CITY OF ALAMEDA ORDINANCE NO.3036
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY ADDING ARTICLE VIII (SUNSHINE ORDINANCE) TO CHAPTER II (ADMINISTRATION) ESTABLISHING LOCAL STANDARDS TO ENSURE PUBLIC ACCESS TO PUBLIC MEETINGS AND PUBLIC RECORDS

BE IT ORDAINED by the Council of the City of Alameda that:

Approved as to Form
City Attorney

Section 1. The Alameda Municipal Code is hereby amended by adding Article VIII (Sunshine Ordinance) and Sections 2-90 through 2-93 to Chapter II (Administration) in order to establish local standards to ensure public access to public meetings and public records to read as follows:

ARTICLE VIII. SUNSHINE ORDINANCE

2.90 INTRODUCTION.

This sunshine ordinance has been developed to codify the City of Alameda's public policy concerning participation in the deliberations of the City's legislative bodies and to clarify and supplement the Ralph M. Brown Act and the California Public Records Act and expanding its application and effectiveness to local governments. It is an affirmation of good government; and a continued commitment to open and democratic procedures. It is an effort to expand our citizens' knowledge, participation and trust. As procedures of government change and evolve, so also must the laws designed to guarantee the process remains visible. In addition, this ordinance will establish a mechanism for enforcement.

2.90.1 Goal.

An informed public is essential to democracy. It is the goal of this Ordinance to ensure that the citizens of Alameda have timely access to information, opportunities to address the various legislative bodies prior to decisions being made, and easy and timely access to all public records.

2-90.2 Findings.

The Alameda City Council finds as follows:

(a) It is government's duty to serve the public, reaching its decisions in full view of the public, except as provided elsewhere in this ordinance.

(b) Elected City officials, commissions, boards, advisory bodies, task forces and other agencies of the City exist to conduct the people's business. This Ordinance is intended to assure that the deliberations of these bodies and the City's operations are in full view of the public.

(c) It is the City's duty to serve the public and to accommodate those who wish to obtain information about or participate in the process of making decisions.

(d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to a democracy, and with very few exceptions, which this ordinance will clarify, that right supersedes any other policy interest government officials may use to prevent public access to information. In those rare and unusual circumstances where the business of government may be conducted behind closed doors, those circumstances must be carefully and narrowly defined to prevent any abuse.

(e) This Ordinance is intended in part to clarify and supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the City of Alameda can be fully informed and thereby retain control over the instruments of local government in their city.

(f) In furtherance of these findings, as it is not in the public's interest to have private communications occur between decision-makers and a limited number of individuals, and in order to assure that all citizens have equal access to their government at public meetings, cell phones and other means of electronic communications including email, text, instant imaging, etc., shall be turned off during public meetings.

(g) As adopted, it is the intention of this Ordinance that members of the City Council who sit on separate boards and commissions, such as, but not limited to the ARRA and CIC, will adopt these rules and requirements for each of those bodies.

2-91 PUBLIC ACCESS TO MEETINGS.

2-91.1 Definitions.

Whenever in this Article the following words or phrases are used, they shall have the following meanings:

(a) "City" shall mean the City of Alameda.

(b) "Meeting" shall mean any of the following:

(1) A congregation of a majority of the members of a policy body at the same time and place;

(2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings; or

(3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.

(4) "Meeting" shall not include any of the following:

(A) Individual contacts or conversations between a member of a policy body and another person that do not convey to the

member the views or positions of other members upon the subject matter of the contact or conversation and in which the member does not solicit or encourage the restatement of the views of the other members;

(B) The attendance of a majority of the members of a policy body at a regional, statewide or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City; or

(C) The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members refrains from using the occasion to discuss any business within the subject matter jurisdiction of this body. A meal gathering of a policy body before, during or after a business meeting of the body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion of members. Such meetings shall not be conducted in restaurants or other accommodations where public access is possible only in consideration of making a purchase or some other payment of value.

(c) "Passive meeting body" shall mean:

(1) Advisory committees created by the initiative of a member of a policy body, the Mayor, or a department head;

(2) Social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited.

(3) "Passive meeting body" shall not include a committee that consists solely of employees of the City of Alameda created by the initiative of a member of a policy body, the Mayor, or a department head;

(d) "Policy Body" shall mean:

(1) The Alameda City Council;

(2) Any other board enumerated in the Charter of the City of Alameda;

(3) Any board, commission, committee, or other body created by ordinance or resolution of the City Council;

(4) Any committee or body, created by the initiative of a policy body;

(5) Any standing committee of a policy body irrespective of its composition.

(6) "Policy Body" shall not include a committee which consists solely of employees of the City of Alameda, unless such committee was established by Charter or by ordinance or resolution of the City Council.

2-91.2 Passive Meetings.

(a) All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

(1) Such gatherings need not be formally noticed, except on the City's website whenever possible, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the gathering shall be accessible to such inquirers as a public record.

(2) Such gatherings need not be conducted in any particular space for the accommodation of members of the public, although members of the public shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy.

(3) Such gatherings of a business nature need not provide opportunities for comment by members of the public, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.

(4) Gatherings subject to this subsection include the following: advisory committees or other multimember bodies created in writing or by the initiative of, or otherwise primarily formed or existing to serve as a non-governmental advisor to, a member of a policy body, the Mayor, the City Manager, a department head, or any elective officer, and social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited. This subsection shall not apply to a committee which consists solely of employees of the City of Alameda.

