings must be open and public with a posted agenda, all persons must be permitted to attend, and all persons must be allowed to speak before the vote is taken on an item.
- "Regular" meetings occur at dates, times, and location set by resolution, ordinance or other formal action. A meeting held at any other date, time, or location is not a "regular" meeting. All "regular" meetings require an agenda be posted 72 hours in advance. Public comments may be made on any matter within the jurisdiction of the city.
- "Adjourned" meetings are regular meetings or special meetings that have been adjourned or "moved" to a time and place specified in the order of adjournment. The only way an "adjourned" meeting may be held is if it is announced at the end of a meeting and a notice of adjournment is posted within 24 hours of the end of the meeting.
- "Special" meetings are called by the presiding officer to discuss items on the agenda. A "special" meeting may be held if the agenda is posted 24 hours in advance and specific notice is delivered to all members and the press 24 hours in advance. Public comment is limited to only items on the agenda.
- "Emergency" meetings are called when a majority determines that an emergency exists. Absent a dire emergency, telephone notice must be given to media that have requested such notice at least one hour prior to the meeting. If it is a dire emergency, notice need only be provided at or near the time that notice is provided to the council members.
- The Brown Act applies to City Council, commissions, commission committees, standing committees. Does not apply to social events or educational conferences.

- The Brown Act considers a “meeting” to be any time a majority of members discuss items within their jurisdiction or use any form of communication (such as e-mails or intermediaries) to discuss items.
- The city council can only discuss items adequately described on the agenda. The agenda must contain a brief general description of each item.
- The agenda must be posted in a location freely accessible to members of the public, and (as of Jan. 1, 2012) on the agency’s internet website, if the agency has one. As of Jan. 1, 2019, the agency’s website home page must have a direct link to the agenda (Government Code § 54954.2 (a) (2) (A)).
- Any material distributed to a majority of the City Council regarding an agenda item must be available to the public at the time of distribution. If an item is distributed during the meeting, it must be made public during the meeting if prepared by the agency, or after the meeting if prepared by another person.
- No items may be added to the agenda unless a 2/3 majority determines that there is immediate need to take action and the need to take action came to the attention of the body after the agenda was posted. “Forgetting” to put an item on the agenda does not qualify.
- Closed sessions can only be used for specific reasons such as personnel evaluations, labor negotiations, pending litigation, and real estate negotiations. Closed sessions have three notice obligations: 1) described on the agenda, 2) before going into closed session orally announce items to be discussed, and 3) after the closed session, reconvene in public session to announce actions taken.

The California Public Records Act

GOVERNMENT CODE

(ACCESS TO INFORMATION LAW REGARDING GOVERNMENT BUSINESS RECORDS)

TITLE 1. GENERAL

DIVISION 10. ACCESS TO PUBLIC RECORDS [7920.000 - 7931.000] (Division 10 added by Stats. 2021, Ch. 614, Sec. 2.)

Government Code § 7920 et seq.

AB 1381 (1968) William T. Bagley and Harvey Johnson introduced on behalf of the California Newspaper Publishers Association.

League Publication: The People’s Business “A Guide to the CA Public Records Act”

The California Public Records Act is based on the principle that information concerning the conduct of the people’s business is a fundamental and necessary right of every person. In enacting the Act, the legislature attempted to strike a balance between two competing interests: the public’s right to access and the individual’s right to privacy.

- The California Public Records Act (Gov. Code § 7921) states that information concerning the conduct of the people’s business is a fundamental and necessary right of every person. Public records are open to inspection during regular office hours.

