Title 4

PUBLIC MEETINGS AND PUBLIC RECORDS

Chapters:

4.01 GENERAL PROVISIONS
4.05 PUBLIC ACCESS TO MEETINGS
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Chapter 4.01

GENERAL PROVISIONS

Sections:

4.01.010 Findings and Purpose.
4.01.020 Citation.

Section 4.01.010 Findings and Purpose.

The Riverside City Council finds and declares:

(A) A government's duty is to serve the public and in reaching its decisions to accommodate those who wish to obtain information about or participate in the process.

(B) The City Council, commissions, boards, advisory bodies and other agencies of the City exist to conduct the people's business. This Ordinance is intended to assure that their deliberations and that the City's operations are open to the public.

(C) This Ordinance is intended to clarify and supplement the Riverside City Charter, the Ralph M. Brown Act, and the California Public Records Act to assure that the people of the City of Riverside can be fully informed and thereby retain control over the instruments of local government in their city. (Ord. 7300 § 1, 2015)

Section 4.01.020 Citation.

This Ordinance may be cited as the Riverside Sunshine Ordinance. (Ord. 7300 § 1, 2015)

Chapter 4.05

PUBLIC ACCESS TO MEETINGS

Sections:

Section 4.05.010 Definitions.
Section 4.05.020 Conduct of Meetings for Additional Bodies Covered by the Ordinance.
Section 4.05.030 Meetings to Be Open and Public: Application of Brown Act.
Section 4.05.040 Conduct of Business: Time and Place for Meetings.
Section 4.05.050 Notice and Agenda Requirements: Regular Meetings.
Section 4.05.060 Notice and Agenda Requirements: Special Meetings.
Section 4.05.070 Public Testimony at Regular and Special Meetings.
Section 4.05.080 Minutes and Recordings.

Section 4.05.010 Definitions.

Words or phrases in this ordinance shall be defined pursuant to the Ralph M. Brown Act, Government Code Section 54950 et. seq. and the Public Records Act, Government Section 6250 et. seq., unless otherwise specified as follows:

(A) "Agenda" shall mean the agenda of a local body which has scheduled the meeting. The agenda shall meet the requirements of Government Code Section 54954.2, except that the timing requirements of this ordinance shall control. For closed sessions, the agenda shall meet the requirements set forth in Government Code Section 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda related material. A description of an item on the agenda is adequate 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.

(B) "Agenda Related Materials" shall mean the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item. Notwithstanding the foregoing, agenda related materials shall not include: 1) the written text or visual aids for any oral presentation so long as such text or aids are not substituted for, or submitted in lieu of, a written report that would otherwise be required to meet the filing deadlines of this Ordinance, and 2) written amendments or recommendations from the Mayor or a member of a local body pertaining to an item contained in agenda related materials previously filed pursuant to Section 4.05.050 or Section 4.05.060.

(C) "City" shall mean the City of Riverside.

(D) "Local Body" shall mean:

(1) the Riverside City Council;

(2) any board, commission, task force or committee which is established by City Charter, ordinance, or by motion or resolution of the City Council;

(3) any advisory board, commission or task force created and appointed by

the Mayor and which exists for longer than a 12-month period; and,

(4) any standing committee of any body specified in subsections (D)(l),(2), or (3).

"Local body" shall not mean any congregation or gathering which consists solely of employees of the City of Riverside.

(E) "Meeting" shall mean any congregation of a majority of the members of a local body at the same time and location, including teleconference location as permitted by Government Code Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the local body and shall also mean a meal or social gathering of a majority of the members of a local body immediately before, during or after a meeting of a local body;

(1) A majority of the members of a local body shall not, outside a meeting defined in this subsection (E), use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the local body.

(2) Subparagraph (E)(1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting defined in this subsection (E) with members of a local body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the local body the comments or position of any other member or members of the local body.

(3) Nothing in this subsection (E) shall impose the requirements of this chapter upon any of the following:

(a) Individual contacts or conversations between a member of a local body and any other person that do not violate subparagraphs (E)(1) and (2);

(b) The attendance of a majority of the members of a local body at a conference or similar gathering open to the public that involves a discussion of issues of general interest of the public or to public agencies of the type represented by the local body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance;

(c) The attendance of a majority of the members of a local body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency;

(d) The attendance of a majority of the members of a local body at an open and noticed meeting of another local body of the local agency, or at an open and noticed meeting of a local body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency; or

(e) The attendance of a majority of the members of a local body at a purely social and ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency.