(5) Gatherings defined in subdivision (4) may hold closed sessions under circumstances allowed by this Article (b) Any entity performing a function delegated by the City shall abide by subsection (a).

2-91.3 Meetings To Be Open And Public; Application Of Brown Act.

All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this article. In case of inconsistent requirements under the Brown Act and this article, the requirement which would result in greater or more expedited public access shall apply.

2-91.4 Conduct Of Business; Time And Place For Meetings.

(a) Each policy body, except for advisory bodies, shall establish by resolution or motion the time and place for holding regular meetings.

(b) Unless otherwise required by state or federal law or necessary to inspect real property or personal property which cannot be conveniently brought within the territory of the City of Alameda or to meet with residents residing on

property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents, all meetings of its policy bodies shall be held within the City of Alameda.

(c) If a regular meeting would otherwise fall on a holiday, it shall instead be held on the next business day, unless otherwise rescheduled in advance.

(d) If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet at the regular meeting place, meetings may be held for the duration of the emergency at some other place specified by the policy body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Government Code Section 54956. Reasonable attempts shall be made to contact others regarding the change in meeting location.

(e) Meetings of passive meeting bodies as specified in Section 2-91.1(d)(4) of this article shall be preceded by notice delivered personally or by mail, e-mail, or facsimile as reasonably requested at least four weekdays before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 2-91.5 of this article in the place used by the policy body which it advises, is required.

(f) Special meetings of any policy body, including advisory bodies that choose to establish regular meeting times, may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering personally or by mail written notice to each member of such policy body and the local media who have requested written notice of special meetings in writing. Such notice of a special meeting shall be delivered as described in (e) at least seven (7) days before the time of such meeting as specified in the notice, with the exception of any urgent matter beyond the control of the City. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the presiding officer or secretary of the body or commission a written waiver of notice. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the notice of the special meeting.

(g) If a meeting must be canceled, continued or rescheduled for any reason, notice of such change shall be provided to the public as soon as is reasonably possible, including posting of a cancellation notice in the same manner as described in section 2-91.5(c), and mailed notice if sufficient time permits.

2-91.5 Agenda Requirements; Regular Meetings.

(a) Twelve days before a regular meeting of City Council, and seven days for all other policy bodies, the policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. These time requirements shall apply to posting on the internet.

(b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted with the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.

(c) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

(d) All agendas shall be posted on the City's website and the City's cable channel and available at the Alameda Public Library. Complete agenda packets for each body shall be posted on the City's website to the extent fiscally and technologically feasible and shall be available for review at the Alameda Public Library and at the City Clerk's office during normal business hours. The time for compliance with this subsection shall be in accordance with the time of the posting of the agenda for the meeting.

(e) All documents material to an agenda item must accompany the agenda.

(f) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.

(g) Notwithstanding subdivision (d), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety.

(2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that (A) the need to take

immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was on an agenda posted pursuant to subdivision (a) for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(h) Each policy body shall ensure that agendas for regular and special meetings are made available upon request to speech and hearing impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight impaired persons through Braille or enlarged type.

(i) Each policy body shall ensure that notices and agendas for regular and special meetings shall include the following notice:

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City of Alameda exist to conduct the citizen of Alameda's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION.

(j) The Council Agenda will limit ceremonial presentations and proclamations to no more than 15 minutes. If more time is needed, other arrangements should be made.

(k) Each agenda of a policy body covered by this Sunshine Ordinance shall include the address, area code and phone number, fax number, e-mail address, and a contact person's name for the Open Government Commission. Information on how to obtain a free copy of the Sunshine Ordinance shall be included on each agenda.

2-91.6 Public Notice Requirements.

(a) Any public notice that is mailed, posted or published by a City department, board, agency or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English.

(b) The notice should inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity, and a telephone contact for residents who have questions.

(c) If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or

hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record, and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name and address of the person or persons to whom those written comments should be submitted.

(d) The City shall maintain an email notification list in order to allow any individual to sign up to automatically receive meeting agendas, updates on projects, notification of issues that impact entire neighborhoods.

2-91.7 Agenda Disclosures: Closed Sessions.

(a) In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54956 shall specify and disclose the nature of any closed sessions by providing all of the following information:

(1) With respect to a closed session held pursuant to Government Code Section 54956.7:

LICENSE/PERMIT DETERMINATION:

Applicant(s)

The space shall be used to specify the number of persons whose applications are to be reviewed.

(2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property:

Person(s) negotiating:

Under negotiation:

Price or Terms of payment or Both.

The space under "Property" shall be used to list an address, including cross streets where applicable, or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space under "Person(s) negotiating" shall be used to identify the person or persons with whom negotiations concerning that property are in progress. The spaces under "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed.

(3) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.9, either:

CONFERENCE WITH LEGAL COUNSEL

Existing litigation:

Unspecified to protect service of process

Unspecified to protect settlement posture

or:

CONFERENCE WITH LEGAL COUNSEL

Anticipated litigation (check one):
As defendant (legal action being brought against the City or its agent or official)
As plaintiff (City initiating legal action)
The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to subdivision (a) of Government Code Section 54956.9, including the case name, court, and case number, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to subdivision (b) or (c) of Section 54956.9, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff respectively. If more than one instance of anticipated litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As plaintiff City Initiating legal action" or "As defendant legal action being initiated against City" spaces or both as appropriate.