- The fundamental precept of The California Public Records Act is that government records shall be disclosed to the public, upon request, unless there is a legal basis not to do so. The city bears the burden of justifying nondisclosure.
- “Records” mean all communications related to public business, including any writing, picture, sound, or symbol, whether paper, magnetic, or other media.
- A public record is one that is “necessary or convenient to the discharge of an official duty,” such as a memo to the city manager providing the status of a pending project.
- Merely because a writing is in the possession of the city does not make it a public record—it must be prepared, owned, used, or retained by the city in the normal course of business. Records containing purely personal information unrelated to the conduct of the people’s business, such as an employee’s personal address list or grocery list are considered outside the scope of the Act.
- Access to public records must be immediate, but cannot disrupt operations. The city has ten days to determine if records exist that are responsive to the request. Upon written notice, the city may request an additional 14 days to determine if records exist. Once the agency has determined records exist, the agency may specify a production date based on a reasonable amount of time to produce the records for inspection or copying.
- Access to records is always free—there is never a cost to inspect records. The city may charge for the direct cost of duplication, usually 10 to 25 cents per page. The city cannot charge for staff time to research or make copies.
- A written request is not required and the requestor need not leave their name or any other personal information. The city must provide assistance in identifying records and suggest ways to overcome any practical basis for denying access.
- Certain public records are exempt from disclosure, sometimes referred to as “non-disclosable.” It is improper to say these are “not public records,” the correct terminology is “these records are exempt from disclosure.”
- With few exceptions, only records available to the public are disclosable to elected officials. Records exempt from disclosure include personal information, medical information, crime/intelligence records, voter records, utility usage records.
- The city may only withhold records that fall within one of the exemptions outlined in The California Public Records Act. For example: employee’s names, salaries, bonuses and overtime, are disclosable, including for police officers; however, social security numbers, home phone, and home addresses are exempt. Crime reports are disclosable but only to the crime victim and their representatives.

- There are two recurring interests that justify most of the exemptions from disclosure. First, the individual's right to privacy (e.g., privacy in certain personnel, medical or similar records). Second, the government's need to perform its assigned functions in a reasonably efficient manner (e.g., maintaining confidentiality of investigative records, official information, records related to pending litigation, and preliminary notes or memoranda).
- Records are exempt from disclosure under California [Government Code § 7922](#), when the public interest served in not disclosing the information clearly outweighs the public interest served by disclosure. This includes records that would reveal the deliberative process of decision-makers, which are exempt from disclosure under the deliberative process privilege. See *Times Mirror Co. v. Superior Court* (1991) 53 Cal. 3d 1325; *Rogers v. Superior Court* (1993) 19 Cal. App. 4th 469; *California First Amendment Coalition v. Superior Court* (1998) 67 Cal. App. 4th 159.
- Records, or portions of such records, that are preliminary drafts, notes, or interagency or intra-agency memoranda are exempt from disclosure pursuant to California [Government Code § 7927.500](#).
- Consider an e-mail policy that defines e-mails as transitory in nature similar to, and often used as a substitute for telephonic or person-to-person communications. Employees shall not use the City's e-mail program to maintain and store correspondence and documents. All e-mail communications are automatically deleted within sixty (60) days of receipt or transmission. Notwithstanding the above, any e-mail which documents the formulation and implementation of policies and decisions; or initiates, authorizes, or completes a transaction of official public business shall be printed and retained per the normal course of business.
- Public officials and employees may be required to disclose communications in their private accounts in response to a California Public Records Act request ([City of San Jose v. Superior Court \(2017\)](#)) The court emphasized that public agencies will generally not be required to disclose writings "that are primarily personal, containing no more than incidental mentions of agency business."
- Minutes, Indexing, Research & Retrieval. [Government Code § 36814](#) requires the city clerk to keep a record of the city council's proceedings and, at the request of a member, enter the ayes and noes in the journal. [Government Code § 40801](#) requires the city clerk to keep an accurate record of the proceedings of the city council in books bearing appropriate titles and devoted exclusively to such purposes. The books shall have a comprehensive general index. It is impossible to comply with The California Public Records Act without a viable records indexing and storage system.
- Records Retention – All public records must be retained for a minimum of two years. Correspondence received/sent by Council Member shall be directed to the city clerk for proper disclosure/indexing/retention. Includes e-mails.