(F) "Notice" shall mean the posting of an agenda in a location that is freely accessible to the public 24 hours a day and as additionally specified in Section 4.05.050 and Section 4.05.060.

(G) "On-Line" shall mean accessible by computer without charge to the user.

(H) "Software or Hardware Impairment" means the City is unable to utilize computer software, hardware and/or network services to produce agendas, agenda related material or to post agendas on-line due to inoperability of software or hardware caused by the introduction of a malicious program (including but not limited to a computer virus), electrical outage affecting the City's computer network, or unanticipated system or equipment failure. "Software or Hardware Impairment" may also include situations when the City is unable to access the internet due to required or necessary maintenance or the installation of system upgrades that necessitates de-activating the system network; however, the City shall make reasonable efforts to avoid a delay in the preparation, distribution, or posting of agendas and agenda related material as a result of required or necessary maintenance or installation of system upgrades.

(I) "Standing Committee" shall mean any number of members of a local body which totals less than a quorum and which has a continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution or formal action of the local body. (Ord. 7300 § 1, 2015)

Section 4.05.020 Conduct of Meetings for Additional Bodies Covered by the Ordinance.

To the extent not inconsistent with state or federal law, a local body shall require, as a condition of any express delegation of power to any public agency, including joint powers authorities, or other person(s), whether such delegation of power is achieved by legislative act, contract, lease or other agreement, that any meeting by such a public agency or other person(s) at which an item concerning or subject to the delegated power is discussed or considered, shall be conducted pursuant to the Ralph M. Brown Act (Government Code Section 54950). (Ord. 7300 § 1, 2015)

Section 4.05.030 Meetings to be Open and Public: Application of Brown Act.

All meetings of local bodies specified in Section 4.05.010(D) and Section 4.05.020 shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code Section 54950) unless greater public access is required by this ordinance, in which case this ordinance shall be applicable. (Ord. 7300 § 1, 2015)

Section 4.05.040 Conduct of Business: Time and Place for Meetings.

(A) Every local body specified in Section 4.05.010(D) shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such resolution or formal action.

(B) Regular and special meetings of local bodies specified in Section 4.05.010(D) shall be held within the City of Riverside except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local body is a party;

(2) Inspect real or personal property which cannot be conveniently brought to Riverside, provided that the topic of the meeting is limited to items directly related to the real or personal property;

(3) Participate in meetings or discussions of multi-agency significance that are outside Riverside. However, any meeting or discussion held pursuant to this subsection shall take place within the jurisdiction of one of the participating agencies and be noticed by the respective local body as specified in this ordinance; or

(4) Meet outside the City of Riverside with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the City of Riverside, and over which issue the

other federal or state agency has jurisdiction.

(C) If a regular meeting for any local body falls on a holiday, the meeting shall be held on the next scheduled regular meeting day unless otherwise noticed as a special meeting for which notice is given at least five (5) calendar days in advance.

(D) If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the City Manager or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.

(E) No local body shall take any action at a meeting which occurs when a quorum of the local body becomes present at a meeting of a standing or ad hoc committee of the local body, although the committee may take action consistent with its jurisdiction and authority. (Ord. 7300 § 1, 2015)

Section 4.05.050 Notice and Agenda Requirements: Regular Meetings.

(A) Twelve Day Advance Notice Requirement for Regular Meetings of the City Council, City Council Standing Committees, Planning Commission, Board of Public Utilities, and Community Police Review Commission. The City Council, City Council Standing Committees, Planning Commission, Board of Public Utilities, and Community Police Review Commission shall provide notice before any regular meeting by:

(1) posting a copy or image of the agenda in a location freely accessible to the public 24 hours a day no later than twelve (12) days before the date of the meeting; and

(2) posting a copy or image of the agenda on-line at the local body's website no later than twelve (12) days before the date of the meeting. Notwithstanding Section 4.05.050(D), the failure to timely post a copy or image of the agenda online because of software or hardware failure, as defined in Section 4.05.010(H), shall not constitute a defect in the notice for a regular meeting, if the local body complies with all other posting and noticing requirements.