(4) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.95:
LIABILITY CLAIMS
Claimant: (Specify name unless unspecified pursuant to Section 54961)
Agency claimed against: (Specify name)

(5) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.96:
CONFERENCE INVOLVING A JOINT POWERS AGENCY (specify by name)
Discussion will concern: (Specify closed session description used by joint powers agency)
Name of local agency representative on joint powers agency board: (Specify name)
(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives)

(6) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957, either:
THREAT TO PUBLIC SERVICES OR FACILITIES
Name, title and agency of law enforcement officer(s) to be conferred with:
or:
PUBLIC EMPLOYEE APPOINTMENT/HIRING
Title/description of position(s) to be filled:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Position and, in the case of a routine evaluation, name of employee(s) being evaluated:

or:
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
Number of employees affected:
Employee Actions must always be listed under one of the Public Employee agenda items and must list the affected employee.

(7) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957.6, either:
CONFERENCE WITH LABOR NEGOTIATORS
Name and title of City's negotiator:
Organization(s) representing:
Executive Management
Police Officers
Police Nonsworn
Firefighters
International Brotherhood of Electrical Workers (IBEW)
Management and Confidential Employees Association
Alameda City Employees Association
Unrepresented Employee: (specify title of unrepresented employee)
Anticipated issue(s) under negotiation:
Wages
Hours
Benefits
Working Conditions
Other (specify if known)
All
Where renegotiating a memorandum of understanding or negotiating a successor memorandum of under-standing, the name of the memorandum of under-standing:
In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956.

2-91.8 Additional Requirements for Closed Sessions.

(a) Minutes of all closed sessions of any policy body covered by this Ordinance, with the exception of closed sessions on Charter Officer performance shall be taken by the City Clerk or designee. The City Attorney shall semi-annually make a determination of whether any closed session minutes should

continue to be exempt from disclosure, based on whether disclosure would be detrimental to the City, and shall provide a report to Council.

(b) Each agenda item for a policy body covered by this ordinance that involves existing litigation shall identify the court, case number, and date the case was filed on the written agenda. For each agenda item for a group covered by this ordinance that involves anticipated litigation, the City Attorney's Office or the policy body shall disclose at any time requested and to any member of the public whether such anticipated litigation developed into litigation and shall identify the court, case number, and date the case was filed, unless the City Attorney determines that lifting the exemption from disclosure would be detrimental to the City.

2-91.9 Agendas And Related Materials: Public Records.

(a) Agendas of meetings and any other documents on file with the clerk of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public. To the extent possible, such documents shall also be made available through the policy body's Internet site. However, this disclosure need not include any material exempt from public disclosure under this ordinance.

(b) Records which are subject to disclosure under subdivision (a) and which are intended for distribution to a policy body prior to commencement of a public meeting shall be made available for public inspection and copying upon request prior to commencement of such meeting, whether or not actually distributed to or received by the body at the time of the request.

(c) Records which are subject to disclosure under subdivision (a) and which are distributed during a public meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of, and during, their discussion.

(d) Records which are subject to disclosure under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) A policy body may charge the direct cost of duplication for a copy of a public record prepared for consideration at a public meeting. There shall be no charge for providing digital versions of documents (for example, PDFs).

2-91.10 Closed Sessions: Permitted Topics.

All information is public, though a policy body may, but is not required to, hold closed sessions:

(a) With an applicant and applicant's attorney, if any, when a policy body determines it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, and consistent with the requirements of Government Code Sec. 54956.7.

(b) With its negotiator prior to the purchase, sale, exchange or lease of real property by or for the City to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(c) Based on advice of the City Attorney, to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would likely and unavoidably prejudice the position of the City in that litigation. Litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the City is a party, has been initiated formally; or,

(2) A point has been reached where, in the opinion of the policy body on the advice of the City Attorney, based on existing facts and circumstances, there is a significant exposure to litigation against the City, or the body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the body has decided to initiate or is deciding whether to initiate litigation.

(3) A closed session may not be held under this section to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise.

(d) To discuss a claim for liability or losses consistent with Government Code Section 54956.95.

(e) Based on the advice of the City Attorney, receive, discuss, and take action concerning information obtained in a closed session of a joint powers agency, consistent with Government Code Section 54956.96.

(f) With the Attorney General, district attorney, City Attorney, or chief of police, or their respective deputies, or a security consultant or a security operations manager on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(g) To consider the appointment, employment, evaluation of performance, discipline, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. The body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. The term "employee" as used in this section shall not include any elected official, member of a policy body or applicant for such a position, or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary.

(h) With the City's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its

represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation, consistent with Government Code Section 54957.6.

2-91.11 Statement Of Reasons For Closed Sessions.

Prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and shall cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the policy body may consider only those matters covered in its statement. In the case of regular and special meetings, the statement shall be made in the form of the agenda disclosures and specifications required by Section 2-91.7 of this article. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 2-91.7 of this article, as part of the notice provided for the meeting.

In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same disclosures and specifications as if the item had been included in the agenda pursuant to Section 2-91.7 of this article. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

2-91.12 Disclosure Of Closed Session Discussions And Actions.

(a) After every closed session, a policy body may in its discretion and in the public interest, disclose to the public any portion of its discussion that is not confidential under federal or state law, the Charter, or non-waivable privilege. The disclosure shall be made through the presiding officer of the body or such other person, present in the closed session, whom he or she designates to convey the information.