Political Reform Act

GOVERNMENT CODE

(ACCESS TO INFORMATION LAW REGARDING FINANCIAL INTERESTS OF OFFICIALS)

TITLE 9. POLITICAL REFORM

CHAPTER 1. General. § 81000 - 81015

CHAPTER 2. Definitions. § 82000 - 82055

CHAPTER 3. Fair Political Practices Commission § 83100 - 83124

CHAPTER 4. Campaign Disclosure. § 84100 - 84511

CHAPTER 4.6. Online Disclosure. § 84600 - 84615

CHAPTER 5. Limitations on Contributions. § 85100 - 85802

CHAPTER 6. Lobbyists. § 86100 - 86300

CHAPTER 7. Conflicts of Interests. § 87100 - 87505

CHAPTER 8. Ballot Pamphlet. § 88000 - 88007

CHAPTER 9. Incumbency. § 89000 - 89001

CHAPTER 9.5. Ethics. § 89500 - 89522

CHAPTER 10. Auditing. § 90000 - 90009

CHAPTER 11. Enforcement. § 91000 - 91015

Government Code § 81000 et seq.

Proposition 9 (1974)

CALIFORNIA CODE OF REGULATIONS (CCR)

TITLE 2. ADMINISTRATION

DIVISION 6. FAIR POLITICAL PRACTICES COMMISSION

CCR § 18104 et seq.

<http://www.oal.ca.gov/>

The Political Reform Act of 1974 states that government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth. Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. Elected officials shall respond to wishes of all citizens equally; contributors shall not gain disproportionate influence over others.

The Political Reform Act established the Fair Political Practices Commission (FPPC) (Government Code § 83100). The FPPC has responsibility for the impartial, effective administration and implementation of the Political Reform Act. The FPPC creates regulations, manuals, and forms to implement the Political Reform Act.

The regulations established by the FPPC are found in Title 2, Division 6, §§ 18109-18997 of the California Code of Regulations (CCR). These regulations set forth duties and responsibilities regarding campaign disclosure, lobbyists, conflicts of interest, and ethics.

The FPPC website www.fppc.ca.gov offers overviews of the Political Reform Act and FPPC regulations. FPPC forms are available through the website.

When visiting www.fppc.ca.gov you will see that the FPPC covers many topics. City council candidates and officeholders will navigate to Learn > Campaign Rules > Campaign Forms

(for Recipient Committees) and Campaign Disclosure Manuals. Following are terms to know for city council candidates and officeholders:

Understanding FPPC Terminology:

Local Election:	City of Xxxxx Election
Local Candidate:	City Council Candidate
Candidate for Local Office:	City Council Candidate
Agency (or Local Agency):	City of Xxxxx
Jurisdiction:	City of Xxxxx
Local Filing Officer:	City Clerk of City of Xxxxx
Recipient Committee:	City Council Candidates who raise or spend >\$2,000.
Candidate Controlled Committee:	City Council Candidates who raise or spend >\$2,000.
Election Committee:	City Council Candidates who raise or spend >\$2,000.
Type of Committee:	Recipient Committee
	a. Controlled Committee
	i. Candidate Election Committee

(Hint: Candidates are not a Primarily Formed Committee—those are for non-candidates.)

Common FPPC Reports and Filings:

- Elected officials and designated employees must annually file a [Statement of Economic Interests \(Form 700\)](#). The purpose of the SEI is to disclose personal financial interests, including reportable investments, interests in real property, income and business positions held (includes 50% of spouse's assets and income). Officials must disqualify themselves if a decision affects personal financial interests. As of January 1, 2023, the gift limit is \$590. It is against the law for a Form 700 filer to receive a qualifying gift valued in excess of \$590 within a 12-month period.
- The FPPC provides manuals to assist candidates and officeholders with filing requirements. City officeholders and candidates use FPPC Campaign Disclosure [Manual 2](#).
- [Candidate Intention Statement \(Form 501\)](#) - Candidates must file Form 501 Candidate Intention Statement with the city clerk before soliciting or receiving contributions or spending own funds. The only exception is if the *only* funds spent are for the filing fee and/or the candidate statement of qualifications in the ballot pamphlet.
- [Candidate/Officeholder Recipient Committee \(Form 410\)](#) Candidate/Officeholder Recipient Committee (Form 410) - A recipient committee must be formed if contributions are received totaling \$2,000 or more. The personal funds of a candidate used in connection with seeking office are contributions. To form the committee, file a Form 410 Statement of Organization with the Secretary of State, along with a filing fee of \$50 made payable to the Secretary of State, and file a copy with the city clerk within 10 days of receiving \$2,000 in contributions.
- [Campaign Statements \(Forms 460 and 470\)](#) are the most common) – Receipts and expenditures in election campaigns must be fully disclosed so voters may be fully

informed and improper practices inhibited. This includes loans made to the campaign by the candidate.