(B) Supplemental Agenda and Related Materials Requirements for Regular Meetings of the City Council, City Council Standing Committees, Planning Commission, Board of Public Utilities, and Community Police Review Commission. Notwithstanding the notice provisions of Section 4.05.050(A), the City Council, City Council Standing Committees, Planning Commission, Board of Public Utilities, and Community Police Review Commission, may amend or supplement a posted agenda or agenda-related materials no later than 72 hours before a regular meeting and only for the following reasons or under the following conditions:

(1) to add an item due to an emergency or urgency, provided the local body makes the same findings as required by Section 4.05.050(D) before taking action;

(2) to delete or withdraw any item from a posted agenda however, nothing herein shall limit the ability of a local body to delete or withdraw an item during the meeting;

(3) to provide additional information to supplement the agenda-related material previously published with the agenda provided that the additional information was not known to staff or considered to be relevant at the time the agenda-related materials were filed. Examples of supplemental material permitted by this Section are reports responding to questions or requests raised by members of a local body after posting and filing of the twelve-day agenda and materials, and analyses or opinions of the item by the Office of the City Attorney, any member of the City Council, or the Mayor;

(4) to correct errors or omissions, or to change a stated financial amount, or to clarify or conform the agenda title to accurately reflect the nature of the action to be taken on the agenda time;

(5) to continue an agendized item to a future regular meeting of the local

body provided that members of the public are given an opportunity to address the local body on the limited question whether to continue the item to a future meeting.

(C) Excuse of Sunshine Notice Requirements. If an item appears on an agenda but the local body fails to meet any of the additional notice requirements under this Section, the local body may take action only if:

(1) The minimum notice requirements of the Riverside City Charter and the Brown Act have been met; and,

(2) The local body, by a two-thirds vote of those members present, adopts a motion determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements under this Section and any one of the following exists:

(a) the need to take immediate action on the item is required to avoid a substantial impact that would occur if the action were deferred to a subsequent special or regular meeting; or,

(b) there is a need to take immediate action which relates to federal, state, county or other governmental agency legislation or action or the local body's eligibility for any grant or gift; or,

(c) the item relates to a purely ceremonial or commendatory action.

(3) Notwithstanding the provisions of this subsection, if the Mayor or a Council Member, with the concurrence of another Council Member, believe an item is urgent, and the failure to meet any additional notice requirements was due to:

(a) the need to take immediate action, which came to the attention of the local body after the agenda was posted, or;

(b) a software or hardware impairment as defined by Section 4.05.010(H) and such additional notice requirements are satisfied no later than seventy-two (72) hours before the date of the meeting; or,

(4) The item is a closed session item relating to ongoing, proposed or threatened litigation.

(D) Action on Items Not Appearing on the Agenda. Notwithstanding subsection (C) of this Section, a local body may take action on items not appearing on a posted agenda only if:

(1) The Matter Is An Emergency. Upon a determination by a majority vote of the local body that a work stoppage, crippling disaster or other activity exists which severely impairs public health, safety or both.

(E) Future Meeting. Nothing in this Section shall prohibit a local body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply, or to distribute agenda-related materials relating to items added pursuant to 4.05.050(D) before or during a meeting.

(F) Conforming a Document. Nothing in this Section shall prohibit the Office of the City Attorney from conforming a document to comply with technical requirements as to form and legality.

(G) Submittal of Additional Documents. The City Manager, City Attorney, City Clerk and their designees, in their capacities with the City, must submit public agenda related materials to the City Clerk or other responsible department in sufficient time to meet the deadlines of this Section and Section 4.05.060. However, the referenced officers may submit additional documents to the local body and the local body may accept the documents if the local body makes a finding by two-thirds vote of the members present that the additional information in the documents was not known to the officers or considered to be relevant by the officers at the time of the filing deadlines. Copies of such documents shall be made available to the public at the related meeting. Nothing in this Section or in any other provision of this Ordinance shall

be interpreted to require that the City Manager, City Attorney or City Clerk submit to the City Clerk any documents that are not public records. (Ord. 7300 § 1, 2015)

Section 4.05.060 Notice and Agenda Requirements: Special Meetings.

