

<b>Location:</b>	Citywide
<b>Assessor’s Parcel Number</b>	N/A
<b>Proposal:</b>	<p>“Draft Bylaws and Rules of Procedure of the Planning Commission of the City of Oakland” intended to:</p> <ol style="list-style-type: none"> <li>1. Establish an updated framework for conducting business and decision-making by the Planning Commission;</li> <li>2. Clarify roles and responsibilities of Commissioners and support staff;</li> <li>3. Clarify processes and procedures for hosting hybrid meetings; and</li> <li>4. Clarify processes and procedures for public comment and participation at Planning Commission meetings.</li> </ol>
<b>Applicant:</b>	City of Oakland, PBD Technical Communications Specialist Aaron Lehmer
<b>Phone Number:</b>	(510) 238-6441
<b>Owner:</b>	City of Oakland
<b>Case File Number:</b>	ZA24001
<b>Planning Permits Required:</b>	None
<b>General Plan:</b>	N/A
<b>Zoning:</b>	N/A
<b>Environmental Determination:</b>	Not a project subject to CEQA (not an activity that may cause a direct or reasonably foreseeable indirect physical environmental change). In the alternative, exempt under the “common sense exemption,” CEQA Guidelines Section 15061(b)(3).
<b>Historic Status:</b>	N/A
<b>City Council District:</b>	N/A
<b>Status:</b>	Pending consideration and approval by the Planning Commission.
<b>Staff Recommendation</b>	Planning staff recommends consideration and approval of the proposed bylaws.
<b>Finality of Decision:</b>	Policies & Procedures Committee will receive public comment, discuss, and make recommendation to Planning Commission.
<b>For further information:</b>	Contact Planning Commission Secretary Catherine Payne at (510) 238-6168 or by email at cpayne@oaklandca.gov

**SUMMARY**

City of Oakland Planning Bureau staff recommends adoption of the proposed “Bylaws and Rules of Procedure of the Planning Commission of the City of Oakland” (“Bylaws”) (**Attachment A**) in order to:

- (1) Establish an Updated Framework for Conducting Business and Decision-Making:** The proposed Bylaws codify rules of procedure for the Planning Commission in that they generally follow Rosenberg’s Rules of Order (see **Attachment B**), except as modified by the Bylaws in conformity with the [Brown Act](#) and [Oakland Sunshine Ordinance](#).
- (2) Clarify Roles and Responsibilities of Commissioners and Staff:** The proposed Bylaws outline and define roles and responsibilities of the Chair, Vice-Chair, Commissioners, Secretary, and support staff to the Planning Commission.
- (3) Clarify Processes and Procedures for Remote or Hybrid Meetings:** The proposed Bylaws affirm that Planning Commission meetings may allow public participation via teleconference so long as they are conducted in compliance with the Brown Act, and as amended from time to time including by AB 2449 (2022), which provides for limited circumstances under which Commissioners may participate in meetings remotely. Planning staff have provided an interpretation of current State law as it applies to hosting remote Planning Commission meetings (see “Key Issues and Impacts” in this report) and the attached document from March 30, 2023 entitled “Frequently Asked Questions (FAQs)

Regarding the City Council’s (and Other Local Legislative Bodies’) Return to In-Person Meetings and Their Members’ Participation by Teleconference under the Ralph M. Brown Act, California’s Open Meeting Law” (**Attachment C**).

**(4) Clarify Processes and Procedures for Public Comment and Participation:** The proposed Bylaws set clear, consistent standards and procedures for speaking on agenda items and during Open Forum and reaffirm the discretion of the Chair to specify uniform speaking time limits at the beginning of meetings, consistent with the Brown Act.

## **BACKGROUND**

The City of Oakland’s Planning Commission and related committees\* have been operating informally under Rosenberg’s Rules of Order (see **Attachment B**), but without formal bylaws for many years. Over the past several months, city staff and the City Attorney’s Office have compiled existing documentation of standard procedures, updated them where appropriate to reflect current practice, and synthesized them to form a coherent, modernized set of proposed “Bylaws and Rules of Procedure of the Planning Commission of the City of Oakland” (see **Attachment A**).