(b) A policy body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Real Property Negotiations: Approval given to a policy body's negotiator concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the policy body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval rests with another party to the negotiations, the body shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in subdivision (b) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both.

(2) Litigation: Direction or approval given to the body's legal counsel to prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervener or amicus curiae in any form of litigation as the result of a consultation pursuant to Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the City's intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative.

(3) Employee Actions: Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal, unless the City Attorney determines that disclosure would be detrimental to the City. "Dismissal" within the meaning of this ordinance includes any termination of employment at the will of the employer rather than of the employee, however characterized.

(4) Collective Bargaining: Any collectively bargained agreement shall be made publicly available at least 15 calendar days before the meeting of the policy body to which the agreement is to be reported. At a City Council meeting no less than 30 days before the initiation of bargaining of a new or extended collectively bargained agreement, the City Manager shall report the initiation of bargaining and the collectively bargained agreement shall be publicly made available

(c) Reports required to be made immediately may be made orally or in writing, but shall be supported by copies of any contracts, settlement agreements, or other documents related to the transaction that were finally approved or adopted in the closed session and that embody the information required to be disclosed immediately shall be provided to any person who has made a written request regarding that item following the posting of the agenda, or who has made a standing request for all such documentation as part of a request for notice of meetings pursuant to Government Code Sections 54954.1 or 54956.

(d) A written summary of the information required to be immediately reported pursuant to this section, or documents embodying that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted.

(e) The City Attorney's office shall prepare and present on the City Council Consent Calendar, a list of documents which have been determined to be public after previously being determined to be unavailable to the public. This list shall be presented at least semi-annually and available on the City's website.

2-91.13 Barriers To Attendance Prohibited.

(a) No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the City Council, a board or commission enumerated in the City Charter or Municipal Code, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

(b) Each board and commission enumerated in the Charter shall provide sign language interpreters or note-takers at each regular meeting, provided that a request for such services is communicated to the secretary or clerk of the board or commission at least 48 hours before the meeting, except for Monday meetings, for which the deadline shall be 4 p.m. of the last business day of the preceding week.

(c) Each board and commission enumerated in the Charter shall ensure that accessible seating for persons with disabilities, including those using wheelchairs, is made available for each regular and special meeting.

(d) Each board and commission enumerated in the City Charter or Municipal Code shall include on the agenda for each regular and special meeting the following statement: "In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals."

(e) The City Council shall seek to provide translators at each of its regular meetings and all meetings of its committees for each language requested, where the translation is necessary to enable Alameda residents with limited English proficiency to participate in the proceedings provided that a request for such translation services is communicated to the City Clerk at least 48 hours before the meeting. For meetings on a Monday or a Tuesday, the request must be made by noon of the last business day of the preceding week. The unavailability of a translator shall not affect the ability of the City Council or its committees to deliberate or vote upon any matter presented to them. In any calendar year in which the costs to the City for providing translator services under this subsection exceeds $20,000, the City Council shall, as soon as possible thereafter, review the provisions of this subsection.

(f) Meetings of public bodies shall adjourn no later than 11pm, unless the meeting is extended by a majority vote of the body.

(1) If the body extends three meetings in a row past 11pm, the body shall also be required, as a part of the motion to extend the meeting, to increase the number of regular meetings of the council, board or

commission in order to accomplish the business before the body before 11pm.

(2) No new items will begin after 10:30 pm unless a supermajority of the body votes to allow the items to be heard. Nominations, announcements, and Council communications may continue to be heard after 10:30 pm whether or not a supermajority of the body has voted to extend the meeting.

2-91.14 Video and Audio Recording, Filming And Still Photography.

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

(b) Each board and commission enumerated in the Charter shall audio record each regular and special meeting. Each such audio recording, and any audio or video recording of a meeting of any other policy body made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed. Inspection of any such recording shall be provided without charge on an appropriate play back device made available by the City.

(c) Every City policy body, agency or department shall audio or video record every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed. The City shall make such audio or video recording available via livestreaming, as well as archived in digital form at a centralized location on the City's website within seventy-two hours of the date of the meeting or hearing and for a period of at least ten years after the date of the meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (c) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in Section 2-91.8 and for recording meetings of boards and commissions enumerated in the Charter as stated in subsection (b) above.

(1) At a minimum, the City shall provide video coverage of the following meetings:

1. City Council (and all bodies associated with its members including:

a. Alameda Reuse and Redevelopment Authority (ARRA)

b. Community Improvement Commission (CIC)
c. Alameda Public Finance Authority (APFA)
d. Housing Authority Board of Commissioners (HABOC)

2. Planning Board
3. Transportation Commission (TC)
4. Economic Development Commission (EDC)
5. Historic Advisory Board (HAB)
6. Recreation and Park Commission
7. Open Government Commission

(2) All video of these meetings will be posted on the City's website for easy public access.

(3) Meetings that are held in locations where video is not possible, will be recorded in a digital audio format and made available in the same internet archive as videos for the appropriate body.

2-91.15 Public Testimony.

(a) Every agenda for regular meetings shall provide, before undertaking regular business and again at the end of the meeting, an opportunity for members of the public to directly address a policy body on items of interest to the public that are within the policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 2-91.5(e) of this article. The Council agenda shall provide up to fifteen minutes for this use. However, in the situation of the City Council, the agenda does not have to provide an opportunity for members of the public to address the Council on any item that has been considered by a subcommittee comprised only of Councilmembers at a public meeting, unless the item has been substantially changed since the subcommittee heard the item. The City Council shall have the authority to determine whether the item has been substantially changed.

(1) If the number of speakers interested in speaking under "Public Comment/Non-Agendized Items" exceeds the 15-minute period, additional time will be made available at the end of the meeting.

(2) In the instance where more speakers than can be accommodated within 15 minutes have signed up to speak, the City Clerk's office will randomly select the order in which speakers will be chosen to speak at the beginning of the meeting.

(b) Every agenda for regular or special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item before taking action. Public comments on closed session items shall be taken before the closed session is convened. The presiding official of any body may request speakers representing similar views to designate a spokesperson in the interest of time. Spokespersons for the proponent(s) of an agenda item and for the opponent(s) shall each have 15 minutes to present their case. The spokesperson for the

proponent(s) shall have five minutes to present any rebuttal. Other speakers may be requested to keep their remarks concise.

(c) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (b) of this section.

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

(e) All staff reports, presentations, comments from parties with a direct connection to the agenda item, and council questions will be presented before the public has an opportunity to speak so as to provide the fullest opportunity for public input on all issues before the board, commission or council.

2-91.16 Minutes.

The clerk or secretary of each board and commission enumerated in the Charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.

The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than ten working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this section shall be made available in Braille or increased type size.

2-91.17 Public Comment By Members Of Policy Bodies.

Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of non-public discussions,

communications or actions with the requirements of state or federal law or of this ordinance.

2-92 PUBLIC INFORMATION.

2-92.1 Release Of Documentary Public Information.

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

2-92.2 Responsibilities Of Staff.

(a) The City Manager shall ensure that staff is trained regarding their obligations under this Ordinance. The City Clerk shall be the City Custodian of Records and the City Manager shall designate a Custodian of Records for the Police Department. The City Clerk shall also designate in each department/office a Departmental Custodian of Records who shall ensure that all department staff who have contact with the public are prepared to provide written and oral information to the public.

(b) The City Clerk 'City Custodian of Records' shall, during normal hours of operation, without unreasonable delay, and without requiring an appointment, permit any person to inspect Public Record(s). The Custodian of Records of the Police Department shall during normal hours of operation, without unreasonable delay, and without requiring an appointment, permit any person to inspect Public Record(s). The Custodians may establish reasonable limits to ensure orderly functioning of the office and protect Records from theft or damage.

(c) Every 'Custodian of Records' shall, as soon as possible and within ten (10) days following receipt of a request for a Public Record, comply with such request. If a Custodian of Records believes the record requested is exempt from disclosure, he/she shall state in writing the express provisions of law that justify withholding the record.

(d) When a member of the public submits a request for information to any paid or elected agent of the City, that agent shall respond to said request within three (3) business days by providing the information or explaining how, when, and by whom the information will be provided, and who shall then have the responsibility of responding within ten (10) days of receipt of such referral. Requests submitted in person, via telephone, or via email or through the City website are considered requests.

(e) Nothing in this Section shall be interpreted to hinder ordinary assistance in supplying records or information to the public and informal communication between members of the public, staff, and members of Legislative Bodies.

(f) While not required, a written request is recommended in order to create a paper trail for the convenience and reference of the requestor.

2-92.3 Responsibilities Of The Mayor.

If the Mayor delivers a State of the City address, it shall be given in a disabled accessible venue with audio and video-streaming and transmission capabilities. The event shall be noticed, recorded, free to the public and open to all. The address shall include a report on the previous year's Sunshine complaints, how they were resolved, and a summary of any actions taken or pending related to provisions of this Ordinance.

2-92.4 Notices And Posting Of Information.

(a) At a minimum, the following shall be posted on the City's website and provided in written form in the City Clerk's Office and at the reference desk of each Alameda public library. These documents must be posted on the City Website for a period of at least four (4) years:

City Charter
Alameda Municipal Code
Building Code
General Plan and Area Plans
Zoning Ordinance
Landmarks Preservation Ordinance
Sunshine Ordinance
Citizen's Guide to Public Information
Records Index
Records Retention Schedule
Council Rules of Procedure
Conflict of Interest Code
Statements of Economic Interest
Executive Management Work Plans
Capital Improvement Plans
Agendas and Minutes of the Meetings of all Legislative Bodies
Budgets

(b) At a minimum, within six (6) months after enactment of this Ordinance, each Legislative Body shall have posted on the City's website all current meeting Agendas, minutes, and other documents required to be made public and thereafter, make reasonable efforts to post past materials. Each Legislative Body shall make reasonable efforts to ensure that its portion of the City's website is updated on at least a weekly basis.

(c) Large documents, such as drafts and final copies of City budgets and records concerning environmental impacts, including but not limited to, those resulting from compliance with the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA), shall be posted on the City's website and made available at designated City offices with copies available for borrowing by the public at each Alameda public library.

(d) Notices shall be written in easily understood language without undefined abbreviations or acronyms and give a full description of the subject, applicable regulations, significant consequences of taking action or non-action,

when and where the subject will be considered, opportunities for public comment, and where to obtain further information.

(e) The Open Government Commission shall review public notices to ensure that they conform to the requirements of this Ordinance and work to improve publicly accessible information databases to ensure consistency, equity, timing, and extent of noticing for meetings and other matters of public interest.

(f) Right to notice regarding matters that may impact the physical environment shall be equivalent for residential and commercial tenants and property owners.

(g) Meetings on matters related to or actions taken in anticipation of a potential development project or other land use matter, such as but not limited to grant applications, project funding, and ordinance changes, including but not limited to, General Plan and area plan amendments or rights transfers, shall be noticed at least as extensively as is required for meetings on said projects.

(h) Online Public Records Repository. The City shall maintain an online repository of public documents on a publicly accessible website. The repository will allow the public to download any document in the repository in its entirety.

(1) Documents in the repository shall be searchable at a minimum by title, date, author(s), and related City department(s).

(2) Public documents should routinely be published to the public records repository by default. Documents are not required to be added to the repository where it would be cost prohibitive to do so.

2-92.5 Public Records Index.

(a) The City shall maintain a Public Records Index that identifies types of records maintained by departments and offices, including those of elected officials and Legislative Bodies. The Index shall be available to the public and organized under a uniform reference system that permits a general understanding of the types of records maintained, in which offices and departments, and for what periods of retention. The Index shall be sufficient to aid the public in making a focused inquiry regarding Public Records. The Index shall be posted on the City's website and available in written form in the City Clerk's office and in each Alameda public library.

(b) The Index shall classify each type of record as either:

(1) "Open," meaning accessible to the public without exception and subject to immediate disclosure; or

(2) "Partially Open," meaning possibly containing some exempt content, such that review is required; or

(3) "Has been determined Exempt" meaning that disclosure of the document may be restricted by State or Federal law. Each classification of a record as "Partially Open" or "Exempt" shall identify the specific legal authority relied upon in assigning that classification.

(c) The City Clerk Custodian of Records shall be responsible for preparing and maintaining the Index. He/she shall report on the progress of developing the Index to the Commission on at least a quarterly basis until it is completed, which shall be no later than twelve (12) months from the enactment of this Ordinance.

In identifying the types of records to be maintained, each department, office, Legislative Body, and public official is encouraged to solicit public participation in developing a meaningful Records Index. The completed Index shall be reviewed by the Open Government Commission and submitted for approval by the City Council.

(d) The Index shall be periodically reviewed by staff and Open Government Commission for accuracy and completeness.

(e) A list of any change in the Index shall be noted on the City's website.

2-92.6 Opinions on Matters of Public Concern.

Public employees and City board, commission, or committee members shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion is not represented as that of the City, department, board, commission or committee and does not materially misrepresent the City, department, board, commission or committee's position. Nothing in this section shall be construed to provide rights to public employees beyond those recognized by law or agreement, or to create any new private cause of action or defense to disciplinary action.

2-92.7 Public Review File – Policy Body Communications.

Every Commission, Board or other Official Body of the City of Alameda shall maintain a communications file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other writing pertaining to the body's duties which the clerk or secretary of such body has distributed to, or sent on behalf of, a quorum of the body concerning a matter that has been placed on the body's agenda within the previous 30 days or is scheduled or requested to be placed on the agenda within the next 30 days. Excepted from the communications file shall be commercial solicitations, mail sent bulk-rate, agenda and agenda-related material, periodical publications or communications exempt from disclosure under the California Public Records Act or this title. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the communications file; provided, that the letter or memorandum of transmittal is included in the communications file and the reports, studies or analyses are readily available for review.

2-92.8 Non-Exempt Public Information.

Notwithstanding any right or duty to withhold certain information under the California Public Records Act or other law, the following shall govern specific types of requests for documents and information:

(a) Drafts and Memoranda. No completed preliminary drafts or memoranda shall be exempt from disclosure under Government Code Section 6254(a) if said completed preliminary draft or memorandum has been retained in the ordinary course of business or pursuant to law or agency or department policy. Completed preliminary drafts and memoranda concerning agreements,

memoranda of understanding or other matters subject to negotiation and pending a body's approval need not be subject to disclosure until final action has been taken or said document is included as part of the public agenda packet for the body, whichever is first.

(b) Litigation Material. Unless otherwise privileged or made confidential by law, records of all communications between a body's representatives and the adverse party shall be subject to public inspection and copying, including the text and terms of any settlement agreement, once the pending litigation has been settled or finally adjudicated.

(c) Personnel Information. None of the following shall be exempt from disclosure under Government Code Section 6254(c):

(1) Job pool information, to the extent such information is compiled for reporting purposes and does not permit the identification of any particular individual. Such job pool information may include the following:

(A) Sex, age and ethnic group;

(B) Years of graduate and undergraduate study, degree(s) and major or discipline;

(C) Years of employment in the private and/or public sector;

(D) Other non-identifying particulars as to experience credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the positioning in question.

(2) The job description of every employment classification.

(3) Any adopted memorandum of understanding between the City and a recognized employee organization.

(4) Individual employee salaries.

(d) Law Enforcement Information.

(1) The Alameda police department and its Custodian of Records shall cooperate with all members of the public making requests for law enforcement records and documents under the California Public Records Act or other applicable law. Unless disclosure of the records sought is prohibited by other provisions of state or federal law, records and documents exempt from disclosure under the California Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the district attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Redacted Law Enforcement information may include:

(A) The names of juvenile witnesses or suspects;

(B) Personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;

(C) The identity of a confidential source;

(D) Secret investigative techniques or procedures;

(E) Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or

(F) Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely.

(G) Any information required by State or federal law is to be kept confidential.

(2) The Alameda police department shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, which reports the number of citizen complaints against law enforcement agencies or officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be maintained in a format which assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.

(e) Contracts, Bids and Proposals. Contracts, contract bids, responses to requests for proposals and all other records of communications between the City and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract.

(f) Budgets and Other Financial Information. The following shall not be exempt from disclosure:

(1) Any proposed or adopted budget for the City, including any of their respective agencies, departments, programs, projects or other categories, which have been submitted to a majority of the members of the City Council, or their standing committees.

(2) All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social, legal or other services whose records are confidential by law. The nonconfidential portion, if any, of such records shall be disclosed.

2-92.9 Disclosure Requests.

(a) A Custodian of Records shall make good faith efforts to comply within a shortened timeframe that has been reasonably justified by a records requester by the facts of his or her situation, e.g. the requester needs the documents for a hearing scheduled the next day. A request to inspect or obtain copies of public records that is submitted to any department or to any body shall be satisfied no later than ten (10) business days unless the requestor is advised in writing within three (3) business days that additional time is needed to determine whether:

(1) The request seeks disclosable public records or information;

(2) The requested records are in the possession of the department processing the request;

(3) The requested records are stored in a location outside of the department;

(4) The requested records likely comprise a voluminous amount of separate and distinct writings;

(5) Reasonably involves another department or other local or state agency that has a substantial subject matter interest in the requested records and which must be consulted in connection with the request.

(b) Additional time shall not be permitted to delay a routine or readily answerable request.

(c) The person seeking the information need not state a reason for making the request or the use to which the information will be put, but may be advised that providing such information may help the City assist the person finding all documents responsive to their request.

(d) Unless the record request will be satisfied within one business day, an acknowledgement of receipt of the request or notification that additional time is needed pursuant to subsection (A) of this section shall be sent to the requestor if an address has been provided.

2-92.10 Immediate Disclosure Request.

(a) An immediate disclosure request is a request for (1) public records which have been previously distributed to the public, such as past meeting agendas and agenda-related materials, and including public records requests, within the past calendar year, or (2) public records that have, by other law, a requirement to be disclosed within a specific shortened time frame. All immediate disclosure requests shall describe the records sought in as focused and specific language as possible so they can be readily identified and shall state the words "Immediate Disclosure Request" across the top of the first page of the request and on any envelope in which the request is transmitted.

(b) An immediate disclosure request shall be satisfied no later than three business days unless the requestor is advised in writing within two business days that additional time is needed because of the volume of records sought.

2-92.11 Withholding Restrictions.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law. Any redacted or withheld information or documents shall be explained in writing.

2-92.12 Justification For Withholding.

Any withholding of information shall be justified, in writing, as follows:

(a) A withholding under a permissive exemption in the California Public Records Act or this title shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.

(b) A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.

(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

2-92.13 Fees For Copying.

(a) No fee shall be charged for making public records available for inspection.

(b) No fee shall be charged for a single copy of a current meeting agenda.

(c) A fee may be charged for non-digital copies of:

(1) Single or multiple copies of past meeting agendas or any agenda-related materials;

(2) Multiple copies of a current meeting agenda; and

(3) Any other public record copied in response to a specific request.

(d) The City may, rather than making copies itself, contract at market rate to have a commercial copier produce the duplicates and charge the cost directly to the requester.

(e) All drafts or final environmental impact reports and environmental impact statements shall be posted either on the City's website or on the consultant's website.

(f) In addition to the copies routinely required for City official or staff use, the City shall require the applicant for a project that is, or will be, of widespread public interest to pay for up to 20 copies of documents such as environmental impact reports. These copies will be provided on a first-come, first-serve basis at no cost to members of the public. The City Manager or designee shall determine if and how many extra copies will be required on a case by case basis.

(g) If records requested are available or can be made available in electronic format, they will be provided as such at no cost. Electronic documents will be delivered via email or by posting on the City website. Requests for documents in their original electronic format will be respected unless cost-prohibitive to fully redact.

(h) All fees permitted under this section shall be determined and specified in the City of Alameda master fee schedule, as amended. When the cost of writing a receipt and collecting the fees required under this section would exceed the cost of the copies, the copying fee may be waived. The master fee schedule shall note the maximum amount that may be waived.

(i) Nothing in this section shall be interpreted as intending to preempt any fee set by or in compliance with state law.

2-92.14 Website Information.

Each department shall make an effort to ensure its portion of the City's website is kept current. Each department shall also post public documents that are of interest to a wide number of the public.

2-92.15 Requests Made By Email.

Records requests made by email must be acknowledged with an e-mail reply to the sender.

2-92.16 Policy Regarding Purchase And Use Of Computer Systems.

(a) It is the policy of the City to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this chapter. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall select these systems to ensure convenient, efficient, and economical public access to records.

(b) Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.

(2) Implementing a system that permits paper reproduction of electronic copies of records.

(c) Nothing in this section shall be interpreted to require the City to use a system that would prevent it from complying with the security requirements of the state and federal governments for accessing their records.

2-92.17 Policy Regarding Electronic Formats.

(a) Electronic formats used to represent public documents should be chosen so they are easily accessible to the public.