FPPC Help Line: 1-866-275-3772 – Elected officials should contact FPPC directly and avoid asking the city clerk to ask questions for them. E-Mail for help at advice@fppc.ca.gov.

Conflict of Interest Law

GOVERNMENT CODE 1090

(SAFEGUARD LAW - PROTECTS AGAINST PERSONAL FINANCIAL GAIN OF OFFICIALS)

TITLE 1. GENERAL

DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 1. General [1000 - 1241] (Chapter 1 enacted by Stats. 1943, Ch. 134.)

Government Code § 1090

- Government Code § 1090 states that the city cannot enter into a contract if one council member has a financial interest. It is important to note that if one council member has a conflict, the entire council has a conflict, and the conflict is not avoided by merely having the council member abstain. A contract that violates § 1090 is void and unenforceable.

Conflicts of Interest

GOVERNMENT CODE – POLITICAL REFORM ACT

(SAFEGUARD LAW - PROTECTS AGAINST PERSONAL FINANCIAL GAIN OF OFFICIALS)

TITLE 9. POLITICAL REFORM

CHAPTER 7. Conflicts of Interests.

Government Code §§ 87100 – 87505

Under the Political Reform Act, the public official must disqualify themselves from participating in a governmental decision if they have (or appear to have) a financial interest. There are five types of interests that may result in disqualification:

- **Business Entity.** A business entity in which the official has an investment of \$2,000 or more in which he or she is a director, officer, partner, trustee, employee, or manager.
- **Real Property.** Real property in which the official has an interest of \$2,000 or more including leaseholds. (However, month-to-month leases are not considered real property interests.)
- **Income.** An individual or an entity from whom the official has received income or promised income aggregating to \$500 or more in the previous 12 months, including the official's community property interest in the income of his or her spouse or registered domestic partner.
- **Gifts.** An individual or an entity from whom the official has received gifts aggregating to \$590 or more in the previous 12 months.
- **Personal Finances.** The official's personal finances including his or her expenses, income, assets, or liabilities, as well as those of his or her immediate family.

If a decision may have a financial impact or effect on any of the foregoing interests, an official is disqualified from governmental decision if the following two conditions are met:

- The financial impact or effect is foreseeable, and
- The financial impact or effect is significant enough to be considered material.

<http://www.fppc.ca.gov/learn/conflicts-of-interest-rules.html>

Officials may participate in most decisions related to slurry sealing, asphalt paving, curb and sidewalk repairs, and tree replacement. In most cases officials may participate in infrastructure repair and maintenance including construction of, or improvements to, streets, water, sewer, and storm drains if the official's property will receive no new or improved services distinguishable from improvements and services provided to or received by other similarly-situated properties.

When a public official has a conflict, during the meeting they must 1) publicly identify the financial interest, 2) recuse themselves from the discussion and voting, and 3) leave the room (no need to leave the room if the item is on consent calendar Government Code § 87105(a) (3)). It is important to know that if a council member has a conflict, he or she may not participate in any part of the decision-making process. The rule applies *both during and outside* the formal council meeting. The official cannot use his or her official position to influence a governmental decision at any time. This includes conversations with staff members or other council members.

The Maddy Act – The Local Appointments List

GOVERNMENT CODE

(ACCESS TO INFORMATION LAW REGARDING BOARD AND COMMISSION VACANCIES)

TITLE 5. LOCAL AGENCIES

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES

CHAPTER 11. Local Appointments List

Government Code 54972

AB 1013 (1976) (Maddy)

NOTE: In 1991, the following section was removed from the statute: “SEC. 2 This act shall be known and may be cited as the Maddy Local Appointive List Act of 1975.”

On or before December 31 of each year, each legislative body shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List. The list shall contain the terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

Whenever an unscheduled vacancy occurs, a special vacancy notice shall be posted not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final appointment to the board, commission, or committee shall not be made by the legislative body for at least 10 working days after the posting of the notice in the clerk's office.

Ethics Law (AB 1234)

GOVERNMENT CODE

(SAFEGUARD LAW – PROTECTS AGAINST INAPPROPRIATE USE OF TAX DOLLARS)

TITLE 5. LOCAL AGENCIES

DIVISION 2. CITIES, COUNTIES AND OTHER AGENCIES

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES AND OTHER AGENCIES

CHAPTER 2. Officers and Employees

ARTICLE 2.4. Ethics Training

Government Code 53234 et seq.

AB 1234 (Salinas) (2004)

If a member of a legislative body receives any type of compensation, salary, or reimbursement, the member shall receive at least two hours of training in ethics every two years.

Election Law

ELECTIONS CODE

(SAFEGUARD LAW – PROTECTS INDIVIDUAL RIGHTS TO A PARTICIPATORY GOVERNMENT)

DIVISION 10. LOCAL, SPECIAL, VACANCY, AND CONSOLIDATED ELECTIONS [10000 - 10735]

PART 1. GENERAL PROVISIONS

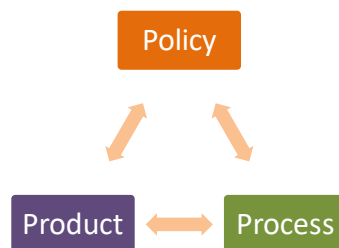
Elections Code §§ 10000 – 10010 (enacted by Stats. 1994, Ch. 920, Sec. 2.)

- General Municipal Elections are held for purposes of electing officers such as council member, mayor, treasurer, and city clerk.
- Established election dates are: (a) The first Tuesday after the first Monday in March of each even-numbered year that is evenly divisible by four; (b) The first Tuesday after the first Monday in March of each odd-numbered year; (c) The second Tuesday of April in each even-numbered year; (d) The first Tuesday after the first Monday in June in each even-numbered year that is not evenly divisible by four; (e) The first Tuesday after the first Monday in November of each year. Does not apply to initiative, referendum, recall, or mailed ballot (Elections Code § 1000). (See Election Code § 1500 for mail ballot election dates).
- Elections are also held for ballot measures, advisory measures, annexations, or charter amendments. This includes initiatives, referenda, and recall.
- Most cities in California consolidate their elections with the November statewide general election. In this case, the city's election and the state's election are held in all respects as if they were only one election (one ballot, same polling places, and same precincts). Cities that do not consolidate run stand-alone elections. These election dates vary, such as the first Tuesday in March, April, June, and November.
- The "California Voter Participation Rights Act" (Election Code § 14050) requires agencies with "off-cycle" election dates to change to the statewide primary or general

election dates if voter turnout is at least 25 percent lower than the general election turnout. Comply by Jan. 1, 2018, or have a plan to change by Nov. 8, 2022. (SB 415, 2015)

- Initiative (Elections Code § 9200) (signatures needed: 10% for regular election, 15% for special election (25% if < 1,000 voters)). With some exceptions, voters have the right to file a petition demanding an ordinance be adopted or put to a vote of the people for adoption. This is known as an initiative petition. Initiatives may be initiated by the public, through the signature-gathering petition process, or by the City Council (without the signature-gathering process).
- Referendum (Elections Code § 9236) (signatures needed: 10% of voters < 500,000 voters). With few exceptions, voters have the right to file a petition protesting the adoption of the ordinance within 30 days of its adoption. This is known as a referendum petition. If the referendum has the required number of signatures, the ordinance shall be suspended and the legislative body shall reconsider the ordinance. If the ordinance is not repealed, it shall not take effective until approved by the voters.
- Recall (Elections Code § 11221) (signatures needed varies; for example: 25% < 10,000 voters, 20% <50,000 voters, 15% <100,000 voters). A recall is the power of the voters, as provided in the California Constitution, to remove elected officials from office before their terms expire. A council member cannot be recalled if within 90 days of taking office or if term ends within six months or less.