With the advancement of digital communications and teleconferencing technologies, new capabilities now enable the hosting of hybrid public hearings. However, the Planning Commission does not have clear protocols and procedures for utilizing such platforms in a manner that meets the requirements of the Brown Act.

The proposed bylaws seek to memorialize current practices, improve practical consistency, and clarify how hybrid Commission and related committee meetings may be conducted in accordance with State law. As of January 1, 2023, [Assembly Bill 2449](#) took effect for all bodies subject to the Brown Act, preserving, under very limited circumstances, an option for members and the public to participate in meetings via teleconference. On March 30, 2023, the Oakland City Attorney’s Office issued an FAQ (see **Attachment C**) outlining its interpretation of AB 2449 and summarizing the requirements for conducting remote or hybrid meetings in conformity with State law. Under the “Key Issues and Impacts” section below, staff have provided some key highlights from this FAQ to outline some fundamental conditions under which Commission meetings may be held in hybrid format, and the participation requirements for both Commission members and members of the public-at-large.

\* The Planning Commission’s standing committees include: the Design Review Committee (DRC), the Residential Appeals Committee (RAC), the Zoning Update Committee (ZUC), the Special Projects Committee (SPC), and the Policies and Procedures Committee (PPC).

## **KEY ISSUES AND IMPACTS**

The proposed Planning Commission Bylaws affirm the ability of both Commissioners and members of the public to participate in hybrid public hearings in keeping with State law. The City Administrator is working to develop staff capacity to host hybrid meetings, and has begun this effort with City Council. Once protocols are vetted, and technologies and resources are available, the Planning Commission and its Committees will begin to host hybrid meetings.

### **Remote Commissioner Participation in Official Meetings:**

Among other provisions, AB 2449 specifies that members of a Brown Act body (i.e., Planning Commissioners) may participate via teleconference, but only *under very limited circumstances*:

1.) If any Commissioners are participating remotely, at least a quorum of the entire Planning Commission membership must participate from the same location within the City of Oakland.

- 2.) A Commissioner may participate remotely for “just cause” (up to two times per calendar year) and “emergency circumstances” regardless of whether a state of emergency exists and without providing notice of or public access to the teleconference location.
- 3.) Members of the public must be allowed to both listen/observe and provide comment via teleconference and members participating remotely must participate both on camera and via audio.
- 4.) A Commissioner may not participate remotely for more than three consecutive months or for more than 20% of the regularly scheduled meetings per calendar year.

**Public Participation in Hybrid Planning Commission Meetings:**

In conformity with the Brown Act and applicable State and local laws, the City of Oakland will ensure that remote attendees of hybrid meetings can participate in an equal manner as in-person participants. Though subject to change, functionally comparable means of making public comment and viewing meetings will be made available.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission:

1. Receive public comment on the Draft Bylaws;
2. Review and comment on the Draft Bylaws, with attention to the stated intent of the Draft Bylaws; and
3. Adopt the Draft Bylaws as proposed or adopt modified Bylaws with recommended changes passed by the Commission.

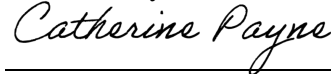
Staff Report Prepared by:



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Aaron Lehmer,  
Technical Communications Specialist  
Planning & Building Department

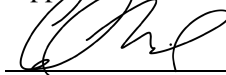
Reviewed by:



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Catherine Payne  
Development Planning Manager  
Planning & Building Department

Approved for forwarding to the Planning Commission:



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Ed Manasse  
Deputy Director  
Bureau of Planning

**ATTACHMENTS:**

- A. Draft Bylaws and Rules of Procedure of the Planning Commission of the City of Oakland (Proposed)
- B. Rosenberg's Rules of Order
- C. "Frequently Asked Questions (FAQs) Regarding the City Council's (and Other Local Legislative Bodies') Return to In-Person Meetings and Their Members' Participation by Teleconference under the Ralph M. Brown Act, California's Open Meeting Law," issued on March 30, 2023 by Barbara Parker, Oakland City Attorney