(1) Electronic documents will be published in a machine-processable format so that the public can sort, search, and transform the information to meet their needs. For example, text documents must be delivered such that the text itself is machine-processable and can be searched or processed by text-to-speech software. Documents originally in handwritten form are exempt from this requirement.

(2) Except in the case where the City can cite a significant overriding consideration, electronic formats shall be chosen such that they can be viewed on a variety of mainstream computing platforms using freely available software. Electronic formats susceptible to obsoletion and patent licensing restrictions and formats dependent on a single operating system or proprietary software program shall not be used.

Care must be taken with any electronic documents that have redactions. Some document formats retain a history of changes made, so while some content may appear to be deleted from a document it may be recoverable. Staff who perform redactions are responsible for understanding the implications of the document formats they are using and ensuring that redacted information is completely removed from the document.

2-93 ENFORCEMENT PROVISIONS.

2-93.1 Primary Regulatory And Enforcement Body.

The main work of enforcing the City of Alameda's Sunshine Ordinance will fall upon an Alameda Open Government Commission consisting of five (5) members, full-time City residents. Each member of the City Council will appoint an Alameda resident to serve on the commission for a term that is concurrent and linked with the service of the appointing City Council member, but in no event shall exceed four years. Should the appointing City Council member term out of office, resign, be removed or otherwise retire from office, the appointment of his or her appointee on the Open Government Commission shall also end. All members must have experience and/or demonstrated interest in the issues of citizen access and participation in local government. The Commission shall be assisted, advised and generally staffed at all meetings and functions by a licensed attorney from the City Attorney's Office and by a representative of the City Clerk's office.

(a) A member can only be removed by a 4/5 majority vote of the City Council.

(b) The Commission shall elect a chair from among its members. The term of office as chair shall be one year. The commission will meet at least semi-annually or as needed based on the receipt of an alleged complaint of violation of this ordinance. Members of the Commission shall serve without compensation.

(c) The Commission shall advise the City Council on appropriate ways in which to implement this chapter. The Commission shall develop goals to ensure practical and timely implementation of this chapter. The Commission shall propose to the City Council amendments to this chapter. The Commission shall report in writing to the City Council at least once annually on any practical or policy problems encountered in the administration of this chapter. The Commission shall, from time to time as it sees fit, issue public reports evaluating compliance with this ordinance by the City or any Department, Office, or Official thereof.

(d) The Commission shall approve by-laws specifying a general schedule for meetings, requirements for attendance by its members, and procedures and criteria for removing members for non-attendance as well as all enforcement petition and complaint procedures. The schedule shall provide for monthly meetings. A meeting shall be canceled if there is no matter pending.

2-93.2 Complaint Procedures Regarding Alleged Violations Of The Sunshine Ordinance.

(a) A complainant must file a complaint no more than 15 days after an alleged violation of the Sunshine Ordinance.

(b) Upon filing of an official complaint form (including submittal of all evidence) with the City Clerk's Office, the complainant and the City (as respondent) shall appear at a hearing scheduled no later than thirty (30) business days. During this hearing the Commission will provide the parties with

the chance to present evidence and make arguments. The Commission will render a formal written decision on the matter within fourteen (14) business days of the conclusion of the hearing.

(c) No complaint will be accepted by the Commission against a member of the City Council or an officially declared candidate within forty-five (45) days of a City election.

2-93.3 Cure And Correction.

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

2-93.4 Responsibility For Administration.

Only the City Council shall be responsible for the administration and coordination of the provisions of the Alameda Sunshine Ordinance, except to the extent that the City Manager carries out the responsibilities described in Section 2-92.2.

2-93.5 Department Head Declarations.

All City employees or officials who are required to file FPPC Form 700 shall sign an annual affidavit or declaration stating under penalty of perjury that they have read the Sunshine Ordinance and have attended or will attend when next offered, a training session on the Sunshine Ordinance, to be held at least annually. Annual training shall be provided by the Alameda City Attorney's Office with the assistance of the Commission.

2-93.6 Annual Public Report.

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

2-93.7 Sunshine Ordinance Supersedes Other Local Laws.

The provisions of this Sunshine Ordinance supersede other local laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply.

2-93.8 Penalties.

(a) If the Commission finds a violation of Sec. 2-91, the Commission may order the action of a body null and void and/or may issue an order to cure or correct. The Commission may impose a $250 fine on the City for a subsequent similar violation, and a $500 fine for a third similar violation, that occurs within the same 12-month period.

(b) If the Commission finds a violation of Sec. 2-92, the Commission may order the City to comply. The Commission may impose a $250 fine on the City for a subsequent similar violation, and a $500 fine for a third similar violation, that occurs within the same 12-month period.

(c) Fines shall be used for records retention technology, and/or Sunshine Ordinance training and education.

(d) A person who makes more than two complaints in one 12-month period that are determined by the Commission to be unfounded shall be prohibited from making a complaint for the next five years.

Section 2. Sections of this Ordinance shall be deemed to be severable. Should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 3. This Ordinance shall be in full force on February 1, 2012.

Marie L. Gilmore
Presiding Officer of the Council

Attest:

Lara Weisiger, City Clerk
City of Alameda

* * * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the 1st day of November, 2011, by the following vote to wit:

AYES:	Councilmembers Bonta, deHaan, Johnson, Tam and Mayor Gilmore – 5.
NOES:	None.
ABSENT:	None.
ABSTENTIONS:	None.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 2nd day of November, 2011.

Lara Weisiger, City Clerk
City of Alameda