Working with Your City Clerk—respecting the balance of power.



The balance of power in local government is crucial to a democracy. Power ultimately resides with the governed, but only when the laws and actions are clearly set forth and records are accessible can people exercise their right of oversight. When people exercise their rights, democracy thrives and communities take shape and prosper.

Webliography

American Civil Liberties Union

Free Speech, Protests, and Demonstrations

<https://www.aclunc.org/our-work/know-your-rights/free-speech-protests-demonstrations>

Attorney General Legal Opinions

Opinions to city attorneys in their prosecutorial capacities.

<https://oag.ca.gov/opinions>

<https://oag.ca.gov/opinions/yearly-index?conclusion-year%5Bvalue%5D%5Byear%5D=2016>

Brown Act – Open Meeting Law

Access to information law regarding open meetings and open deliberations.

Government Code § 54950 et seq

<https://www.calcities.org/resource/open-public-v-a-guide-to-the-ralph-m.-brown-act>

California Assembly

The California Legislature Online

<http://www.assembly.ca.gov/>

California Assembly – Office of the Chief Clerk

The California Legislature History and Archived Information

<http://clerk.assembly.ca.gov/content/legislative-information>

<http://clerk.assembly.ca.gov/archive-list>

California Code of Regulations

Regulations established by over 200 state agencies; i.e., Fair Political Practices Commission

<http://ccr.oal.ca.gov/>

California Courts Published Opinions

Search California court opinions since 1850

<http://www.lexisnexis.com/clients/CACourts/>

California Senate

The California Legislature Online

<http://www.sen.ca.gov/>

California Voter Participation Rights Act

Safeguard law - protects against low voter turnout due to the timing of elections.

Elections Code § 14050

California Voting Rights Act

Safeguard law – protects against voter dilution and discrimination

Elections Code 14025

Classes of Cities

General Law or Charter Cities

Government Code § 34100-34201

Government Code § 36501

Conflicts of Interest

Safeguard law protects against personal financial gain for officials, officeholders, & candidates.

Government Code §§ 87100 – 87505

Members shall not be financial interested in any contract.

Government Code § 1090

<http://www.fppc.ca.gov/learn/conflicts-of-interest-rules.html>

Ethics Training (AB1234) - Two-Hour Training Required Every Two Years

Safeguard law - protects against inappropriate use of tax dollars.

Government Code § 53234

<http://localethics.fppc.ca.gov/login.aspx>

Fair Political Practices Commission

An agency established under the Political Reform Act to administer & implement the Act.

www.fppc.ca.gov

Federal Laws and Regulations

<https://www.usa.gov/laws-and-regulations>

First Amendment Coalition

Public Records Act / Open Meeting Laws (The Brown Act)

<https://firstamendmentcoalition.org/>

Government of Cities

The government is vested in a city council, a city clerk, a city treasurer, a chief of police, a fire chief.

Government Code § 36501

Institute for Local Government

Practical, impartial and easy-to-use resources for California communities.

<http://www.ca-ilg.org/>

Initiative and referendum

Cal. Const. Art. XI § 7.5

Elections Code §§ 9200 et seq., and 9235 et seq.

Judicial Decisions

<http://www.courts.ca.gov/opinions.htm>

League of California Cities

Advocate for the common interests of California's cities

<https://www.calcities.org/>

League of Women Voters of California

Ballot Recommendations

<http://ca.lwv.org/>

Legislative Citations – Quick List

An annotated glossary of local government statutes - 2009 version

http://www.ca-ilg.org/sites/main/files/file-attachments/resources_TheQuickList2009.pdf

Legislative Analyst's Office

Analyses bills and conducts studies for the Legislature.

<http://www.lao.ca.gov/>

Local Government Financial Reports

Local government financial reports from the State Controller.

<http://www.sco.ca.gov/ard/local/locrep/index.shtml#publications> .

Maddy Act – Local Appointments List

Access to information law regarding board, commission & committee vacancies.

[Government Code 54972](#)

Office of Administrative Law (California Code of Regulations)

Regulations established by over 200 state agencies; i.e., Fair Political Practices Commission

<http://ccr.oal.ca.gov/>

Official California Legislative Information

The Legislative Counsel's search engine for all California law.

<http://leginfo.legislature.ca.gov/>

Political Reform Act

Access to information law regarding financial interests of officials, officeholders, & candidates.

Laws regarding disclosure of campaign funding and expenditures and conflicts of interest.

[Government Code § 81000](#)

[CCR § 18104 et seq.](#)

<http://www.fppc.ca.gov/the-law/the-political-reform-act.html>

Public Records Act

Access to information law regarding government business records.

[Government Code § 7920 et seq.](#)

https://www.calcities.org/docs/default-source/city-attorneys/the-people's-business.pdf?sfvrsn=f827f33f_3

Quick List (Annotated glossary of local government statutes)

Common statutes, such as: “Where do I look to find The Brown Act?”

<https://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/TheQuickList2009.pdf>

Rosenbergs' Rules of Order

Parliamentary Procedures

https://www.calcities.org/docs/default-source/get-involved/rosenberg's-rules-of-order-simple-parliamentary-procedures-for-the-21st-century.pdf?sfvrsn=d3f73e91_3

State Controller's Government Compensation in California

Employee Pay and Benefits for California Public Agencies

<http://publicpay.ca.gov/>

State Statutes

California laws are organized into 29 codes.

<http://leginfo.legislature.ca.gov>

Statutory References Relevant to Cities

State statutes that are relevant to California cities.

<http://qcode.us/codes/buenapark/> (see Statutory References)

Tort Claims Act (Claims Against Public Entities)

Safeguard law - protects against significant attorneys' fees and narrows a plaintiff's lawsuit.

[Government Code § 900 et. seq.](#)

U.S. Code

<https://uscode.house.gov/>

U.S. Constitution

https://www.senate.gov/civics/constitution_item/constitution.htm

U.S. Court of Appeals – Ninth Circuit

<http://www.ca9.uscourts.gov/opinions/>

U.S. Supreme Court Decisions

<https://www.law.cornell.edu/supremecourt/text/home>

CITY CLERK DASHBOARD

Compiled by Shalice Tilton, MMC

January 2023

Statute	Why?	How?
<p>The Brown Act Government Code (Access to information law regarding open meetings & open deliberations)</p> <p>Government Code §§ 54950 et seq.</p>	<p>The people, in delegating authority, do not give their public servants the right to decide <u>what is</u> good for the people <u>to know</u> and <u>what is not</u> good for them <u>to know</u>. The people insist on remaining informed so they may retain control over the instruments they have created.</p>	<p>Post agendas 72 hours advance with adequate description. Defines meeting as a majority discussion. Meetings open, limited exceptions. Material immediately available.</p>
<p>The California Public Records Act Government Code (Access to information law regarding government business records)</p> <p>Government Code §§ 7920 et seq.</p>	<p>The public must have access to information that enables them to monitor the functioning of their government.</p>	<p>Provides a right to inspect and get copies of public records. Determine if records exist within 10 days; or extend by 14 days. Determination letter includes 1) such records do (or do not) exist; 2) certain records exempt; 3) estimated date of production.</p>
<p>Political Reform Act Government Code (Safeguard law - protects against personal financial gain for officials)</p> <p>Government Code §§ 81000 et seq. CCR §§ 18104 et seq.</p>	<p>Government should serve citizens equally without regard to wealth; contributors shall not gain disproportionate influence over others. The theory is that an informed electorate will vote against a candidate having financial alliances adverse to the public interest.</p>	<p>Officials, officeholders, & candidates disclose economic interests and \$500 gift limit (Form 700) Officeholders & candidates disclose contributions & expenditures. Lobbyists disclose activity expenses and a \$10 gift limit.</p>
<p>Fair Political Practices Commission An agency established under the Political Reform Act (Access to information law regarding financial interests of officials)</p> <p>Government Code §§ 81000 et seq. CCR §§ 18104 et seq.</p>	<p>The FPPC is an agency established under the Political Reform Act (Government Code) The FPPC has responsibility for the impartial, effective administration and implementation of the Political Reform Act. The FPPC creates regulations, manuals, and forms to implement the Act.</p>	
<p>Conflicts of Interest Government Code (Safeguard law - protects against personal financial gain for officials)</p> <p>Government Code § 1090 Government Code §§ 87100 – 87505</p>	<p>Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests.</p> <p>No public official shall participate in or attempt to use his official position to influence a governmental decision for which the official has a personal financial interest.</p>	<p>If an official has a conflict: publicly identify the interest and leave the room. Includes interactions outside formal meetings.</p> <p>Gov. Code 1090 applies to contracts (includes purchase orders): Recuse is not an option—if an elected official has a conflict, the entire agency has a conflict.</p>
<p>The Maddy Act – Local Appointments List Government Code (Access to information law regarding board and commission vacancies)</p> <p>Government Code § 54972</p>	<p>A vast and largely untapped reservoir of talent exists among the citizenry, and rich and varied segments of this great human resource are, all too frequently, not aware of the many opportunities which exist to participate in and serve on local regulatory and advisory boards, commissions, and committees</p>	<p>Requires public notices so citizens have equal access to specific and current information about boards, commissions, and committees and equal opportunity to be informed of vacancies.</p>

CITY CLERK DASHBOARD

Compiled by Shalice Tilton, MMC

January 2023

Statute	Why?	How?
<p>Election Law Elections Code (Safeguard law – protects individual rights to a participatory government)</p> <p>Government Code §§ 34050 & 36503 Elections Code §§ 1301, 9200 et seq. and 10100 et seq.</p>	<p>US Constitution: The right of citizens of the United States to vote shall not be denied or abridged.</p>	<p>Provides procedures for: Nominations and ballot materials. Initiative – enact an ordinance through a vote of the people. Referendum – repeal an ordinance. Recall – remove an elective officer. Canvass of ballots.</p>
<p>Ethics Law (AB 1234) Government Code (Safeguard law – protects against inappropriate use of tax dollars)</p> <p>Government Code § 53234</p>	<p>Response to reports of inappropriate use of local tax dollars, increased misuse of public resources, and failure to follow conflict of interest laws.</p>	<p>Requires a written policy to reimburse members for travel & expenses. Requires two-hour training for elected who receive compensation or reimbursements.</p>
<p>Tort Claims Act (Claims Against Public Entities) Government Code (Safeguard law- protects against significant attorneys’ fees and narrows a plaintiff’s lawsuit)</p> <p>Government Code §§ 900 et seq.</p>	<p>Allows governments to investigate and negotiate on meritorious claims.</p>	<p>Provides uniform procedure for bringing claims against public entities.</p>
<p>California Voter Participation Rights Act Election Code (Safeguard law - protects against low voter turnout due to the timing of elections)</p> <p>Elections Code § 14050</p>	<p>One of the greatest barometers for waning civic engagement in American politics is declining voter turnout. Synchronizing with statewide elections can boost turnout.</p>	<p>Regularly scheduled elections shall be held same time as statewide elections if voter turnout is <25% of statewide.</p>
<p>California Voting Rights Act Election Code (Safeguard law - protects against voter dilution and discrimination)</p> <p>Elections Code §§ 14025 et seq. Elections Code §§ 10010 et seq. Government Code §§ 34886 et seq.</p>	<p>At-large election systems may impair the ability of the protected class to elect candidates of its choice or influence the outcome of an election</p>	<p>Establishes criteria for challenging the validity of at-large elections systems. Related legislation provides procedures for converting to a by-district form of election.</p>
<p>FAIR MAPS Act Election Code (Safeguard law – protects against inconsistent districting criteria and public unawareness)</p> <p>Elections Code §§ 21600 et seq.</p>	<p>Election district boundaries are of crucial importance to local democracy. Established criteria and procedures ensure the process is fair, transparent, and the public is engaged.</p>	<p>Establishes prioritized criteria for adopting district boundaries. Imposes timelines and public engagement requirements.</p>

Disclaimer: Information contained herein is for reference only and should not be used as a substitute for seeking legal advice. Statutes and regulations constantly change, so this information should not be relied upon without referring to California law.