(A) Special meetings of any local body may be called at any time by the presiding officer thereof or by a majority of the members thereof. All local bodies calling a special meeting shall provide notice by:

(1) posting a copy or image of the agenda in a location freely accessible to the public at least five (5) calendar days before the time of the meeting set forth in the agenda; and,

(2) delivering a copy or image of the agenda to each member of the local body, to each local newspaper of general circulation, and to each media organization which has previously requested notice in writing, so that a copy or image of the agenda is received at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Receipt of the agenda shall be presumed upon reasonable proof that delivery was made.

(B) Local bodies specified in Section 4.05.010(D) shall, in addition to the noticing requirements of this Section, post a copy or image of the agenda for any special meeting on-line at the local body's website at least five (5) calendar days before the time of the meeting set forth in the agenda. Failure to timely post a copy or image of the agenda online because of software or hardware impairment, as defined in Section 4.05.010(H), shall not constitute a defect in the notice for a special meeting if the local body complies with all other posting and noticing requirements.

(C) Notwithstanding the requirements of Section 4.05.060(A) and (B), if a special meeting is called for a Monday, notice shall be deemed timely made if the filing, posting and distribution requirements of subsections (A) and (B) are made no later than 12:00 p.m. (noon) on the preceding Friday.

(D) No business other than that set forth in the agenda shall be considered at a special meeting. Each special meeting shall be held at the regular meeting place of the local body except that the City Manager may designate an alternative meeting location provided that such alternative location is specified in the agenda and that notice pursuant to this Section is given at least twelve (12) days prior to the special meeting. This twelve (12) day notice requirement shall not apply if the alternative location is at the same address at which regular meetings of the local body occur.

(E) To the extent practicable, the presiding officer or the majority of members of any local body may cancel a special meeting by delivering notice of cancellation in the same manner and to the same persons as required for the notice of such meeting.

(F) Special meetings may not be noticed on the same day as a previously scheduled regular meeting that was not noticed in compliance with this ordinance if the special meeting is called to consider any of the items that were included in the notice for such regular meeting. (Ord. 7300 § 1, 2015)

Section 4.05.070 Public Testimony at Regular and Special Meetings.

(A) The Rules of Procedure and Order of Business of the City Council Resolution, and any such amendments thereto, shall govern all proceedings of the City Council and are hereby incorporated into this Ordinance.

(B) No local body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the local body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the local body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall change the operation of law in the area of defamation. (Ord. 7300 § 1, 2015)

Section 4.05.080 Minutes and Recordings.

(A) The City Council, City Council Standing Committees, Planning Commission, Board of Public Utilities (not their committees), and Community Police Review Commission (not their committees) shall make a visual and audio recording of every open meeting. Any recording of any open meeting shall be a public record subject to inspection and copying and shall not be erased, deleted or destroyed for at least five (5) years, provided that if during that five-year period a written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. Inspection of any such recording shall be provided without charge on a player or computer made available by the local body.

(B) All local bodies shall record the minutes for each regular and special meeting convened under the provisions of this ordinance. At a 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 the roll call vote on, each matter considered at the meeting, the time the local body began and ended any closed session, and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten business days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than five business days after the meeting at which the minutes are adopted.

(C) Notwithstanding paragraph (A) of this Section, City Council meetings, or portions thereof, for the purpose of conducting interviews for appointments to boards, commissions, or committee's shall be open to the public and audio recorded. Video recording is not required.

(D) The retention period of all records shall be adopted by resolution of the City Council. (Ord. 7300 § 1, 2015)

Chapter 4.10

POLICY IMPLEMENTATION

Sections:

Section 4.10.010 Responsibility for Administration.
Section 4.10.020 Severability.

Section 4.10.010 Responsibility for Administration.

(A) The City Manager shall administer and coordinate the implementation of the provisions of this Chapter for all local bodies, agencies and departments under his or her authority, responsibility or control.

(B) The Office of the City Clerk or other responsible department shall timely post all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it.

Section 4.10.020 Severability.

The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances.